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## FISCAL IMPACT REPORT

SPONSOR: Stewart, M      DATE TYPED: 2/25/03      HB 515

SHORT TITLE: Transfer Powers of State Board of Education      SB \_\_\_\_\_

ANALYST: Segura

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	N/A		Indeterminate		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

State Department of Education (SDE)  
Commission on Higher Education (CHE)

### SUMMARY

House Bill 515 provides for a transfer of powers and duties from the State Board of Education (SBE) to the public education department if the people adopt the pertinent constitutional amendment.

#### Synopsis of Bill

The bill would enact a temporary provision of law contingent upon the adoption of a constitutional amendment that eliminates the SBE as the policymaking body that has control, management and direction of public schools in the state.

The bill provides for the transfer of the powers and duties of the SBE to the State Department of Education until the Legislature passes, and the governor signs, legislation reorganizing the department and reassigning board powers and duties.

### FISCAL IMPLICATIONS

According to SDE, adoption of a constitutional amendment and the enactment of HB 515 would result in additional costs to implement the transitional governance.

## **ADMINISTRATIVE IMPLICATIONS**

The enactment of HB 515 would have administrative impact for SDE and public schools during the implementation of a transitional governance structure and the subsequent permanent governance structure.

## **RELATIONSHIP**

The following joint resolutions proposing to amend Article XII, Section 6, have been introduced:

HJR7, HJR10, HJR12, HJR15, HJR17, SJR5, SJR2, SJR12, HB-310.

## **OTHER SUBSTANTIVE ISSUES**

The State Department of Education legal staff have cited the following issues relative to enactment of HB-515.

The provisions of HB 515 may not be sufficient, in specific instances, to effectuate a transitional structure. Presumably, the SBE's rulemaking authority would devolve to the SDE and would be executed in accordance with the requirements of NMSA 1978, Section 9-1-5(E). Other responsibilities assigned to the SBE may not, however, align with the transition structure.

With regard to vocational education, federal law (20 U.S.C. 2301 et seq.) defines as an "eligible agency" as "a State board designated or created consistent with State law as the sole State agency responsible for the administration of vocational and technical education in the State."

The SDE suggests that it may be necessary to create an interim board to comport with federal requirements. Also, consideration should be given for inclusion of a provision stating that the rules promulgated by the SBE remain in force unless repealed or amended through the formal rulemaking process.

**RMS/sb:prr**