

AN ACT

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

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

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

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

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

B. The higher education endowment fund shall be administered by the higher education department. Money shall be disbursed only on warrant of the secretary of finance and administration upon voucher signed by the secretary of higher education or the secretary's authorized representative.

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

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

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

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

(2) the university of New Mexico health

sciences center shall be entitled to draw twelve percent of each appropriation; provided that no disbursement shall be made pursuant to this paragraph until the center has shown to the satisfaction of the department that it has received matching funds in an amount equal to at least fifty percent of the disbursement;

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

(4) the New Mexico military institute, independent community colleges, branch community colleges and technical and vocational institutes may draw a share of a total of twenty percent of each appropriation using a distribution formula approved by the higher education department; provided that no disbursement shall be made pursuant to this paragraph until an institution has shown to the satisfaction of the department that it has received matching funds in an amount equal to at least thirty percent of the disbursement.

endowment fund are made over a three-year cycle with unmatched balances reverting to the general fund at the end of the third fiscal year. The department shall notify each eligible institution of the specific amount it may match during the first two fiscal years of each three-year cycle. Allocations not matched during the first two years of each cycle are made available for supplemental or second round matching by other eligible public post-secondary educational institutions during the third fiscal year. Four-year public post-secondary educational institutions may apply for supplemental matches to amounts originally designated for other four-year institutions. Two-year public post-secondary educational institutions may apply for supplemental matches to amounts originally designated for other two-year institutions. Successful submissions for supplemental matches shall be determined by the department in a manner that affords equitable participation over time based on guidelines for supplemental distributions from the fund.

G. The endowment funds of the institutions shall not be expended but shall be invested by the institutions in accordance with the Uniform Prudent Management of Institutional Funds Act and the provisions of Section 21-1-38 NMSA 1978. The income from the investments shall be expended by the institutions in accordance with the Uniform Prudent Management of Institutional Funds Act and the provisions of

Section 21-1-38 NMSA 1978 to provide funding for chairs, lectureships, professorships, scholarships for students, graduate assistantships and faculty development programs, including paying all or a portion of the salary of the faculty member or the expenses necessary to support associated academic activities.

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

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

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

A. As used in this section:

(1) "endowment funds" means funds:

(a) acquired by gift by an educational institution with respect to which the donors or other outside agencies have stipulated as a condition of the gift, and the stipulation is expressed specifically in the gift instrument, that the principal is to be maintained and invested for the purpose of producing current and future income that may either be added to the principal or expended, and the maintenance of the principal may be either: 1) held in perpetuity; or 2)

expended after the passage of a stated period of time or upon the happening of a specified event; and

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

(2) "educational institution" means an educational institution designated in Article 12, Section 11 of the constitution of New Mexico and any post-secondary educational institution, which term includes an academic, vocational, technical, business, professional or other school, college or university or other organization or person offering or purporting to offer courses, instruction, training or education through correspondence or in person to any individual within this state over the compulsory school attendance age, if that post-secondary educational institution is directly supported in whole or in part by state or local taxation.

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

(1) shall adopt regulations governing the investment and distribution of endowment funds by the institution's board of finance, which regulations shall

provide at least for:

(a) the application of the standard of loyalty described in Section 45-7-606 NMSA 1978 and the Uniform Prudent Management of Institutional Funds Act;

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

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

(2) may employ an institutional endowment funds investment manager and delegate to the manager the power to make purchases, sales, exchanges, investments and reinvestments of endowment funds."