WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985

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ENROLLED

Com. Sub. for
HOUSE BILL No. 1444

(By Mr. Speaker, Mr. Albright, and Suttles)

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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 in higher education is the attraction and retention of outstanding faculty; that however necessary modern facilities and efficient and effective administration may be, the faculty
provides the catalyst by which all the elements of higher education combine to offer a quality education. The Legislature further finds that the attraction and retention of outstanding faculty at all state colleges and universities, particularly those who have attained distinction as scholars and teachers, requires a long-term and permanent commitment from both public and private sources, that private support will help strengthen the commitment of citizens and organizations to the promotion of excellence in higher education and will provide moneys for salaries competitive with those paid to scholars of similar eminence working for this country’s leading colleges and universities.

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


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

(a) “Board of directors” or “board” means the members of the board of directors of the eminent scholars endowment trust fund.

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

(c) “Fund” means the eminent scholars endowment trust fund.

(d) “Contract salary” means that portion of the scholar’s financial compensation paid from state moneys but shall not be construed to include moneys from the eminent scholars endowment trust fund.

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

There is hereby established the eminent scholars endowment
trust fund, a public corporation, for the purpose of administering the fund described in this article. The board of directors of this corporation shall be those persons appointed and serving as members of the board of regents.

§18-22A-4. Corporate powers.

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

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

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

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

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

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

§18-22A-6. Administration of fund.

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

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

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

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

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

(d) For the purpose of encouraging the donation of private moneys to the fund, the board may designate specific chairs
or specific areas of academic study as subjects of challenge grants. A specific chair, or a chair in a designated academic area, shall be established whenever the total amount of principal and interest dedicated to it reaches one hundred fifty thousand dollars, with at least one half of the principal being from private sources.

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

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

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

(g) When the total allocations designated for a chair from both public and private sources do not equal or exceed one hundred fifty thousand dollars within five years from the date of the establishment of the account, the board may designate a new or existing chair as the recipient of the moneys, regardless of the terms of the appropriation, grant, gift or
bequest, except where return of the moneys is required by the
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.

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

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

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,
the allocations of all moneys and such other information as the joint committee may require.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ................... this the ..............

day of ................... 1985,

Governor