



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: 1/24/25

Bill No: [SJR3](#)

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

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

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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: N/A

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

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 passes the senate, 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 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 is enacted, the currently serving ten members of the PEC would continue their terms until replaced by the elected members of the SBE on January 1, 2029. Ten members of the SBE will be elected by popular vote. The five remaining members of the SBE will be appointed by the governor with approval of the senate. All members of the SBE will serve for staggered terms of four years. Of the governor’s appointees, no more than three can be members of the same political party, and one must be a tribal representative. The governor will appoint members when vacancies occur. The PEC will continue its current duties until they are replaced at the beginning of 2029, but the proposed resolution makes no provision for what body will continue the PEC’s charter authorizing duties for state-chartered charter schools, after the SBE takes over. Presumably, this matter will be addressed as part of the enormous work of rewriting the Public School Code to reflect the state’s new public school governance structure.

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. 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 15-member commission, 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 commission.

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 commission. Furthermore, 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 SJR3's changes may be difficult to predict.

## **PERFORMANCE IMPLICATIONS**

According to the Charter Schools Act, 22-8B-16 NMSA 1978, the PEC's powers and duties are delineated as follows: The commission shall receive applications for initial chartering and renewals of charters for charter schools that want to be chartered by the state and approve or disapprove those charter applications. The commission may approve, deny, suspend or revoke the charter of a state-chartered charter school in accordance with the provisions of the Charter Schools Act. The proposed SBE would presumably be the sole chartering authority of state-authorized charter schools. Should the resolution be enacted and passed by voters, there would be a need to ensure that charter schools across the state are made aware of any impact to current policies, practices, or charter contracts. Regardless of the details of specific changes made to particular PED programs and bureaus, the department would likely need to undergo significant reorganization under the new system.

## **ADMINISTRATIVE IMPLICATIONS**

If SJR3 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 Board and the Department understand their respective roles and responsibilities. Additionally, there may be numerous unintended consequences to requirements made of 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. 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 House Joint Resolution 4, which also proposes a constitutional amendment to create

the SBE.

**TECHNICAL ISSUES**

None.

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

None.

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

None.

**AMENDMENTS**

None.