AN ACT to amend and reenact section five, article eleven, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section twenty-six, article two, chapter five-a of said code, all relating to legislative appropriation authority in respect of federal funds; providing authorization for the governor to approve and permit expenditure of certain unanticipated federal funds received when Legislature not in session, with limitations thereon, including governor seeking recommendation of council of finance and administration, during interim periods, in certain instances; and providing for commissioner of finance and administration to be primary approval official for, and repository agency of, information and activity in respect of federal funds by state agencies at times of application for, and change, receipt and expenditure of, federal funds.

Be it enacted by the Legislature of West Virginia:

That section five, article eleven, chapter four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section twenty-six, article two, chapter five-a of said code, be amended and reenacted, to read as follows:

CHAPTER 4. THE LEGISLATURE.

ARTICLE 11. LEGISLATIVE APPROPRIATION OF FEDERAL FUNDS.

§4-11-5. Legislative appropriation authority.

1 (a) No spending unit may make expenditures of any
(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, 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. For purposes of this article, a mere new source of funding of federal moneys for a program which has been prior approved by legislative appropriation will not be deemed to be a "new program" or a "significant alteration of an existing program" and the governor may authorize the expenditure of such funds as herein pro-
vided. 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 council of finance and administration, as created and existing pursuant to the provisions of section three, article one, chapter five-a of the code.

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.

CHAPTER 5A. DEPARTMENT OF FINANCE AND ADMINISTRATION.

ARTICLE 2. BUDGET DIVISION.

§ 5A-2-26. Approval of commissioner of requests for, changes, receipt and expenditure of federal funds by state agencies; copies or sufficient summary information to be furnished commissioner and legislative auditor; and 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 commissioner before submitting it to the proper federal authority. 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 federal 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
encumbrance 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 allocat-
ion 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 costs 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 con-
tain 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 sepa-
rate 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 ob­
tain from the spending units any and all information
necessary to prepare such report.

Notwithstanding the other provisions of this section
and in supplementation thereof, the Legislature hereby
determines that the department of finance and adminis­
tration and its commissioner need to be the single and
central agency for receipt of information and documents
in respect of applications for, and changes, receipt and
expenditure of, federal funds by state agencies. Every
agency of state government, when making application
for federal funds in the nature of a grant, allocation or
otherwise; when amending such applications or requests;
when in receipt of such federal funds; or when under­
taking any expenditure of federal funds; in all such
respective instances, provide to the commissioner of fi­
nance and administration document copies or sufficient
summary information in respect thereof as to enable the
commissioner to provide approval in writing for such
activity in respect to the federal funds, and such state
agencies shall, at the same time, provide such a document
copy or sufficient summary information report to the
legislative auditor's office; in order to permit continuing
meaningful cooperative overview of federal funds and
their use budgetarily and in establishing state fiscal
policies.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within _________ day 1985.

day of ________________, 1985.

Governor