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## FISCAL IMPACT REPORT

<b>SPONSOR</b> <u>Martinez, A/Cullen</u>	<b>LAST UPDATED</b> _____
	<b>ORIGINAL DATE</b> <u>1/30/25</u>
	<b>BILL</b> <u>House Joint</u>
<b>SHORT TITLE</b> <u>State Board of Education, CA</u>	<b>NUMBER</b> <u>Resolution 4</u>
	<b>ANALYST</b> <u>Liu</u>

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Election Costs			\$35.0 - \$50.0	\$35.0 - \$50.0	Nonrecurring	General Fund
PED Operations			Indeterminate but minimal		Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 157  
 Conflicts with Senate Joint Resolution 3

### Sources of Information

LFC Files  
 Legislative Education Study Committee (LESC) Files

Agency Analysis was Solicited but Not Received From  
 Public Education Department (PED)  
 Public School Facilities Authority (PSFA)  
 Office of the Governor

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

## SUMMARY

### Synopsis of House Joint Resolution 4

House Joint Resolution 4 would amend the state constitution to reinstate an elected state board of education in 2029 and transfer governance of the Public Education Department (PED) from the governor to the board. The 10-member board, elected from the current Public Education Commission (PEC) districts, would then determine public school policy, financial controls, and other powers over all public schools provided by law and appoint a qualified, experienced and currently licensed educator to be superintendent of public schools to manage PED. Board

vacancies would be filled by the governor with consent of the Senate. The resolution allows the PED secretary to continue serving as superintendent of public schools until replaced by the board.

The resolution authorizes current elected members of PEC to continue serving as state charter authorizers until they are replaced by the elected board on January 1, 2029. The resolution then calls on the Legislature to establish an independent state chartering authority for state-authorized charter schools.

The joint resolution provides the amendment be put before the voters at the next general election (November 2026) or a special election called for the purpose of considering the amendment. The amendment would only be effective if approved by voters.

## **FISCAL IMPLICATIONS**

Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State (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. SOS is required to publish the samples once a week for four weeks preceding the election in newspapers in every county in the state. Further, the number of constitutional amendments on the ballot may impact the ballot page size or cause the ballot to be more than one page, also increasing costs. The estimated cost per constitutional amendment is \$35 thousand to \$50 thousand, depending on the size and number of ballots and if additional ballot stations are needed.

Operating costs at PED are unlikely to change significantly based on governance.

## **SIGNIFICANT ISSUES**

Provisions of this bill would require voters to elect 10 members to serve on the board at the 2028 general election from the 10 current PEC districts. These districts would be the board districts for subsequent elections and be updated after the 2030 federal census. Any board vacancies would be appointed by the governor, with the advice and consent of the Senate, for the remainder of the original term.

Prior to FY04, New Mexico had an elected policymaking state board of education. When the constitutional amendment establishing PED was passed in September 2003, responsibilities included shifting responsibilities from a superintendent of public instruction selected by the board to a secretary selected by the governor. In recent years, PED has seen high turnover in the position, with eight secretaries and five interim secretaries since 2003. Secretary tenures have ranged from six months to seven years. According to LESC, between 1963 and 2002, New Mexico had only three state superintendents of instruction, with tenures ranging from five years to 22 years.

A 2020 analysis of governance structures by the Education Commission of the States found:

- Twenty-five states have outlined a formal constitutional role specific to education for their governor.
- Every state has constitutional language detailing the authority and duties of state legislatures in education, and 40 states give the legislature some role in appointing or

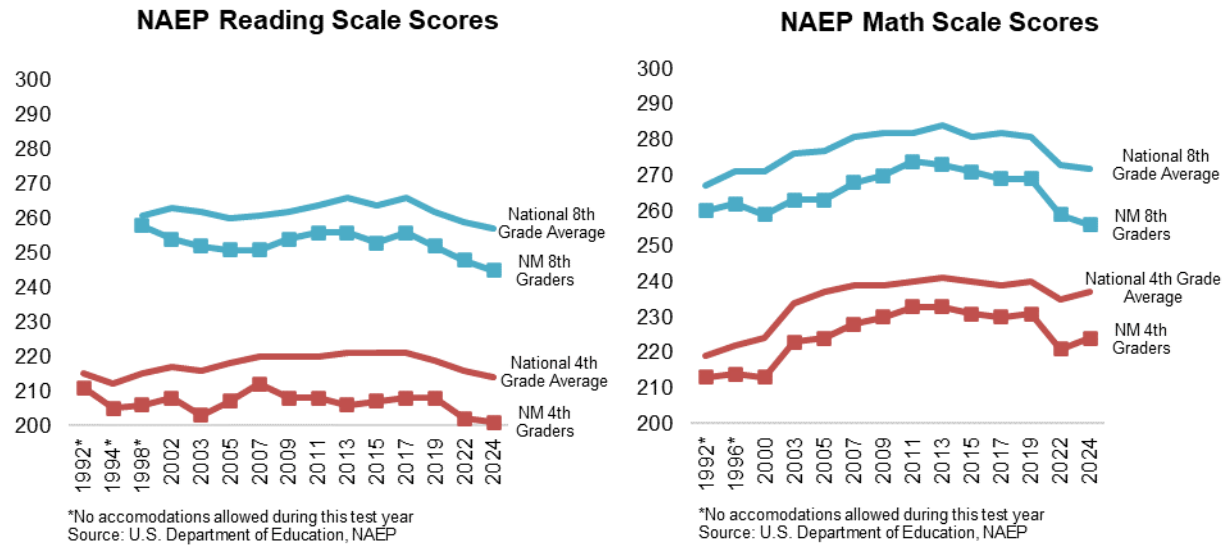
confirming the chief state school officer or state board of education members.

- Thirty chief state school officers have a formal constitutional role in state government. Additionally, how they are selected for office varies: 21 are appointed by state boards of education, 16 are appointed by the governor, 12 are elected, and one is appointed by the state executive-level secretary. In Oregon, the governor is the superintendent of education.
- State board of education authority and duties are also detailed in state constitutions and statute. Twenty-three states include state boards in the constitution, and 26 have only statutory powers and duties. Only Minnesota and Wisconsin do not have a state board, and New Mexico's public education commission is advisory only.
- Thirty-four states have some variation of an executive-level secretary. Such positions may mean additional formal duties for chief state school officers, or they may be individually appointed positions designated to serve the state board of education or work in some other capacity.
- The District of Columbia and every state except Hawaii have statutory provisions related to outlining the authority of local school boards. (Hawaii has a single school district and so does the District of Columbia.)

## PERFORMANCE IMPLICATIONS

Changes to New Mexico's governance structure in the last two decades have coincided with significant events, including the Great Recession of 2008, *Martinez-Yazzie* education sufficiency lawsuit in 2018, and Covid-19 pandemic in 2020. Simultaneously, the state experienced a decade of austere budgeting for schools, the addition of over 100 charter schools, a surge and subsequent decline in student enrollment, three major shifts in gubernatorial educational platforms and subsequent changes to state accountability structures, major recent investments in instructional time and educator pay, and eight PED secretaries.

The National Assessment of Educational Progress (NAEP), the only longitudinal national assessment that has been administered to all states over the last two decades, shows average New Mexico math and reading performance has fallen below 2000 levels, except for fourth grade math scale scores. In general, New Mexico's performance changes have largely mirrored trends in national performance on the NAEP test, but the state's appears now to be declining. The 2024 NAEP results continue to rank New Mexico in 50<sup>th</sup> place in all math and reading scores, the same rank as the 2022 NAEP results.



Given the significant number of confounding variables affecting student performance on the NAEP test, it is unclear whether a change in governance structure is associated with changes in student performance; New Mexico experienced a brief period of closing the gap with the national average prior to 2008. According to the Legislative Education Study Committee, differences in governance structures do not appear to have a strong relationship with NAEP performance.

## ADMINISTRATIVE IMPLICATIONS

Provisions of this bill would require the Legislature to create an independent state chartering authority to replace the PEC in 2029. Currently, PEC is staffed by PED’s Charters Schools Division, which could substantially change depending on the enabling legislation for an independent authority.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill conflicts with Senate Joint Resolution 3, which asks voters to establish a 15-member state school board with a specific membership makeup comprising 10 elected members and five appointed members. The board must appoint a qualified, experienced educational administrator to be the superintendent of public instruction to manage PED.

This bill also relates to House Bill 157, which creates new licenses for school site administrators, superintendents, and other school administrators.

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