

SCS HB 239 -- MANAGEMENT OF TRUSTS AND FUNDS

This bill changes the laws regarding the management of trusts and funds. In its main provisions, the bill:

(1) Allows the University of Missouri Board of Curators to use up to 2% annually of the total market value of the university's endowment to support internal endowment administration and development functions;

(2) Allows certain banks, trust companies, savings and loan associations, and savings banks to transfer by assignment some or all of its fiduciary obligations consisting of irrevocable life insurance trusts to the Missouri trust office of an out-of-state bank with trust powers or an out-of-state trust company;

(3) Establishes guidelines for the management, investment, and expenditures of endowment funds held by charitable institutions and other entities holding funds for charitable purposes. Subject to the intent and any specific limitation of a donor, the investment manager must manage and invest the fund in good faith with the care an ordinary, prudent person in a like position would take. Delegation of fund management to an external agent must also be made in good faith. The assets of the fund must be diversified unless the institution determines that because of special circumstances the funds are better served without diversification. The assets can be pooled together with other institutional funds for the purposes of management and investment. Other criteria for investment decisions are specified in the bill;

(4) Specifies a procedure for the modification of a donor restriction in certain instances. If a restriction is on a fund with less than \$50,000, it may be modified in a manner consistent with the charitable purpose of the gift after 10 years upon notification to the Attorney General and a 60-day waiting period without court approval. Courts may modify the purpose of a fund or any restrictions if they are unlawful, impracticable, impossible to achieve, or wasteful. The Attorney General may intervene to provide an opinion on the proposed modification;

(5) Authorizes a trustee of a trust that became irrevocable on or before September 25, 1985, to distribute trust income and principal to qualified remainder beneficiaries in certain specified circumstances. A "qualified remainder beneficiary" is a descendant of a permissible distributee who will be eligible to receive trust income upon the death of a permissible distributee or the termination of a trust. Permissible distributees must be notified of any distribution of trust income to a qualified remainder beneficiary 60 days prior to any transfer. Trustees in

certain specified counties may publish creditor notices in a local newspaper; and

(6) Requires personal representatives of an estate to invest the estate's funds in accordance with the Missouri Prudent Investor Act unless otherwise specified by a will. Instruments guaranteed as to principal and interest by the United States and accounts insured by the Federal Deposit Insurance Corporation (FDIC) are considered prudent investments. Delegation of account management responsibilities to an agent requires a written acknowledgment by the agent that they are acting as an investment fiduciary on the account. Conservators of an estate must also follow these rules unless they obtain court approval. Conservators will no longer be able to sell or exchange assets worth less than \$1,000 without court approval.