

1 **Senate Bill No. 460**

2 (By Senators Miller, Laird, Unger, Beach, Snyder, Stollings and
3 Jenkins)

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5 [Introduced January 31, 2014; referred to the Committee on
6 Education; and then to the Committee on Finance.]
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11 A BILL to amend and reenact §12-1-12d of the Code of West Virginia,
12 1931, as amended, relating to adding West Virginia School of
13 Osteopathic Medicine to the list of state institutions of
14 higher education that are permitted to invest certain moneys
15 with its foundation; and establishing a cap on the amount of
16 moneys that it may invest.

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

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

20 **ARTICLE 1. STATE DEPOSITORIES.**

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

1 (a) Notwithstanding any provision of this article to the
2 contrary, the governing boards of Marshall University, ~~and~~ West
3 Virginia University and West Virginia School of Osteopathic
4 Medicine each may invest certain funds with its respective
5 nonprofit foundation that has been established to receive
6 contributions exclusively for that university and which exists on
7 January 1, 2005. The investment is subject to the limitations of
8 this section.

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

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

23 (d) (1) Of the moneys authorized for investment by this
24 section, Marshall University and West Virginia University each,

1 respectively, may have invested with its foundation at any time not
2 more than the greater of:

3 ~~(1)~~ (A) Eighteen million dollars for Marshall University and
4 \$25 million for West Virginia University; or

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

8 ~~(3)~~ (2) Notwithstanding ~~subdivisions (1) and (2)~~ subdivision
9 (1) of this subsection, with the approval of the Higher Education
10 Policy Commission, Marshall University may increase the amount
11 invested to \$60 million and West Virginia University may increase
12 the amount invested to \$70 million.

13 (e) Of the moneys authorized for investment by this section,
14 West Virginia School of Osteopathic Medicine may have invested with
15 its foundation not more than \$25 million at any time.

16 (f) Investments by foundations that are authorized under this
17 section shall be made in accordance with and subject to the
18 provisions of the Uniform Prudent Investor Act codified as article
19 six-c, chapter forty-four of this code. As part of its fiduciary
20 responsibilities, each governing board shall establish investment
21 policies in accordance with the Uniform Prudent Investor Act for
22 those moneys invested with its foundation. The governing board
23 shall review, establish and modify, if necessary, the investment
24 objectives as incorporated in its investment policies so as to

1 provide for the financial security of the moneys invested with its
2 foundation. The governing boards shall give consideration to the
3 following:

4 (1) Preservation of capital;

5 (2) Diversification;

6 (3) Risk tolerance;

7 (4) Rate of return;

8 (5) Stability;

9 (6) Turnover;

10 (7) Liquidity; and

11 (8) Reasonable cost of fees.

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

16 ~~(g)~~ (h) The amendments to this section in the second
17 extraordinary session of the Legislature in 2010 apply
18 retroactively so that the authority granted by this section shall
19 be construed as if that authority did not expire on July 1, 2010.

(NOTE: The purpose of this bill is to add West Virginia School

of Osteopathic Medicine to the list of state institutions of higher education that are permitted to invest certain moneys with its foundation. The bill limits the amount that may be invested to \$25 million.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)