

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 890

"REGARDING THE MANAGEMENT, INVESTMENT, AND EXPENDITURE OF
ENDOWMENT FUNDS OF INSTITUTIONS."

Amendment No. 1 to Senate Bill No. 890.

Amend Senate Bill No. 890 as originally introduced:

Page 1, line 9, delete "REGARDING" and substitute "TO AMEND THE UNIFORM
MANAGEMENT OF INSTITUTIONAL FUNDS ACT REGARDING"

AND

Page 1, line 14, delete "REGARDING" and substitute "TO AMEND THE UNIFORM
MANAGEMENT OF INSTITUTIONAL FUNDS ACT REGARDING"

AND

Page 2, delete line 15 and substitute the following:
"an institutional fund.

SECTION 2. Arkansas Code § 28-69-603 is amended to read as follows:
28-69-603. ~~Appropriation of appreciation.~~ Expenditure of endowment
funds.

(a) The governing board may ~~appropriate for expenditure for the uses
and purposes for which an endowment fund is established so much of the net
appreciation, realized and unrealized, in the fair value of the assets of an
endowment fund over the historic dollar value of the fund as is~~ expend so
much of the endowment fund or an aggregation of the endowment fund as the
governing body determines to be prudent under the standard established by §
28-69-607 for the uses and purposes for which an endowment fund is
established. This section does not limit the authority of the governing
board to expend funds as permitted under other law, the terms of the
applicable gift instrument, or the charter of the institution.

(b) Except as otherwise specified, this section applies to endowment
funds established and instruments executed or in effect before or after the
effective date of this subsection.

SECTION 3. Arkansas Code § 28-69-604 is amended to read as follows:
28-69-604. Rule of construction.



~~Section 28-69-603 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended.~~

(a) A restriction upon the expenditure of ~~net appreciation~~ an endowment fund may not be implied from a designation of a gift as an endowment, or from a direction or authorization in the applicable gift instrument to use only "income," "interest," "dividends," "net appreciation in the fair value of the assets of an endowment fund over the historic dollar value of the endowment," or "rents, issues or profits," or "to preserve the principal intact," or a direction which contains other words of similar import.

(b) ~~This~~ The rule of construction under subsection (a) of this section applies to endowment funds and gift instruments executed or in effect before or after March 20, 1992 the effective date of this subsection.

(c) The provisions of § 28-69-603(a) shall not apply to instruments if the instrument indicates by saying "I direct that the expenditure provisions of Arkansas Code § 28-69-603(a) not apply to this gift" or words of similar import reflecting a donor's specific intent that § 28-69-603(a) not apply to the gift.

SECTION 4. Arkansas Code § 28-69-607 is amended to read as follows:
28-69-607. Standard of conduct.

In the administration of the powers to ~~appropriate appreciation~~ expend endowment funds, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. In so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, ~~and~~ general economic conditions, and the aggregate value of all endowment funds held by the institution."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Argue
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Secretary