



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: 02/25 /25  
Bill No: SJR3/aSEC

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

**Sponsor:** Soules

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**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 of SEC Amendment: The Senate Education Committee Amendment to Senate Joint Resolution 3 (SJR3/aSEC) would propose an amendment to the New Mexico Constitution to continue the Public Education Commission's (PEC's) role as the chartering authority for state-chartered charter schools while creating a State Board of Education and Superintendent of Public Instruction replacing the Secretary of Education. SJR3/aSEC provides for an 11-member state school board, with 10 elected members and one Governor-appointed member.

Synopsis: Senate Joint Resolution 3 (SJR3) repeals and replaces Section 6 of Article 12 of the New Mexico Constitution with a new Section 6 that creates the current Public Education Commission (PEC) as the State Board of Education (SBE). The Public Education Department (PED) would no longer be a cabinet-level agency within the executive branch, but rather the SBE would determine public school policy and would have management and direction of the distribution of school funds and financial accounting for all public schools, and would hire a director of the PED, to be called, the "superintendent of public instruction". The SBE would consist of fifteen members, ten of whom would be elected, and five of whom, who are to be state officers, are to be appointed by the governor with the consent of the senate. If SJR3/aSEC passes, the provisions of the resolution would be voted on in the next regular election or in any special election called for that purpose prior to that date. If the resolution is ratified by popular vote in the next appropriate election, the current commissioners would act as the SBE until regular board members are elected in the 2028 election, with terms to begin on January 1, 2029.

### **FISCAL IMPLICATIONS**

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

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 an amount 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 SJR3/aSEC passes the legislature, and the proposed constitutional amendment is ratified by the people at the next appropriate election, substantial amendment of the Public School Code will be required at uncertain cost to the legislature and the Compilation Commission.

### **SIGNIFICANT ISSUES**

If SJR3/aSEC were enacted and the constitutional amendment were approved by voters, provisions for the PEC would be unchanged in the New Mexico Constitution.

Ten members of the SBE would be elected by popular vote representing the same ten districts which elect the ten members of the PEC. One remaining member of the SBE would be appointed by the Governor. All elected members of the SBE would serve for staggered terms of four years and the Governor's appointee would serve during the Governor's term. The Governor would

appoint members with the approval of the senate when vacancies occur. The Secretary of Public Education would serve as the proposed Superintendent of Public Instruction until replaced by the SBE's appointee.

In 2003, the people of New Mexico ratified and affirmed constitutional amendments that converted the State Board of Education 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. The PEC, by contrast, was assigned duties such as acting as a pass-through 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, ten members of the SBE would be elected, eliminating the Executive's direct authority over public education in favor of the 11-member SBE, making consensus on education policy less likely, and hampering the execution of a unified vision for public education with the diffuse and possibly fractious authority of a committee; this consideration may be of particular concern, given the transfer of fiscal authority from a single administrator to the SBE.

As a cabinet-level agency in the Executive, the PED coordinates with other state agencies on crosscutting initiatives such as the longitudinal data system, the summer reading program, and the office of special education. Such efforts are likely to be significantly less efficient, or impossible, if the PED is managed by a state board.

## **PERFORMANCE IMPLICATIONS**

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 SJR3/aSEC passes, and the constitutional amendment is ratified by election from New Mexico voters, the Executive would need to consider how to ensure a seamless transition of authority, ensuring both the SBE and the Department understand their respective roles and responsibilities.

Additionally, there may be numerous unintended consequences to requirements made of the PED as a state educational agency as 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.

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:

- House Joint Resolution 4, which also proposes a constitutional amendment to create the SBE.

- House Joint Resolution 13, which also proposes a constitutional amendment to create the SBE.
- House Bill 365, which would remove the Public Education Commission's (PEC) administrative attachment to the Public Education Department (PED). The bill would replace the PED Charter Schools Division with a newly created State Charter Schools Office to staff the PEC.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

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 SJR3/aSEC 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.