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FISCAL IMPACT REPORT

SPONSOR Larrañaga ORIGINAL DATE 02/14/11
LAST UPDATED _____ HB 353
SHORT TITLE Higher Ed Institutions Endowment Fund Standards SB _____
ANALYST _____

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI	Recurring	Higher Ed Endowment Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Higher Education Department

SUMMARY

Synopsis

House Bill 353 updates the statutory references and clarifies the investment standards applicable to endowment funds managed by publicly funded postsecondary institutions and special schools. The bill requires the State Board of Finance to adopt regulations governing the distribution of endowment funds.

FISCAL IMPLICATIONS

None.

Changing rules concerning distribution of endowment funds may change the beneficiaries of particular endowment funds, but no major changes to the investment of endowment funds is likely.

SIGNIFICANT ISSUES

This bill updates the law to require investments in accordance with the Uniform *Prudent* Management of Institutional Funds Act (Chapter 46, Article 9A). This is the successor act to the Uniform Management of Institutional Funds Act, repealed by Laws 2009, ch. 130, § 11. The bill

also updates the standard of conduct reference to requires and cites the duty of “Loyalty” described in Section 45-7-606, “...a trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.” These are technical amendments and do not materially affect the standards of investment or conduct.

NMHED notes, “...in 2002, Section 21-1-27.1 NMSA 1978 created the Faculty Endowment Fund (renamed the Higher Education Endowment Fund in 2008) under the New Mexico Higher Education Department (NMHED) to receive state appropriations for distribution to the public postsecondary institutions according to certain requirements. Upon securing at least a stipulated percentage of non-governmental monies, institutions submitted draw requests and signed certifications to NMHED to receive their share of matching state appropriations. Institutions or their foundations invested the combined funds according to their investment policies in compliance with state laws. HB 353 clarifies how institutions may invest their endowments and expend interest and other earnings for the agreed purpose. For example, according to general counsel for the University of New Mexico Foundation, UNM has had to freeze distribution of almost \$2 million from 24 accounts that would otherwise support faculty positions, due to the lack of the specific Uniform Prudent Management of Institutional Funds language concerning distributions.

ADMINISTRATIVE IMPLICATIONS

It is uncertain what will happen if Board of Finance fails to regulate distribution of funds. NMHED notes, “...NMHED will need to revise its Higher Education Endowment Fund Procedure (available on its website at www.hed.state.nm.us) to change the current reference to the Prudent Man Rule to the Uniform Prudent Management of Institutional Funds Act.”

OTHER SUBSTANTIVE ISSUES

NMHED notes, “...the Higher Education Endowment Fund’s most recent state appropriations were \$12 million in 2007 and \$5.6 million in 2008. In 2009, SB 79 transferred \$600,000 from the fund into the state’s General Fund as part of budget solvency measures. The current fund balance is about \$82,700, consisting of \$15,000 un-drawn money and cumulative interest earnings. NMHED expects that this balance will be transferred to the General Fund.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Lack of clarity pertaining to how endowment earnings may be expended may continue to prevent institutions from expending earnings as intended.

LG/bym