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## FISCAL IMPACT REPORT

SPONSOR	<u>Small/Little/Silva/Gonzales/Martinez, J.</u>	LAST UPDATED	<u>3/6/2025</u>
		ORIGINAL DATE	<u>2/11/2025</u>
SHORT TITLE	<u>College Boards of Regents Changes, CA</u>	BILL	House Joint
		NUMBER	Resolution
			<u>12/aHFI#1</u>
		ANALYST	<u>Jorgensen</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Secretary of State	No fiscal impact	No fiscal impact	\$35.0-\$50.0	\$35.0-\$50.0	Nonrecurring	General Fund
Colleges and Universities	No fiscal impact	No fiscal impact	Indeterminate but minimal		Nonrecurring	Operating Funds

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
Council of University Presidents (CUP)  
Higher Education Department (HED)  
Office of the Attorney General (OAG)

## SUMMARY

### Summary of HFI#1 Amendment to House Joint Resolution 12

The House floor amendment to House Joint Resolution 12 clarifies that an action to remove a should be filed in the district court in which the higher education institution is located.

### Synopsis of House Joint Resolution 12

House Joint Resolution 12 (HJR12) amends Article XII, Section 13 of the New Mexico Constitution, dealing with higher education governance, in the following ways:

1. Allows the Legislature to add duties to a board of regents or change the scope of a board of regents.
2. Adds language to specify that regents have a fiduciary duty to the institution they serve.
3. Provides that members of a board of regents can be removed for “incompetence, neglect, breaches of fiduciary duties, breaches of other duties or malfeasance in office.”
4. Moves regent removal proceedings from the Supreme Court to a district court.
5. Provides that regent removal can be initiated by majority of the board of regents or by the Attorney General.

The joint resolution provides the amendment be put before the voters at the next general election (November 2026) or a special election called for the purpose of considering the amendment. The amendment would only be effective if approved by voters.

## **FISCAL IMPLICATIONS**

Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State (SOS) is required to print samples of the text of each constitutional amendment in both Spanish and English in an amount equal to 10 percent of the registered voters in the state. SOS is required to publish the samples once a week for four weeks preceding the election in newspapers in every county in the state. Further, the number of constitutional amendments on the ballot may impact the ballot page size or cause the ballot to be more than one page, also increasing costs. The estimated cost per constitutional amendment is \$35 thousand to \$50 thousand, depending on the size and number of ballots and if additional ballot stations are needed.

Should this proposed constitutional amendment be approved by voters, it may result in the need for changes to board of regent policies which could increase costs to individual higher education institutions. The costs of these changes are unknown but likely to be paid out of existing appropriations; therefore, the cost of implementation is indeterminate but minimal.

## **SIGNIFICANT ISSUES**

HJR12 would allow the Legislature to “provide for additional duties for a board of regents and may define the scope of a board of regent’s control and management of an institution that the board serves.” This language would permit a future Legislature, by statute rather than constitutional amendment, to become involved in a number of matters currently managed by the board of regents such as academic policy.

The Council of University Presidents notes:

The bill could open the door to political involvement in academics and/or personnel issues and potentially cause an institution to lose its accreditation depending on how the accreditation agency views the implementation. The Higher Learning Commission has criteria for its accreditation processes that includes the following:

### **2.C. Board Governance**

In discharging its fiduciary duties, the institution’s governing board is free from undue external influence and empowered to act in the best interests of the institution, including the students it serves.

Two New Mexico higher education institutions are currently involved in litigation related to allegations of potential financial mismanagement involving the board of regents. While there is a current expectation that a member of a board of regents shall act in the best interest of the institution they serve, HJR12 would add clarifying language explicitly stating that the “fiduciary duties of each member of a board or regents include a duty of undivided loyalty; a duty of due care and prudent administration of the members responsibilities; a duty to act in good faith; and an obligation to conduct business in accordance with the laws of the state of New Mexico.”

## **ADMINISTRATIVE IMPLICATIONS**

The imposition of the duty of a regent to act as a fiduciary may require additional training for regents.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HJR12 is related to Senate Bill 266 (SB266). While HJR12 explicitly lists the fiduciary duties for which boards of regents are subject, SB266 creates a cause of action against a board of regents (of any state education institution under Article XII, Section 11 of the NM Constitution), any community college board, or an administrator of either institution for breach of their fiduciary duties.

HJR12 is related to Senate Bill 19, which would require training of boards of regents, including two (2) hours covering financial management, budgeting and fiduciary duties.

HJR12 is related to Senate Joint Resolution 7, which seeks to limit the governor's appointment authority over board of regents members, requiring that those members be selected from a list of names provided by a nominating committee for each institution.

CJ/SL2/rl/hj