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FISCAL IMPACT REPORT

ORIGINAL DATE 03/08/11

SPONSOR Garcia, M.J. LAST UPDATED _____ HB _____

SHORT TITLE Study Local Daytime Juvenile Curfews SJM 31

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NFI	\$13.2	\$13.2	\$26.4	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 254 and SB 311

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Joint Memorial 31 requests the interim courts, corrections and justice committee or its successor work with representatives from the Public Education Department (PED), Department of Public Safety (DPS), Children, Youth and Families Department (CYFD), Administrative Office of the Courts (AOC), and New Mexico Municipal League (NMML) to organize a taskforce to study the feasibility of, and procedure for, allowing local government to enact juvenile curfew laws.

In addition, SJM 31 requests that this taskforce study the law enforcement entities that are best equipped to enforce juvenile curfew laws, including local law enforcement officers and local truancy officers.

FISCAL IMPLICATIONS

PED estimates the costs related to participation in the taskforce, including attend meetings, collecting data, developing recommendations, writing a report, and presenting findings, would total \$6.6, based on approximately 200 hours of staff time. Projecting that estimate for the other three state agencies' participation, a total cost of \$26.4 is reflected in the table above. This figure assumes completion of taskforce activity prior to the next legislative session.

SIGNIFICANT ISSUES

Truancy has been clearly identified as one of the early warning signs of students headed for potential delinquent activity, social isolation or educational failure.

Students who are truants have been shown to be at higher risk for substance abuse, teen pregnancy, delinquency, serious criminal behavior, gang activity and dropping out of school.

Adults who were chronically truant from school when young are at elevated risk for poor physical and mental health, poverty, incarceration and raising children who exhibit behavioral problems.

A national study found that at least eleven percent of eighth grade students and sixteen percent of tenth grade students reported having been truant at least once in the previous four weeks.

A national survey of school principals found that principals consider truancy to be one of the top three most serious discipline issues in their schools.

Several states have enacted laws to allow local governments to establish juvenile curfews to combat truancy and in 1996, the city of Albuquerque passed an ordinance establishing such a curfew. Those juvenile curfew laws and Albuquerque's juvenile curfew ordinance have been struck down as unconstitutional. The New Mexico Supreme Court found that the Children's Code preempted Albuquerque from enacting its ordinance that established criminal sanctions of incarceration and fines for juvenile activity which was not unlawful when committed by adults. Even assuming children apprehended under the ordinance were taken into protective custody rather than "arrested", the Court found the program was inconsistent with and invalid under the Code because police officers did not make particularized findings that the children were in danger but rather simply relied on the lateness of the hour as being inherently dangerous to them.

Because of the constitutional issues involved, enacting a law to allow local governments to enact daytime juvenile curfews is a complex issue that requires careful examination and study.

According to the New Mexico Public Education Department's Habitually Truant Report, the following are state total percentages for the last three school years:

- 2009 – 2010 16.7% of students were identified as habitual truants
- 2008 – 2009 12.5% of students were identified as habitual truants
- 2007 – 2008 13.3% of students were identified as habitual truants.

In its analysis of SJM 31, the PED cites a recent study that reports:

- Curfews have reemerged recently as a popular option for policymakers in their efforts to deter juvenile victimization and delinquency. Imposed on and off since the turn of the century, curfews tend to receive increased attention when there is a perceived need for more stringent efforts at social control.
- The stated goal of most curfew laws is twofold: to prevent juvenile crime and to protect youth from victimization.

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- By keeping youth under the age of 18 off the street, curfews are expected to reduce the incidence of crime among the cohort most likely to offend, according to the Federal Bureau of Investigation's (FBI's) 1994 Uniform Crime Report (UCR).
- Effective curfew programs share several components. Two of the keys to the success of any curfew ordinance are sustained enforcement and community involvement, according to the OJJDP report.

However, in analyzing a related bill that would amend the Children's Code to authorize counties and municipalities to adopt curfew ordinances (HB 254), the LESC cites a 1998 study that concluded that statistical analyses of curfew arrests and youth crime rates for the 12 most populous counties and cities with a population of over 100,000 in California provided no support for the proposition that stricter curfew enforcement reduced youth crime either absolutely or relative to adults by location, city or type of crime. That study found curfew enforcement generally had no discernible effect on youth crime.

ADMINISTRATIVE IMPLICATIONS

SJM 31 requires PED, DPS, CYFD and AOC to participate in the study.

RELATIONSHIP

SJM 31 relates to HB 254, Curfew Ordinances, and SB 311, Parental Accountability for Child Truancy.

OTHER SUBSTANTIVE ISSUES

The PED comments that, while the vision to examine the feasibility of allowing local governments to enact juvenile curfew laws to combat school truancy is worthy of further discussion, the creation of a taskforce would appear to be contrary to efforts during the 2010 interim to create better efficiencies in state government. Further, it is not clear how the proposed memorial would improve transparency, accountability, and effectiveness.

MD/svb