

1 HOUSE BILL 353

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Larry A. Larrañaga

5  
6  
7  
8  
9  
10 AN ACT

11 RELATING TO HIGHER EDUCATION; ADDRESSING THE STANDARDS FOR  
12 INVESTMENT OF INSTITUTION ENDOWMENT FUNDS.

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 21-1-27.1 NMSA 1978 (being Laws 2002,  
16 Chapter 31, Section 1, as amended) is amended to read:

17 "21-1-27.1. HIGHER EDUCATION ENDOWMENT FUND CREATED.--

18 A. The "higher education endowment fund" is created  
19 in the state treasury. The fund shall consist of  
20 appropriations, income from investment of the fund, gifts,  
21 grants, donations and bequests.

22 B. The higher education endowment fund shall be  
23 administered by the higher education department. Money shall  
24 be disbursed only on warrant of the secretary of finance and  
25 administration upon voucher signed by the secretary of higher

.183803.2

underscored material = new  
[bracketed material] = delete

underscored material = new  
~~[bracketed material] = delete~~

1 education or the secretary's authorized representative.

2 C. Money shall be disbursed from the higher  
3 education endowment fund only to establish endowments at public  
4 post-secondary educational institutions as provided in this  
5 section. An institution shall not receive a disbursement for  
6 an endowment until that institution has notified the department  
7 that it has received matching funds for the endowment from  
8 other than governmental sources in the amount specified in this  
9 section.

10 D. Money in the higher education endowment fund is  
11 appropriated to the department to be disbursed for endowment  
12 purposes, including endowed chairs, lectureships,  
13 professorships, scholarships for students, graduate  
14 assistantships and faculty development programs that will  
15 enhance the quality of public post-secondary education in New  
16 Mexico. The department, by rule, shall establish procedures  
17 for disbursing money from the fund. Not less than five percent  
18 of each institution's total endowment effort resulting from  
19 amounts specified in this section shall address one or more of  
20 the governor's initiatives.

21 E. Appropriations to the higher education endowment  
22 fund shall be disbursed to public post-secondary educational  
23 institutions based on the following distribution proportions  
24 and matching requirements:

25 (1) the university of New Mexico shall be

.183803.2

underscored material = new  
~~[bracketed material] = delete~~

1 entitled to draw eighteen percent of each appropriation and New  
2 Mexico state university and the New Mexico institute of mining  
3 and technology shall each be entitled to draw sixteen percent  
4 of each appropriation; provided that no disbursement shall be  
5 made pursuant to this paragraph until an institution has shown  
6 to the satisfaction of the department that it has received  
7 matching funds in an amount equal to at least fifty percent of  
8 the disbursement;

9 (2) the university of New Mexico health  
10 sciences center shall be entitled to draw twelve percent of  
11 each appropriation; provided that no disbursement shall be made  
12 pursuant to this paragraph until the center has shown to the  
13 satisfaction of the department that it has received matching  
14 funds in an amount equal to at least fifty percent of the  
15 disbursement;

16 (3) New Mexico highlands university, eastern  
17 New Mexico university, western New Mexico university and  
18 northern New Mexico college shall each draw an equal share of a  
19 total of eighteen percent of each appropriation; provided that  
20 no disbursement shall be made pursuant to this paragraph until  
21 an institution has shown to the satisfaction of the department  
22 that it has received matching funds in an amount equal to at  
23 least forty percent of the disbursement; and

24 (4) the New Mexico military institute,  
25 independent community colleges, branch community colleges and

.183803.2

underscored material = new  
~~[bracketed material] = delete~~

1 technical and vocational institutes may draw a share of a total  
2 of twenty percent of each appropriation using a distribution  
3 formula approved by the higher education department; provided  
4 that no disbursement shall be made pursuant to this paragraph  
5 until an institution has shown to the satisfaction of the  
6 department that it has received matching funds in an amount  
7 equal to at least thirty percent of the disbursement.

8 F. Distributions from the higher education  
9 endowment fund are made over a three-year cycle with unmatched  
10 balances reverting to the general fund at the end of the third  
11 fiscal year. The department shall notify each eligible  
12 institution of the specific amount it may match during the  
13 first two fiscal years of each three-year cycle. Allocations  
14 not matched during the first two years of each cycle are made  
15 available for supplemental or second round matching by other  
16 eligible public post-secondary educational institutions during  
17 the third fiscal year. Four-year public post-secondary  
18 educational institutions may apply for supplemental matches to  
19 amounts originally designated for other four-year institutions.  
20 Two-year public post-secondary educational institutions may  
21 apply for supplemental matches to amounts originally designated  
22 for other two-year institutions. Successful submissions for  
23 supplemental matches shall be determined by the department in a  
24 manner that affords equitable participation over time based on  
25 guidelines for supplemental distributions from the fund.

.183803.2

underscored material = new  
[bracketed material] = delete

1           G. The endowment funds of the institutions shall  
2 not be expended but shall be invested by the institutions in  
3 accordance with the [~~prudent investor rule~~] Uniform Prudent  
4 Management of Institutional Funds Act and [~~in accordance with~~]  
5 the provisions of Section 21-1-38 NMSA 1978. The income from  
6 the investments shall be [~~used~~] expended by the institutions in  
7 accordance with the Uniform Prudent Management of Institutional  
8 Funds Act and the provisions of Section 21-1-38 NMSA 1978 to  
9 provide funding for chairs, lectureships, professorships,  
10 scholarships for students, graduate assistantships and faculty  
11 development programs, including paying all or a portion of the  
12 salary of the faculty member or the expenses necessary to  
13 support associated academic activities.

14           H. The department shall report annually to the  
15 legislative finance committee on disbursements made pursuant to  
16 this section. The report shall include the amounts disbursed  
17 to each institution, the amount of matching funds and their  
18 source and the purpose of the endowments."

19           **SECTION 2.** Section 21-1-38 NMSA 1978 (being Laws 1991,  
20 Chapter 69, Section 1, as amended) is amended to read:

21           "21-1-38. DEFINITION--REQUIREMENTS FOR ADOPTION OF  
22 INVESTMENT POLICY FOR INVESTING ENDOWMENT FUNDS.--

23           A. As used in this section:

24                   (1) "endowment funds" means funds:

25                           (a) acquired by gift by an educational

.183803.2

underscoring material = new  
[bracketed material] = delete

1 institution with respect to which the donors or other outside  
2 agencies have stipulated as a condition of the gift, and the  
3 stipulation is expressed specifically in the gift instrument,  
4 that the principal is to be maintained and invested for the  
5 purpose of producing current and future income that may either  
6 be added to the principal or expended, and the maintenance of  
7 the principal may be either: 1) held [~~inviolate and~~] in  
8 perpetuity; or 2) expended after the passage of a stated period  
9 of time or upon the happening of a specified event; and

10 (b) notwithstanding the source of  
11 acquisition, that the governing board of the educational  
12 institution has determined and has designated by a written  
13 instrument, either revocable or irrevocable, to be retained for  
14 long-term investment; and

15 (2) "educational institution" means an  
16 educational institution designated in Article 12, Section 11 of  
17 the constitution of New Mexico and any post-secondary  
18 educational institution, which term includes [~~but is not~~  
19 ~~limited to~~] an academic, vocational, technical, business,  
20 professional or other school, college or university or other  
21 organization or person offering or purporting to offer courses,  
22 instruction, training or education through correspondence or in  
23 person to any individual within this state over the compulsory  
24 school attendance age, if that post-secondary educational  
25 institution is directly supported in whole or in part by state

.183803.2

underscored material = new  
[bracketed material] = delete

1 or local taxation.

2 B. The board of finance, as that term is defined in  
3 Section 6-10-9 NMSA 1978, for each of the educational  
4 institutions:

5 (1) shall adopt regulations governing the  
6 investment and distribution of endowment funds by the  
7 institution's board of finance, which regulations shall provide  
8 at least for:

9 (a) the application of the [~~investment~~]  
10 standard of [~~conduct~~] loyalty described in Section [~~6-8-10~~]  
11 45-7-606 NMSA 1978 and the Uniform Prudent Management of  
12 Institutional Funds Act [~~as the standard for evaluating an~~  
13 ~~investment~~];

14 (b) the appointment of an investment  
15 advisory committee made up of individuals having demonstrated  
16 experience and skill in the field of the investment of  
17 endowment funds; and

18 (c) the development of a comprehensive  
19 investment policy for the investment of endowment funds by the  
20 institution, with the advice and upon the recommendation of the  
21 investment committee; and

22 (2) may employ an institutional endowment  
23 funds investment manager and delegate to [~~him~~] the manager the  
24 power to make purchases, sales, exchanges, investments and  
25 reinvestments of endowment funds."

.183803.2