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FISCAL IMPACT REPORT

SPONSOR <u>Soules</u>	LAST UPDATED <u>2/26/25</u>
	ORIGINAL DATE <u>2/13/25</u>
	BILL <u>Senate Joint</u>
SHORT TITLE <u>State Education Board, CA</u>	NUMBER <u>Resolution 3/aSEC</u>
	ANALYST <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
SOS	No fiscal impact	\$35.0 to \$50.0	No fiscal impact	\$35.0 - \$50.0	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 157

Conflicts with House Joint Resolution 4 and House Joint Resolution 13

Sources of Information

LFC Files

Legislative Education Study Committee (LESC) Files

Agency Analysis Received From

Public School Facilities Authority (PSFA)

Public Education Department (PED)

Agency Analysis was Solicited but Not Received From

Office of the Governor (GOV)

SUMMARY

Synopsis of SEC Amendment to Senate Joint Resolution 3

The Senate Education Committee amendment to Senate Joint Resolution 3 (SJR3) renames the state school board (SSB) to a state board of education (SBE) and continues the Public Education Commission’s (PEC) role as the authorizer for state charter schools. Both SBE and PEC will have 10 elected members serving staggered four-year terms. SBE will have an 11th appointed member who will serve for a term co-extensive with the governor who appoints the member. SBE members will be elected at the 2028 election for staggered terms beginning on January 1, 2029, while the staggered terms for PEC members will continue as before. The amendment also changes the requirement for the superintendent of public instruction appointed by SBE from a “qualified, experienced educational administrator” to a “qualified, experienced educator.”

Synopsis of Senate Joint Resolution 3

Senate Joint Resolution 3 would amend the New Mexico Constitution to replace the Public Education Commission (PEC) with an elected and appointed state school board (SSB) and transfer governance of the Public Education Department (PED) from the governor to under the SSB. The resolution allows current elected members of PEC to serve as state charter school authorizers until replaced by members of SSB. PEC members would be replaced by 10 elected and 5 appointed SSB members serving staggered four-year terms. SSB would then determine public school policies, have control over all public schools, and appoint a superintendent of public instruction to direct operations of PED.

The five appointed SSB members would be nominated by the Senate and appointed by the governor, with no more than three appointed members being of the same political party and having not changed party affiliation within two years prior to appointment. One of the appointed members must be a tribal representative and no more than two members can be appointed from the same county. The governor shall appoint elected SSB member vacancies.

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.

SIGNIFICANT ISSUES

Provisions of this resolution would require voters to elect 10 members to serve on SSB at the 2028 general election from the 10 current PEC districts. These districts would be SSB districts for subsequent elections and be updated after the 2030 federal census. Any elected SSB 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 turnover in the position, with eight secretaries and five interim secretaries since 2003. Secretary tenures range 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.

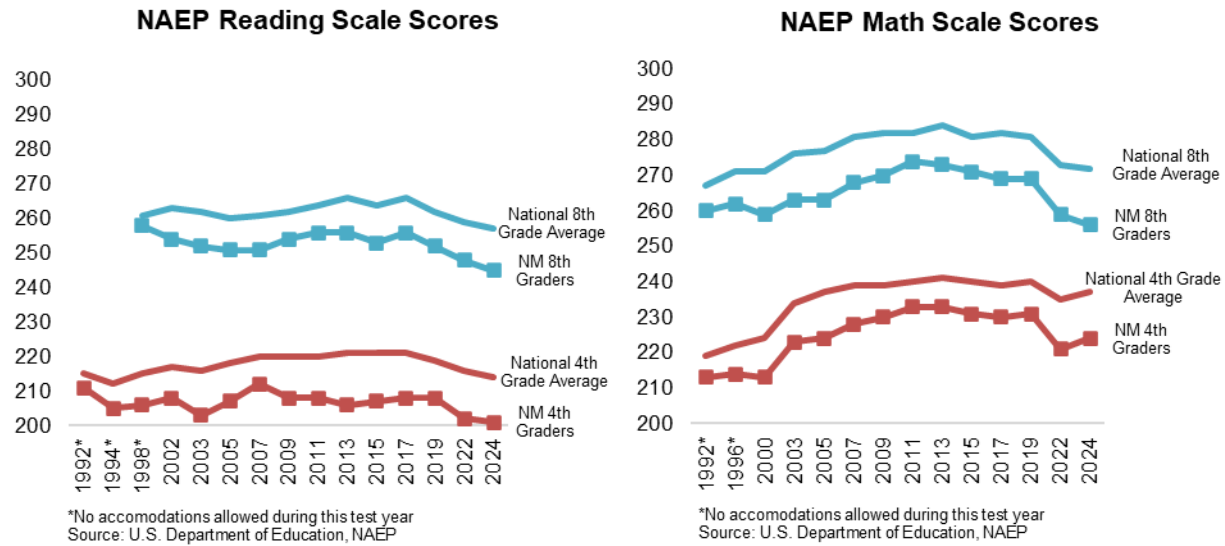
A 2020 analysis of governance structures by the Education Commission of the States found:

- 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.
- Every state except for the District of Columbia and Hawaii has statutory provisions related to outlining the authority of local school boards. (Both Hawaii and the District of Columbia are one single school district.)

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 appear now to be declining. The 2024 NAEP results continue to rank New Mexico in 50th 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 the change in governance structure from SSB to PED is associated with changes in student performance, as 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 resolution would require the governor to appoint five members of SSB within specific parameters. The Legislature would need to create enabling legislation to detail how staggered terms would be determined and further clarify duties of SSB and PED, including oversight of state-authorized charter schools that are currently under the purview of PEC.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This resolution conflicts with House Joint Resolution 4, which asks voters to elect a 10-member state board of education to appoint a qualified, experienced and currently licensed educator to be the superintendent of public instruction to manage PED. The resolution also conflicts with House Joint Resolution 13, which also proposes a 10-member elected board to appoint a qualified, experienced educator to be superintendent of public instruction.

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