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FILED FEB 15 1990

SENATE FILE 2350
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2236)

Passed Senate, Date 2/26/90 (4-120) Passed House, Date 3/14/90 (11-10)
Vote: Ayes 48 Nays 0 Vote: Ayes 90 Nays 0
Approved March 29, 1990

A BILL FOR

1 An Act relating to the uniform management of institutional funds
2 Act.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SE 2350

1 Section 1. NEW SECTION. 122C.1 SHORT TITLE.

2 This chapter may be cited as the "Uniform Management of
3 Institutional Funds Act".

4 Sec. 2. NEW SECTION. 122C.2 DEFINITIONS.

5 For purposes of this chapter and unless the context
6 otherwise requires:

7 1. "Institution" means an incorporated or unincorporated
8 organization organized and operated exclusively for
9 educational, religious, charitable, or other eleemosynary
10 purposes, or a governmental organization to the extent that it
11 holds funds exclusively for any of these purposes.

12 2. "Institutional fund" means a fund held by an
13 institution for its exclusive use, benefit, or purposes, but
14 does not include a fund held for an institution by a trustee
15 that is not an institution and does not include a fund in
16 which a beneficiary that is not an institution has an
17 interest, other than possible rights that could arise upon
18 violation or failure of the purposes of the fund.

19 3. "Endowment fund" means an institutional fund, or any
20 part of an institutional fund, not wholly expendable by the
21 institution on a current basis under the terms of the
22 applicable gift instrument.

23 4. "Historic dollar value" means the aggregate fair value
24 in dollars of all of the following:

25 a. An endowment fund at the time it becomes an endowment
26 fund.

27 b. Each subsequent donation to the fund at the time it is
28 made.

29 c. Each accumulation made pursuant to a direction in the
30 applicable gift instrument at the time the accumulation is
31 added to the fund. The determination of historic dollar value
32 made in good faith by the institution is conclusive.

33 5. "Gift instrument" means a will, deed, grant,
34 conveyance, agreement, memorandum, writing, or other governing
35 document, including the terms of any institutional

1 solicitations from which an institutional fund resulted, under
2 which property is transferred to or held by an institution as
3 an institutional fund.

4 Sec. 3. NEW SECTION. 122C.3 APPROPRIATION OF
5 APPRECIATION.

6 The governing board of an institution may appropriate for
7 expenditure for the uses and purposes for which an endowment
8 fund is established so much of the net appreciation, realized
9 and unrealized, in the fair value of the assets of an
10 endowment fund over the historic dollar value of the fund as
11 is prudent under the standard established by section 122C.7.
12 This section does not limit the authority of the governing
13 board to expend funds as permitted under other law, the terms
14 of the applicable gift instrument, or the charter of the
15 institution.

16 Sec. 4. NEW SECTION. 122C.4 RULE OF CONSTRUCTION.

17 Section 122C.3 does not apply if the applicable gift
18 instrument indicates the donor's intention that net
19 appreciation shall not be expended. A restriction upon the
20 expenditure of net appreciation shall not be implied from a
21 designation of a gift as an endowment, or from a direction or
22 authorization in the applicable gift instrument to use only
23 "income," "interest," "dividends," or "rents, issues, or
24 profits," or "to preserve the principal intact," or a
25 direction which contains other words of similar import. This
26 rule of construction applies to gift instruments executed or
27 in effect before or after the effective date of this chapter.

28 Sec. 5. NEW SECTION. 122C.5 INVESTMENT AUTHORITY.

29 In addition to an investment otherwise authorized by law or
30 by the applicable gift instrument, and without restriction to
31 investments a fiduciary may make, the governing board of an
32 institution, subject to specific limitations set forth in the
33 applicable gift instrument or in the applicable law, other
34 than law relating to investments by a fiduciary, may do any of
35 the following:

1 1. Invest and reinvest an institutional fund in real or
2 personal property deemed advisable by the governing board,
3 whether or not the investment or reinvestment produces a
4 current return, including mortgages, stocks, bonds,
5 debentures, and other securities of profit or nonprofit
6 corporations, shares in or obligations of associations,
7 partnerships, or individuals, and obligations of a government
8 or subdivision or instrumentality of a government.

9 2. Retain property contributed by a donor to an
10 institutional fund for as long as the governing board deems
11 advisable.

12 3. Include all or any part of an institutional fund in any
13 pooled or common fund maintained by the institution.

14 4. Invest all or part of an institutional fund in another
15 pooled or common fund available for investment, including
16 shares or interests in regulated investment companies, mutual
17 funds, common trust funds, investment partnerships, real
18 estate investment trusts, or similar organizations in which
19 funds are commingled and investment determinations are made by
20 persons other than the governing board.

21 Sec. 6. NEW SECTION. 122C.6 DELEGATION OF INVESTMENT
22 MANAGEMENT.

23 Except as otherwise provided by the applicable gift
24 instrument or by applicable law relating to governmental
25 institutions or funds, the governing board of an institution
26 may do any of the following:

27 1. Delegate to committees, officers, or employees of the
28 institution or the fund, or agents, including investment
29 counsel, the authority to act in place of the board in the
30 investment and reinvestment of institutional funds.

31 2. Contract with independent investment advisors,
32 investment counsel or managers, banks, or trust companies, to
33 act in place of the board in the investment and reinvestment
34 of institutional funds.

35 3. Authorize the payment of compensation for investment

1 advisory or management services.

2 Sec. 7. NEW SECTION. 122C.7 STANDARD OF CONDUCT.

3 In the administration of the powers to appropriate
4 appreciation, to make and retain investments, and to delegate
5 investment management of institutional funds, members of a
6 governing board of an institution shall exercise ordinary
7 business care and prudence under the facts and circumstances
8 prevailing at the time of the action or decision. In so doing
9 they shall consider long-term and short-term needs of the
10 institution in carrying out its educational, religious,
11 charitable, or other eleemosynary purposes, its present and
12 anticipated financial requirements, expected total return on
13 its investments, price level trends, and general economic
14 conditions.

15 Sec. 8. NEW SECTION. 122C.8 RELEASE OF RESTRICTIONS ON
16 USE OR INVESTMENT.

17 1. With the written consent of the donor, the governing
18 board of an institution may release, in whole or in part, a
19 restriction imposed by the applicable gift instrument on the
20 use or investment of an institutional fund.

21 2. If written consent of the donor cannot be obtained by
22 reason of death, disability, unavailability, or impossibility
23 of identification, the governing board may apply in the name
24 of the institution to the district court for release of a
25 restriction imposed by the applicable gift instrument on the
26 use or investment of an institutional fund. The attorney
27 general shall be notified of the application and shall be
28 given an opportunity to be heard. If the court finds that the
29 restriction is obsolete, inappropriate, or impracticable, it
30 may by order release the restriction in whole or in part. A
31 release under this subsection shall not change an endowment
32 fund into a fund that is not an endowment fund.

33 3. A release under this section shall not allow a fund to
34 be used for purposes other than the educational, religious,
35 charitable, or other eleemosynary purposes of the institution

1 affected.

2 4. This section does not limit the application of the
3 doctrine of cy pres.

4 Sec. 9. NEW SECTION. 122C.9 UNIFORMITY OF APPLICATION
5 AND CONSTRUCTION.

6 This chapter shall be so applied and construed as to
7 effectuate its general purpose to make uniform the law with
8 respect to the subject of this chapter among those states
9 which enact the uniform management of institutional funds Act.

10 EXPLANATION

11 The bill deals with a uniform Act known as the uniform
12 management of institutional funds Act that has been adopted by
13 approximately 30 other states. The bill regulates the
14 investment and expenditure authority of endowment funds
15 provided to nonprofit entities that are organized and operated
16 exclusively for educational, religious, charitable, or other
17 benevolent purposes.

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GRONSTAL, CH.
MURPHY
DRAKE

SSB 2236
JUDICIARY

SENATE FILE 8350
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON VARN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

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16 which a beneficiary that is not an institution has an
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18 violation or failure of the purposes of the fund.

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22 applicable gift instrument.

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29 In addition to an investment otherwise authorized by law or
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32 institution, subject to specific limitations set forth in the
33 applicable gift instrument or in the applicable law, other
34 than law relating to investments by a fiduciary, may do any of
35 the following:

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2 personal property deemed advisable by the governing board,
3 whether or not the investment or reinvestment produces a
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2. Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable.
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SENATE FILE 2350

AN ACT

RELATING TO THE UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT.

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- b. Each subsequent donation to the fund at the time it is made.

c. Each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive.

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charitable, or other eleemosynary purposes of the institution affected.

4. This section does not limit the application of the doctrine of cy pres.

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This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact the uniform management of institutional funds Act.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2350, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved March 29, 1990

TERRY E. BRANSTAD
Governor