

<b>LFC Requester:</b>	<b>Sunny Liu</b>
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**AGENCY BILL ANALYSIS  
2017 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply: Date 1-30-17  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_  
**Bill No:** SB66

**Sponsor:** Senator Mimi Stewart                      **Agency Code:** 924  
**Short**                      SCHOOL FUND                      **Person Writing**                      Aguilar/Ortiz  
**Title:**                      TRANSPORTATION                      **Email**  
   DISTRIBUTION                      **Phone:** 505-827-6519                      Paulj.aguilar@state.nm.us

**SECTION II: FISCAL IMPACT**

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

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		Significant			Recurring	Charter School Operations and Transportation Funds

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB-66 creates a separate transportation distribution for state chartered charter schools. The bill establishes limits for student transportation for state charter chartered schools. The bill is also adding language to require that 100% of state charter chartered schools transportation cash balances at the end of the fiscal revert to the transportation emergency fund. The bill also aims at cleaning up sections of statute pertaining to transportation that are old and outdated.

## FISCAL IMPLICATIONS

The appropriation mechanism contained in this bill is not included in the Governor's budget recommendation.

Appropriations are contained in the LFC and HAFC recommendation for funding the transportation distribution. The amount of \$1,019.8 contained in the LFC Public School Support Recommendation for charter school transportation is an arbitrary number that will not be sufficient to fund charter transportation costs in FY18.

**Using FY17 contract amounts, this bill will underfund charter schools by \$1.2 million dollars (see attached spreadsheet).** The Legislature runs the risk of underfunding these costs requiring charter schools to dip into operational accounts at a time when the Legislature is attempting to significantly reduce funding in other related bills. It is unclear if some charter schools will be able to continue transportation operations if these bills are enacted. The Legislature should be cautious as these bills move through the chambers.

If this bill is enacted, two separate transportation appropriations will be required in order to execute. One allocation will need to be made for the school district transportation allocation and another for the charter school transportation allocation. This bill was not vetted through the PED during the interim therefore the separate allocation for charter schools were not included in the department's public school support request. It is not certain what amount will be needed to fully fund the charter school allocation adequately since PED was not requested to calculate these figures separately.

## SIGNIFICANT ISSUES

This bill creates a new funding formula for charter schools. The legislature should consider a one-year delay in order to develop the funding formula and to collect the necessary data to implement the formula.

Current statute requires the PED to calculate the transportation distribution based on the average of 80th and 120th day data submitted by school districts and state chartered charter schools. Statute requires the PED to do a regression analysis of expenditures from two prior fiscal years. The coefficients or variables from this regression analysis are then multiplied by the data submitted by the school districts to calculate the allocations. The coefficients derived from the regression analysis are applied equally to all school districts. Creating a separate calculation for charter schools could be considered a dis-equalization of transportation funds because they would be funded at different rates than traditional school districts.

The state equalization formula for operational funds is applied the same to both charter schools and school districts. Creating a separate formula and funding charter schools differently for transportation would be equivalent to having two separate formulas for operational funds. The state must be cognizant of the Zuni lawsuit pertaining to capital outlay filed in 1999. In that suit, state district Judge Joseph L. Rich found the State of New Mexico to be in violation of its state constitutional requirement to establish and maintain "a uniform system of public schools sufficient for the education of, and open to, all of the children of school age in the state" in the way the state funded capital outlay expenditures. The judge ordered the state to establish a uniform funding system for capital improvements. In response, the state adopted legislation to phase in a new equalized standards-based system using a set of standard adequacy standards

along with a state share formula. Creating a separate distribution for charter schools may raise disparity issues which could result in another lawsuit.

SB-66 proposes language that requires state chartered charter schools to revert 100% of their cash balances at the end of the fiscal year to the emergency transportation fund. Currently all school district and charter schools are allowed to keep 50% of their cash balances from the prior year. Implementing this language, again, may cause disparity issues. Currently charter schools are only allowed to contract for to-and-from transportation services therefore it makes sense that 100% of their balances at the end of the fiscal year should revert to the transportation emergency fund. However, there are several school districts that also contract out all of their to-and-from transportation services. If this language is applied to charter schools it should also apply to those school districts that contract out all of their to-and-from services so there is no disparity created.

During the 2015 legislative session, HB-164 was passed and enacted into law. This bill changed the transportation distribution to be calculated using prior year data. The unintended consequence of this change is that any new charter schools wanting to receive a transportation distribution will have to fund their first year from operational funds because they have no prior year data. Page 4, line 10 thru 12 requires charter schools to notify the PED one year in advance of its request for transportation. This change may not be required until language is amended to allow charter schools to use projected data for their first year.

Currently, state chartered charter schools have no limits for transporting students. SB-66 is proposing to limit student transportation not to exceed the boundaries of the school district in which the state chartered charter school is geographically located. This will prevent charter schools from crossing district boundary lines to pick up students. Currently school districts cannot cross district boundary lines to pick up students without a PED approved boundary agreement which is regulated through 6.42.2 NMAC. This proposed amendment will keep transportation limits consistent with both charter schools and school districts.

## **TECHNICAL ISSUES**

During the 2015 legislative session, HB-164 was passed and enacted into law. This bill changed the transportation distribution to be calculated using prior year data. The unintended consequence of this change is that any new charter schools wanting to receive a transportation distribution will have to fund their first year from operational funds because they have no prior year data. Page 4, line 10 thru 12 requires charter schools to notify the PED one year in advance of its request for transportation. This change may not be required until language is amended to allow charter schools to use projected data for their first year.

## **ALTERNATIVES**

This bill may have several unintended consequences. The legislature may consider reviewing the effects of this bill during the interim. This would give PED adequate time to run some preliminary figures so a more accurate amount can be requested and funded for the new state chartered charter school transportation allocation. These calculations are very complex and will take some time to calculate.

Currently state chartered charter schools have no limits for transporting students. This bill is proposing to limit student transportation not to exceed the boundaries of the school district in

which the state chartered charter school is geographically located.