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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 185

SHORT TITLE: PED Secretary & Local School Board Members

SPONSOR: Herrera/Baca/Garratt/Sarinana

LAST ORIGINAL
UPDATE: _____ **DATE:** 2/7/26 **ANALYST:** Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		Indeterminate but minimal			Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Relates to House Memorial 30 and Senate Joint Resolutions 1 and 3

Sources of Information

LFC Files

Legislative Education Study Committee (LESC) Files

Agency or Agencies Providing Analysis

State Ethics Commission

Regional Education Cooperatives

Agency or Agencies That Were Asked for Analysis but did not Respond

Public Education Department

SUMMARY

Synopsis of House Bill 185

House Bill 185 (HB185) authorizes the Public Education Department (PED) secretary to suspend an individual school board member for willfully failing to perform a duty required by the Public School Code or any other laws and rules under the secretary's authority after issuing a notice for remedial action and at least 30 days of inaction. The secretary must then give written notice of the grounds for suspension, process for reinstatement, and process for challenging the suspension. The member may also appeal the decision in district court if aggrieved by the secretary's final decision. During the suspension, the secretary or their designee may vote to break a deadlock in the approval of the annual budget for the member's school district. This bill is endorsed by LESL. This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

This bill does not include an appropriation but authorizes the PED secretary to suspend an individual school board member, which would cause some disruption but not present a significant fiscal impact to district operations. Suspension of a member may increase litigation expenses for the department if an appeal is filed in district court. However, costs will be wholly dependent on school board member conduct and PED monitoring, which is indeterminate at this time.

Currently, PED receives approximately \$500 thousand each year for legal fees related to the *Martinez-Yazzie* education sufficiency lawsuit. For FY26, PED requested a \$250 thousand supplemental appropriation to pay legal settlements. Potential costs for litigation expenses of this bill would likely be comparable to this range.

SIGNIFICANT ISSUES

The State Ethics Commission (SEC) notes Section 14 of Article XII in the state Constitution allows voters of a school district to recall any elected local school board member. A petition for recall election must cite grounds of malfeasance or misfeasance in office or violation of the oath of office by the member concerned. The recall petition must have signatures of registered voters equal to at least one-third of the votes for the office in question from the last preceding election of that office.

Current statute (Section 22-2-14 NMSA 1978) allows PED to suspend an entire school board, individual superintendents, or individual principals when a district or school fails to comply with budget requirements, state laws, educational standards, or department rules. In the case of a budgetary violation, PED must provide notice of the deficiency and provide 30 days for corrective action before the suspension and must consult with the Public Education Commission (PEC) before removing the suspended board, superintendent, or principal. PED will then act in lieu of the suspended official(s). Any board, superintendent, or principal aggrieved by the suspension has a right to a public hearing to show cause why the suspension should be reversed and may appeal any final decision by the secretary to district court. If PED has notified a local board, superintendent, or principal of disapprovals and has reason to believe the educational process in the district or school has been severely impaired or halted, the department may suspend the official(s) before a public hearing after consultation with PEC.

In 2021, PED suspended the entire Los Lunas school board over allegations of bribery and attempted extortion by three members. However, a district court judge reinstated two of the board members after they appealed PED's decision. The judge found PED lacked substantial evidence for their suspensions and noted the department failed to consult with PEC on the suspension per statute. In 2023, PED updated its rules on suspensions to not require PEC consultation and initially required individual school board members to cover their own legal expenses in appealing the department's decision. This personal legal expense provision was removed from the final version of the rule after PED received opposition from public comment, allowing boards to use district funds for their legal defense.

In 2021, PED also suspended the entire Floyd school board for voting to go against PED's Covid-19 guidelines on masks, temperature checks, air filtering, and surveillance testing. After

PED gave the board an option to reconsider the decision within a week, the board voted to reject it again. The Floyd superintendent was also put on administrative leave for refusing to go along with the board's decision. The state then filed a lawsuit against the five board members after they refused to step down, and a court later denied their attempt to secure a temporary restraining order against PED. The state later dropped the lawsuit after two of the board members resigned and one failed to win reelection.

In 2019, PED suspended the Questa school board over allegations of leadership instability, failing to comply with federal special education law, and Open Meetings Act violations. At the time, the district had transitioned through four interim superintendents and had been issued five corrective action plans in less than two and a half years. A hearing officer upheld PED's decision to suspend the board after two members appealed the decision and abruptly left the hearing.

In 2016, PED issued a notice of suspension to Espanola's superintendent, alleging he hired unlicensed teachers, mismanaged district funds, and allowed staff to bully students who complained about a basketball coach. PED also took over the district's finances, alleging the board was overspending funds, failed to follow state law in awarding contracts, and reported false financial reports. In 2017, the Espanola school board placed the superintendent on administrative leave. In 2019, PED returned financial control to the district only to receive a notice from the IRS that the district had failed to submit proof employees were offered health insurance plans between 2016 and 2018—an oversight by PED when they had been in control of the district's finances and a violation warranting more than \$1 million in penalties.

Provisions of this bill would allow the PED secretary to suspend an individual school board member rather than an entire board, similar to the procedures for current suspensions but without consultation with PEC.

ADMINISTRATIVE IMPLICATIONS

PED would need to update its current rule on local board suspensions to include individual school board member suspensions. Provisions of this bill may increase the number of individual school board member suspensions, as the ability to target individuals rather than an entire group may be more politically feasible.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to House Memorial 30, which requests LESC to study education governance, Senate Joint Resolution 1, which allows school board elections to coincide with general elections, and Senate Joint Resolution 3, which would move control of PED from the governor to an appointed state board of education.

OTHER SUBSTANTIVE ISSUES

While current statute requires PED to consult with PEC on suspensions, this is likely an outdated provision from when PEC was the state board of education overseeing the superintendent of instruction. Currently, PEC is primarily responsible for oversight of state-authorized charter schools.