WEST VIRGINIA LEGISLATURE
EIGHTY-SECOND LEGISLATURE
REGULAR SESSION, 2015

ENROLLED
Senate Bill No. 577

(BY SENATORS D. HALL, BOLEY, KARNES, LAIRD, PLYMALE, ROMANO, STOLLINGS, TAKUBO AND SYPOLT)

[PASSED MARCH 14, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]
AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §12-1-12e, relating to allowing governing boards of certain four-year colleges and universities to invest certain funds with its respective nonprofit foundation that has been established to receive contributions exclusively for that institution and which exists on January 1, 2015.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §12-1-12e, to read as follows:

ARTICLE 1. STATE DEPOSITORIES.

§12-1-12e. Investments by state colleges.

(a) Notwithstanding any provision of this article to the contrary, the governing boards of four-year public colleges and universities, with the exception of those schools provided for in section twelve-d of this article, after first consulting
with the West Virginia Investment Management Board and
the State Board of Treasury Investments to determine what
their estimated rate of return on investment, including
administrative expenses, would be if the moneys to be
invested with the foundation were instead to be invested with
the Investment Management Board or the Board of Treasury
Investments when compared to any estimated return on
investment, including administrative expenses, provided by
the foundation, each may invest certain funds with its
respective nonprofit foundation that has been established to
receive contributions exclusively for that institution and
which exists on January 1, 2015. The 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
institution.

(c) Moneys of a four-year public college or university
that may be invested with its foundation pursuant to this
section are those subject to the administrative control of the
institution and that do not include any funds made available
to the institution from the state General Revenue Fund or the
funds established in section 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, each four-year public college or university that may
be invested with its foundation pursuant to this section, may
have invested with its foundation at any time no more than $1
million excluding investment gains.
(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) Prior to the initial transfer of funds to a foundation, the four-year public college or university shall submit its plan for the investment of the funds with its foundation to the Higher Education Policy Commission for its review. The purpose of review shall solely be to determine if the plan is financially prudent for the institution. Upon the commission's written finding that the plan is financially prudent for the institution,
the institution is authorized to transfer its funds to the
foundation for purposes of investment under this section.

(g) No four-year public college or university may transfer
funds to its foundation pursuant to this section unless the
college or university has a long-term bond from not less than
two of the following rating entities of at least A3 by Moody's
Investors Service, A- by Standard & Poor's and A- by Fitch
Ratings.

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

[Signatures]

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signatures]

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 2nd Day of April, 2015.

Governor
PRESENTED TO THE GOVERNOR

MAR 27 2015

Time 3:25 pm