WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2014

ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4496

(By Delegates Skaff, Mr. Speaker (Mr. Miley), White, Paxton, Armstead, Lane, E. Nelson, Fragale, Moore, McCuskey and Poore)

Passed March 6, 2014

In effect ninety days from passage.
AN ACT to amend and reenact §18B-18A-1, §18B-18A-2, §18B-18A-3, §18B-18A-8, §18B-18A-9 and §18B-18A-11 of the Code of West Virginia, 1931, as amended, all relating generally to providing for the allocation of matching funds from the West Virginia Research Trust Fund; expanding the eligible recipients of matching funds to include West Virginia State University; and continuing legislative rule and expanding its application.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18A. DIRECTED RESEARCH ENDOWMENTS.

§18B-18A-1. Legislative findings; purpose; and intent.

(a) The Legislature finds that the continued expansion of the
nation's economy is dependent upon the ability of its institutions
of higher education to increase the quality, quantity and
productivity of its citizens who are engaged in scientific and
technical fields of study. Failure of the United States to compete
in these areas may lead to lower standards of living, dependence
upon foreign intellectual capital and international insecurity. The
economic future of West Virginia is equally dependent upon the
ability of Marshall University and West Virginia University, the
state's two doctoral-granting, public research universities, as
well as its other higher education institutions to promote, educate
and train researchers and research support staff in these diverse
fields of study.

The Legislature further finds that a recent emphasis on the
creation of innovative curricula and the receipt of significant
private donations by Marshall University and West Virginia
University has led to major expansions in certain areas of study,
including energy, national security technology, environmental
sciences, health and biomedical sciences, biometrics,
biotechnology and nanotechnology. Despite these expansions,
the additional investment of both private donations and state
moneys is critical to recruiting world-class scientists,
researchers, research staff, technicians and professional degree
graduates, as well as providing funding for laboratories and
scientific equipment.

(b) The purpose of the Legislature in enacting this article is
to establish a state fund to be administered by the Higher
Education Policy Commission to address the findings outlined
in subsection (a) of this section. The fund will make public
moneys available to the state's two doctoral-granting public
research universities, Marshall University and West Virginia
University, and a state land grant higher education institution,
West Virginia State University, to match qualified private donations and qualified private donation pledges; thereby creating an incentive for donors to support certain priority areas of study consistent with each participating institution’s long-range strategic plan for research. Creation of this fund promotes strategic private donations targeted to specific areas of research and creates a sustainable source of funding for research initiatives that are critical to achieving long-term goals including, but not limited to, the following:

(1) Research-based economic development and economic diversification; and

(2) Increased potential for patenting, licensing and related technology transfer and commercialization of scientific and technological research in the state.


(a) General. – For the purposes of this article, terms have the meaning ascribed to them in section two, article one of this chapter, unless the context in which the term is used clearly requires a different meaning or a specific definition is provided in this section.

(b) Definitions. – Solely for the purposes of this article, the following words and phrases have the meanings ascribed to them.

(1) “Directed research endowment” or “research endowment” means an account established at or administered by a participating institution or its affiliated research corporation or foundation in accordance with the provisions of section four of this article;

(2) “Directed research endowment plan” or “research plan” means the strategies and procedures formally approved and adopted by a governing board of a participating institution
pursuant to section seven of this article outlining how a participating institution proposes to use directed research endowment proceeds to meet established goals and objectives;

(3) “Directed research endowment proceeds” or “endowment proceeds” means those investment earnings accruing to a participating institution’s directed research endowment and available for expenditure by a participating institution or its affiliated research corporation in accordance with the provisions of section four of this article;

(4) “Trust fund” means the special account designated as the West Virginia Research Trust Fund established in section three of this article;

(5) “Participating institution” means Marshall University, West Virginia University or West Virginia State University;

(6) “Qualified private donation” or “qualified donation” means a private donation, gift or bequest to a directed research endowment that meets the criteria set forth in section five of this article;

(7) “Qualified private donation pledge” or “qualified pledge” means a pledge, commitment or other agreement to give a private donation to a directed research endowment that is made pursuant to a written agreement between the donor and the institution or its affiliated research corporation or foundation and that meets the criteria set forth in section five of this article;

(8) “Foundation” means a corporation created, organized and located in West Virginia that meets the following conditions:

(A) Is organized and operated for educational purposes in support of one or more state institutions of higher education;

(B) Is designated by the board of governors of one or more state institutions of higher education to receive charitable
contributions for educational purposes on behalf of the
institution or institutions;

(C) Does not have any part of its earnings inuring to the
benefit of a private shareholder or individual;

(D) Is not disqualified from tax exemption under 26 U.S.C.
§501(c)(3) for any reason; and

(E) Does not participate or intervene in, on behalf of or in
opposition to any political campaigns for public office;

(9) “Research corporation” means an organization created
pursuant to the provisions of article twelve of this chapter; and

(10) “State college” means the West Virginia School of
Osteopathic Medicine, Bluefield State College, Concord
University, Fairmont State University, Glenville State College,
Shepherd University or West Liberty University.

§18B-18A-3. West Virginia Research Trust Fund; use of
investment earnings.

(a) There is continued in the State Treasury a special fund to
be known as the West Virginia Research Trust Fund which shall
consist of appropriations of moneys to the fund made by the
Legislature, all earnings from investment of the fund and any
unmatched portion of state moneys returned by a state institution
of higher education.

(b) Expenditures from the trust fund shall be made for the
purposes set forth in this article and are not subject to separate
appropriation by the Legislature. Any balance in the trust fund
at the end of each fiscal year, including accrued investment
earnings on any unmatched portion of state moneys returned by
a state institution of higher education, does not expire to the
General Revenue Fund, but remains in the trust fund to be
expended as provided by this article.
(c) In accordance with and subject to the provisions of section eight of this article, the commission shall make available moneys in this account to match qualified donations and qualified pledges as follows:

1. Sixty-five percent to West Virginia University;
2. Thirty percent to Marshall University; and
3. Five percent to West Virginia State University.

(d) Investment earnings accruing in the account may be expended by the commission to provide matching research funds to state colleges in accordance with the provisions of section ten of this article.


(a) A participating institution seeking a distribution of matching moneys from the trust fund first shall obtain qualified donations, qualified pledges, or both, in an amount equal to the amount of matching moneys requested for distribution and shall submit a request to the commission setting forth the following:

1. The amount of qualified donations, qualified pledges, or both, designated for use in requesting the distribution of matching moneys from the trust fund and the amount of any previous distributions of matching moneys from the trust fund;
2. The amount requested for distribution to the participating institution pursuant to section three of this article;
3. An explanation of how the proposed use satisfies the criteria for the eligible uses of endowment proceeds set forth in section six of this article;
4. An explanation of how the proposed use of the endowment proceeds furthers the purposes of this article and
addresses the research needs of the institution as identified in the research plan; and

(5) A designation of the applicable research endowment into which the requested matching moneys are to be deposited.

(b) The commission shall review each request for distribution of matching moneys from the trust fund for compliance with the provisions of this article and the rule promulgated pursuant to section eleven of this article.

(c) Once the commission approves the request of a participating institution, it shall distribute matching moneys from those allocated to the institution in the trust fund to the applicable research endowment in an amount equal to the amount of qualified donations, qualified pledges, or both.


(a) No later than seven years from the July 1, 2014, each participating institution shall have deposited into its research endowments an amount of qualified donations equal to or greater than the total amount of moneys allocated for distribution to the institution pursuant to the provisions of subsection (c), section three of this article.

(1) If one of the participating institutions fails to have deposited into its research endowments the requisite amount of qualified donations by the end of the seven-year period, then any portion of the moneys allocated to the institution that has not been distributed shall be reallocated for distribution to the other participating institutions pursuant to the terms of this article.

(2) To be eligible to receive a distribution of reallocated moneys pursuant to this subsection, another participating institution shall have qualified donations in excess of the amount required by subsection (a) of this section deposited into its research endowment(s) in an amount equal to or greater than the amount of reallocated moneys.
(3) If another participating institution does not have excess qualified donations on deposit, the reallocated moneys shall be made available for distribution by the commission to state colleges in accordance with the provisions of section ten of this article.

(b) If any pledge previously used by a participating institution to obtain a distribution of matching moneys from the trust fund has not been paid in full within seven years from July 1, 2014, then the institution shall return the unmatched portion of state moneys to the trust fund. These moneys shall be reallocated for distribution to the other participating institutions or to the state colleges pursuant to the terms of this section and section ten of this article as applicable.

(c) If all participating institutions fail to have deposited into their respective research endowments the requisite amount of qualified donations within seven years from July 1, 2014, then any moneys remaining in the trust fund that have not been distributed shall be made available for distribution by the commission to state colleges in accordance with the provisions of this article.


(a) The commission’s legislative rule to implement the provisions and purposes of this article which is in effect on July 1, 2014, continues in effect unless repealed or amended in accordance with the provisions of section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code. The rule shall be interpreted to include West Virginia State University as a participating institution as provided in this article.

(b) The rule shall include the following:

(1) Documentation standards and review procedures to determine whether a donation or pledge meets the criteria of a
qualified donation or qualified pledge when initially received or when the terms of a qualified donation or a qualified pledge are materially altered;

(2) Eligibility criteria in accordance with the provisions of section six of this article for the expenditure of endowment proceeds to pay the base salaries of personnel, to fund research fellowships and to purchase basic infrastructure;

(3) Procedures to ensure that endowment proceeds are expended in compliance with the provisions of this article;

(4) A requirement for each participating institution to report on the total amount of qualified donations received, the investment earnings realized and any anticipated expenditures of the research endowment proceeds in its annual operating budget; and

(5) Procedures for the competitive application and review of requests from state colleges and criteria for the eligible use of moneys distributed pursuant to section ten of this article.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within act is approved this the 6th day of March, 2014.

Governor
PRESENTED TO THE GOVERNOR

MAR 20 2014

Time 11:30 AM