WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
SECOND EXTRAORDINARY SESSION, 2010

ENROLLED

Senate Bill No. 2003
(By Senators Tomblin (Mr. President) and Hall,
By request of the Executive)

[Passed July 21, 2010; in effect from passage.]
AN ACT to amend and reenact §12-1-12d of the Code of West Virginia, 1931, as amended, relating to investments by Marshall University and West Virginia University; and retroactively extending the authority for the investment of certain university funds by the nonprofit foundations of Marshall University and West Virginia University.

Be it enacted by the Legislature of West Virginia:

That §12-1-12d of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-12d. Investments by Marshall University and West Virginia University.

1 (a) Notwithstanding any provision of this article to the contrary, the governing boards of Marshall University and West Virginia University each may invest certain funds with its respective nonprofit foundation that has been
established to receive contributions exclusively for that
university and which exists on January 1, 2005. Any such
investment is subject to the limitations of this section.

(b) A governing board, through its chief financial officer
may enter into agreements, approved as to form by the
State Treasurer, for the investment by its foundation of
certain funds subject to their administration. Any interest
or earnings on the moneys invested is retained by the
investing university.

(c) Moneys of a university that may be invested with its
foundation pursuant to this section are those subject to the
administrative control of the university that are collected
under an act of the Legislature for specific purposes and
do not include any funds made available to the university
from the state General Revenue Fund or the funds estab-
lished in sections eighteen or eighteen-a, article twenty-
two, chapter twenty-nine of this code. Moneys permitted
to be invested under this section may be aggregated in an
investment fund for investment purposes.

(d) Of the moneys authorized for investment by this
section, Marshall University and West Virginia University
each, respectively, may have invested with its foundation
at any time not more than the greater of:

(1) $18 million for Marshall University and $25 million
for West Virginia University; or

(2) Sixty-five percent of its unrestricted net assets as
presented in the statement of net assets for the fiscal year
end audited financial reports.

(e) Investments by foundations that are authorized under
this section shall be made in accordance with and subject
to the provisions of the Uniform Prudent Investor Act
codified as article six-c, chapter forty-four of this code.
As part of its fiduciary responsibilities, each governing
board shall establish investment policies in accordance with the Uniform Prudent Investor Act for those moneys invested with its foundation. The governing board shall review, establish and modify, if necessary, the investment objectives as incorporated in its investment policies so as to provide for the financial security of the moneys invested with its foundation. The governing boards shall give consideration to the following:

1. Preservation of capital;
2. Diversification;
3. Risk tolerance;
4. Rate of return;
5. Stability;
6. Turnover;
7. Liquidity; and
8. Reasonable cost of fees.

(f) A governing board shall report annually by December 31 to the Governor and to the Joint Committee on Government and Finance on the performance of investments managed by its foundation pursuant to this section.

(g) The authority of a governing board to invest moneys with its foundation pursuant to this section expires on July 1, 2011.

(h) The amendments to this section in the second extraordinary session of the Legislature in 2010 shall apply retroactively so that the authority granted by this section shall be construed as if that authority did not expire on July 1, 2010.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Enr. S. B. No. 2003] 4

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

[Signature]
Member, Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within is approved this the ......... Day of ......... 2010.

[Signature]
Governor

[Signature]
PRESENTED TO THE
GOVERNOR

JUL 26 2010

Time 9:10am