

1 ENROLLED

2 **Senate Bill No. 425**

3 (By Senators Plymale, M. Hall, Prezioso, Leonhardt, Walters, Williams,
4 Carmichael, Laird, Kessler, Stollings, Miller and D. Hall)

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6 [Passed March 14, 2015; in effect ninety days from passage.]
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11 AN ACT to amend and reenact §12-1-12d of the Code of West Virginia, 1931, as amended, relating
12 to investments by certain institutions of higher learning.

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

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

16 **ARTICLE 1. STATE DEPOSITORIES.**

17 **§12-1-12d. Investments by Marshall University, West Virginia University and West Virginia**
18 **School of Osteopathic Medicine.**

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

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

5 (c) Moneys of a university that may be invested with its foundation pursuant to this section
6 are those subject to the administrative control of the university and that do not include any funds
7 made available to the university from the state General Revenue Fund or the funds established in
8 section eighteen or eighteen-a, article twenty-two, chapter twenty-nine of this code. Moneys
9 permitted to be invested under this section may be aggregated in an investment fund for investment
10 purposes.

11 (d) 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;

1 (6) Turnover;

2 (7) Liquidity; and

3 (8) Reasonable cost of fees.

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

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