

LFC Requester:

Sunny Liu

**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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***(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:** 2/21/2025 *Check all that apply:*  
**Bill Number:** SB 38 Original      Correction       
Amendment   X   Substitute     

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Thompson **Agency Name  
and Code  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$697.54	\$697.54	Recurring	Federal

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$697.54 697,544.00	\$697.54 0	\$697.54	Recurring	Federal

(Parenthesis ( ) indicate revenue decreases)

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

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB38 is an act that creates the Office of Special Education under the Public Education Department prioritizing the needs of special education students and distinguishing special education from gifted education through collaboration with the Early Childhood Education and Care Department.

The proposed act creates a Deputy Secretary of special education within the Public Education Department to head the office of special education. The office of special education will oversee compliance with special education law including the federal Individual with Disabilities Education Improvement Act of 2004 (IDEA).

SB38 would also formalize the coordination of preschool special education by the Early Childhood Education and Care Department and moves the special education Part B 619 Coordinator which is responsible for ensuring compliance with IDEA Part B, Section 619 grant requirements specific to children ages three through 5 years of age from the Public Education Department to the Early childhood Education and Care Department allowing for alignment and continuity in providing comprehensive services to the early childhood population. The act includes a transfer of federal funds from PED to ECECD to support IDEA Part B, Section 619.

Section 1 of SB38 proposes to create the Office of Special Education under PED.

Section 2-7 of SB38 proposes the Special Education Act as a new section of the Public-School Code. This act proposes the creation of the Office of Special Education and a Deputy Secretary of Special Education within PED to head the office. The act proposes the duties of the office, including ensuring compliance with special education law and ensuring transitional individualized education programs for students with disabilities in coordination with ECECD.

Section 8 of SB38 proposes to amend Section 22-8-6 NMSA 1978 to require school districts and locally chartered or state-chartered school’s educational plans to include a narrative on program costs for services provided to students with disabilities and gifted students, including an explanation of how program costs are expended by grade.

Section 9 of SB38 proposes to amend Section 22-13-5 NMSA to require school districts to provide special education and related services appropriate to meet the needs of students with disabilities. School districts shall identify and provide services for three-year-old and four-year-old children with disabilities, unless the parent or guardian chooses not to enroll the child. Services for students with disabilities may include evaluating particular needs, providing learning experiences that develop cognitive and social skills, and arranging for or providing

related services as defined by the department and providing parent education. SB38 proposes that services may be contracted with a public or private provider.

Section 10 of SB38 proposes to amend special education definitions as used in the Public-School Code.

Section 11 of SB38 amends Section 22-13-6.1 NMSA 1978 to ensure school districts provide gifted education that meets the students needs. The department is required to promulgate rules and standards for the provision of gifted education in public school and institutions that are funded by the department. The department is to adopt standards for the determination of gifted students and publish the standards at part of New Mexico's school educational standards. Students are to be evaluated by a multidisciplinary team within the student's school district and the team will have the authority to designate a student as gifted. The team should consider information about the student including cultural and linguistic background and socioeconomic background as part of the identification, referral and evaluation process. School districts are to create at least one advisory committee comprised of parents, community members, students and school staff and can have one committee for every high school in the district or one district wide committee. The advisory committee is tasked with review of goals and priorities of the gifted program.

Section 12 of SB38 amends Section 22-13-7 NMSA 1978 to replace the State Board with the Office of Special Education to make, adopt, and keep current a state plan for special education policy, programs, and standards. The Public Education Department will be required to set standards for diagnosis and screening of and educational offerings for students with disabilities in public schools and children in private, nonsectarian, nonprofit training centers and in state institutions under the authority of the Secretary of Health. The Public Education Department shall establish and maintain a system to monitor implementation and impact of all programs that are inclusive of students with disabilities. Periodic reports regarding the efficacy of programs shall be made to the governor.

Section 13 amends Section 22-13-32 NMSSA 1978 to replace the term "intervention" with the term "supports" for students displaying characteristics of dyslexia. All first-grade students are to be screened for dyslexia and students demonstrating characteristics of dyslexia are to receive appropriate interventions through multi layers systems of support or referred to a student assistance team. Under the multi layered system of supports, interventions will monitor for progress. Parents of referred students are to be informed of the right to request a special education evaluation. Every school district is to develop and implement a literacy professional development plan to support educators in supporting students at risk for reading failure and displaying characteristics of dyslexia including evidence base reading interventions and structured literacy. The department will provide technical assistance to support special education diagnosticians and professionals on formal evaluation of students with learning disabilities. The department will adopt rules, standards, and guidelines to implement this section of the act.

## **FISCAL IMPLICATIONS**

If SB38 passes, ECECD will receive federal 619 part B IDEA funds from the Public Education Department. We have factored in the headcount and the contracts needed for the work to continue.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

### **SIGNIFICANT ISSUES**

This bill will result in significant positive outcomes for children with disabilities and their families in New Mexico. Transfer of the 619 Coordinator position to ECECD enhances collaboration among ECECD and PED, allowing for streamlined monitoring and technical assistance for PreK and preschool special education programs. In addition, this strong collaboration with PED supports effective transitions from PreK or special education preschool programs to kindergarten, ensuring continuity of services for children with disabilities and their families. The 619 Coordinator position with ECECD also allows for collaboration with IDEA Part C providers (early intervention and home visiting) to provide timely and effective transitions from Part C to Part B. These strong collaborations will also enhance access to quality professional development opportunities for educators and administrators in PreK and special education preschool programs. As New Mexico continues to support the inclusion of children with special needs in settings with their typically developing peers, strong collaboration and leadership is needed. The policy implications of elevating the Office of Special Education, supporting a qualified workforce, and the transition of the 619 Coordinator to ECECD are critical to ensuring that students with disabilities and their families receive the support they need to succeed in school and in life.

### **PERFORMANCE IMPLICATIONS**

None.

### **ADMINISTRATIVE IMPLICATIONS**

None.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

### **TECHNICAL ISSUES**

None.

### **OTHER SUBSTANTIVE ISSUES**

None.

### **ALTERNATIVES**

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

If SB38 is not codified, the Office of Special Education would not be created to prioritize the needs of special education students and their families, and the future of Special Education in New Mexico and those services for children in need would be uncertain.

### **AMENDMENTS**