

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No:** HB 73a

**49th Legislature, 1st Session, 2009**

**Short Title:** College Affordability Endowment Distribution

**Sponsor(s):** Representative Ben Lujan and Others

**Analyst:** Eilani Gerstner

**Date:** February 21, 2009

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**AS AMENDED**

The House Education Committee amendment adds a provision to provide that, until the College Affordability Endowment Fund has existed for five years, the distribution shall be based upon the average of the year-end market value of the fund for the years that the fund has existed.

**Original Bill Summary:**

HB 73 amends the *College Affordability Act* to change the method of annually distributing funds from the College Affordability Endowment Fund to the College Affordability Scholarship Fund.

Specifically, HB 73 replaces “income from investment of the endowment fund” with an “annual distribution,” which is defined as 5.0 percent of the average of the year-end market values of the endowment fund for the immediately preceding five calendar years.

**Fiscal Impact:**

HB 73 contains no appropriation.

According to the Higher Education Department (HED) analysis of HB 73,

- since it’s inception in 2006, the scholarship fund has provided more than \$5.25 million to 2,625 students; and
- approximately 1,000 students per academic year receive grants of \$2,000 per student.

**Fiscal Issues:**

- The Legislature has appropriated a total of \$97.0 million to the College Affordability Endowment Fund since 2006:
  - in 2006, \$49.0 million;
  - in 2007, \$48.0 million contingent on investment of \$46.0 million by the State Investment Council and transfer of \$2.0 million to the College Affordability Scholarship Fund; and
  - in 2008, an appropriation to the endowment fund of \$1.425 million was vetoed by the Governor; this appropriation would have been contingent upon HED requiring accountability plans from higher education institutions.

- The *General Appropriation Act of 2008* also granted budget adjustment authority to HED to request budget increases up to \$750,000 from other state funds for the scholarship fund during FY 08. According to HED, the department requested the funds and distributed them to postsecondary institutions for College Affordability Grants for students.
- According to HED, as of December 31, 2008, the endowment fund was worth \$72.5 million. CS/SB 79, *Fund Transfers & Appropriation Cuts*, passed by the 2009 Legislature and signed by the Governor, reduces the College Affordability Endowment Fund by \$14.5 million to address FY 09 solvency.
- According to HED, the endowment fund has been invested since 2007; therefore, a five-year average of year-end market values will not be available until 2012. It appears the bill does not contain a provision for the distribution of the funds until then.

### **Issues:**

According to HED's analysis of HB 73,

- income from the investment of the endowment fund is not defined in current statute;
- under current statute, there may be considerable swings in the amount paid out to students each year, making planning on the part of HED, institutions, and students difficult; therefore,
- HB 73 proposes the same payout method as the permanent fund to allow for a smoother and more predictable flow of funds to students.

In an October 2008 review of state student financial aid programs, the Legislative Finance Committee recommended that the *College Affordability Act* be amended to change the payout method from the endowment fund after the fund reaches \$250 million to distribute 5.0 percent of the five-year rolling average market value of the endowment fund to the scholarship fund.

### **Technical Issues:**

Language in the bill may pose a technical issue with regard to the definition of the annual distribution to the scholarship fund.

- HB 73 initially defines the "annual distribution to the scholarship fund" as 5.0 percent of the average of the year-end market values of the endowment fund for the immediately preceding five calendar years.
- However, another provision in HB 73 appears to conflict with this definition, as it requires a distribution to the scholarship fund different from that described in the initial definition: until the corpus of the endowment fund reaches \$250 million, 50 percent of the annual distribution amount shall be applied to the corpus of the endowment fund and 50 percent shall be distributed to the scholarship fund.

### **Background:**

The *College Affordability Act* was enacted in 2005 to provide scholarships to students seeking a baccalaureate degree who demonstrate financial need. Eligible students may receive College Affordability Grants of up to \$1,000 per semester.

Currently, the act requires that funds be distributed to the scholarship fund from the “income from the investment of the endowment fund” as follows:

- until 50 percent of the annual income from investment of the endowment fund is \$2.0 million or greater, an annual distribution of \$2.0 million shall be made from the endowment fund to the scholarship fund;
- thereafter, until the corpus of the endowment fund reaches \$250 million, 50 percent of the income from the investment of the fund is applied to the corpus of the fund and 50 percent to the scholarship fund; and
- after the corpus of the endowment fund is \$250 million, all income from investment of the endowment fund shall be distributed to the scholarship fund.

At its January 2009 meeting, the Legislative Education Study Committee endorsed the proposed change in the distribution method from the endowment fund to the scholarship fund.

**Related Bill:**

*\*CS/SB 79 Fund Transfers & Appropriation Cuts*