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FISCAL IMPACT REPORT

SPONSOR McSorley ORIGINAL DATE 02/09/10 LAST UPDATED _____ HB _____
SHORT TITLE Create State College Board of Regents, CA SJR 10
ANALYST Aguilar

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total				See narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Higher Education Department (HED)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 10 amends the New Mexico Constitution to create a statewide board of regents with control and management of the State's public colleges and universities, provides for a single president of the university system, individual chancellors at each individual university, dissolves the higher education department and provides for control and management of the State's special schools by individual boards of trustees. The amendment proposed by the resolution would be submitted for consideration by the citizens of the state, either at the next general election or at a special election called for that purpose.

FISCAL IMPLICATIONS

While SJR10 contains no appropriation it appears there could be some costs associated with the transition including costs related to the dissolution of existing boards and the creation of a new statewide board of regents although these are unclear at this time. In addition, other costs associated with the transition from the HED to a new governance structure could have other costs.

A comprehensive cost-benefit analysis should be considered to determine the long-term fiscal impact these changes would cause, both positive and negative.

SIGNIFICANT ISSUES

SJR10 proposes an amendment to the Constitution of New Mexico for the purpose of restructuring the governance of New Mexico's higher education institutions. Article 12, Section 13 of the Constitution currently states that the Legislature shall provide for the control and management of New Mexico's public higher education institutions by the appointment of individual boards of regents at each institution. A board's power to govern the university includes fiduciary responsibility for the assets and programs of the university, establishment of goals and policies to guide the university, and oversight of the functioning of the university. Each board vests responsibility for the operation and management of the university in the president of the institution.

SJR10 would repeal Article 12, Section 13 of the Constitution, replacing it with language appointing a single governing board of regents with governing authority over the entire New Mexico university system. Such a system would include the following institutions, their several campuses, branch colleges and off-campus instruction programs and learning centers:

- The University of New Mexico
- New Mexico State University
- New Mexico Highlands University
- Western New Mexico University
- Eastern New Mexico University
- New Mexico Institute of Mining and Technology; and
- Northern New Mexico College.

The board would consist of 13 members, 11 being reflective of the New Mexico community at large and to ensure geographic distribution of the membership and two being currently enrolled students at New Mexico universities. Currently all university boards of regents include at least one faculty and least one student member on the respective boards; due to its limited membership, the creation of a new unified board may reduce faculty and student input in the governance of the institutions.

The bill further provides for the governance of New Mexico's special schools (the New Mexico School for the Deaf, the New Mexico School for the Blind and Visually Impaired, and the New Mexico Military Institute) by the creation of, at each school, a five-member board of trustees. However, SJR10 contains no provision for the control and management of New Mexico's independent non-constitutional colleges which have been created by statute, and no members of these institutions are listed as members of the board. The joint resolution specifies that the legislature, a school district, or community college shall not authorize any new campus, learning center, or off-campus instructional program without the board's approval. This provision appears to limit the power of the Legislature to appropriate to create programs or initiatives.

The board would also appoint a president of the university system who shall be president of all the faculties and vested with the responsibility of administering the systems under board policies and by directing a centralized administration. Such a position will, due to the powers vested in it by the Board of Regents, have considerable influence over New Mexico's higher education institutions. While the language in SJR10 provides for term limits and the conditions of removal of board members, there is no language governing the qualifications, term limits, or listing provisions for removal of the board president.

With the approval of the voters of SJR10, the individual boards of regents of the New Mexico universities would cease to exist and the newly created unified Board of Regents of the New Mexico University System would assume control and management of the universities. In addition the New Mexico Higher Education Department would cease operation and the board would assume statutory duties of the Department. It appears however, such a board or the office of the president may have difficulty assuming many of the day-to-day functions and responsibilities of the higher education department. The department serves 27 public higher education institutions and four tribal colleges and is not limited to oversight of New Mexico's four-year colleges, branches, and research universities. In addition to its oversight role of New Mexico's public colleges, the Department assumes responsibility for a number of programs and duties including but limited to the Adult Basic Education program, P-20 initiatives, the Private and Proprietary School Administrator's role in oversight, licensing, and regulation of the state's private for-profit colleges; Capital Projects, and Institutional Research and Planning, including calculation of the higher education funding formula.

While SJR10 seeks a constitutional amendment limited to the public universities and special schools, these and other aspects of HED's mission would have to be addressed statutorily and through additional legislation.

ADMINISTRATIVE IMPLICATIONS

HED notes that while it is possible that some functions of NMHED could be relocated to the Office of the President of a constitutionally created Board of Regents, there are other functions that would necessarily be outside the scope of such an office, for example, the oversight of private or proprietary schools or the management of Adult Basic Education. Relocation of these and other critical functions of the Department would have to be addressed in statute. Moreover, creation and regulation of the State's independent community colleges are in statute and not constitutionally created; this legislation would not affect governance of these institutions and does not address their management and oversight.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None at the time of this analysis. Upon enactment of the resolution and subsequent electoral passage, additional legislation would be required to address the relocation of the duties and responsibilities currently assumed by NMHED.

TECHNICAL ISSUES

SJR10 contains language stating that upon enactment, the New Mexico Higher Education Department shall cease to exist. However, the Department is not constitutionally created or otherwise mentioned in Article 12, Section 13. A constitutional amendment may not be the appropriate mechanism for the transfer of HED's statutory duties to a newly created board of regents. SJR10 contains language mentioning the duties of the former Higher Education Commission; such a commission no longer exists and its advisory duties have been replaced by the New Mexico Higher Education Advisory Board.