

IN THE SENATE

SENATE BILL NO. 1314

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO THE PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS; AMENDING SECTION
2 33-5004, IDAHO CODE, TO REVISE PROVISIONS AND ESTABLISH ADDITIONAL PRO-
3 VISIONS RELATING TO CERTAIN GIFT INSTRUMENTS.
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 33-5004, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 33-5004. APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT
9 FUND -- RULES OF CONSTRUCTION. (1) Subject to the intent of a donor expressed
10 in the gift instrument, an institution may appropriate for expenditure or
11 accumulate so much of an endowment fund as the institution determines is pru-
12 dent for the uses, benefits, purposes and duration for which the endowment
13 fund is established. Unless stated otherwise in the gift instrument, the as-
14 sets in an endowment fund are donor restricted assets until appropriated for
15 expenditure by the institution. In making a determination to appropriate
16 or accumulate, the institution shall act in good faith, with the care that
17 an ordinarily prudent person in a like position would exercise under similar
18 circumstances, and shall consider, if relevant, the following factors:

- 19 (a) The duration and preservation of the endowment fund;
20 (b) The purposes of the institution and the endowment fund;
21 (c) General economic conditions;
22 (d) The possible effect of inflation or deflation;
23 (e) The expected total return from income and the appreciation of in-
24 vestments;
25 (f) Other resources of the institution; and
26 (g) The investment policy of the institution.

27 (2) Subject to the provisions of subsection (3) of this section, to
28 limit the authority to appropriate for expenditure or accumulate under sub-
29 section (1) of this section, a gift instrument must specifically state the
30 limitation.

31 (3) Terms in a gift instrument designating a gift as an endowment, or a
32 any general or specific direction or authorization in the gift instrument to
33 use only "income," "interest," "dividends" or "rents, issues or profits," or
34 "to preserve the principal intact," or words of similar import, or any direc-
35 tion in such gift instrument relating to measuring permitted distributions
36 to permitted payees by reference to certain types or classes of investment
37 returns, or allocation in such gift instrument of certain types or classes of
38 returns to income or principal:

- 39 (a) Create an endowment fund of permanent duration unless other lan-
40 guage in the gift instrument limits the duration or purpose of the fund;
41 and

1 (b) Do not otherwise limit the authority to appropriate for expenditure
2 or accumulate under subsection (1) of this section.