WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

ENROLLED

HOUSE BILL No. 3196...

(By Delegate R. Harmon & Schifano)

Passed ........................................... June 14, 1987

In Effect ........................................... From Passage
AN ACT to amend and reenact section nineteen-a, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section twelve, article twenty-one, chapter eleven of said code; to amend and reenact section nineteen-b, article five, chapter eighteen of said code; to amend and reenact section six, article twenty-two-a of said chapter eighteen; to amend article twenty-two-d of said chapter eighteen by adding thereto a new section, designated section ten; to further amend said chapter eighteen by adding thereto a new article, designated article twenty-two-e; and to further amend said chapter eighteen by adding thereto a new article, designated article thirty, all relating to extending for one year the authority for transferring between items of allocation or appropriation with general revenue accounts of state institutions of higher education; allowing a state income tax deduction for payments made under a tuition prepayment contract or tuition trust account contract; providing for student assistance loans for attendance in adult education classes; loans to be administered and received by the state board of education; specifying certain regulations regarding the loans; limiting liability of state board of education; specifying manner of appropriation, allocation and reallocation of moneys for eminent scholars endowment trust fund; creating the distinguished professors endowment trust fund act; and creating the West Virginia education trust act.
Be it enacted by the Legislature of West Virginia:

That section nineteen-a, article two, chapter five-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section twelve, article twenty-one, chapter eleven of said code be amended and reenacted; that section nineteen-b, article five, chapter eighteen of said code be amended and reenacted; that section six, article twenty-two-a of said chapter eighteen be amended and reenacted; that article twenty-two-d of said chapter eighteen be amended by adding thereto a new section, designated section ten; that said chapter eighteen be further amended by adding thereto a new article, designated article twenty-two-e; and that said chapter eighteen be further amended by adding thereto a new article, designated article thirty, all to read as follows:

CHAPTER 5A. DEPARTMENT OF FINANCE AND ADMINISTRATION.

ARTICLE 2. BUDGET DIVISION.

§5A-2-19a. Authorizing transfers between items of allocation or appropriation within general and special revenue accounts of state institutions of higher education; expiration of authority to authorize transfers.

(a) Notwithstanding the provisions of section nineteen of this article and if authorized by a majority of the board of advisors of the institution of higher education, the president of such institution may transfer moneys within the general revenue account or accounts and between items of allocation or appropriation therein or subaccounts thereof: Provided, That no such transfer may increase the moneys allocated or appropriated to any personal services item or subaccount of a general revenue account of such institution. A request for such transfer of moneys, when desired, shall be made in writing by the president of the institution and shall be submitted to each member of the board of advisors for such institution. Whenever such request is approved, the
board of regents shall be notified of such authorization, and the transfer shall have been effected prior to any expenditure of the moneys so transferred. Not more than five percent of the total allocation or appropriation in any general revenue account of an institution may be transferred within such account and between the items of allocation subaccounts thereof or within such account and between the items of appropriation thereof. The authority herein granted shall expire on the thirtieth day of June, one thousand nine hundred eighty-eight.

(b) Notwithstanding the provisions of section nineteen of this article and any other provisions of this code to the contrary and notwithstanding the purposes for which any moneys deposited into special accounts were collected, the board of regents shall periodically examine the balance in every special revenue account established in the state treasury for the board of regents or a state institution of higher education, and, if the board determines that a balance exists in excess of that reasonably required to accomplish the purposes for which the account was established, the board may transfer any portion of the excess balance to separate accounts to be created for each institution which receives transfers pursuant to this subsection for use by such state institution of higher education to address its highest academic priorities in accordance with rules to be established by the board: Provided, That no moneys so transferred shall be used for personal services except such amounts as shall be mandated by articles twenty-two and twenty-six-b of chapter eighteen: Provided, however, That no funds shall be transferred pursuant to this subsection from accounts established under sections one, one-a and one-b, article twenty-four, chapter eighteen of the code: Provided further, That no funds in any special account established for a specific state institution of higher education shall be transferred for use by another state institution of higher education. The board shall annually, not later than July first of each year, provide to the legislative auditor an account of any such transfers under this section. The authority herein granted shall expire on the thirtieth day of June, one thousand nine hundred eighty-eight.
CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX.

PART I. GENERAL.

§11-21-12. West Virginia adjusted gross income of resident individual.

(a) General. — The West Virginia adjusted gross income of a resident individual means his federal adjusted gross income as defined in the laws of the United States for the taxable year with the modifications specified in this section.

(b) Modifications increasing federal adjusted gross income. — There shall be added to federal adjusted gross income unless already included therein the following items, except that modifications (5), (6) and (7) shall be required only with respect to tax periods ending on or after the first day of January, one thousand nine hundred eighty-two:

1. Interest income on obligations of any state other than this state, or of a political subdivision of any such other state unless created by compact or agreement to which this state is a party;

2. Interest or dividend income on obligations or securities of any authority, commission or instrumental-ity of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax: Provided, That this modification shall not be made for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-six;

4. Interest on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is exempt from tax under this article, to the extent deductible in determining federal adjusted gross income;
5 (5) Interest on a depository institution tax-exempt
savings certificate which is allowed as an exclusion from
federal gross income under section 128 of the Internal
Revenue Code, for the federal taxable year;

(6) The amount allowed as a deduction from federal
gross income under section 221 of the Internal Revenue
Code by married couples who file a joint federal return
for the federal taxable year: Provided, That this
modification shall not be made for taxable years
beginning after the thirty-first day of December, one
thousand nine hundred eighty-six; and

(7) The deferral value of certain income that is not
recognized for federal tax purposes, which value shall
be an amount equal to a percentage of the amount
allowed as a deduction in determining federal adjusted
gross income pursuant to the accelerated cost recovery
system under section 168 of the Internal Revenue Code
for the federal taxable year, with the percentage of the
federal deduction to be added as follows with respect to
the following recovery property: Three-year property —
no modification; five-year property — ten percent; ten-
year property — fifteen percent; fifteen-year public
utility property — twenty-five percent; and fifteen-year
real property — thirty-five percent: Provided, That this
modification shall not apply to any person whose federal
deduction is determined by the use of the straight line
method: Provided, however, That this modification shall
not be made for taxable years beginning after the thirty-
first day of December, one thousand nine hundred
eighty-six;

(c) Modifications reducing federal adjusted gross
income. — There shall be subtracted from federal
adjusted gross income to the extent included therein:

(1) Interest income on obligations of the United States
and its possessions to the extent includable in gross
income for federal income tax purposes;

(2) Interest or dividend income on obligations or
securities of any authority, commission or instrumental-
ity of the United States to the extent includible in gross
income for federal income tax purposes but exempt
from state income taxes under the laws of the United States, including federal interest dividends paid to shareholders of a regulated investment company, under section 852 of the Internal Revenue Code for taxable years ending after the thirtieth day of June, one thousand nine hundred eighty-seven;

(3) Any gain from the sale or other disposition of property having a higher fair market value on the first day of January, one thousand nine hundred sixty-one, than the adjusted basis at said date for federal income tax purposes: Provided, That the amount of this adjustment is limited to that portion of any such gain which does not exceed the difference between such fair market value and such adjusted basis: Provided, however, That if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to forty percent of such portion of the gain: Provided further, That this modification shall not be made for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-six;

(4) The amount of any refund or credit for overpayment of income taxes imposed by this state, or any other taxing jurisdiction, to the extent properly included in gross income for federal income tax purposes;

(5) Annuities, retirement allowances, returns of contributions and any other benefit received under the public employees retirement system, the department of public safety death, disability and retirement fund, the state teachers retirement system and all forms of military retirement, including regular armed forces, reserves and national guard, including any survivorship annuities derived therefrom, to the extent includible in gross income for federal income tax purposes: Provided, That notwithstanding any provisions in this code to the contrary this modification shall be limited to the first two thousand dollars of benefits received under the public employees retirement system, the state teachers retirement system and all forms of military retirement including regular armed forces, reserves and national guard for taxable years beginning after the thirty-first
day of December, one thousand nine hundred eighty-six;

(6) Retirement income received in the form of pensions and annuities after the thirty-first day of December, one thousand nine hundred seventy-nine, under any police or firemen's retirement system, including any survivorship annuities derived therefrom, to the extent includible in gross income for federal income tax purposes;

(7) Federal adjusted gross income in the amount of six thousand dollars received from any source after the thirty-first day of December, one thousand nine hundred eighty-six, by any person who has attained the age of sixty-five on or before the last day of the taxable year, or by any person certified by proper authority as permanently and totally disabled, regardless of age, on or before the last day of the taxable year, to the extent includible in federal adjusted gross income for federal tax purposes: Provided, That if a person has a medical certification from a prior year and he is still permanently and totally disabled, a copy of the original certificate is acceptable as proof of disability. A copy of the form filed for the federal disability income tax exclusion is acceptable: Provided, however, That

(i) Where the total modification under subdivisions (1), (2), (5) and (6) of this subsection is eight thousand dollars per person or more, no deduction shall be allowed under this subdivision, and

(ii) Where the total modification under subdivisions (1), (2), (5) and (6) of this subsection is less than eight thousand dollars per person, the total modification allowed under this subdivision for all gross income received by such person shall be limited to the lesser of six thousand dollars or the difference between eight thousand dollars and the sum of modifications under such subdivisions;

(8) Federal adjusted gross income in the amount of six thousand dollars received from any source after the thirty-first day of December, one thousand nine hundred eighty-six, by the surviving spouse of any person who had attained the age of sixty-five or who had been
certified as permanently and totally disabled, to the extent includible in federal adjusted gross income for federal tax purposes: Provided, That

(i) Where the total modification under subdivisions (1), (2), (5), (6) and (7) of this subsection is eight thousand dollars or more, no deduction shall be allowed under this subdivision, and

(ii) Where the total modification under subdivisions (1), (2), (5), (6) and (7) of this subsection is less than eight thousand dollars per person, the total modification allowed under this subdivision for all gross income received by such person shall be limited to the lesser of six thousand dollars or the difference between eight thousand dollars and the sum of such subdivisions:

(9) Any pay or allowances received, after the thirty-first day of December, one thousand nine hundred seventy-nine, by West Virginia residents who have not attained the age of sixty-five, as compensation for active service in the armed forces of the United States: Provided, That such deduction shall be limited to an amount not to exceed four thousand dollars: Provided, however, That this modification shall not be made for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-six;

(10) Gross income to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code for federal income tax purposes: Provided, That this modification shall not be made for taxable years beginning after the thirty-first day of December, one thousand nine hundred eighty-six;

(11) The amount of any lottery prize awarded by the West Virginia state lottery commission, to the extent properly included in gross income for federal income tax purposes;

(12) The amount of payment made under a tuition prepayment contract or tuition trust account contract, or both, as provided under section fourteen, article thirty, chapter eighteen of this code; and

(13) Any other income which this state is prohibited
(d) Modification for West Virginia fiduciary adjustment. — There shall be added to or subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under section nineteen of this article.

(e) Partners. — The amounts of modifications required to be made under this section by a partner, which relate to items of income, gain, loss or deduction of a partnership, shall be determined under section seventeen of this article.

(f) Husband and wife. — If husband and wife determine their federal income tax on a joint return but determine their West Virginia income taxes separately, they shall determine their West Virginia adjusted gross incomes separately as if their federal adjusted gross incomes had been determined separately.

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-19b. Adult education classes and programs; tuition and student assistance loans; authority of county boards to contract with federal agencies.

(a) The board of education of any county shall have authority to provide classes and programs for adult education and to charge tuition for members of such classes and/or programs, such tuitions not to exceed in any case the actual cost of operation of such classes and/or programs. The county board of education shall also have authority to enter into contracts of agreement with authorized agencies of the federal government for the education of adults and to provide, assemble and house materials and equipment for efficient instruction in any and all such classes and/or programs, contract for instruction for the term of the class and/or program to be offered, and to use school facilities by way of buildings and equipment under the control of said board. Any funds accruing from such tuitions shall be
credited to adult education in the current expense fund
of the county board of education and reported each year
as of June thirtieth in the manner required for other
financial reports of the board.

(b) Student assistance loans for attendance in adult
education classes and/or programs shall be available in
accordance with the applicable provisions of article
twenty-two-d of this chapter to an eligible student
pursuant to regulations promulgated by the state board
of education, who shall administer such loan program
as it relates to adult education classes and/or programs,
and who shall stand in the place of the board of regents
for purposes of loans received pursuant to this section.

The limitations on investment provided for in section
four of said article twenty-two-d shall remain in full
force and effect.

State board regulations shall be in accordance with
the provisions of article twenty-two-d to the extent
practicable, except that the regulations shall provide for
the following:

(1) The eligible student must be a high school
graduate or equivalent or must be eighteen years of age;

(2) Maximum loan amounts and the maximum
number of loans received by any eligible student shall
be prescribed by regulation of the state board;

(3) The loan agreement may provide for the repay-
ment of interest only until such time as the eligible
student is no longer enrolled in the approved adult
education class and/or program. However, in all cases,
repayment of the principal shall commence at such time
as the eligible student is no longer enrolled in the adult
education class or program for which a loan or loans
were received pursuant to this section: Provided, That
an eligible student who enrolls in an institution of
higher education subsequent to such adult education
enrollment may defer such payment until completion or
withdrawal from the institution of higher education; and

(4) Notwithstanding the time in which the eligible
lending institution may provide for the repayment of the
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55 loan, the linked deposit shall be terminated at the
56 maturity date next succeeding complete repayment or
57 five years after cessation of enrollment, whichever is
58 sooner.

59 The state board is not liable to any eligible lending
60 institution in any manner for payment of the principal
61 or interest on the loan to an eligible student.

62 (c) The board of education of any county shall have
63 authority to enter into contracts of agreement with
64 temporary teachers for the purpose of teaching adult
65 education classes or programs which do not exceed
66 ninety days or seven hundred twenty hours. The
67 appointment of a temporary teacher is a contract of
68 agreement for the duration of the class or program, and
69 the temporary teacher shall not accrue benefits of
70 retirement, personal leave, medical or life insurance,
71 seniority rights, or any other provisions relating to
72 salaries, wages and benefits pursuant to article four,
73 chapter eighteen-a of this code: Provided, That such
74 temporary appointment does not preclude the benefits
75 mandated by federal law, workers' compensation and
76 liability insurance coverage for the duration of the class
77 or program.

ARTICLE 22A. EMINENT SCHOLARS ENDOWMENT TRUST
FUND ACT.

§18-22A-6. Administration of fund.

1 (a) Moneys from the general revenue of the state shall
2 be appropriated by separate line item in the budget for
3 faculty endowments to be used solely for the purposes
4 of this article and of article twenty-two-e of this chapter.
5 The board shall allocate the appropriation in accordance
6 with policies which shall be adopted for this purpose,
7 and any funds allocated and not utilized to establish
8 endowed chairs for eminent scholars at state colleges
9 and universities under this article may be reallocated in
10 accordance with such board policies for the sole purpose
11 of establishing distinguished professorships at state
12 colleges and universities pursuant to said article twenty-
13 two-e.

14 The board may allocate state appropriations to an
account only when private moneys have also been
allocated to that account and shall require a minimum
of one private dollar for each dollar of state appropri-
ation. 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 at the institution wherein the fund was established 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.

ARTICLE 22D. HIGHER EDUCATION STUDENT ASSISTANCE
LOAN PROGRAM.

§18-22D-10. Applicability to adult education.

1 The provisions of this article, except as to the
administration by the board of regents and such other
exceptions as may be provided for in section nineteen-
b, article five of this chapter, or such regulations as may
be promulgated, shall apply to all student assistance
loans for adult education authorized and provided for in
said section nineteen-b. Such adult education loans shall
be administered by the state board of education in
accordance with regulations adopted pursuant to this
article, where practicable, and the provisions of section
nineteen-b, article five of this chapter: Provided, That
for purposes of applying the provisions of this article to
adult education loans, references to the board of regents
shall be deemed references to the state board of
education.

ARTICLE 22E. DISTINGUISHED PROFESSORS ENDOWMENT
TRUST FUND ACT.

§18-22E-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 administra-
tion 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 compet-
The Legislature further finds that the appropriation 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 a distinguished professors 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 distinguished professors endowment trust fund;

(b) "Distinguished professorship" means the position created pursuant to section six of this article to which a professor shall be appointed;

(c) "Fund" means the distinguished professors endowment trust fund;

(d) "Contract salary" means that portion of the distinguished professors's financial compensation paid from state moneys but shall not be construed to include moneys from the distinguished professors endowment trust fund.

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

There is hereby established the distinguished professors 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.
§18-22E-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, shall 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 purposes which exceeds twelve months in duration.

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

The board of regents shall provide to the fund all necessary secretarial services, office space, staff and
§18-22E-6. Administration of fund.

(a) Moneys from the general revenue of the state shall be appropriated by separate line item in the budget for faculty endowments to be used solely for the purposes of this article and of article twenty-two-a of this chapter. The board shall allocate the appropriation in accordance with policies which shall be adopted for this purpose, and any funds allocated and not utilized to establish distinguished professorships at state colleges and universities under this article may be reallocated in accordance with such board policies for the sole purpose of establishing endowed chairs for eminent scholars at state colleges and universities pursuant to said article twenty-two-a.

The board may allocate state appropriations to an account only when private moneys have also been allocated to that account and shall require a minimum of one private dollar for each dollar of allocation from state appropriation. 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 distinguished professorship.
(c) The board shall designate distinguished professorships at the various colleges and universities as it may deem appropriate. For each professorship 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 or specify areas as subjects of challenge grants. A specific professorship in a designated academic area shall be established whenever the total amount of principal and interest dedicated to it reaches twenty thousand dollars, with at least one half of the principal being from private sources.

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

(e) The president of the college or university may use the income and up to ten percent of that portion of the principal of moneys allocated to an account that is in excess of the amount that is the sum of the total state appropriation to that account plus an equal amount contributed from private sources. The president of the college or university may use such moneys to supplement the salary of the person appointed to the distinguished professorship 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 an additional ten percent or any part thereof of such excess principal to provide or assist in providing secretarial or other support services for the distinguished professorship.
(f) Whenever the account for a distinguished professorship equals one hundred fifty thousand dollars, the board, on recommendation of the president of the college or university, may convert the account to an eminent scholars account pursuant to the provisions of article twenty-two-a of this chapter: Provided, That when the principal amount of any account reaches the sum of one million dollars or more, no state salary may be paid to the holder of the professorship, but such person's entire salary shall be paid from the interest income.

(g) When the total allocations designated for a distinguished professorship from both public and private sources do not equal or exceed twenty thousand dollars within five years from the date of the establishment of the account, the board may designate a new or existing professorship at the institution wherein the fund was established 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.

§18-22E-7. Selection of distinguished professors.

The board of regents shall establish criteria for the selection of persons to be appointed as distinguished professors established pursuant to this article. Such professorships may be filled from either within or outside the faculty of the college or university, and outstanding teaching ability shall be part of the criteria for appointment. The board may establish criteria which exceeds the provisions of this section.

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

Each college and university, and each dean and department chair within each college or university, is hereby authorized to solicit moneys for distinguished professorships 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 bequests 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
3 Virginia Legislature no later than the first day of
4 December of each year setting forth with specificity the
5 sources of all moneys, the allocations of all moneys and
6 such other information as the joint committee may
7 require.

ARTICLE 30. WEST VIRGINIA EDUCATION TRUST ACT.
§18-30-1. Title.
1 This act shall be known and may be cited as the “West
2 Virginia Education Trust Act.”

§18-30-2. Legislative findings and purpose.
1 The Legislature hereby finds and declares that it is
2 in the best interests of the state to encourage its citizens
3 to obtain a higher education. The Legislature further
4 finds and declares that tuition costs at institutions of
5 higher education are difficult for many to either afford
6 or to predict so that they can plan for a higher
7 education.

In light of these findings, the Legislature declares the
purpose of this act and of the West Virginia education
trust created by this act is to encourage students and
their parents to plan for attendance at an institution of
higher education, to enable them to finance the cost of
a higher education in this state by providing economic
protection against rising tuition costs at state institu-
tions of higher education and economic assistance for
attendance at other institutions of higher education in
this state, and to enhance access to all institutions of
higher education to benefit the state of West Virginia
and its people.
§18-30-3. Definitions.

As used in this act, except where the context clearly requires otherwise:

(a) "Average tuition cost" means the weighted average cost per semester for full-time, resident, undergraduate attendance at any state institution of higher education, such weighted average cost to be arrived at by adding the products of the cost of tuition at each state institution of higher education for full-time attendance per semester times its total number of full-time-equivalent undergraduate students during a fiscal year, and then dividing that sum by the total number of full-time-equivalent undergraduate students attending all state institutions of higher education in that fiscal year;

(b) "Board" means the board of directors of the West Virginia education trust described in section five of this article;

(c) "Contract" means a tuition prepayment contract or a tuition trust account contract, or both;

(d) "Fund" means the education trust fund created in section seven of this article;

(e) "Institution of higher education" means any public or private, nonprofit, accredited, degree-granting college or university;

(f) "Purchaser" means a person who makes or is obligated to make payments pursuant to a tuition prepayment contract or tuition trust account contract, or both;

(g) "Qualified beneficiary" means any resident of this state, or any other state, who is named as such in the tuition prepayment contract or tuition trust account contract;

(h) "Standard tuition unit" means the weighted average tuition cost divided by the minimum number of credits per semester required for full-time enrollment to reflect a cost per credit;

(i) "State institution of higher education" means state
Section 37, Enr. H. B. 3196: colleges, state universities, and any community college as those terms are defined in section two, article twenty-six of this chapter; and

(j) “Trust” means the West Virginia education trust created in section four of this article;

(k) “Tuition” means the cost of tuition and all mandatory fees required of resident, undergraduate students per semester at state institutions of higher education including, but not limited to, fees required pursuant to sections one, one-a, one-b, and four of article twenty-four of this chapter;

(l) “Tuition prepayment contract” means a contract entered into by the trust and a purchaser pursuant to section eight of this article; and

(m) “Tuition trust account contract” means a contract entered into by the trust and a purchaser pursuant to section nine of this article.

§18-30-4. West Virginia education trust created.

1. (a) There is created a public body corporate and politic to be known as the West Virginia education trust. The trust may be within the office of the state treasurer and may utilize the services, personnel and equipment of such office, but the trust shall exercise its prescribed statutory powers, duties, and functions independently of the head of that office.

2. (b) The purposes, powers and duties of the West Virginia education trust are vested in and shall be exercised by a board of directors.

§18-30-5. Appointment of board of directors; terms; compensation: proceedings generally.

1. (a) The board of directors shall consist of the chancellor of the board of regents, who shall be the chairman of the board, the state treasurer, the state superintendent of schools and six other members with knowledge, skill and experience in the academic, business or financial fields, who shall be appointed by the governor, by and with the advice and consent of the Senate. Of the six appointed members, four shall be appointed from
nominations as follows: One shall be appointed from one or more nominees of the speaker of the House of Delegates; one shall be appointed from one or more nominees of the president of the Senate; one shall be a president of a state institution of higher education who shall be appointed from nominees of the president’s council of state colleges and universities; and one shall represent the interests of private institutions of higher education located in this state. Of these four members first appointed, one shall be appointed for a term that expires on the thirty-first day of December, one thousand nine hundred eighty-eight, one shall be appointed for a term that expires on the thirty-first day of December, one thousand nine hundred eighty-nine, and two shall be appointed for a term that expires on the thirty-first day of December, one thousand nine hundred ninety. Following the expiration of these fixed terms, a member shall be appointed for a term of three years. The two remaining members of the board shall be citizens of the state who shall not otherwise be officials, appointees or employees of the state while serving on the board. These two members shall be appointed to serve at the will and pleasure of the governor, one of whom shall be designated by the governor as the president and chief executive officer of the trust and one of whom shall be designated by the governor as the vice president of the trust. A member shall serve until a successor is appointed, and a vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment. The chancellor, treasurer, state superintendent, or president of a state institution of higher education may appoint a designee to serve as a voting member of the board in such person’s absence.

(b) Members of the board other than the president and vice-president of the trust shall serve without compensation, but shall receive reimbursement for reasonable and necessary expenses actually incurred in the performance of their duties as board members unless such member is otherwise reimbursed as an employee of the state.
(c) A majority of the members of the board serving shall constitute a quorum for the transaction of business at a meeting of the board, or the exercise of a power or function of the trust, notwithstanding the existence of one or more vacancies. Voting upon action taken by the board shall be conducted by majority vote of the members present in person at a meeting of the board, and, if authorized by the bylaws of the board and when a quorum is present in person at the meeting, by use of amplified telephonic equipment. The board shall meet at the call of the chair and as may be provided in the bylaws of the trust. Meetings of the board may be held anywhere within the state.

(d) The board is subject to the open governmental proceedings and freedom of information provisions of article nine-a, chapter six, and chapter twenty-nine-b, respectively, of this code.

§18-30-6. Powers generally.

In addition to the powers granted by other provisions of this act, the board shall have the powers necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of this act, the purposes and objectives of the trust, and the powers delegated by other laws or executive orders, including, but not limited to, the power to:

(1) Invest any money of the trust, at the board's discretion, with the treasurer of the state of West Virginia, or in any instruments, obligations, securities, or property determined proper by the board in such manner as is prescribed for the investment of state moneys;

(2) Name and use depositories for its money in such manner as is prescribed for the deposit of state moneys;

(3) Pay money to institutions of higher education on account of a qualified beneficiary as provided in a contract made with the trust and to enter into contractual or other arrangements that are necessary or appropriate with institutions of higher education in order to fulfill the trust's obligations under tuition
prepayment and tuition trust account contracts;

(4) Administer the education trust fund pursuant to section seven and other provisions of this article;

(5) To make, execute and deliver contracts in accordance with the provisions of sections eight and nine of this article, which contracts shall set forth terms and conditions relating to payment, benefits, withdrawal and any other provisions which clarify the rights and duties of the parties to the contracts;

(6) Delegate to its president, vice-president, or others such functions and authority as the board considers necessary or appropriate, including, but not limited to, the hiring, oversight and supervision of employees of the trust;

(7) Utilize the services, personnel and equipment of the treasurer's office for the provision of all or a portion of the services necessary for the management and operation of the trust;

(8) Provide a salary or other stipend to the president or vice president of the trust or both; contract with others, public or private, for goods and any services necessary for the management and operation of the trust, including the office of the attorney general; and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for rendering professional, management, and technical assistance and advice, payable out of any money of the trust;

(9) Solicit and accept gifts, grants, loans, and other aids from any person or the federal, state, or a local government or any agency of the federal, state, or a local government, or to participate in any other way in any federal, state or local government program;

(10) Certify and approve contracts entered into with a private sector investment manager which provide equivalent benefits, rights and duties to purchasers, beneficiaries, the trust and state institutions of higher education as a contract offered by the trust, including provisions relating to administrative fees, charges and penalties, and the disposition of amounts resulting
therefrom;

(11) Charge, impose and collect administrative fees, charges and penalties in connection with any refund or transfer to an institution of higher education outside this state and provide for reasonable penalties, including default, for delinquent payment of amounts due under a tuition prepayment contract, or for fraud;

(12) Procure insurance against any loss in connection with the trust's property, assets or activities;

(13) Sue and be sued; have a seal and alter the same at pleasure; have perpetual succession; make, execute, and deliver any additional contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers; and make and amend bylaws;

(14) Indemnify or procure insurance indemnifying any member of the board from personal loss or accountability from liability resulting from a member's action or inaction as a member of the board;

(15) Establish policies, procedures and any other criteria necessary or convenient to implement this act;

(16) Impose reasonable limits on the number of participants in the trust; and

(17) Make transfers of trust moneys in excess of those needed to insure actuarial soundness to the higher education grant program established pursuant to article twenty-two-b of this chapter for use by minority students.

§18-30-7. Education trust fund created; assets generally; expenditures; exemption from taxation; excess funds.

(a) The education trust fund is hereby created, to be under the jurisdiction and control of the board. Payments received by the trust from purchasers on behalf of qualified beneficiaries or from any other source, public or private, shall be placed in the fund. The fund may be divided into separate accounts.

(b) Assets of the trust shall not be considered state
money. The assets of the trust shall be preserved, invested, and expended solely pursuant to and for the purposes set forth in this act and shall not be loaned or otherwise transferred or used by the state for any purpose other than the purposes of this act: Provided, That this section shall not be construed to prohibit the trust from investing in, by purchase or otherwise, bonds, notes, or other obligations of the state, an agency of the state, or an instrumentality of the state.

(c) Unless otherwise provided by resolution of the board, assets of the trust shall be expended in the following order of priority:

(1) To make payments to institutions of higher education on account of qualified beneficiaries;

(2) To make refunds upon termination of a contract;

(3) To pay the costs of administration, management and organization of the trust and the fund;

(4) To the extent moneys in the fund are in excess of those needed to insure the actuarial soundness of the trust, to make transfers of such excess funds to the West Virginia higher education grant program established pursuant to article twenty-two-b of this chapter.

(d) Assets of the trust may be invested in such manner as is prescribed for the investment of state funds in any instrument, obligation, security or property considered appropriate by the trust and may be pooled for investment purposes with investments of the state, including, but not limited to, state pension funds.

(e) The property of the trust and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions.

§18-30-8. Tuition prepayment contract provisions.

(a) A tuition prepayment contract shall provide for the purchase of tuition guarantees which may be used by a qualified beneficiary to attend any state institution of higher education to which the qualified beneficiary is admitted as an undergraduate without additional cost, except such increases as shall be mandated due to any
non-resident status of the beneficiary, for such number of semesters or credit hours as are purchased pursuant to and stated in the tuition prepayment contract. In the event the qualified beneficiary chooses and is admitted to a private institution of higher education in this state, the trust shall pay such institution an amount equal to the average tuition cost or the cost of the standard tuition units, whichever has been purchased. In the event the qualified beneficiary chooses and is admitted to an institution of higher education located outside this state, the trust shall pay the institution pursuant to subsection (c) of section ten of this article.

(b) In addition, a tuition prepayment contract shall set forth in a clear, understandable manner all of the following:

(1) The amount of management fee not to exceed one percent of the total investment, plus one percent of the accrued interest, for each year as to amounts under a tuition prepayment contract for which a refund is made pursuant to subsection (a) of section ten of this article, unless such refund is due to death or permanent total disability or other termination deemed by the board to warrant a full refund of the principal and all accrued interest, if any;

(2) The amount of withholding fee not to exceed fifteen percent of accrued earnings where a refund is made or where the benefits of a contract are transferred to an institution of higher education located outside this state, unless such institution has a reciprocal agreement with the board of regents pursuant to section ten-b, article twenty-six of this chapter and the student is enrolled in a program covered by the agreement;

(3) The amount of the payment or payments required from the purchaser on behalf of the qualified beneficiary, which payments may be in a lump sum or periodic;

(4) The terms and conditions for making the payment, including, but not limited to, the date or dates upon which the payment, or portions of the payment, shall be due;
(5) Provisions for late payment charges and for default;

(6) The name and age of the qualified beneficiary under the contract. The purchaser, with the approval of and on conditions determined by the trust, may subsequently substitute another person for the qualified beneficiary originally named, but may not sell or otherwise transfer the contract without the prior approval of the trust;

(7) The name of the person entitled to terminate the contract, which, as provided by the contract, may be the purchaser, the qualified beneficiary, or a person to act on behalf of the purchaser or qualified beneficiary, or any combination of these persons;

(8) The terms and conditions under which the contract may be terminated or transferred out of state in accordance with section ten of this article, and the amount of the refund to which the person terminating the contract, or specifically the purchaser or designated qualified beneficiary if the contract so provides, shall be entitled upon termination. The contract shall specifically state whether the trust shall refund any investment income attributable to the payments;

(9) The period of time from the beginning to the end of which the qualified beneficiary may receive the benefits under the contract: Provided, That if the time in which the benefits shall commence is less than four years from the contract date, the purchaser shall specify the state institution of higher education that the qualified beneficiary shall attend, and the actual tuition at such state institution of higher education shall be used in determining the amount of payment, refund, and transfer to the extent that the amount to be transferred is less than or equal to the amount due the institution of higher education to which the benefit is transferred: Provided, however, That such time shall be extended for such amount of time as the qualified beneficiary enters the military at a time within which a Federal Selective Service Act is in effect;

(10) All other rights and obligations of the purchaser
and the trust; and

(11) Other terms, conditions and provisions as the trust considers in its sole discretion to be necessary or appropriate.

(c) The form of any tuition prepayment contract to be entered into by the trust shall first be approved by the board.

(d) A tuition prepayment contract shall be exempt from the Uniform Securities Act, chapter thirty-two of this code.

(e) A tuition prepayment contract may provide that, if after a number of years specified in the contract the contract has not been terminated or the qualified beneficiary's rights under the contract have not been exercised, and after the trust has made a reasonable effort to locate the purchaser and qualified beneficiary or the agent of either, the rights of the qualified beneficiary, the purchaser, or the agent of either shall be considered terminated.


(a) A tuition trust account contract shall provide for the establishment of a trust account with the trust by the purchaser on behalf of a qualified beneficiary which shall be transferred on a semester basis to any institution of higher education to which the qualified beneficiary is admitted to meet the cost of tuition and all mandatory fees for so many semesters as the qualified beneficiary is in attendance and funds in the account are available therefor.

(b) In addition, a tuition trust account contract shall set forth in a clear, understandable manner all of the following:

(1) The amount of management fee not to exceed one percent of the total investment, plus one percent of the accrued interest, for each year as to amounts invested and interest accrued in a tuition trust account contract for which a refund is made pursuant to subsection (a) of section ten of this article unless such refund is due
to death or permanent total disability or other termination deemed to warrant a full refund of principal and all accrued interest, if any;

(2) The amount of withholding fee not to exceed fifteen percent of accrued earnings where a refund is made or where the benefits of a contract are transferred to an institution of higher education located outside this state, unless such institution has a reciprocal agreement with the board of regents pursuant to section ten-b, article twenty-six of this chapter for study in a program not offered at a state institution of higher education;

(3) The name and age of the qualified beneficiary under the contract. The purchaser, with the approval of and on conditions determined by the trust, may subsequently substitute another person for the qualified beneficiary originally named, but may not sell or otherwise transfer the contract without the prior approval of the trust;

(4) The name of the person entitled to terminate the contract, which, as provided by the contract, may be the purchaser, the qualified beneficiary, or a person to act on behalf of the purchaser or qualified beneficiary, or any combination of these persons;

(5) The terms and conditions under which the contract may be terminated or transferred out of state in accordance with section ten of this article, and the amount of the refund to which the person terminating the contract, or specifically the purchaser or designated qualified beneficiary if the contract so provides, shall be entitled upon termination. The contract shall specifically state whether the trust shall refund any investment income attributable to the payments;

(6) All other rights and obligations of the purchaser and the trust; and

(7) Other terms, conditions and provisions as the trust considers in its sole discretion to be necessary or appropriate.

(c) The form of any tuition trust account contract to be entered into by the trust shall first be approved by
(d) A tuition trust account contract shall be exempt from the Uniform Securities Act, chapter thirty-two of this code.

(e) A tuition trust account contract may provide that, if after a number of years specified in the contract the contract has not been terminated or the qualified beneficiary's rights under the contract have not been exercised, and after the trust has made a reasonable effort to locate the purchaser and qualified beneficiary or the agent of either, the rights of the qualified beneficiary, the purchaser, or the agent of either shall be considered terminated.

§18-30-10. Contract termination; refund; transfer of benefits to institutions outside this state; penalty; exception.

(a) A tuition prepayment contract and tuition trust account contract shall authorize a termination of the contract when any one of the following occurs:

(1) The qualified beneficiary dies or is certified by a qualified physician to be permanently totally disabled. In such event, notwithstanding any other provisions of this article, the total investment plus all accrued interest, if any, shall be refunded to the person authorized under the contract to receive the refund;

(2) The qualified beneficiary is not admitted to an institution of higher education after making proper application or fails to meet the standards for continued admission to an institution of higher education;

(3) The qualified beneficiary certifies to the trust, after he or she has a high school diploma or has reached the age of majority, that he or she has decided not to attend an institution of higher education and requests, in writing, before the fifteenth day of July of the year in which the qualified beneficiary receives a high school diploma or reaches the age of majority, that the contract be terminated;

(4) The qualified beneficiary offers proof of the
completion of the requirements for a degree pursuant
to a two-year program at an institution of higher
education and chooses no further attendance at an
institution of higher education;

(5) The qualified beneficiary enters the military at a
time within which a Federal Selective Service Act is in
effect; or

(6) Other circumstances, determined by the trust and
set forth in the contract, occur.

(b) Such refund shall be an amount equal to the sum
of payments and accrued interest, if the contract so
provides, minus applicable management and withholding
fees and any amounts transferred to an institution
of higher education prior to termination of the contract.

(c) A tuition prepayment contract and tuition trust
account contract shall authorize a person who is entitled
under the contract to transfer the benefits of the
contract and to direct that payment of such benefits, less
any withholding fee stated in the contract, to an
institution of higher education located outside this state:
Provided, That such withholding fee shall not be applied
to any person enrolled in a program at an institution of
higher education with which the board of regents has
a reciprocal agreement pursuant to section ten-b, article
twenty-six of this chapter and such program is covered
by the agreement.


The board shall annually prepare or cause to be
prepared an accounting of the trust, including all
administrative costs and the actuarial soundness of the
trust, and shall transmit a copy of the accounting to the
governor, the president of the Senate, the speaker of the
House of Delegates, and the respective minority leaders
of the Senate and House of Delegates. The board shall
also make available the accounting of the trust to the
purchasers of the trust. The accounts of the board shall
be subject to annual audits by the legislative auditor or
a certified public accountant appointed by the legisla-
tive auditor.
§18-30-12. Administration of trust.

(a) The trust shall be administered in a manner reasonably designed to be actuarially sound such that the assets of the trust will be sufficient to defray the obligations of the trust.

(b) The trust board shall annually evaluate and cause to be evaluated by a nationally recognized actuary the actuarial soundness of the trust and determine the additional assets needed, if any, to defray the obligations of the trust. If there are not funds sufficient to ensure the actuarial soundness of the trust as determined by the nationally recognized actuary, the trust shall adjust payments of subsequent purchasers to ensure its actuarial soundness. If there are insufficient numbers of new purchasers to ensure the actuarial soundness of the tuition prepayment contracts of the trust, the available assets of the trust attributable to the tuition prepayment contracts shall be immediately prorated among the then existing tuition prepayment contracts, and these shares shall be applied, at the option of the person to whom the refund is payable or would be payable under the contract upon termination of the contract, either towards the purposes of the tuition prepayment contract for a qualified beneficiary or disbursed to the person to whom the refund is payable or would be payable under the contract upon termination of the contract.

§18-30-13. Conditions precedent to administration of trust; disclaimer; enforcement.

(a) A tuition prepayment contract or tuition trust account contract shall not be entered by the trust until the internal revenue service has issued a ruling or opinion regarding the federal tax consequences of any benefits or refunds received from the trust under the applicable contract. If an unfavorable ruling or opinion with regard to any benefits or refunds under either contract is rendered by the internal revenue service, the board shall present a report to the Legislature outlining recommendations for the modification and continuance of the trust or of any provisions under which an unfavorable ruling or opinion was rendered, including
a recommendation as to whether the trust should proceed to enter into such contracts. If continuation is recommended, the report shall also include measures which may be taken to provide that any benefits or refunds, or certain benefits or refunds, shall not be considered actually or constructively to be income for purposes of taxation by the state.

(b) Before entering into a tuition prepayment contract or tuition trust account contract with purchasers, the state shall solicit answers to appropriate ruling requests from the securities and exchange commission regarding the application of federal security laws to the trust. No contracts shall be entered without the trust making known to the Legislature the status of the request.

c) Nothing in this act or in a contract entered into pursuant to this act shall be construed as a promise or guarantee by the trust or the state that a person will be admitted to a particular institution of higher education, will be allowed to continue to attend an institution of higher education after having been admitted, or will be graduated from an institution of higher education.

d) State institutions of higher education, purchasers, and qualified beneficiaries may enforce this act and any contract entered into pursuant to this act in the circuit court of Kanawha County.


(a) As provided in subdivision (12), subsection (c), section twelve, article twenty-one, chapter eleven of this code, the purchaser may subtract for state income tax purposes from federal adjusted gross income the following payments made by the purchaser in the tax year:

(1) The amount of payment made under a tuition prepayment contract or tuition trust account contract, or both; and

(2) The amount of payment made under a contract with a private sector investment manager, broker-dealer or agent approved by the securities division of the
state auditor of this state or the Securities and Exchange Commission for the private placement of contracts under this article, such contract to be certified and approved by the board to provide equivalent benefits, rights and duties to purchasers, beneficiaries, the trust and institutions of higher education as a tuition prepayment contract or a tuition trust account contract.

§18-30-15. Liberal construction; severability.

(a) This article shall be construed liberally to effectuate the legislative intent, the purposes of the article, and as complete and independent authority for the performance of each and every act and thing authorized in the article, and all powers granted herein shall be broadly interpreted to effectuate such intent and purposes and not as to limitation of powers.

(b) If any section, subsection, paragraph, clause, or provision of this article shall be adjudged unconstitutional or ineffective, no other section, subsection, paragraph, clause, or provision of this article shall on account thereof be considered invalid or ineffective, and the applicability or invalidity of any section, subsection, paragraph, clause, or provision of this article in any one or more instances or under any one or more circumstances shall not be taken to affect or prejudice its applicability or validity in any other instance or under any other circumstance.


This act is repealed effective the first day of January, one thousand nine hundred ninety-one, if the trust has not entered into a tuition prepayment contract or tuition trust account contract with a purchaser before that date.
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 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 29th day of June, 1987.

Governor
PRESENTED TO THE
GOVERNOR
Date 6/18/87
Time 4:18 p.m.