



THE BUCKEYE INSTITUTE

University Endowments Must Adhere to Donor Intent

Interested Party Testimony
Ohio House Higher Education and Career Readiness Committee
Senate Bill 135

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As Prepared for Delivery

Chair Lanese, Vice Chair Young, and Ranking Member Ingraham, thank you for the opportunity to testify on the policies in Senate Bill 135.

My name is Greg R. Lawson, I am the research fellow at **The Buckeye Institute**, an independent research and educational institution—a think tank—whose mission is to advance free-market public policy in the states.

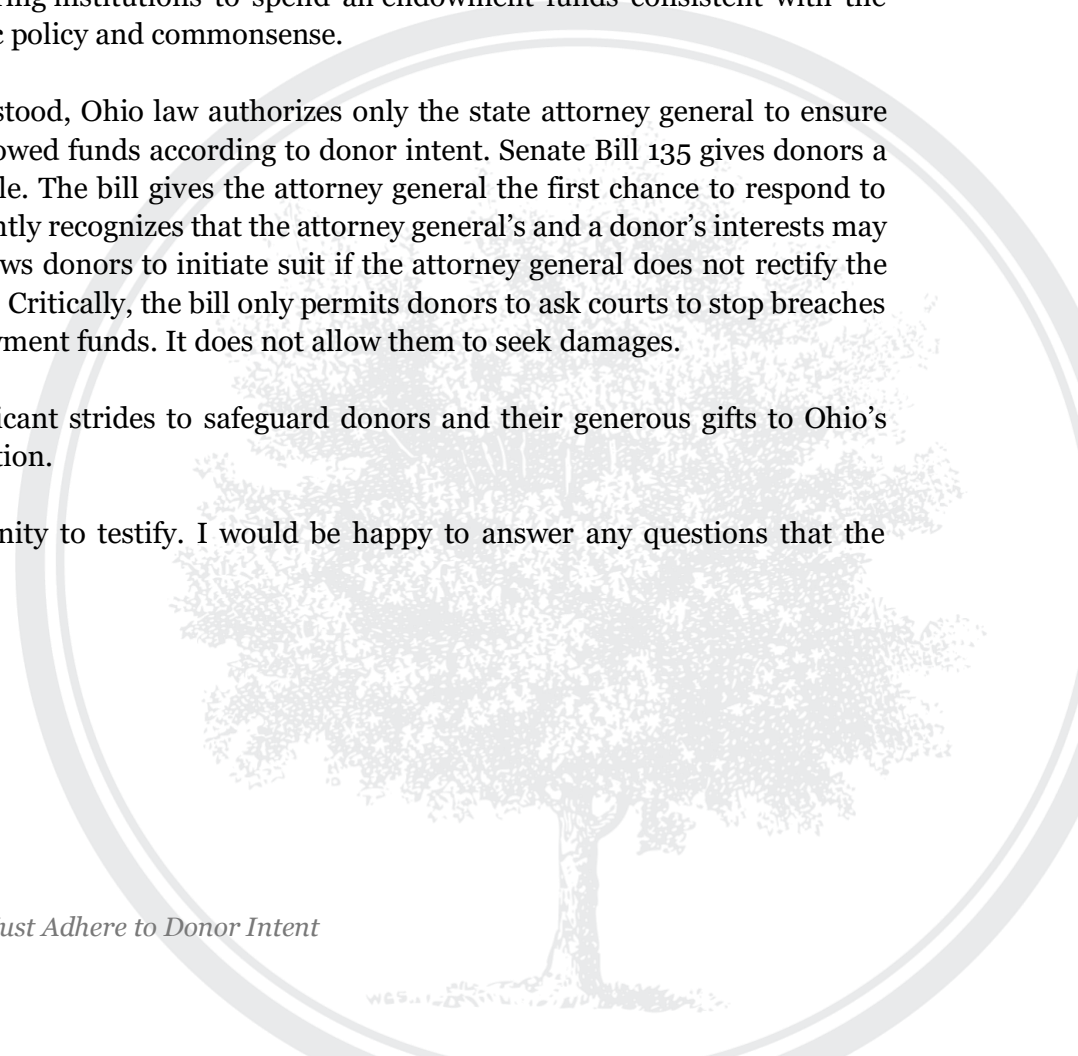
Senate Bill 135 confronts a common problem in higher education—a disregard for donor intent. Nonprofit institutions should spend donated funds consistent with their donor’s intentions. Senate Bill 135 supports this axiomatic rule, helping donors ensure that colleges and universities spend education endowment funds according to the endowment’s terms and consistent with donor intent. The bill aligns Ohio with national best practices and reforms the state’s endowment contract enforcement in two ways.

First, Senate Bill 135 removes Ohio’s misguided, irrebuttable presumption that universities spend endowment funds legally so long as they spend up to five percent of an endowment’s value in a year. Ohio’s full immunity regime is a national outlier—the only state in the country with this rule that invites abuse by allowing universities to spend some endowment funds however they like without legal consequence. Senate Bill 135 wisely aligns Ohio law with the **Uniform Law Commission’s** recommendations in the **Uniform Prudent Management of Institutional Funds Act** (UPMIFA), which offers no such presumption or immunity. Instead, UPMIFA makes legal remedies available if a university spends even a de minimis amount inconsistent with the endowment’s terms. Requiring institutions to spend all endowment funds consistent with the donor’s terms is good public policy and commonsense.

Second, as currently understood, Ohio law authorizes only the state attorney general to ensure that universities spend endowed funds according to donor intent. Senate Bill 135 gives donors a seat at the enforcement table. The bill gives the attorney general the first chance to respond to alleged wrongdoing, but rightly recognizes that the attorney general’s and a donor’s interests may not always align, and it allows donors to initiate suit if the attorney general does not rectify the situation within six months. Critically, the bill only permits donors to ask courts to stop breaches and restore misspent endowment funds. It does not allow them to seek damages.

Senate Bill 135 takes significant strides to safeguard donors and their generous gifts to Ohio’s institutions of higher education.

Thank you for the opportunity to testify. I would be happy to answer any questions that the Committee may have.



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