

**LFC Requester:****Connor Jorgenson****AGENCY BILL ANALYSIS - 2025 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto:billanalysis@dfa.nm.gov)*****(Analysis must be uploaded as a PDF)*****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}***Date Prepared:** 2/11/2025*Check all that apply:***Bill Number:** HJR 12Original  Correction Amendment  Substitute **Sponsor:** Small**Short Title:** College Boards of RegentsChanges, CA**Agency Name and Code****Number:**Council of University Presidents  
993**Person Writing****Phone:** 505-426-4674Marc Saavedra**Email** Msaav@nmcup.us**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

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

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

##### Synopsis:

HJR 12 proposes to amend Article 12, Section 13 of the New Mexico Constitution to add subsection E. Subsection E's new language is that each college's Board of Regents member would hold a fiduciary duty to the institution it serves. The new language specifies that the fiduciary duty means the member would have an undivided loyalty to their institution, that the board member would always act in the best interest of the institution, that the member would act in good faith, in accordance with the law, and that this duty extends to any university administrator that has been delegated any authority from the board of regents. Subsection F has language added that also contemplates the removal of board members for a breach of this new fiduciary duty and "breaches of other duties," not defined or identified in this HJR.

Additionally, proposed revisions to subsection F removes language that grants the NM Supreme Court exclusive original jurisdiction over proceedings to remove members of the board under rules promulgated by the NM Supreme Court. There is added language that breaches of duty can be remedied as provided by law or as recognized in a common-law cause of action. The added language allows for the removal of a board member to be initiated by an action filed in district court by either the attorney general or by a majority of other members of the board of regents.

Subsection E also adds language that the legislature may provide for additional duties for board members, and may define the scope of the board of regents' control and management of the respective boards' institutions.

This HRJ would place these changes in front of the people for their approval or rejection at the next general election or at an appropriate special election.

#### **FISCAL IMPLICATIONS**

If these changes were implemented, the institutions Regents and or Policy Manual which outlines the Board's Code of Conduct and other other similar procedures or policies may need to be amended. Policy amendments would be associated with administrative costs incurred through their policy process, which may include formation of committees, and the administrative costs through the involved departments and legal review. There could also be administrative costs with providing additional training to board members regarding fiduciary duties and that standard of care. Trainings are already being conducted for board members, and this additional topic may not be a large cost, but it could involve additional expense with vendors to obtain proper training modules and materials. Similarly, because this would permit the legislature to provide for additional duties for board members or define the scope of their control, these administrative costs could be incurred each time a new duty or scope is added or removed by legislative action. There are potential costs regarding per diem for board members on active days, but this is likely minimal.

## **SIGNIFICANT ISSUES**

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 HLC 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.

## **PERFORMANCE IMPLICATIONS**

HJR12 conflicts with existing statutes. For example:

The UNM board of regents, by statute, "...shall have power and it shall be its duty to enact laws, rules and regulations for the government of the university of New Mexico." NMSA 1978, Section 21-7-7. It is unclear whether this statutory provision or others in Chapter 21, Article 7 would be amended or changed, due to the HRJ language that would make it a constitutional provision that the authority to define duties and scope of power for board members lies with the legislature. However, because this HRJ does not amend subsection A, of Article 12, Section 13, which specifically says that the University of New Mexico is excluded from the legislature providing for the control of the board of regents, perhaps these changes would not apply to the University of New Mexico, at all. This may need to be specifically addressed in the new language to address whether these changes are in consideration of subsection A, or notwithstanding it.

## **ADMINISTRATIVE IMPLICATIONS**

As noted in fiscal implications section, most/all fiscal implications would be born in administrative duties to update policies, provide training, and expend additional time by various institution departments and staff and by board members to ensure compliance.

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

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

Is the language needed on page 4 lines 11-15 that states: "The legislature may provide for additional duties for a board of regents and may define the scope of the board of regents' control and management of institution that the board serves" when the constitution has existing similar language?

Article 12, section 13A and section 13 D includes language:

- 13A - "The legislature shall provide for the control and management of each institutions

except for the university of New Mexico... “

- 13D – The legislature shall provide for the control and management of the university of New Mexico...”

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**