

LFC Requester:

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AGENCY BILL ANALYSIS
2024 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

Original Amendment
Correction Substitute

Date 01/17/24

Bill No: [HJR6](#)

Sponsor: Block

Agency Name
and Code

Number: PED-924

Short STATE BOARD OF

Person Writing Denise Terrazas

Title: EDUCATION

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Joint Resolution 1 (HJR1) would repeal and replace Section 6 of Article 12 of the New Mexico Constitution by creating the currently serving Public Education Commission (PEC) as the new 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 hire a state Superintendent of Public Instruction to replace the current Secretary of Education, would direct the PED to determine public school policy 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.

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 HJR6 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, but likely substantial, cost to the legislature and the Compilation Commission.

SIGNIFICANT ISSUES

The currently serving ten members of the PEC would continue their terms until replaced by members of the SBE on January 6, 2026, after which members of the SBE will be elected in a general election, but on a nonpartisan ballot. The current Secretary of Public Education will serve as the State Superintendent of Education until the SBE appoints another qualified person to serve as such – without regard for political affiliation – who is an experienced educator. Notably, the joint resolution transfers fiscal functions and oversight from the proposed Superintendent of Public Instruction to the SBE, directly, and the Superintendent would merely be permitted to perform administrative and regulatory powers and duties, with all direct authority over such matters stricken.

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 nominal 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, all members of the SBE would be elected, eliminating the Executive's direct authority over public education in favor of the ten-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.

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 SJR9'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 chartering authority for a charter school existing on July 1, 2007, may be transferred to the commission; provided, however, that if a school chartered under a previous chartering authority chooses to transfer its chartering authority, it shall continue to operate under the provisions of that charter until its renewal date unless it is suspended or revoked by the commission. An application for a charter school filed with a local school board prior to July 1, 2007, but not approved, may be transferred to the commission on July 1, 2007.

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 of 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 SJR9 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 Senate Joint Resolution 9, which proposes a similar constitutional amendment to create

the SBE from the current members of the PEC.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.