WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

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ENROLLED

HOUSE BILL No. 9731

(By Delegates Mezzatesta and Faircloth)

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Passed March 7, 1992

In Effect From Passage
ENROLLED

H. B. 4731
(By Delegates Mezzatesta and Faircloth)

[Passed March 7, 1992; in effect from passage.]

AN ACT to amend and reenact section thirty, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section two, article two, and section nine-d, article six, chapter twelve of said code, all relating to extending for twelve months the governor’s authority to borrow money from the consolidated pension fund to finance needed public improvements in education; providing for the redesignation of certain funds; and providing for repayment of such borrowing from consumers sales tax collections.

Be it enacted by the Legislature of West Virginia:

That section thirty, article fifteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section two, article two and section nine-d, article six, chapter twelve of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 15. CONSUMERS SALES TAX.


1 The proceeds of the tax imposed by this article shall be deposited in the general revenue fund of the state: Provided, That beginning the first day of July, one
thousand nine hundred eighty-nine, and continuing each
month thereafter through the last day of July, one
thousand nine hundred ninety-two, the first five million
dollars of proceeds of this tax for each month shall be
paid into the “Fiscal Responsibility Fund” created by
section nineteen, article one, chapter five of this code
and used for the purposes specified therein, and that on
and after the first day of August, one thousand nine
hundred ninety-two, and continuing each month thereaf-
fer until any money borrowed under section nine-d,
article six, chapter twelve of this code is repaid, the first
five million dollars of proceeds of this tax for each
month shall be paid into the “Education Enhancement
Fund” created by section nine-d, article six, chapter
twelve of this code: Provided, however, That if no money
is borrowed under section nine-d, article six of said
chapter twelve, before the first day of August, one
thousand nine hundred ninety-two, then no tax collected
under this article shall be deposited into the “Education
Enhancement Fund”, and if money is borrowed after the
thirtieth day of June, one thousand nine hundred ninety-
two, then payment into the “Education Enhancement
Fund” shall begin the first day of the calendar month
succeeding the month in which funds are borrowed
under section nine-d, article six of said chapter twelve:
Provided further, That if less than sixty million dollars
is borrowed under said section nine-d, then the amount
to be paid into the “Education Enhancement Fund” each
month, as provided in this section, shall be that
proportion of five million dollars that the amount of
money borrowed bears to sixty million dollars.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

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

(a) 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
board of investments all moneys received or collected by
them for or on behalf of the state for any purpose whatsoever. The treasurer and the board of investments shall promulgate rules and regulations, in accordance with the provisions of chapter twenty-nine-a of this code governing the procedure for such deposits.

The official or employee making such deposits with the state board of investments shall prepare such deposit lists in such manner and upon such report forms as may be prescribed by the board of investments. Once the board has satisfied itself that all deposits have been promptly prepared and deposited, it shall transfer all such funds to a special bank account of the state treasurer and provide him with such deposit report. The original of this report shall accompany the deposit to the treasurer. Certified or receipted copies shall be immediately forwarded by the state treasurer to the state auditor and to the secretary of administration, and a copy shall be provided to the board of investments. The original of the deposit report shall become a part of the treasurer's permanent record.

(b) 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 recorded 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 recorded in separate accounts:

(1) All funds excluded by the provisions of section six, article eleven, chapter four of this code;
(2) All funds derived from the sale of farm and dairy products from farms operated by any agency of the state government other than the farm management commission;
(3) All endowment funds, bequests, donations, executive emergency funds, and death and disability funds;
(4) All fees and funds collected at state educational institutions for student activities;

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

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

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

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

(9) 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, all funds and moneys payable to or received by the natural resources commission of West Virginia and moneys collected and received by the division of natural resources pursuant to article two, article two-a and article two-b, chapter twenty of this code;

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

(c) All moneys, excepted as provided in subdivisions one through nine inclusive of subsection b of this section, shall be paid into the state treasury in the same manner as collections not so excepted, and shall be recorded in separate accounts to be used and expended only for the purposes for which the same are authorized to be collected by law: Provided, That amounts collected pursuant to subdivision ten, subsection b this section, which are found from time to time to exceed funds needed for the purposes set forth in general law may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature.
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.

(d) The state board of investments shall have authority
to establish an imprest fund or funds in the office of any
state agency or institution making proper application to
the board. To implement this authority the board shall
promulgate rules and regulations, in accordance with
the provisions of chapter twenty-nine-a of this code. The
board or its designee shall annually audit all such funds
and prepare a list of all such funds showing the location
and amount as of fiscal year end, retaining such list as
a permanent record of the board until such time as the
legislative auditor shall have completed an audit of the
imprest funds of all agencies and institutions involved.

ARTICLE 6. WEST VIRGINIA BOARD OF INVESTMENTS.

§12-6-9d. Legislative findings; loans to the state; purpose
for which moneys transferred may be disbursed and expended; terms and conditions
for repayment; creation of special account in
state treasury.

(a) The Legislature hereby finds and declares that the
West Virginia supreme court of appeals has determined
that public education has a constitutionally preferred
status; that there is a large amount of investable funds
in the consolidated pension fund; that loans made under
commercially reasonable terms to finance needed public
education improvements are necessary investments in
the future of West Virginia; and that loans from the
consolidated pension fund will assist in financing the
needs of primary and secondary education, without in
any way impairing the solvency or financial soundness
of the consolidated pension fund. This section is enacted
in view of these findings.

(b) Whenever the governor determines that there are
insufficient general revenue funds available for the
timely payment for necessary improvements in public education as appropriated by the Legislature in the budget bills for the fiscal years one thousand nine hundred ninety-one, one thousand nine hundred ninety-two, or one thousand nine hundred ninety-three the governor may request the state board of investments to lend those moneys necessary to meet such payment and the state board of investments shall transfer moneys from the consolidated pension fund to the special sinking fund account created in the state treasury by subsection (d) of this section, in the amount determined by the governor to be sufficient and necessary to meet such payments, within the amount determined by the board of investments to be prudently available. The manner and timing of such transfers shall be in the discretion of the board of investments. The total of the amounts transferred may not exceed a total of fifty million dollars during fiscal year one thousand ninety-two and ten million dollars during fiscal year one thousand ninety-three, respectively. On the date the loan is transferred to the special sinking fund created in subsection (d) of this section, interest shall accrue at the current interest rate of the fund from which the loan originated, plus one fourth of one percent, and the current interest rate shall be recalculated every six months.

(c) Full repayment of all moneys transferred, with interest, shall be made to the board of investments by payment into such pension fund from amounts appropriated by the Legislature or in the absence of appropriations from the amounts specified in section thirty, article fifteen, chapter eleven of this code, by budget action as first priority from the moneys available for each fiscal year. Repayment of the loans shall begin six months from the date the funds were transferred and payments shall be made every six months thereafter, or sooner if agreed to in writing by the board of investments and the governor: Provided, That all loans shall be repaid in full by the last day of August, one thousand nine hundred ninety-six.

(d) There is hereby created in the state treasury a
special account, designated the "Education Enhancement Fund", which is a sinking fund for the deposit, withdrawal and repayment of moneys transferred pursuant to this section and section thirty, article fifteen, chapter eleven of this code, in accordance with the special fund doctrine for budgetary transfer activities involving more than one fiscal year. Management of such fund shall be a responsibility of the board of investments. If any moneys remain in said fund after repayment in full to the appropriate pension fund or funds, such moneys shall be transferred to the general revenue fund within thirty days of the last repayment.

(e) Upon the written request of the governor, the board of investments shall transfer to the general revenue fund, from the funds available in the educational enhancement fund, those funds necessary for the timely payment for necessary improvements in public education as appropriated by the Legislature.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James Beck
Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect from passage.

Pascal M. Chenault
Clerk of the Senate

Donald Y. Kopp
Clerk of the House of Delegates

Paul B. Suit, Jr.
President of the Senate

Robert C. Byrd
Speaker of the House of Delegates

The within is approved this the 1st day of April, 1992.

Governor

Yoston Caperton