



LFC Requester: Liu

**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2025 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

Check all that apply:

Original  Amendment   
Correction  Substitute

Date Prepared: 01/22 /25

Bill No: HJR4

**Agency Name and Code:** PED - 924

**Sponsor:** Martinez/Cullen

**PED Lead Analyst:** Steven Heil

**Phone:** (505) 470-5303 **Email:** steven.heil@ped.nm.gov

**Short Title:** STATE BOARD OF EDUCATION, CA

**PED Policy Director:** Denise Terrazas

**Phone:** (505) 470-5303 **Email:** denise.terrazas@ped.nm.gov

**SECTION II: FISCAL IMPACT**

(Parenthesis ( ) Indicate Expenditure Decreases)

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	N/A	NFA

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
None	None	None	N/A	NFA

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	None	None	None	None	N/A	NFA

Duplicates/Relates to Appropriation in the General Appropriation Act: None

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

Synopsis: House Joint Resolution 4 (HJR4) would amend Section 6 of Article 12 of the New Mexico Constitution to replace the currently serving Public Education Commission (PEC) with the new State Board of Education (SBE). The SBE would have authority over public school policy, career technical education policy, financial management, and oversight of public schools. The Public Education Department (PED) would no longer be a cabinet-level agency within the executive branch, but rather the SBE would hire a state Superintendent of Public Instruction in place of the Secretary of Education, who must be a qualified, experienced, and currently licensed educator, to oversee the PED. The SBE would consist of ten members, to be elected for staggered terms, with vacancies being filled by appointment of the Governor, with the advice and consent of the senate. If approved by voters, the transition would take effect on January 1, 2029, following elections in 2028.

Additionally, the resolution mandates the legislature to establish an independent state chartering authority for state-chartered charter schools, ensuring autonomy in charter school oversight. If approved by voters in a general or special election, the amendment would significantly restructure education governance in New Mexico. The State Superintendent would direct PED to determine public school policy, subject to the policies of the SBE, and would have management and direction of the distribution of school funds and financial accounting for all public schools.

### **FISCAL IMPLICATIONS**

The joint resolution does not indicate whether the members of the proposed SBE will be paid or unpaid.

According to the Secretary of State (SoS), under [Section 1-16-4 NMSA 1978](#) and the New Mexico Constitution, the SoS is required to print samples of the text of each constitutional amendment, in both Spanish and English, in a quantity equal to 10 percent of the registered voters in the state. The SoS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. The estimated cost per constitutional amendment is \$125 thousand-\$150 thousand depending upon the size and number of ballots and if additional ballot stations are needed.

If HJR4 were to pass in the legislature, and the proposed constitutional amendment were ratified by the voters at the next appropriate election, substantial amendment of the Public School Code will be required, with uncertain but likely substantial cost to the legislature and the Compilation Commission.

### **SIGNIFICANT ISSUES**

If the amendment were to pass in a statewide referendum, the currently serving ten members of the PEC would continue their terms until replaced by members of the SBE on January 1, 2029, after which members of the SBE would be elected in a general election, but on a nonpartisan ballot.

The current Secretary of Public Education would serve as the State Superintendent of Education until the SBE appoints another qualified person to serve as such, who must be an experienced

and currently licensed educator. Notably, the structure defined by HJR4 would transfer fiscal functions and oversight to the SBE directly, and the Superintendent would merely be permitted to perform administrative and regulatory powers and duties.

In 2003, the people of New Mexico ratified and affirmed constitutional amendments that converted the SBE to the current PEC and created, instead, the PED as a cabinet-level agency, with comprehensive authority over the administration of public primary and secondary education in the state. PEC, by contrast, was initially assigned nominal duties, such as acting as a passthrough agency for citizen input into public education policy for the Secretary of Public Education and the legislature (see, for example, [Section 22-2-2.2 NMSA 1978](#)).

Under the proposed governance structure, SBE members would be elected, eliminating the Executive's direct authority over public education in favor of the ten-member board, making consensus on education policy difficult to achieve, and hampering the execution of a unified vision for public education with the diffuse authority of a board. This consideration may be of particular concern, given the transfer of fiscal authority from a single administrator to the SBE.

The comprehensive, statewide oversight responsibilities and authority of the PED were most recently emphasized in the District Court's decision in the Martinez and Yazzie consolidated lawsuit. The Court has retained jurisdiction over this matter to ensure long-term, comprehensive reforms are implemented by the State. While this historic case remains in the court's jurisdiction the effects of HJR4's changes may be difficult to predict.

## **PERFORMANCE IMPLICATIONS**

Regardless of the details of specific changes made to PED programs and bureaus, the department would likely need to undergo significant reorganization under the authority of the SBE and its appointed State Superintendent. According to the [Charter Schools Act](#), the PEC's powers and duties include receiving, approving, denying, suspending, or revoking applications for initial and renewal charters for charter schools that want to be chartered by the state. Pursuant to HJR4, these duties would be transferred to an independent state chartering authority to be established by the Legislature for authorizing state-chartered charter schools.

The Public Education Department works with other state education and cabinet level departments daily. Removing the PED from the Executive could create a barrier to working with other state agencies.

## **ADMINISTRATIVE IMPLICATIONS**

If HJR4 were to pass and the constitutional amendment were to be ratified, the Executive would need to consider how to ensure a seamless transition of authority, ensuring both the SBE and the PED understand their respective roles and responsibilities. Additionally, there may be numerous unintended consequences to requirements made of PED as a state educational agency that are imposed by federal or other outside entities due to such a fundamental and comprehensive change. Importantly, these questions would also need to be addressed in the substantial work to review and amend the entirety of the Public School Code to reflect this change. Additionally, a fundamental change of this nature would require substantial amendment to the vast body of PED's current rules, to reflect this change in leadership and administration.

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

Relates to: SJR3, which proposes similar amendments to Article 12, Section 6 of the New Mexico Constitutions, although the SBE proposed by SJR3 would comprise 15 members, ten elected for staggered terms, and five appointed by the Governor with the approval of the senate.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

Voters in 2003 elected to replace the State Board of Education (SBE) with the current governance structure. Under an SBE governance structure, consultation on educational issues with tribes, pueblos, and nations may decrease as many board members would not have significant pueblo, nation, and tribe representation in their constituencies. Under the current governance structure, the Governor is responsible to all of the state's constituencies.

Under current governance, PED policy and work is aligned with other state agencies including the Higher Education Department, the Early Childhood Education and Care Department, and others. All of the department secretaries report to the Governor and support statewide initiatives. Under the proposed SBE governance structure, the PED policy and work may not align with other state agencies, and this could hamper statewide efforts on current initiatives such as longitudinal data systems, special education services, and cradle to career family supports.

The current governance structure ensures the Governor is accountable for and responsible for a continuous system of education from early childhood through public education to higher education. The resolution introduces the problem of data-sharing and accountability across the components of a system in which longitudinal responsibility for a person's education is handed off from the Governor's Early Childhood Education and Care Department to the SBE and then back again to the Governor's Higher Education Department. Education policy would be shared between two state agencies, with the SBE accountable to different authorities. Differences in policy between the majority of elected SBE members and the agencies of the elected Governor may lead to unaligned policymaking, with potentially adverse consequences for students at all levels of education. Collaboration between SBE and the Executive agencies responsible for wraparound services of health, workforce development, and economic development, could become problematic with a reduction in aligned services for students if the proposals in HJR4 were realized.

Of note, the last chairman of New Mexico's state school board, Adelmo Archuleta, spoke in committee against a similar resolution in 2024, stating that the rationale for moving away from an SBE still applies.

## **ALTERNATIVES**

None.

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

None.

## **AMENDMENTS**

None.