



LFC Requester: Liu

**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2025 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

Check all that apply:

Original  Amendment   
Correction  Substitute

Date Prepared: 03/11 /25

Bill No: [SJR15/aS1](#)

Agency Name and Code: PED - 924

Sponsor: Soules/Sharer/Shendo, Jr

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**SECTION II: FISCAL IMPACT**

(Parenthesis ( ) Indicate Expenditure Decreases)

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	N/A	NFA

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
None	None	None	N/A	NFA

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	125.0-150.0	None	None	125.0-150.0	Nonrecurring	NFA

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

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

**Synopsis of the Senate Floor amendment to Senate Joint Resolution 15 (SJR15/aS1):** SJR15/aS1 makes the following change: The superintendent of public instruction would be required to be qualified, experienced New Mexico “eligible” licensed educational administrator. Terms of eligibility may be defined in subsequent legislation.

**Synopsis of original bill:** Senate Joint Resolution 15 (SJR15) would propose an amendment to the New Mexico Constitution to create the State Board of Education (SBE) and delineate the roles of the SBE, a Superintendent of Public Instruction, the Public Education Department (PED) and the Public Education Commission (PEC) for the control, management, direction, and administration of public schools:

- The SBE would have nine appointed members with public education experience in New Mexico.
- The Superintendent would be a qualified, experienced, licensed educational administrator appointed by the SBE to direct the operations of the PED. The current Secretary of Public Education would serve as the Superintendent until replaced by the SBE’s appointee.
- The PED would administer the law and board policy and direction.
- The PEC’s current role as chartering authority of state-chartered charter schools would be explicitly provided for in the Constitution.

If SJR15 passes, the provisions of the resolution would be voted on in the next regular election or in any special election called for that purpose prior to that date.

### **FISCAL IMPLICATIONS**

The joint resolution does not indicate whether the members of the proposed SBE will be paid.

Given that this bill would require extensive reorganization of the department itself, and the number and volume of statutes and rules implicated by public education, the cost to move toward a board of education, while indeterminate, would be high.

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 SJR15/aS1 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 cost to the legislature and the Compilation Commission.

### **SIGNIFICANT ISSUES**

**Conflict of interest.** The proposed superintendent of public instruction would be required to hold an educator license. New Mexico educator licenses may be granted, suspended, revoked, or subject to other disciplinary action pursuant to [6.68.3 NMAC, Suspension, Revocation or Other](#)

[Disciplinary Action Regarding a License Held By a Licensed School Individual](#) and [The School Personnel Act](#). Educator licenses from other states are subject to the provisions of law in other states. As a holder of a license from New Mexico or jurisdictions, the proposed superintendent of public instruction may be the subject of actions against their license. A superintendent of public instruction with a New Mexico license under investigation would also be the person issuing the decision in their own licensure disciplinary hearing. Actions against a superintendent of public instruction with a license from another state would need to be pursued in a jurisdiction other than New Mexico.

The superintendent would be required by law to take the place of the Secretary of Public Education in initiating action to suspend, revoke, or refuse to renew their own license, pursuant to the School Personnel Act ([Section 22-10A-5\(K\) NMSA 1978](#)).

The educator code of ethics is outlined in [6.60.9 NMAC, Licensure Requirements, Code of Ethical Responsibility of the Education Profession](#) pursuant to [The School Personnel Act, Denial, Suspension, and Revocation of Licenses](#), which states:

In accordance with the procedures provided in the Uniform Licensing Act, the department may deny, suspend or revoke a department-issued license for incompetency, moral turpitude, ethical misconduct or any other good and just cause.

Potentially, any third party may force the department to review the licensure of the proposed superintendent of public instruction, introducing a new strategy for anyone who would desire to obstruct or interfere with the administration of public education in New Mexico.

**The need for subsequent legislation.** Although no subsequent legislation could address the critical issue of the licensure requirement for the superintendent of public instruction introduced in an amendment to the New Mexico Constitution as a consequence of this joint resolution, subsequent legislation would be required to address the process of appointment of SBE members. The resolution does not specify the exact process for appointing SBE members, stating only that they are to be "appointed as provided by law." This indicates that the appointment process is intended to be defined through subsequent legislation or a concurrent companion bill, rather than within the resolution itself.

**Potential for politicization and instability.** The resolution's lack of a specified appointment process leaves open the possibility of significant politicization of the SBE. By deferring appointment procedures to future legislation, the bill allows a political party that controls both houses of the legislature and the governorship, to alter the selection process. This structure could subject the board—and, by extension, public schools—to abrupt and potentially frequent shifts in ideological direction based on changes in political power.

In 2003, the people of New Mexico ratified and affirmed constitutional amendments that converted the SBE 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. The PEC, by contrast, was assigned 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](#)).

As a cabinet-level agency in the Executive, the PED coordinates with other state agencies on crosscutting initiatives such as the longitudinal data system, the summer reading program, and

the office of special education. Such efforts are likely to be significantly less efficient, or impossible, if the PED is managed by a state board.

**US Department of Education Dismantlement.** Secretary Linda McMahon has [publicly stated](#) that the President has provided her with a mandate to shut down the Department of Education. The Department of Education [laid off nearly 50 percent of its workforce](#) on March 11, raising concerns about the supports states will receive from the federal department. It remains unclear how changes at the federal agency will affect grant funding, reporting requirements, and technical support provided by the Department of Education. Project 2025, if implemented, “[would gut](#) federal education funding, sanction discrimination against LGBTQ+ students, divert taxpayer funds to private schools, and codify book bans and classroom censorship on a national level.” To simultaneously undergo restructuring of the state’s K-12 public education system of governance, with this federal turmoil, would create additional and unnecessary uncertainty and confusion in public education.

## **PERFORMANCE IMPLICATIONS**

The PED works with other state education and cabinet level departments daily. Removing the PED from the Executive could create a barrier to working with other state agencies and hamper the execution of a unified system of education from cradle to career.

Subjecting the superintendent of public instruction to licensure inquiries and actions against their license may become debilitating for the PED.

## **ADMINISTRATIVE IMPLICATIONS**

If SJR15/aS1 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 SBE and the department understand their respective roles and responsibilities.

Additionally, there would be numerous unintended consequences to requirements made of the 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.

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 3 as amended by the Senate Finance Committee, which also proposes a constitutional amendment to create the SBE.
- House Joint Resolution 4, which also proposes a constitutional amendment to create the SBE.
- House Joint Resolution 13, which also proposes a constitutional amendment to create the SBE.
- House Bill 365, which would remove the Public Education Commission’s (PEC) administrative attachment to the Public Education Department (PED). The bill would

replace the PED Charter Schools Division with a newly created State Charter Schools Office to staff the PEC.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

The newly proposed requirement that the superintendent of public instruction be a New Mexico *eligible licensed educational administrator*, as opposed to current requirements that the Secretary of Public Education be a *qualified, experienced educator* may enhance the likelihood of a conflict of interest for the department and the proposed superintendent, if the superintendent holds a New Mexico educator license. This requirement of licensure may be intended to assure the public that the proposed amendment would result in the appointment of a qualified educator as chief school officer, it would depend at least in part on the person being subject to educators' professional ethical and legal standards, which are to be enforced by the department. While the possibility of this conflict exists even under current constitutional language, the requirement that the Superintendent of Public Instruction be actively licensed increases the chance that such a conflict might arise.

Section 22-10A-31 NMSA 1978 indicates that, in accordance with the Uniform Licensing Act, the department may deny, suspend, or revoke a department-issued license for incompetency, moral turpitude, ethical misconduct, or any other good and just cause. Rule 6.63.8 NMAC, Suspension, Revocation, or Other Disciplinary Action Regarding a License Held by a Licensed School Individual, directs the Director of the Licensure Bureau to initiate appropriate inquiries whenever it appears grounds may exist for suspension, revocation, etc., of any licensed individual named in Section 22-10A-3 NMSA 1978, which includes all classes of persons licensed by the department. In the event a cloud arises on the license of the Superintendent of Public Instruction, the department and thus, ultimately the Superintendent, would be responsible for investigating and sanctioning, the Superintendent. This creates a possibility of a near-irresolvable conflict. While the possibility of this conflict exists even under current constitutional language, the requirement that the Superintendent of Public Instruction be actively licensed increases the chance that such a conflict might arise. The best way to avoid this potential conflict of interest is to remove the proposed requirement that the Superintendent of Public Instruction be a currently New Mexico licensed educator.

Regarding responsibility to constituents, under an SBE governance structure, consultation on educational issues with tribes, pueblos, and nations would decrease if the legislature designs an appointment process that does not include significant pueblo, nation, and tribe representation. Under the current governance structure, the Governor is responsible to all of the state's constituencies.

Finally, under current governance, PED policy and work is aligned with other state agencies including the Higher Education Department (HED), the Early Childhood Education and Care Department (ECECD), and others. All of the department secretaries report to the Governor and support statewide initiatives. Under the proposed SBE governance structure, the PED policy and work would not align with other state agencies, and this could hamper statewide efforts on current initiatives such as longitudinal data systems, special education services, and cradle to career family supports.

The current governance structure ensures the Governor is accountable for and responsible for a continuous system of education from early childhood through public education to higher education. The resolution introduces the problem of data-sharing and accountability across the components of a system in which longitudinal responsibility for a person's education is handed off from the Governor's ECECD to the SBE and then back again to the Governor's HED. Education policy would be shared between two state agencies, with the SBE accountable to different authorities. Differences in policy between the majority of elected SBE members and the agencies of the elected Governor would lead to unaligned policymaking, with potentially adverse consequences for students at all levels of education. Collaboration between SBE and the Executive agencies responsible for wraparound services of health, workforce development, and economic development, could become problematic with a reduction in aligned services for students if the proposals in SJR15/aS1 were realized.

Of note, the last chairman of New Mexico's state school board spoke in committee against a similar resolution in 2024, stating that the rationale for moving away from an SBE still applies.

### **ALTERNATIVES**

None.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

None.

### **AMENDMENTS**

The sponsors may wish to consider amending the joint resolution to remove the requirement that the superintendent of public instruction hold an educator license, and perhaps revert to current qualifying language requiring an experienced, qualified educator be chief state school officer. This would eliminate the potential conflict of interest described in more detail in "Technical Issues," above.

The sponsors may wish to consider amending the joint resolution to address the appointment process for SBE members proactively, rather than waiting until the joint resolution may be ratified by the electorate. This would give the voting public a better idea of what they are considering, when deciding how to vote on the proposed constitutional amendment.