

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 832

S. P. 285

In Senate, February 14, 1973

Referred to the Committee on Legal Affairs. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Joly of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to Management of Endowment Funds of Educational,
Religious and Charitable Organizations.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 13, c. 95, additional. Title 13 of the Revised Statutes is amended by adding a new chapter 95 to read as follows:

CHAPTER 95

EDUCATIONAL, RELIGIOUS AND CHARITABLE
ORGANIZATIONS

SUBCHAPTER I

ENDOWMENT FUNDS

§ 4001. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

1. Endowment fund. "Endowment fund" means a fund, or any part thereof, held by an institution for its exclusive use, benefit or purposes, which is not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument; but does not include a fund held for an institution by a trustee which is not an institution or a fund in which a beneficiary which is not an institution has an interest other than possible rights which could arise upon violation or failure of the purposes of the fund.

2. Gift instrument. "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing or other governing document,

including the terms of any institutional solicitations from which an endowment fund resulted, under which property is transferred to or held by an institution as an endowment fund.

3. Governing board. "Governing board" means the body responsible for the management of an institution or of an institutional fund.

4. Historic dollar value. "Historic dollar value" means the fair market value in dollars of an endowment fund at the time it first became an endowment fund, plus the fair market value in dollars of each subsequent donation to the fund at the time it is made, plus the fair market value in dollars of 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.

5. Institution. "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable or other eleemosynary purposes.

§ 4002. Appropriation of appreciation

The governing board at its stated annual meeting 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 market value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard applicable to the governing board of the institution. 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 character of an institution.

§ 4003. Rule of construction

Section 4002 does not apply if the applicable gift instrument indicates the donor's intention that net appreciation shall not be expended. A restriction upon the expenditure of net appreciation 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" or "rents, issues or profits" or "to preserve the principal intact" or a direction which contains other words of similar import. This rule of construction applies to gift instruments executed or in effect before or after the effective date of this Act.

STATEMENT OF FACT

The purpose of this bill is to allow institutions to utilize that portion of endowment funds which represents net gains in value without invading the corpus of the original gift to said institution.