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## FISCAL IMPACT REPORT

SPONSOR: Begaye DATE TYPED: 03/05/03 HB HJR 23

SHORT TITLE: Boards of Regents Tribal Representative SB \_\_\_\_\_

ANALYST: Williams

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SR 1  
SJR 18/HJR 22

### SOURCES OF INFORMATION

LFC Files  
Commission on Higher Education (CHE)  
Office of the Attorney General

### SUMMARY

#### Synopsis of Bill

House Joint Resolution 23 proposes an amendment to the Article 12, Section 13 of the State Constitution to authorize at least one member of the Board of Regents of New Mexico State University and the University of New Mexico be a member of an Indian nation, tribe or pueblo located in New Mexico. The amendment would be subject to voter approval at the next general election or special election called for that purpose.

#### Significant Issues

Current requirements for appointment of the five members of the Board of Regents at New Mexico State University by the Governor with confirmation of the Senate:

- Four must be qualified electors of the state
- No more than three may be members of the same political party at the time of appointment

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- One member must be a student

Current requirements for appointment of the seven members of the Board of Regents at the University of New Mexico by the Governor with confirmation by the Senate:

- Six must be qualified electors of the state
- No more than four may be members of the same political party at the time of appointment
- One member must be a student

The Office of the Attorney General notes:

“This amendment could be challenged as a violation of the Equal Protection Clauses of the Constitutions of the United States and of New Mexico. N.M. Const., art. II, §18; *see Tafoya v. City of Albuquerque*, 751 F. Supp. 1527 (D.N.M. 1990) (memorandum opinion). If deemed a racial classification (rather than political), such challenge would ask whether the state has a compelling governmental interest to justify the classification (e.g., remedy past discrimination), and whether the state's means chosen to effectuate its purpose are narrowly tailored to promoting that interest.

Other statutes which designate specific tribal representation in membership include: §28-12-4 (Commission on Indian Affairs shall consist of three Pueblo Indians, three Navajo Indians, and two Apache Indians); and §28-19-1(C)(Martin Luther King, Jr. Commission shall comprised of thirteen members, one of which shall be a native American appointed by the New Mexico Office of Indian Affairs).”

## FISCAL IMPLICATIONS

No fiscal impact, if a separate election is not called.

**AW/njw**