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MEMORANDUM

To: Chairperson Thompson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: February 20, 2023

Subject: SB 133 – Creating the Donor Intent Protection Act.

Senate Bill No. 133 (SB 133) would create the Donor Intent Protection Act (Act) for the purpose of providing legal recourse for a donor or a donor’s estate when the donor’s gift restrictions are not honored by the recipient endowment fund. The Act is applicable to charitable organizations that accept contributions of property in any form, including real or personal property, and any form of financial asset, from an endowment fund or to an endowment fund. If the contribution is made with a donor-imposed restriction on the use of such property, then the charitable organization is required to abide by that restriction unless specifically required or authorized by law to do otherwise.

Under SB 133, if a restriction is not followed, then within six years of discovery, the donor or the donor’s estate may bring an action against the charitable organization. In any such action, the court cannot award any damages to the donor or the donor’s estate or order the return of the contribution. The court may award equitable relief as follows:

- Future compliance with donor-imposed restrictions.
- Restitution of property to an endowment fund by the charitable organization.
- An accounting by the charitable organization.
- Restoration or a change to a name required by the donor-imposed restrictions.
- Measures to preserve the property and value of the endowment fund.
- Modification or release of the restriction or reformation of the agreement between the donor and the charitable organization.
- Transfer of property from the endowment fund to another charitable organization.
- Any other equitable remedy available.

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SB 133 also authorizes the charitable organization to obtain a declaratory judgment by a court as to the rights and duties of the charitable organization in any agreement between the organization and a donor that has donor-imposed restrictions.

If enacted, SB 133 would become effective on July 1, 2023.