WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1982

ENROLLED

SENATE BILL NO. 22

(By Mr. [Signature])

PASSED March 1, 1982
In Effect July 1, 1983
ENROLLED
Senate Bill No. 22
(By Mr. Tonkovich and Mr. Tomblin)

[Passed March 1, 1982; in effect July 1, 1983.]

AN ACT to amend chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eleven; to amend and reenact sections ten and twenty-six, article two, chapter five-a of said code; and to amend and reenact section two, article two, chapter twelve of said code, all relating to legislative appropriation of federal funds; declaring legislative findings and purpose; defining terms; requiring certain federal funds to be deposited in the state treasury and credited to special fund accounts upon receipt; requiring the governor to itemize in the state budget and the budget bill, by line item, separately, for each spending unit, the amount and purpose of all federal funds received or anticipated, with a reference to the account number, line item and amount of any state funds required for such purpose; requiring federal revenue sharing funds to be itemized in a separate section of the state budget and the budget bill devoted exclusively to such proposed appropriations; prohibiting the expenditure of certain federal funds without specific appropriations by the Legislature; allowing the governor, under specified circumstances, to authorize expenditure of certain federal funds, and to seek the recommendation of the legislative joint committee on government and finance; providing exclusions from this article for certain federal funds; providing that the provisions of this article prevail over any conflicting statutory provisions; specifying date that tentative budget be submitted to governor and copy to legislative auditor, providing copies of tentative budget,
upon request, to members of the Legislature; and requiring agency requests to the federal government for personal services funds to include funds for the cost of fringe benefits related to such personal services.

Be it enacted by the Legislature of West Virginia:

That chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eleven; that sections ten and twenty-six, article two, chapter five-a of said code be amended and reenacted; and that section two, article two, chapter twelve of said code be amended and reenacted, all to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 11. LEGISLATIVE APPROPRIATION OF FEDERAL FUNDS.

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

1 The Legislature finds and declares that in order to carry out its responsibility for the enactment of all appropriations needed for the operation of state government, the Legislature needs continuous and accurate accounts of the amounts and purposes of all federal funds being requested, received or expended by the various agencies and departments of the state. The Legislature further finds and declares that the increased availability of and reliance on federal financial assistance has a substantial impact upon the programs, priorities and fiscal affairs of the state. It is the purpose of this article to clarify and specify the role of the Legislature in appropriating federal funds received by the state and in prescribing, by general law, the required form and detail of the itemization and classification of proposed appropriations to assure that state purposes are served and legislative priorities are adhered to by the acceptance and use of such funds.

§4-11-2. Definitions.

1 As used in this article:

2 (1) "Federal funds" means any financial assistance made to a spending unit by the United States government,
whether a loan, grant, subsidy, augmentation, reimbursement or any other form of such assistance, including "federal-matching funds";

(2) "Federal-matching funds" means federal funds of a specified amount or proportion for which a specified outlay of state contributions, including funds, property or services, are required as a condition for receipt or expenditure;

(3) "Spending unit" means the state of West Virginia and all agencies, offices, departments, divisions, boards, commissions, councils, committees or other entities of the state government for which an appropriation is requested or to which an appropriation is made by the Legislature. "Spending Unit" does not mean any county, city, township, public service district or other political subdivision of the state; and

(4) "State-matching funds" means state contributions, including funds, property or services that are required by the federal government, by law or regulation, as a condition for receipt or expenditure of federal funds.

§4-11-3. Receipt of federal funds and required deposit in state treasury.

Unless contrary to federal law, all federal funds received by a spending unit shall be deposited in and credited to special fund accounts as provided by section two, article two, chapter twelve of this code and shall be available for appropriation by the Legislature as part of the state budget.

§4-11-4. Inclusion of federal funds in state budget and the budget bill.

Pursuant to article one-a, chapter five, and chapter five-a of this code, the governor shall itemize in the state budget and in the budget bill, on a line-item basis, separately, for each spending unit, the amount and purpose of all federal funds received or anticipated for expenditure, with a reference to the account number, line item and amount of any state funds required for such purpose: Provided, That all federal revenue sharing funds shall be so itemized in a separate section of the state
budget and the budget bill devoted exclusively to proposed appropriations from the revenue sharing trust fund.

§4-11-5. Legislative appropriation authority.

(a) No spending unit may make expenditures of any federal funds, whether such funds are advanced prior to expenditure or as reimbursement, unless such expenditures are made pursuant to specific appropriations by the Legislature, except as may be hereinafter provided.

(b) To the extent not precluded by the terms and conditions under which federal funds are made available to the spending unit by the United States government, the spending unit shall use federal funds in accordance with any purposes, policies or priorities the Legislature may have established for the activity being assisted or for the use of state, federal and other fiscal resources in a particular fiscal year.

(c) If the federal funds received by a spending unit for a specific purpose are greater than the amount of such funds contained in the appropriation by the Legislature for such purpose, the total appropriation of federal funds and any state-matching funds for such purpose shall remain at the level appropriated, except as hereinafter provided.

(d) If federal funds become available to the spending unit for expenditure while the Legislature is not in session and the availability of such funds could not reasonably have been anticipated and included in the budget approved by the Legislature for the next fiscal year, the treasurer may accept such funds on behalf of the spending unit and the governor may authorize, in writing, the expenditure of such funds by the spending unit during that fiscal year as authorized by federal law and pursuant to the provisions of article two of chapter five-a of the code which permits expenditure of amounts in excess of the appropriation upon the filing of a proper expenditure schedule: Provided, That the governor may not authorize the expenditure of such funds received for the creation of a new program or for a significant alteration of an existing program. Should a question arise concerning whether
such expenditures would constitute a new program or significant alteration of an existing program, while the Legislature is not in session, the governor shall seek the recommendation of the joint committee on government and finance of the Legislature. Upon application to the federal government for such funds and upon receipt of such funds, the governor shall submit to the legislative auditor two copies of a statement:

(1) Describing the proposed expenditure of such funds in the same manner as it would be described in the state budget; and

(2) Explaining why the availability of such federal funds and why the necessity of their expenditure could not have been anticipated in time for such expenditures to have been approved as part of the adopted budget for that particular fiscal year.

§4-11-6. Exclusions.

The following are excluded from the provisions of this article:

1. Federal funds received by state institutions of higher education or by students or faculty members of such institutions for instructional or research purposes and federal funds received for student scholarships or grants-in-aid;

2. Federal nondiscretionary pass-through funds which are earmarked in specified amounts or proportions for transmittal to local political subdivisions or to designated classes of organizations and individuals which do not require state-matching funds and do not permit discretion in their distribution by the receiving state spending unit;

3. Federal funds made available to the state for costs and damages resulting from natural disasters, civil disobedience or other occurrences declared by the governor as a state of emergency; and

4. All federal funds received by the West Virginia department of highways or the West Virginia commissioner of highways.
§4-11-7. Conflict with other statutory provisions.

If there is any conflict between the provisions of this article and any other provision of this code relating to receiving or expending federal funds, the provisions of this article shall govern and control.

CHAPTER 5A. DEPARTMENT OF FINANCE AND ADMINISTRATION.

ARTICLE 2. BUDGET DIVISION.

§5A-2-10. Preparation of tentative budget and submission to governor; copies to Legislature.

The commissioner shall prepare for the consideration of the governor a tentative budget for the fiscal year next ensuing. The budget shall state actual receipts and expenditures for the fiscal year next preceding, estimated receipts and expenditures for the current fiscal year, recommended expenditures for the current fiscal year as shown in the legislative digest, and it shall state also the requested amounts or estimates for the fiscal year next ensuing with respect to:

1. Appropriations requested by each spending unit and requested general appropriations;
2. The amount of the total of each appropriation to be paid out of collections;
3. Amounts and purposes of appropriations requested other than for spending units of the state;
4. Revenue of each of the funds of the state;
5. A summary statement of requests and revenues showing the amount of an anticipated surplus or deficit;
6. Balances carried forward to the first day of July, from the fiscal year next preceding on all reappropriated accounts from general revenue fund and general school fund;
7. Percentage of increase or decrease by comparison of recommended appropriation for next ensuing year with current fiscal year.

On or before the fifth day of December, the commissioner shall submit the tentative budgets to the governor. The commissioner shall convey to the governor all ex-
planatory and justification statements and statements
of personnel requirements of spending units as reported
and filed in his office, together with the certification of the
state treasurer verifying the condition of the state
revenues and the several funds of the state as required
to be provided to the commissioner under the provisions
of section three, article four, chapter twelve of this
code.

At the time the commissioner submits the tentative
budget to the governor, he shall also submit copies
thereof to the president of the Senate, the speaker of
the House of Delegates, the legislative auditor and to any
member of the Legislature who shall request a copy. At
any time thereafter that additional data supplementary
to the tentative budget is received by the commissioner,
which data or change is not an integral part of the prep-
paration of the proposed budget of the governor, the com-
missioner shall submit a copy thereof to the legislative
auditor.

§5A-2-26. Approval by commissioner of requests for federal
aid; copies to legislative auditor; consolidated
report of federal funds.

Every agency of the state government when making
requests or preparing budgets to be submitted to the
federal government for funds, equipment, material or
services, the grant or allocation of which is conditioned
upon the use of state matching funds, shall have such
request or budget approved in writing by the commis-
sioner before submitting it to the proper federal author-
ity. At the time such agency submits such a request or
budget to the commissioner for his approval, it shall send
a copy thereof to the legislative auditor. When such fed-
eral authority has approved the request or budget, the
agency of the state government shall resubmit it to the
commissioner for recording before any allotment or en-
cumbrance of the federal funds can be made and the
commissioner shall send a copy of the federally approved
request or budget to the legislative auditor. Whenever
any agency of the state government shall receive from
any agency of the federal government a grant or allocation of funds which do not require state matching, the state agency shall report to the commissioner and the legislative auditor for their information the amount of the federal funds so granted or allocated.

Unless contrary to federal law, any agency of state government, when making requests or preparing budgets to be submitted to the federal government for funds for personal services, shall include in such request or budget the amount of funds necessary to pay for the cost of any fringe benefits related to such personal service. For the purposes of this section, “fringe benefits” means any employment benefit granted by the state which involves state funds, including, but not limited to, contributions to insurance, retirement and social security, and which does not affect the basic rate of pay of an employee.

In addition to the other requirements of this section, the commissioner shall, as soon as possible after the end of each fiscal year but no later than the first day of October of each year, submit to the governor and the legislative auditor a consolidated report which shall contain a detailed itemization of all federal funds received by the state during the preceding and current fiscal years, as well as those scheduled or anticipated to be received during the next ensuing fiscal year. Such itemization shall show: (a) Each spending unit which has received or is scheduled or expected to receive federal funds in either of such fiscal years, (b) the amount of each separate grant or distribution received or to be received, (c) a brief description of the purpose of every such grant or other distribution, with the name of the federal agency, bureau or department making such grant or distribution: Provided, That it shall not be necessary to include in such report an itemization of federal revenue sharing funds deposited in and appropriated from the revenue sharing trust fund, or federal funds received for the benefit of the department of highways and the state road fund.

The commissioner is authorized and empowered to obtain from the spending units any and all information necessary to prepare such report.
CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

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

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

1 All officials and employees of the state authorized by statute to accept moneys due the state of West Virginia shall keep a daily itemized record of such moneys so received for deposit in the state treasury and shall deposit within twenty-four hours with the state treasurer all moneys received or collected by them for or on behalf of the state for any purpose whatsoever. The treasurer shall promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code governing the procedure for such deposits. When so paid, such moneys shall be credited to the state fund and treated by the auditor and treasurer as part of the general revenue of the state: Provided, That all moneys received out of appropriations made by the Congress of the United States shall be carried in special fund accounts, apart from the general revenues, of the state, in the state treasury and all such moneys shall not be used for any purpose whatsoever unless and until authorized and directed by the Legislature, excepting the following funds which shall be carried in separate accounts:

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

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

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

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

(e) All funds derived from collections from dormitories, boardinghouses, cafeterias and road camps;
(f) All moneys received from counties by institutions for the deaf and blind on account of clothing for indigent pupils;

(g) All insurance collected on account of losses by fire and refunds;

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

(i) All moneys collected and belonging to the capitol building fund, state road fund, state road sinking funds, general school fund, school fund, state fund (moneys belonging to counties, districts and municipalities), state interest and sinking funds, state compensation funds, the fund maintained by the public service commission for the investigation and supervision of applications and all funds and moneys payable to or received by the natural resources commission of West Virginia;

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

All moneys, excepted as aforesaid, shall be paid into the state treasury in the same manner as collections not so excepted, and shall be carried in separate accounts to be used and expended only for the purposes for which the same are authorized to be collected by law. The gross amount collected in all cases shall be paid into the state treasury, and commissions, costs and expenses of collection authorized by general law to be paid out of the gross collection are hereby authorized to be paid out of the moneys collected and paid into the state treasury in the same manner as other payments are made from the state treasury.

The official or employee making such deposits in the state treasury shall prepare such deposit lists in such manner and upon such report forms as may be prescribed by the treasurer. The original of this report shall accompany the deposit to the treasurer's office. Certified or receipted copies shall be immediately forwarded by the state treasurer to the state auditor and to the commissioner of finance and administration, and a copy shall be
kept by the official or employee making the report and shall become a part of his permanent record.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1983.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within is approved this the 10 day of March, 1982.

[Signature]
Governor