

**NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.**

**Only the most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC's office in Suite 101 of the State Capitol Building North.**

## FISCAL IMPACT REPORT



SPONSOR: Hobbs DATE TYPED: 01/23/02 HB HJR 1

SHORT TITLE: Secretary of Public Education SB \_\_\_\_\_

ANALYST: Baca

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
		\$0.1 See Narrative			

Duplicates SJR 1

### SOURCES OF INFORMATION

State Department of Education (SDE)

### SUMMARY

#### Synopsis of Bill

HJR 1 proposes an amendment to Article XII, Section 6 of the New Mexico Constitution to create a public education department within the executive department headed by a cabinet-level secretary of public education appointed by the Governor with the consent of the Senate. HJR 1 further proposes the appointment of an advisory board of education appointed by the Governor as provided by law.

#### Significant Issues

HJR 1 will create a Department of Public Education within the executive branch of government. All powers and duties currently carried out by the SDE would be transferred to the new department and carried out as provided by law. These responsibilities include the determination of public school policy and vocational education policy and control, management and direction, including financial direction, distribution of school funds and financial accounting of all public schools pursuant to authority provided by law.

The Governor shall appoint an advisory state board of education as provided by law.

## **FISCAL IMPLICATIONS**

HJR 1 does not contain an appropriation. However, some costs may be incurred in the transfer of responsibilities should it be adopted by the voters. The SDE analysis states, "...Inasmuch as SJR 1 proposes an advisory state board of education, it appears that no savings will be realized with regard to the operations of a state-level board."

## **ADMINISTRATIVE IMPLICATIONS**

The SDE analysis states HJR 1 if adopted by the voters:

1. Could result in reorganization and restructuring of the public education department and public education on a periodic basis in accordance with the political and administrative philosophies of an incumbent governor; and
2. Could result in a change of cabinet-level secretary and all exempt employees whenever an administration changes because they serve at the pleasure of the governor.

The analysis further states that a comprehensive reassessment of the Public School Code will be required along with a review and adoption of regulations currently in place.

## **DUPLICATION**

HJR 1 is identical to SJR 1.

## **TECHNICAL ISSUES**

With regard to vocational education, according to the SDE analysis, use of an advisory State Board of Education does not appear to meet the requirements federal law (20 U.S.C. 2301 et.seq.). Thus creation of an additional board may be necessary.

## **OTHER SUBSTANTIVE ISSUES**

The analysis points out that HJR 1 does not amend all the provisions that relate to the State Superintendent and the State Board of Education and cites those shown below:

1. Article V, Section 3 would remain and raises questions as to the applicability of the requirements of this provision to an appointed secretary. (Article V, Section 3 states that "No person shall be eligible to the office of superintendent of public instruction unless he be a trained and experienced educator.")
2. Article XII, Section 15 provides that the State Board of Education shall adopt a resolution to establish the terms of the first board elected after the creation of a seven-member school board.

## **POSSIBLE QUESTIONS**

1. Is there a good reason why we should consider a review and possible reorganization of a state agency a positive and sometimes necessary activity?

2. Do we have evidence that a newly elected Governor will replace all exempt positions in an agency under his control?
3. Should we consider a comprehensive review of the Public School Code and existing regulations undesirable?
4. Or should such an activity be conducted periodically as a matter of sound management practice?
5. Why would the proposed appointed state board not meet federal requirements in the area of vocational education?
6. Is there a constitutional prohibition against applying the constitutional qualifications to an appointed Superintendent of Public Education?

LB/ar/njw