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FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/22

SPONSOR Pirtle LAST UPDATED _____ HB _____

SHORT TITLE Counties Leaving NM or as New State, CA SJR 9

ANALYST Rees

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY22 | FY23 | FY24 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|----------------------------|------|----------------------|------------------------------|------------------|
| Total | | See Fiscal Implications | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates, Relates to, Conflicts with, Companion to: None

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Department of Transportation (DOT)

No Response Received

NM Counties (NMC)

NM Municipal League (ML)

Office of the Governor

Office of the Lieutenant Governor

SUMMARY

Synopsis of Bill

Senate Joint Resolution 9 (SJR 9) proposes amending the Constitution of the State of New Mexico to provide a mechanism for New Mexico counties to secede from the state and join together with counties located in an adjacent state to create a new state or become part of an adjacent state, subject to approval of the U.S. Congress.

If SJR9 is passed by both Houses of the Legislature, it would be put to the voters for approval or disapproval on the next general election ballot in November, 2022, or be on the next special election ballot if a special election is called for that purpose.

FISCAL IMPLICATIONS

The fiscal implications if SJR9 becomes law is unknown at this time. The Department of Finance and Administration notes that the potential lost revenue to the state if one or more New Mexico counties secede depends on which county or counties secede. An economic study by an independent source would need to be conducted to make a more definitive determination of potential revenue loss.

The SOS supports and understands the Legislature's prerogative to place constitutional amendments before the voters of the state. For the purposes of determining the costs involved, the SOS wishes to inform legislators that, under Section 1-16-4 NMSA 1978, the SOS is required to print the full text of each proposed constitutional amendment, in both Spanish and English. The cost of producing the voter guide will change depending upon the number and length of the constitutional amendments passed and the number of registered voters but can be estimated at \$25 thousand.

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 one newspaper in every county in the state. In 2020, the SOS spent \$351,015 for the required newspaper publications, however, the cost is dependent upon the number and length of the constitutional amendments that are passed. For planning purposes, an estimate of \$20.72 per word may be used to represent the costs realized in the 2020 general election to estimate the cost of publishing each constitutional amendment.

The number of constitutional amendments that pass may also impact the page size of the ballot, or if the ballot size is caused to become greater than one page, front and back, which may increase the cost of producing the ballots for the general election. In addition to the cost of the ballot, there may be time added to the voting process, which would require additional ballot printing systems in order to ensure a smooth and efficient voting process within the bounds of national best practices. The additional requirement that the SOS publish a certificate for every law that is repealed by the counties will be an added cost to the SOS, although it is difficult to estimate the cost at this time.

SIGNIFICANT ISSUES

According to the New Mexico Department of Transportation (DOT), Article IV, Section 3 of the United States Constitution addresses the creation of a new State, including when part of an existing state seeks to secede. Generally, the secession of counties from a state requires the "Consent of the Legislatures of the States concerned as well as of the Congress." The proposed constitutional amendment provides that the New Mexico Legislature will have consented to secession of counties from the State of New Mexico if at least fifteen percent (15%) of the qualified electors residing in each of at least three (3) contiguous counties sign a petition requesting secession and the county commissions of each of those counties unanimously resolve to join with no less than two (2) contiguous counties to form a new state or to join an adjacent state.

The preservation of the State, and the maintenance of its existing government, in its current configuration is of statewide concern. To grant a county the ability to secede from the State at the pleasure of a mere fifteen percent (15%) of the qualified electors residing in the county plus the unanimous consent of three (3) to five (5) elected county officials raises questions whether such

a delegation is legal under either the United States Constitution, the State Constitution, or both.

PERFORMANCE IMPLICATIONS

DOT notes that secession of a county or several counties from the State would be extremely disruptive to the department. DOT would need to review and revise every aspect of its functions, such as highway maintenance and operations, long-term planning, existing and future construction projects, state and federal funding, etc., in the event one or more counties were to secede from the State. It is difficult to quantify the time and expense these efforts would have on the DOT. However, the more counties that were to secede, the greater the impact on the DOT.

ADMINISTRATIVE IMPLICATIONS

According to the DOT, statute divides the State of New Mexico into six (6) transportation districts. Each district consists of specific enumerated counties. A State Transportation Commissioner is appointed to represent each individual district. If any existing county or counties were to secede from the State, all six (6) transportation districts may have to be statutorily reconfigured.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The operations of DOT (and other State Agencies) will not be affected.

CR/acv