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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/06/12

SPONSOR Doyle LAST UPDATED \_\_\_\_\_ HB 283

SHORT TITLE Securities Fund Permanent Appropriation SB \_\_\_\_\_

ANALYST Hoffmann

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
Ongoing-see narrative			Securities Enforcement and Investor Education

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates Senate Bill 151

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)

### SUMMARY

#### Synopsis of Bill

House Bill 283 (HB283) would amend Section 58-13C-601 NMSA 1978 of the Uniform Securities Act (the Act) to permanently appropriate the Enforcement and Investor Education fund of the Regulation and Licensing Department to the Securities Division.

There is no effective date specified in the bill, so if adopted and signed into law it would become effective on May 16, 2012. The amendment proposed by this bill would appropriate, as of this date, the entire fund balance to the Securities Division for expenditure.

### FISCAL IMPLICATIONS

House Bill 283 would permanently appropriate the Securities Enforcement and Investor Education fund to the Securities Division. Current statute requires appropriation of this fund by the Legislature; this bill would eliminate (until repealed in statute) the authority of the Legislature to appropriate from this fund.

This bill is contrary to LFC policy, which recognizes the exclusive constitutional authority of the Legislature to appropriate. Removing the Securities Enforcement and Investor Education fund from the budget process could limit the Legislature's ability to set spending priorities and could expose the fund to misuse or overuse by the division or the department.

The statutory purpose of the fund is “for consumer education and training in matters concerning securities laws and investment issues, education and training of investigative and prosecutorial staff of the division, and costs incurred for the investigation and prosecution of civil and criminal violations of the New Mexico Uniform Securities Act.”

The Securities Enforcement and Investor Education fund (SHARE fund number 044, SHARE fund name “Sec. Education and Training”) is a non-reverting fund of the Securities Division, earning revenues from a \$5 fee from registrants, penalties and other administrative assessments collected through enforcement actions, and income from investment of the fund. As of January 9, 2012, SHARE reported the cash balance of the fund at \$2.4 million.

Since the fund was created, it has been appropriated by the Legislature through the budget process (FY12 operating budget: \$600 thousand). The budget includes assessments for salaries and benefits in the Securities Division, and an assessment by the department for administrative costs. Based on the FY12 operating budget, approximately 38% of the fund was spend on salaries and benefits, 29% was spent on education and training, and 28% on investigation and prosecution.

## **ALTERNATIVES**

The agency could request specific Budget Adjustment Request (BAR) authority for the fund from the Legislature in the General Appropriation Act.

If the intent of the bill is to reduce the cash balance of the Securities Enforcement and Investor Education fund, the Legislature might consider a swap, appropriating a larger amount of this fund and less general fund to the division.

CH/amm