

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

96 MAR 25 PM 4:32

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ENROLLED

HOUSE BILL No. 4844

(By Delegates KISS, BROWNING, FARRIS, WALLACE)
AND WALTERS

Passed MARCH 9, 1996

In Effect from Passage

ENROLLED

H. B. 4844

(BY DELEGATES KISS, BROWNING, FARRIS, WALLACE AND WALTERS)

[Passed March 9, 1996; in effect from passage.]

AN ACT finding and declaring that the judgments entered by the Circuit Court of Kanawha County in the case of *Gribben v. Kirk*, Civil Action No. 94-MISC-160; in the case of *Cordle v. Kirk*, Civil Action No. 83-P. MISC.-662; and in the case of *Adams v. Mooney*, Civil Action No. Misc.-77-324, are moral obligations of the state and directing the manner in which the auditor may issue warrants for the payment thereof.

Be it enacted by the Legislature of West Virginia:

That the Legislature finds and declares that certain judgments against the state by the Circuit Court of Kanawha County in the cases of *Gribben v. Kirk*, Civil Action No. 94-MISC-160; the case of *Cordle v. Kirk*, Civil Action No. 83-P. MISC.-662; and the case of *Adams v. Mooney*, Civil Action No. Misc.-77-324, are moral obligations of the state and directs that payment be made in accordance with the provisions set forth herein. The Legislature further finds and declares that it is not abrogating the state's sovereign immunity from suit by declaring this judgment a moral obligation of the state. The Legislature further finds that the separation of powers provision found in *West Virginia Constitution*, Section one, Article V, prohibits payments from being made from the state treasury absent a lawful appropriation by the Legislature. Therefore, in order that other constitutional officers are not required to abrogate their constitutional duties, the Legislature directs the auditor to issue warrants upon receipt of properly executed requisitions supported by itemized invoices, statements or other satisfactory

documents as required by section ten, article three, chapter twelve of the code of West Virginia, one thousand nine hundred thirty-one, as amended, for the payments thereof out of the specific line item appropriations made therefor in the budget act for each fiscal year. The Legislature finds that the following amounts will be considered a payment in full of the moral obligation of this state for the payments of the judgments:

- 1 (1) *Gribben v. Kirk* — total \$1,508,848
- 2 (2) *Cordle v. Kirk* — total \$3,148,491
- 3 (3) *Adams v. Mooney* — total \$312,995

4 It is the intent of the Legislature that payments on the
5 above-stated amounts will be made in accordance with a
6 line item appropriation in the budget for the fiscal year
7 ending the thirtieth day of June, one thousand nine
8 hundred ninety-seven, in an amount of at least two million
9 dollars. The Legislature finds that an appropriate
10 schedule for payment of the moral obligation declared
11 herein would be an appropriation of two million dollars
12 per fiscal year until the moral obligation has been
13 satisfied.

14 The Legislature finds that the above amounts do not
15 include payments for interest accrued after the twentieth
16 day of January, one thousand nine hundred ninety-six.
17 The Legislature finds that it is under no obligation to pay
18 amounts for interest which may have heretofore or may
19 hereafter accrue. The Legislature declares that it may toll
20 the running on interest or choose to pay no interest on the
21 judgment in its discretion. The provisions of this act are
22 deemed to be severable and the rules for construction of
23 statutes provided for in subsection (cc), section ten, article
24 two, chapter two of the code of West Virginia, one
25 thousand nine hundred thirty-one, as amended, shall be
26 applicable as if that subsection were included herein in
27 extenso.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schoonover
Chairman Senate Committee

Randy Seant
Chairman House Committee

Originating in the House.

Takes effect from passage.

Donnell E. Holmes
Clerk of the Senate

Bryony D. Gray
Clerk of the House of Delegates

Carl Ray Tomblin
President of the Senate

Paul E. Canine
Speaker of the House of Delegates

The within *is approved* this the *25th*
day of *May*, 1996.

Easton Capenbor
Governor

PRESENTED TO THE
GOVERNOR
Date 3/21/96
Time 3:50