

No. 1664

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1985 MAY -3 AM 10:42

OFFICE OF HOUSE CLERK
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985



ENROLLED

Com. Sub. for
HOUSE BILL No. 1664

(By Mr. Speaker, Mr. Albright, & Del. Lott)



Passed April 13, 1985

In Effect 90 Days From Passage



ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1664

(By MR. ALBRIGHT, MR. SPEAKER, and DELEGATE SATTES)

[Passed April 13, 1985; in effect ninety days from passage.]

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-two-a, relating to establishing the eminent scholars endowment trust fund; providing definitions; establishing a corporation; designating the board of directors; designating powers and duties of the board and of the board of regents; specifying how the fund shall be administered; providing for the selection of scholars; authorizing and providing for the solicitation of private moneys; and requiring certain reports.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-two-a, to read as follows:

ARTICLE 22A. EMINENT SCHOLARS ENDOWMENT TRUST FUND ACT.

§18-22A-1. Legislative findings.

- 1 The Legislature hereby finds that the essence of excellence
- 2 in higher education is the attraction and retention of
- 3 outstanding faculty; that however necessary modern facilities
- 4 and efficient and effective administration may be, the faculty

5 provides the catalyst by which all the elements of higher
6 education combine to offer a quality education. The Legisla-
7 ture further finds that the attraction and retention of
8 outstanding faculty at all state colleges and universities,
9 particularly those who have attained distinction as scholars
10 and teachers, requires a long-term and permanent commitment
11 from both public and private sources, that private support will
12 help strengthen the commitment of citizens and organizations
13 to the promotion of excellence in higher education and will
14 provide moneys for salaries competitive with those paid to
15 scholars of similar eminence working for this country's leading
16 colleges and universities.

17 The Legislature further finds that the appropriations of
18 public moneys to attract and retain outstanding faculty and
19 to encourage the commitment of private moneys with a view
20 toward the accumulation of such moneys in a trust fund for
21 such purposes is a proper annual expense of the state, and that
22 the establishment of an eminent scholars trust fund is a proper
23 means of providing for the advancement of public higher
24 education in this state.

§18-22A-2. Definitions.

1 Whenever the following terms are used in this article, they
2 shall have the meanings described below:

3 (a) "Board of directors" or "board" means the members of
4 the board of directors of the eminent scholars endowment trust
5 fund.

6 (b) "Endowed chair" or "chair" means the position created
7 pursuant to section six of this article to which an eminent
8 scholar shall be appointed.

9 (c) "Fund" means the eminent scholars endowment trust
10 fund.

11 (d) "Contract salary" means that portion of the scholar's
12 financial compensation paid from state moneys but shall not
13 be construed to include moneys from the eminent scholars
14 endowment trust fund.

**§18-22A-3. Establishment of fund; corporation to administer;
board of directors.**

1 There is hereby established the eminent scholars endowment

2 trust fund, a public corporation, for the purpose of admin-
3 istering the fund described in this article. The board of
4 directors of this corporation shall be those persons appointed
5 and serving as members of the board of regents.

§18-22A-4. Corporate powers.

1 (a) The officers of the corporation shall be the officers of
2 the board of regents. The procedural rules of the board of
3 regents shall be used in conducting meetings.

4 (b) The corporation is hereby expressly authorized to
5 receive appropriations of public moneys and private or public
6 grants, gifts or bequests. It may hold, invest or reinvest such
7 moneys and expend the income therefrom as hereinafter
8 provided. The board may determine which of the properties
9 and moneys received by it, other than public appropriations,
10 grants, bequests and specific gifts, are income and which are
11 additions to principal.

12 (c) The board shall be exempt from liability for any loss
13 or decrease in value of the assets or income of the fund, except
14 as such losses or decreases in value are shown to be the result
15 of bad faith, gross negligence or intentional misconduct.

16 For the purpose of valuing assets, the board may use any
17 commonly accepted techniques of appraisal or commonly
18 accepted principles of accounting. No agency of government
19 nor any person, natural or corporate, may charge or collect
20 any fee or receive any part of the principal or income from
21 any appropriation, grant, gift or bequest as a fee for the
22 acquisition or administration of the appropriation, grant, gift
23 or bequest.

24 (d) The board shall adhere at all times to the terms and
25 limitations of any appropriation, grant, gift or bequest
26 received. However, the board may refuse to receive any grant,
27 gift or bequest which incorporates terms and limitations which
28 they deem to be unacceptable.

29 (e) The board may in its sole discretion borrow money when
30 necessary in order to avoid the untimely sale of assets. At no
31 time, however, may the board incur any debt obligation for
32 such purpose which exceeds twelve months in duration.

§18-22A-5. Duties of board of regents.

1 The board of regents shall provide to the fund all necessary
2 secretarial services, office space, staff and other assistance
3 required without charge or appropriation therefor.

§18-22A-6. Administration of fund.

1 (a) The board shall use any state moneys appropriated to
2 the fund solely for the purpose of establishing endowed chairs
3 at state colleges and universities.

4 The board may allocate state appropriations to an account
5 only when private moneys have also been allocated to that
6 account. The board shall endeavor, whenever possible, to
7 allocate one dollar of state appropriations for every two
8 dollars of private moneys allocated. The board may also
9 allocate only private moneys to an account.

10 Unless otherwise directed by executive order, the payment
11 of state appropriations to the fund shall be made in twelve
12 equal monthly installments, beginning on the last day of the
13 first month of the fiscal year.

14 (b) The board may, for purposes of investment, commingle
15 any moneys constituting principal received from whatever
16 source to the extent allowed under the terms of the granting
17 of such moneys and shall endeavor to obtain the highest
18 possible rate of return consistent with the preservation of the
19 principal. Consistent with the terms of the appropriation,
20 grant, gift or bequest, and the provisions of this section, the
21 board may use any income, principal or combination of
22 income and principal as it may deem prudent to finance the
23 establishment of each endowed chair.

24 (c) The board shall designate endowed chairs at the various
25 colleges and universities as it may deem appropriate. For each
26 chair so established it shall designate a separate account
27 administered by the board to which moneys from the fund
28 shall be deposited. Such moneys may continue to be deemed
29 principal for purposes of investment and commingling
30 pursuant to subsection (b) of this section, and any income, loss
31 or gain, or increase or decrease in value may be allocated by
32 the board on such reasonable basis as is prescribed by the
33 board.

34 (d) For the purpose of encouraging the donation of private
35 moneys to the fund, the board may designate specific chairs

36 or specific areas of academic study as subjects of challenge
37 grants. A specific chair, or a chair in a designated academic
38 area, shall be established whenever the total amount of
39 principal and interest dedicated to it reaches one hundred fifty
40 thousand dollars, with at least one half of the principal being
41 from private sources.

42 When one hundred fifty thousand dollars has accumulated
43 in the account dedicated to any one chair, the board shall
44 notify the president of the appropriate college or university
45 that an appointment to that chair shall be made.

46 (e) The president of the college or university shall use at
47 least two thirds of the income from moneys allocated to an
48 account to supplement the salary of the person appointed to
49 the endowed chair created by such account. The sum paid
50 from the fund to the person so appointed shall be in addition
51 to the contract salary except as otherwise provided in this
52 section. Such president may allocate one third or any part
53 thereof to provide or assist in providing secretarial or other
54 support services for the endowed chair or may return one third
55 or any part thereof to the board with the direction that such
56 amount be added to the principal amount in the account of
57 the endowed chair from which such income was derived to
58 protect its future yield.

59 (f) Whenever the endowed chair's salary supplement
60 received pursuant to this subsection equals fifty percent of the
61 contract salary, the president of the college or university may
62 return all or a portion of the excess amount to the fund, and
63 the board shall designate a new account for the purpose of
64 establishing another chair at the same institution or an existing
65 account at the same institution for receipt of the moneys so
66 returned: *Provided*, That when the principal amount of any
67 chair reaches the sum of one million dollars or more, no state
68 salary may be paid to the holder of the chair, but such person's
69 entire salary shall be paid from the interest income.

70 (g) When the total allocations designated for a chair from
71 both public and private sources do not equal or exceed one
72 hundred fifty thousand dollars within five years from the date
73 of the establishment of the account, the board may designate
74 a new or existing chair as the recipient of the moneys,
75 regardless of the terms of the appropriation, grant, gift or

76 bequest, except where return of the moneys is required by the
77 terms of the grant, gift or bequest.

§18-22A-7. Selection of scholars.

1 Each college or university shall establish criteria for the
2 selection of persons to be appointed to the chairs established
3 pursuant to this article. Endowed positions may be filled from
4 either within or outside the faculty of the college or university.
5 At each college or university at least one half of all chairs
6 funded pursuant to this article shall be dedicated exclusively
7 to teaching, and outstanding teaching ability shall be part of
8 the criteria for appointment to such teaching chair.

9 Appointees shall have a record of distinguished academic or
10 professional work in an appropriate field, such to be judged
11 in national terms and verified by the department or college
12 benefitting from such chair. Appointees shall submit to peer
13 review at such department or college and such other review
14 procedures as may be established by the college or university.

15 The board, or the college or university, may establish criteria
16 which exceeds the provisions of this section.

**§18-22A-8. Authorization to solicit private moneys; terms of grants;
reports to board of directors; handling of moneys.**

1 Each college and university, and each dean and department
2 chair within each college or university, is hereby authorized
3 to solicit moneys for the endowment of chairs pursuant to this
4 article. In order to maximize the effective use of moneys
5 raised, persons or institutions soliciting moneys shall endeavor,
6 insofar as is possible, to secure private grants, gifts or bequest
7 which are unlimited as to their use. All persons and institutions
8 engaged in soliciting moneys shall apprise the board of their
9 actions and provide periodic reports, at least once each fiscal
10 year, regarding the amounts secured and, upon receipt of any
11 moneys, shall forward them forthwith to the board for deposit
12 in accordance with section six of this article.

§18-22A-9. Annual report.

1 The board shall make an annual report to the joint
2 committee on government and finance of the West Virginia
3 Legislature no later than the first day of December of each
4 year setting forth with specificity the sources of all moneys,

5 the allocations of all moneys and such other information as
6 the joint committee may require.

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

Harrell E. Holmes
Chairman Senate Committee

Floyd Fuller
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Sid C. Hulse
Clerk of the Senate

Donald W. Hagg
Clerk of the House of Delegates

Dan Torheim
President of the Senate

Joseph P. Allright
Speaker of the House of Delegates

The within *approved* this the *2nd*
May day of _____, 1985.

Mura. Prance Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 4/25/85

Time 2:33 p.m.