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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
57th Legislature, 1st Session, 2025

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|------------------------|-------------------------------------|----------------------------|----------------------------|
| Bill Number | <u>HJR4</u> | Sponsor | <u>Martinez, A./Cullen</u> |
| Tracking Number | <u>.229057.3</u> | Committee Referrals | <u>HGEIC/HEC/HJC</u> |
| Short Title | <u>State Board of Education, CA</u> | | |
| Analyst | <u>Hathaway</u> | Original Date | <u>1/29/2025</u> |
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BILL SUMMARY

Synopsis of Bill

House Joint Resolution 4 (HJR4) proposes amending Article XII, Section 6 of the New Mexico Constitution by repealing Section 6 and adding a new Section 6 that would create a State Board of Education and the Public Education Department (PED). The proposed board would consist of 10 elected members and would determine public school and career and technical education policy, and have “control, management, and direction, including financial direction, distribution of school funds and financial accounting for all public schools.”

HJR4 also stipulates the appointment of a superintendent of public instruction by the proposed board. HJR4 requires the superintendent of public instruction to be “a qualified, experienced, and currently licensed educator.” This individual would direct the operations of the proposed PED pursuant to board policies and directions. The secretary of public education would serve as the superintendent of public instruction until replaced by the proposed board.

Further, HJR4 would require the Legislature to provide, by law, for an independent state chartering authority for state-chartered charter schools, which are currently overseen by the Public Education Commission (PEC), which HJR4 notes would exercise its powers and duties until replaced by members of the board. As this is a constitutional amendment, its adoption is subject to voter approval at the next general election or special election prior to the date of the next general election. If adopted as a constitutional amendment, HJR4 specifies elected members of the state school board would be elected in the 2028 general election for staggered terms beginning January 1, 2029.

FISCAL IMPACT

HJR4 does not contain an appropriation.

Section 1-16-4 NMSA 1978 requires the Secretary of State (SOS) to print the full text of each proposed constitutional amendment, in Spanish and English, in an amount equal to 10 percent of the registered voters in the state. 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. 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. The cost will vary on the length of the ballot question. However, as a reference, in 2022, the SOS published three constitutional amendments and three bond questions for approximately \$404 thousand. Further, there would be costs related to future elections for members of the proposed board.

SUBSTANTIVE ISSUES

Proposed Board Structure. The proposed board would be composed of 10 members, all elected, who would serve four-year staggered terms. The existing PEC districts would become the proposed board districts until redistricted after the 2030 federal decennial census. PEC would continue to exercise its powers and duties until replaced by the elected members who would begin their terms on January 1, 2029. The secretary of public education would also serve as the superintendent of public instruction until replaced by the state board of education. It appears operations of the PED and PEC would remain as is until elections in 2028, with operations of the proposed board and PED fully changing in January 2029. HJR4 stipulates board members would be residents of the district from which they are elected and any change of residence would be an automatic resignation. Any vacancies would be filled by appointment by the governor, with advice and consent of the Senate, for the remainder of the original term. HJR4 also requires the Legislature to provide, by law, for qualifications of board members.

Authorizing of State Charter Schools. HJR4 removes the constitutional provision creating the PEC, the current authorizer of state-chartered charter schools and requires the Legislature to provide, by law, for an independent state chartering authority for state-chartered charter schools.

State Board of Education Context. The proposed joint resolution returns the operation and management of public education in New Mexico to a structure like one in place prior to a 2003 constitutional amendment that created the state's current system of a cabinet-level PED presided over by a secretary of public education.

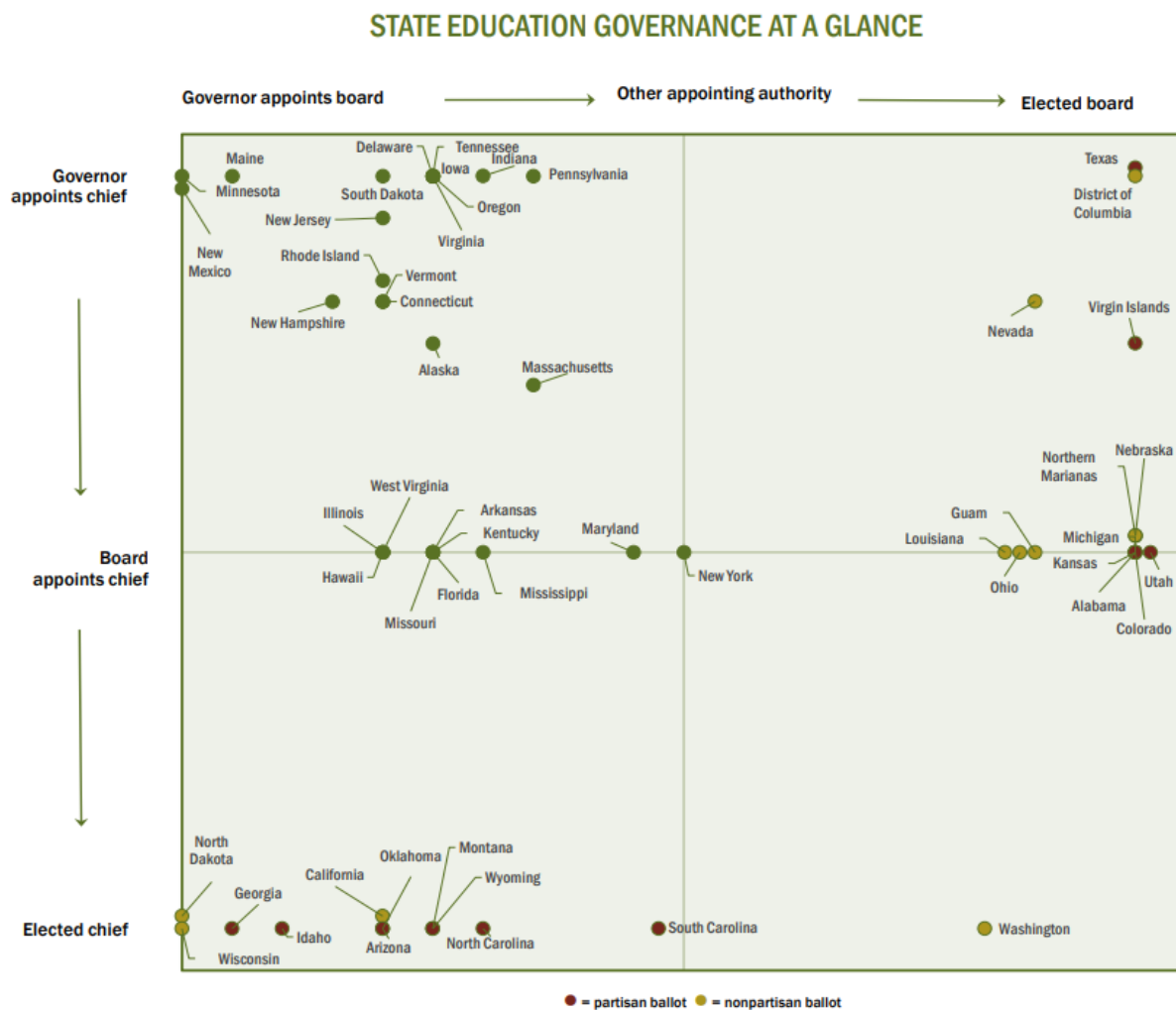
HJR4's proposed replacement of the secretary of education with a superintendent of public instruction could potentially have stabilizing effects on state education leadership and provide a buffer from political motives. Since the creation of the position of secretary of public education in 2003, there have been nine secretaries of PED: Veronica Garcia (2003-2010), Hanna Skandera (2010-2017), Christopher Ruskowski (2017-2019), Karen Trujillo (2019), Ryan Stewart (2019-2021), Kurt Steinhaus (2021-2022), interim secretary Marianna Padilla (2022-2023), Arsenio Romero (2023-2024), and Marianna Padilla (secretary designate, 2024-Current).

Prior to 2003, New Mexico had an elected policymaking state board of education. When the constitutional amendment establishing PED was passed in 2003, changes included shifting responsibilities from a superintendent of public instruction selected by the board to a secretary selected by the governor and established PED as the party responsible for disbursing funds. From 1963 to 2003, there were three state superintendents over PED: Leonard DeLayo (1963-1985), Alan Morgan (1985-1997), and Michael Davis (1997-2002).

A constitutional amendment making such a fundamental change to a cabinet-level agency, if approved by the voters, would necessitate extensive statutory and regulatory revision regarding the agency's powers, duties, and organization.

Current PEC Structure. The PEC consists of 10 elected commissioners who serve for staggered terms of four years. Commission members are residents of the PEC district from which they are elected and therefore, PEC commissioners are from communities located across the entirety of New Mexico. The PEC is the authorizer for all state-chartered charter schools in New Mexico. The primary function of the PEC is the review, and approval or disapproval, of applications to authorize state-chartered charter schools. This includes approval, renewal, suspension, and revocation of state-level charters. Acting as the state-level charter school authorizer occupies the bulk of the PEC’s time, work, public meetings, and hearings. As proposed by HJR4, the PEC would exercise its current powers and duties until replaced by members of the proposed board in January 2029.

Education Governance Models. The National Association of State Boards of Education (NASBE), a nonpartisan nonprofit that serves as a membership organization for state boards of education, [reports](#) New Mexico, Minnesota, North Dakota, and Wisconsin are the four states that do not have a state board of education. Generally, state boards of education are unique to each state with NASBE reporting some are created by state constitutions and others by statute. Many include a mix of elected and appointed members. State education chiefs are often selected by state boards, but some states have directed their governors to appoint these positions. A visual of governance structures is shown below:



Note: There are 15 states and territories to which some or all of the members are elected, and 10 of those have only elected members. There are 16 states in which the governor appoints the board and the chief. There are 35 states in which members are appointed.

Education governance models vary throughout the country, however. According to the Education Commission of the States, state education governance structure generally falls within one of four different models:

1. Voters elect the governor, and then the governor appoints the members of the state board of education and the state superintendent. Ten states fall within this category.
2. Voters elect the governor, who then appoints either all or most of the state board of education. The state board then appoints the state superintendent. Twelve states fall within this category.
3. Voters elect both the governor and the state superintendent. The governor then appoints the state board of education. Nine states fall within this category.
4. Voters elect both the governor and the state board of education. The state board of education then appoints the state superintendent. Six states fall within this category.

Fourteen states, including New Mexico, fall precisely into none of the above models, but rather utilize a modified version of one of these formats.

Governance Structures and Student Outcomes. There appears to be no cause-and-effect relationship between governance structures and student performance or outcomes. For example, LESC staff examination of National Assessment of Educational Progress (NAEP) test scores, with NAEP known as the “Nation’s Report Card,” in a variety of states with different governance structures shows no clear pattern between a state’s governance structure and student performance on the NAEP.

ADMINISTRATIVE IMPLICATIONS

Returning the operation of public education to a model like that which existed before the 2003 constitutional amendment would likely require substantial amendments to both statute and public education administrative rule. Given the number and volume of statutes and rules implicated by public education, this would be a significant task.

OTHER SIGNIFICANT ISSUES

Powers and duties were transferred from the original state board of education to PED upon adoption of constitutional amendment, effective September 23, 2003, by a vote of 101,542 in favor and 83,155 against. Prior to this time, the members of the state board of education were elected, with incumbents from the board becoming PEC members upon approval of the amendment, with duties limited to strategic planning and policy advisement for local school boards. The PEC’s current responsibility for chartering schools was established in 2006. Statutory implementation of the constitutional amendment began in 2004 with the passage of the Public Education Department Act, which made several significant changes to law including:

- Provision for the organization of the new department, granting the newly appointed secretary “every power expressly enumerated in the law” unless expressly exempted by law;
- Provision for the secretary for “all of the duties, responsibilities and authority of that office” during the time before the secretary was confirmed by the senate;
- Explicit notice that the legal duties of the former superintendent of public instruction be deemed references to the new secretary of education, and that all references to the former state board be deemed references to the PED;

- Establishment of PED as the sole educational agency for purposes of distributing aid made available through federal statute; and
- Provision for delayed repeals of the authority of the state board of education.

RELATED BILLS

Conflicts with Senate Joint Resolution 3 (SJR3), which also directs amending the New Mexico Constitution to create a 15-member state school board with a superintendent of public instruction.

SOURCES OF INFORMATION

- LESC Files

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