

Senate Bill No. 577

(By Senators D. Hall, Boley, Karnes,
Laird, Plymale, Romano, Stollings,
Takubo and Sypolt)

[Originating in the Committee
on Education;
reported February 27, 2015.]

A BILL 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.

1 (a) Notwithstanding any provision of this article to the contrary, the governing boards of four-
2 year public colleges and universities, with the exception of those schools provided for in section
3 twelve-d of this article, each may invest certain funds with its respective nonprofit foundation that
4 has been established to receive contributions exclusively for that institution and which exists on
5 January 1, 2015. The investment is subject to the limitations of this section.

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

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1 investing institution.

2 © Moneys of a four-year public college or university that may be invested with its foundation
3 pursuant to this section are those subject to the administrative control of the institution and that do
4 not include any funds made available to the institution from the state General Revenue Fund or the
5 funds established in section eighteen or eighteen-a, article twenty-two, chapter twenty-nine of this
6 code. Moneys permitted to be invested under this section may be aggregated in an investment fund
7 for investment purposes.

8 (d) Of the moneys authorized for investment by this section, each four-year public college
9 or university that may be invested with its foundation pursuant to this section, may have invested
10 with its foundation at any time no more than \$1 million excluding investment gains.

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

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

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1 (8) Reasonable cost of fees.

2 (f) Prior to the initial transfer of funds to a foundation, the four-year public college or
3 university shall seek the approval of the Higher Education Policy Commission, who shall approve
4 the plan to deposit funds in the foundation. The purpose of review shall solely be to determine if
5 the plan is financially prudent for the institution.

6 (g) No four-year public college or university may transfer funds to its foundation pursuant
7 to this section unless the college or university has at least a long-term bond rating of A3 by Moody's
8 Investors Service, A- by Standard & Poor's and A- by Fitch Ratings.

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