WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2697

(By Del. Keis & Basham)

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Passed April 8, 1989
In Effect from Passage
AN ACT to amend and reenact section six, article twenty-two-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend chapter eighteen of said code by adding thereto a new article, designated article twenty-two-e, all relating to higher education; providing for investment by colleges and universities which receive moneys from the Eminent Scholars Endowment Fund; providing legislative findings with respect to establishment of distinguished professors trust fund; providing definitions; establishing the distinguished professors endowment trust fund and board of directors; providing corporate powers and duties of board of regents; providing for fund administration and the creation of distinguished professorships; requiring board of regents to establish criteria for selection of distinguished professorships; authorizing solicitation of private funds; and requiring annual reports.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 22A. EMINENT SCHOLARS ENDOWMENT TRUST FUND ACT.

§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. However, the board shall notify the recipient college or university of any money received for donations to such institution.

(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. On demand of the college or university
where such chair shall be established, the board shall
return to it the private funds in the chair's account to
be held in an account established in a federally insured
depository by such college or university. The private
funds heretofore deposited in accounts in the treasury
shall be returned to such college or university: Provided,
That regardless whether such moneys are held in the
fund established in section three of this article or in
accounts established by a college or university pursuant
to this subsection, the matching provisions in this article
shall apply: Provided, however, That these funds may
only be expended in accordance with this article.

When one hundred fifty thousand dollars has accumu-
lated 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.

(h) The governing body of the institution shall promulgate rules and regulations to insure that any money deposited in any federally insured depository shall be backed by federally guaranteed securities to the extent that the balance in any account in said depository exceeds the amounts guaranteed by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

ARTICLE 22E. DISTINGUISHED PROFESSORS ENDOowment TRUST FUND ACT.

§18-22E-1. Legislative findings.

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 competitive with those paid to scholars of similar distinction working for this country's leading colleges and universities.

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 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) “Contract salary” means that portion of the distinguished professor's financial compensation paid from state moneys but does not include moneys from the distinguished professors endowment trust fund.

c) “Distinguished professorship” means the position created pursuant to section six of this article to which a professor is appointed; and

d) “Fund” means 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 are those persons appointed and serving as members of the board of regents.

§18-22E-4. Corporate powers.

(a) The officers of the corporation are 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 is 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 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
(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.

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

§18-22E-6. Administration of fund.

1 (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 article twenty-two-a.

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 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.

22 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.

26 (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 considers 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 considered 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 thirty thousand dollars, with at least one half of the principal being from private sources.

When thirty 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 thirty 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.


The board shall make an annual report to the joint committee on government and finance of the West Virginia Legislature no later than the first day of December of each 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.

Friedrich S. Hering
Chairman Senate Committee

F. L. Ledebe
Chairman House Committee

Originating in the House.

Takes effect from passage.

Joseph C. Mills
Clerk of the Senate

Donald H. B. Fife
Clerk of the House of Delegates

Sam B. Tucker
President of the Senate

Robert C. Cates
Speaker of the House of Delegates

The within is approved this the 25th day of April, 1989.

Yeston Caperton
Governor