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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/20/17

SPONSOR Soules LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Elected and Appointed Board of Education SJR 11

ANALYST Fernandez

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$50.0 - \$100.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with SJR2

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

Senate Joint Resolution 11 proposes to amend Article XII, Section 6 of the New Mexico Constitution to create a 9 member State Board of Education that would make education policy decisions and would appoint a Superintendent of Public Instruction. The amendment would be submitted to the voters for approval or rejection at the next general election or special election prior to that date which may be called for that purpose.

### FISCAL IMPLICATIONS

Section 1-16-13 NMSA 1978 requires the Secretary of State (SOS) to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. The SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state.

LFC staff estimate each constitutional amendment may cost from \$50 thousand dollars to \$100,000 thousand dollars in printing and advertising costs based on 2016 actual expenditures.

## Senate Joint Resolution 11 – Page 2

According to PED, the fiscal implications of SJR11 are significant to the department. Currently, costs for the Public Education Commission (PEC), a 10-member public board, are approximately \$75.0 thousand to operate annually. The cost will likely be higher than the PEC, as the State Board of Education will likely have emergency meetings and the PEC often have meetings in Albuquerque, limiting travel and lodging costs.

### SIGNIFICANT ISSUES

SJR 11 proposes to amend Article XII, Section 6 of the New Mexico Constitution to return the Public Education Department back to a non-cabinet level state agency governed by a 9 member State Board of Education, and includes the following:

- Determine public school policy, distribute public school funds and control and manage the Public Education Department and the administration, operation and finance of public schools.
- The State Board of Education shall appoint a qualified, experienced and licensed educational administrator as the “Superintendent of Public Instruction”.
- The State Board of Education shall consist of 9 members. Five members shall be elected for staggered terms of 4 years. Elected members must be a resident of the State Board of Education district from which they are elected.
- Four members of the State Board of Education shall be appointed at-large by the Governor, with consent of the Senate, for staggered terms of 4 years. The Governor shall determine which 2 of the Governor’s appointees shall serve the first two-year term and the appointed members shall not be voting members until they are confirmed by the Senate.

PED provides the following significant issues:

- SJR11 creates a policy environment that lacks coherence and continuity. Substantial risk would be carried by students, teachers, principals, and central office staff because of constantly-changing expectations created by the board. This would significantly limit their ability to continually improve their practice and increase student learning.
- SJR11 exposes New Mexico’s education system to regional-political differences that may render the board ineffective. Political in-fighting between school board members in the same district are not uncommon in the state, and these intra-board conflicts often hurt student achievement and staff satisfaction. The PED, which has the ability to intervene in such situations, has had to intercede with district boards numerous times. SJR11 lacks a mechanism of higher accountability for the Department to reform the applicable boards, if necessary.
- SJR11 eliminates accountability for education in New Mexico. Between 2001 and 2003, when the Secretary of the Public Education Department was established, a primary argument for the change was that the Secretary would be held accountable to the Governor. A mixture between an elected and appointed State Board faces far less accountability than an at-will employee of the Governor, who was elected by all state residents.
- SJR11 creates a State Board of Education that blends today’s current structure of a Governor appointed Secretary and Public Education Commission. As seen in current interactions, there has been significant disagreement between these two entities. This portends to significant disagreement and paralysis around taking action towards specific

goals and objectives, limiting PED's ability to effectively support students, teachers, schools, and districts make significant academic gains with students.

- SJR11 disperses accountability among both elected and appointed members. The direction of the board will therefore be subject to new elected board members every two years and appointments made by the Governor. This creates conditions for continually changing operational, financial, and programmatic shifts at the state level, which will require recurring costs and continual training and support to enable districts and schools to meet evolving requirements.
- SJR11 can create a situation where there is difficulty cultivating candidates with the experience and/or expertise to successfully guide ambitious education reform efforts that enhance student achievement. For those Board members that would be elected, their experience could mirror the Public Education Commission's recent troubles in filling seats. The Commission, much like the proposed five members of the Board in SJR-11, would be a down-ballot race that has difficulties attracting candidates to run. In fact, in this fall's 2016 election, two Commission positions had no qualified candidate on the ballot. Some regions would not be appropriately represented as a result.
- SJR11 creates conditions for extreme variation in the quality of educational services offered to students throughout the state, particularly those from low-income backgrounds, as the state will be unable to effectively allocate the necessary resources to support improvement efforts.

### **PERFORMANCE IMPLICATIONS**

According to PED, this proposal would elevate the Public Education Commission with more input from the Governor, which currently demonstrates an inability to bring expertise to specific issues that PED faces and coalesce around strategies to improve student learning throughout the state.

### **OTHER SUBSTANTIVE ISSUES**

Prior to the 2003, a 15 member State Board of Education determined public and vocational educational policies; controlled, managed and directed the distribution of school funds and financial accounting for all public schools; and appointed the Superintendent of Public Instruction. The Superintendent, subject to the policies established by the boards, was the chief administrative officer directing the operation of the State Department of Public Education. Board members served staggered four-year terms. Ten members were elected from geographic districts, and five members were appointed by the Governor with the consent of the Senate.

This arrangement was overturned by the voters who passed a constitutional amendment, supported by the governor, to eliminate the Superintendent of Public Instruction and establish a cabinet level Public Education Department.

### **ADMINISTRATIVE IMPLICATIONS**

PED indicates that SJR11 would create significant administrative implications for PED, as it would need to restructure administrative staff. PED reports that states such as California with a governing State Board of Education also have field offices, which would create significant administrative and fiscal impacts.

**CONFLICT**

This bill conflicts with SJR2 which proposes to amend Article 12, Section 6 of the Constitution of New Mexico to create a 10 member elected State Board of Education to make education policy decisions and to appoint a Superintendent of Public Instruction to oversee the Public Education Department.

CTF/jle