

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR <u>Neville/Soules</u>	LAST UPDATED <u>1/29/24</u>
	ORIGINAL DATE <u>1/23/24</u>
SHORT TITLE <u>State School Board, CA</u>	BILL NUMBER <u>Senate Joint Resolution 9/aSEC</u>
	ANALYST <u>Liu</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
SOS-Election Costs			\$75.0 - \$85.0		Nonrecurring	Other State Funds

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Conflicts with House Joint Resolution 6 (HJR6)

Sources of Information

LFC Files

Agency Analysis was Solicited but Not Received From
Public Education Department (PED)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee amendment to Senate Joint Resolution 9 clarifies that five members of the State Board of Education will be nominated and appointed by the governor with the consent of the Senate.

Synopsis of Original Bill

Senate Joint Resolution 9 would amend the state constitution to replace the Public Education Commission (PEC) with an elected State Board of Education (SBE) and transfer governance of the PED from the governor to under the SBE. The resolution allows current elected members of PEC to serve as members of SBE until their terms expire. PEC members would be replaced by 10 elected and five appointed SBE members serving staggered six-year terms.

The five appointed SBE 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 SBE member vacancies.

The joint resolution provides the amendment be put before the voters at the 2026 general election. 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 \$75 thousand to \$85 thousand, depending on the size and number of ballots and if additional ballot stations are needed.

Should this proposed constitutional amendment be approved by voters, estimated fiscal impacts would likely be driven by increased staffing support for the new SBE by PED. See Technical Issues.

SIGNIFICANT ISSUES

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 and established PED as the party responsible for disbursing funds. In recent years, PED has seen high turnover in the position, with six secretaries and five interim secretaries since 2003. Secretary tenures have ranged from seven years to several months.

The joint resolution could help to establish consistency in long-term education initiatives with elected positions and with a board electing a superintendent of public instruction. The resolution could also lead to further years of unstable change to education administration after years that have already included significant changes and impacts within the education system in New Mexico, most notably the *Martinez-Yazzie* lawsuit and the Covid-19 pandemic, both of which have created sustained, above-average urgency for PED initiatives and student outcomes.

ADMINISTRATIVE IMPLICATIONS

Administrative changes would be substantial and represent significant costs. Administrative changes incurred in the resolution could include technical assistance for schools for any new pathways of budget operations and reporting, in addition to administrative costs in adjusting the structure of PED and ensuring sufficient transfer of knowledge, methodology, and current programming needs.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This resolution conflicts with House Joint Resolution 6 (HJR6), which similarly establishes an SBE but requires the superintendent of instruction to be a qualified, experienced educator instead of an educational administrator. HJR6 also establishes four-year staggered terms for SBE members and places the amendment on the ballot during the 2025 regular local election.

TECHNICAL ISSUES

While the resolution would effectively restore the SBE structure, the resolution lacks a companion bill to amend the Public School Code delineating responsibilities between the SBE and PED. It is unclear whether SBE would retain the same level of governing authority as the SBE prior to 2003, as virtually all duties were transferred to PED in law. Given the PEC will stand in as the SBE until the 2026 election, the Legislature will need to consider whether duties of SBE will change if voters approve the amendment.

OTHER SUBSTANTIVE ISSUES

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. (Hawaii is one single school district and so is the District of Columbia).