

LFC Requester:

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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO****[AgencyAnalysis.nmlegis.gov](https://www.legis.nm.gov/AgencyAnalysis) and email to billanalysis@dfa.nm.gov*****(Analysis must be uploaded as a PDF)*****SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: February 25, 2025 *Check all that apply:*
Bill Number: SJR3a Original ☐ Correction ☐
 Amendment ☒ Substitute ☐

Sponsor: Soules **Agency Name and Code Number:** New Mexico Public School Facilities Authority 940
Short Title: STATE BOARD OF EDUCATION, CA **Person Writing:** Mona Martinez
Phone: 505-468-0271 **Email:** mmartinez@nmpsfa.org

SECTION II: FISCAL IMPACT**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total				NFI	NFI	NFI

(Parenthesis () Indicate Expenditure Decreases)

Duplicates to: HJR4

SECTION III: NARRATIVE**BILL SUMMARY**Synopsis:**Amendment:**

The SJR3 final amendment replaces the entirety of the previously proposed Section 1.

The amendment creates a “state board of education,” the “public education department,” and the “public education commission.” SJR3a further lays out the composition and the duties of the state board of education. In pertinent the “state board of education” shall determine public school policy and shall have control, management and direction over school funds, including financial direction, distribution and financial accounting for all public schools. The state board of education shall also appoint a licensed educator as the “superintendent of public instruction,” who shall direct the operations of the public education department, under the supervision of the board. The proposed amendment stipulates that the state board of education and public education commission shall have ten elected members, with an eleventh member of the state board of education appointed by

the governor, each serving staggered terms. The election of the ten members shall occur at the 2028 general election.

Original:

This SJR3 proposes to amend Article 12 of the New Mexico Constitution by repealing Section 6 and replacing it with new language to create a “state board of education” and the “public education department.” SJR3 lays out the composition and the duties of the state board of education. In pertinent the “state board of education” shall determine school policy and shall have control and management over school funds, including financial direction, distribution and financial accounting for all public schools. The state board of education shall also appoint a licensed educator as the “superintendent of public instruction,” who shall direct the operations of the public education department pursuant to board policies and directions. The amendment proposed by the resolution shall be submitted to the electorate at the next general election or at any special election prior to that date that may be called for that purpose.

FISCAL IMPLICATIONS

Indeterminate as to the Public School Facilities Authority (PSFA).

SIGNIFICANT ISSUES

Amendment:

The SJR3 final amendment does not alter PSFA’s original analysis. However, PSFA believes this may impact local autonomy as it relates to capital projects for individual school districts.

Original:

Although SJR3 states that the state board of education and the public education department shall have control and management over school funds, it is unclear whether this financial oversight and control extends to the funding of public school capital funds and the control and management over the Public School Capital Outlay Council and its administrative agency the Public School Facilities Authority.

The current standards-based public school capital outlay program was developed and established partially in response to a 1998 lawsuit filed in state district court by the Zuni Public Schools and later joined by the Gallup-McKinley County Public Schools and the Grants-Cibola County Public Schools. The State district court found that through its public school capital outlay funding system the state was violating that portion of the state constitution that guarantees the establishment and maintenance of a “uniform system of free public schools sufficient for the education of, and open to, all children of school age” in the state. The court ordered the state to “establish and implement a uniform funding system for capital improvements... and for correcting past inequities” and set a deadline at the end of the 2001 legislative session. The court appointed a special master to review progress.

The quality of school facilities improved significantly since the lawsuit although litigant school districts continued to maintain the system was inequitable. These alleged ongoing disparities led Gallup-McKinley County Schools (GMCS) to reopen the *Zuni* lawsuit and in 2020, the Eleventh Judicial District Court issued a Final Decision and Order, holding the Public School Capital Outlay Act and Public School Capital Improvements Act in violation of Article XII, Section 1 of the New Mexico Constitution. The State appealed the District Court Order and in 2024, the New Mexico Supreme Court issued an order in which it ruled that the case was moot due to recent legislation and remanded the case back to the District Court for further proceedings.

RELATED BILLS

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

As stated in the significant issues section, it is unclear whether this financial oversight and control extends to the funding of public school capital funds and the control and management over the Public School Capital Outlay Council and its administrative agency the Public School Facilities Authority.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

An amendment to the New Mexico Constitution to create a State Board of Education will not be submitted to the electorate for approval or rejection.

AMENDMENTS

N/A