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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/07

SPONSOR Nava LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Suspension of Certain School Board Members SB 207

ANALYST Aguilar

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 146

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Attorney General's Office (AGO)

Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 207 authorizes the department of public education to suspend a local school board member for cause, specifically malfeasance, misfeasance, neglect of duty or violation of the oath of office. Currently, the department may suspend a local school board, a local superintendent or school principal only for failure to meet a school district's requirements. The bill also adds language that clarifies that the governing body and head administrator of a charter school are covered by the suspension law.

### SIGNIFICANT ISSUES

Currently the public education department does not have the authority to suspend a member of a local school board member or a charter school administrator for malfeasance, misfeasance, and neglect of duty or violation of the oath of office but can only deal with the entire board.

The Public Education department notes that the underlying suspension law is a rarely used law but was invoked in recent years in a matter involving serious alleged improprieties occurring in two vocational charter schools. The law has been considered but not invoked in a number of scenarios since then. The bill addresses what the PED has seen, namely, that when bad conduct suggesting suspension by the PED comes into play, not every local school board member is part of that conduct.

PED further notes the concepts of removing officials from office for malfeasance, misfeasance and neglect of duty in office are found throughout New Mexico law as applicable to various officials that include municipal officers, county officers, election officials and district attorneys. Under Article XII, Section 14 of the New Mexico Constitution, local school board members can only be recalled for “malfeasance or misfeasance in office or violation of the oath of office.”

Suspension of the authority of a school board member is not intended to be a substitute for the recall process or a process to permanently remove these elected officials from office. Rather, suspension of authority is a corrective measure that can only be imposed until such time that the offending conduct or behavior is corrected.

#### **OTHER SUBSTANTIVE ISSUES**

SB–207 relates to HB–146 in that the latter bill would limit the number of times to one a local school board member could face a recall election due to malfeasance or violation of oath of office. Both bills seek to address problems associated with school board member activities that can be considered malfeasance or a violation of the oath of office. The difference in the two is a policy decision whether to allow PED authority to suspend a local school board member or to retain unrestricted petition and recall authority in the voters.

PA/nt