

1 SENATE BILL NO. 134
2 INTRODUCED BY G. HERTZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE SAFEGUARDING ENDOWMENT GIFTS ACT;
5 PROVIDING DEFINITIONS; PROVIDING PROTECTIONS AFFORDED TO ENDOWMENTS AND GIFTS TO
6 CERTAIN ENTITIES; PROVIDING REQUIREMENTS FOR CERTAIN ENTITIES RELATING TO
7 ENDOWMENTS AND GIFTS; AND PROVIDING AN EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 NEW SECTION. Section 1. Short title -- purpose. (1) [Sections 1 through 3] may be cited as the
12 "Safeguarding Endowment Gifts Act".

13 (2) [Sections 1 through 3] are necessary to provide legal recourse to individual charitable donors
14 when their giving restrictions are not followed by a recipient charitable organization according to an endowment
15 agreement.

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17 NEW SECTION. Section 2. Definitions. For the purposes of [sections 1 through 3] the following
18 definitions apply:

19 (1) "Charitable organization" means an organization arranged and operated exclusively for
20 religious, charitable, scientific, literary, educational, or other specified purposes or for testing for public safety
21 and that has a tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code,
22 26 U.S.C. 501(c)(3).

23 (2) "Donor" means an individual or entity who has made a contribution of property or money to
24 either an existing endowment fund or a new endowment fund of a charitable organization or of a charitable trust
25 pursuant to the terms of an endowment agreement that may include donor-imposed restrictions or other
26 conditions governing the use of the contribution.

27 (3) "Donor-imposed restriction" means a written statement within an endowment agreement that
28 specifies obligations on the management or purpose of the endowment fund.

1 (4) "Endowment agreement" means a written agreement between a charitable organization and a
 2 donor or a charitable trust and a donor regarding the contribution made by the donor and accepted by the
 3 charitable organization or the charitable trust that may include donor-imposed restrictions or other conditions
 4 governing the use of the contribution.

5 (5) (a) "Endowment fund" means an institutional fund or part of an institutional fund that, under the
 6 terms of a gift instrument, is not wholly expendable by the institution on a current basis.

7 (b) The term does not include assets that an institution designates as an endowment fund for its
 8 own use.

9 (6) "Gift instrument" means a record or records, including an institutional solicitation, under which
 10 property is granted to, transferred to, or held by an institution as an institutional fund.

11 (7) "Legal representative" means the administrator or executor of a person's estate, a surviving
 12 spouse if a court judgment has settled the accounts of the estate, or a person designated in an endowment
 13 agreement, whether or not the person has been born at the time of the designation, to act in place of a party to
 14 the agreement for all matters expressed in the agreement and all of the actions the agreement contemplates,
 15 including without limitation interpreting, performing, and enforcing the agreement and defending its validity.

16 (8) "Property" means real property, personal property or money, cryptocurrency, stocks, bonds, or
 17 any other asset or financial instrument.

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19 NEW SECTION. Section 3. Protections afforded. (1) Except where specifically required or
 20 authorized by federal or state law, a charitable organization that accepts a contribution pursuant to a written
 21 donor-imposed restriction may not violate the terms of that restriction without potential penalty.

22 (2) If a charitable organization violates a donor-imposed restriction contained in an endowment
 23 agreement, the donor or that person's legal representative, 90 days after notification to the charitable
 24 organization, may file a complaint within 6 years after discovery for breach of the endowment agreement. The
 25 complaint may be filed in a court of general jurisdiction in the county where a charitable organization named as
 26 a party has its principal office or principal place of carrying out its charitable purpose or in a court of the United
 27 States whose district includes the county. The complaint may be filed regardless of whether the agreement
 28 expressly reserves a right to sue or enforce, and it may not seek a judgment awarding damages to the plaintiff.

1 (3) In the event a charitable organization is unable to fulfill a term in an endowment agreement, the
2 donor or that person's legal representative must be notified 30 days in advance and offered an alternative
3 solution that closely matches the initial term in the endowment agreement.

4 (4) A charitable organization may obtain a judicial declaration of rights and duties expressed in an
5 endowment agreement containing donor restrictions as to all of the actions the agreement contemplates,
6 including without limitation the interpretation, performance, and enforcement of the agreement and the
7 determination of its validity. The charitable organization may seek the declaration in any suit brought under this
8 section or by filing a complaint.

9 (5) If the court determines that a charitable organization violated a donor-imposed restriction in an
10 endowment agreement, the court may order one or more remedies consistent with the charitable purposes
11 expressed in the endowment agreement. The court may not order the return of donated funds to the donor or
12 the donor's legal representative or estate.

13 (6) Nothing in this act affects the authority of the attorney general to enforce any restriction in an
14 endowment agreement, limits the application of the judicial power of cy pres, or alters the right of an institution
15 to modify a restriction on the management, investment, purpose, or use of an endowment fund in a manner
16 permitted by the endowment agreement and by the Montana Uniform Prudent Management of Institutional
17 Funds Act, Title 72, chapter 30.

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19 NEW SECTION. **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be
20 codified as a new part in Title 72, chapter 30, and the provisions of Title 72, chapter 30, apply to [sections 1
21 through 3].

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23 NEW SECTION. **Section 5. Effective date.** [This act] is effective July 1, 2025.

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