

1 **ENROLLED**

2 **Senate Bill No. 460**

3 (BY SENATORS MILLER, LAIRD, UNGER, BEACH, SNYDER, STOLLINGS AND JENKINS)

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5 [Passed March 4, 2014; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §12-1-12d of the Code of West Virginia,
11 1931, as amended, relating to adding West Virginia School of
12 Osteopathic Medicine to the list of state institutions of
13 higher education that are permitted to invest certain moneys
14 with its foundation; and establishing a cap on the amount of
15 moneys that it may invest.

16 *Be it enacted by the Legislature of West Virginia:*

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

19 **ARTICLE 1. STATE DEPOSITORIES.**

20 **§12-1-12d. Investments by Marshall University, West Virginia**
21 **University and West Virginia School of Osteopathic Medicine.**

22 (a) Notwithstanding any provision of this article to the
23 contrary, the governing boards of Marshall University, West

1 Virginia University and West Virginia School of Osteopathic
2 Medicine each may invest certain funds with its respective
3 nonprofit foundation that has been established to receive
4 contributions exclusively for that university and which exists on
5 January 1, 2005. The investment is subject to the limitations of
6 this section.

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

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

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

1 (1) Sixty million dollars for Marshall University, \$25 million
2 for West Virginia School of Osteopathic Medicine and \$70 million
3 for West Virginia University; or

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

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

- 19 (1) Preservation of capital;
- 20 (2) Diversification;
- 21 (3) Risk tolerance;
- 22 (4) Rate of return;
- 23 (5) Stability;
- 24 (6) Turnover;

1 (7) Liquidity; and

2 (8) Reasonable cost of fees.

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

7 (g) The amendments to this section in the second extraordinary
8 session of the Legislature in 2010 apply retroactively so that the
9 authority granted by this section shall be construed as if that
10 authority did not expire on July 1, 2010.