

LFC Requester:

Liu, Sunny

**AGENCY BILL ANALYSIS - 2026 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

[AgencyAnalysis.nmlegis.gov](http://AgencyAnalysis.nmlegis.gov) and email to [billanalysis@dfa.nm.gov](mailto: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:** \_\_\_\_\_ *Check all that apply:*  
**Bill Number:** SB 64aa Original  Correction   
 Amendment  Substitute

**Sponsor:** Mimi Stewart & Joy Garratt **Agency Name and Code** Commission for the Blind/60600  
**Short Title:** CREATE OFFICE OF SPECIAL EDUCATION **Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	None	

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
None	None	None	None	

(Parenthesis ( ) indicate revenue decreases)

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

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

(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: Senate Bill 64 (SB64) creates the Special Education Act in the Public School Code and codifies the Office of Special Education (OSE) within the Public Education Department (PED). The bill creates the position of deputy secretary of special education in law and requires the deputy secretary to report directly to the PED secretary. The proposed Special Education Act assigns the office responsibilities and duties including enforcing state and federal law regarding the education of students with disabilities; ensuring stability and consistency of service for students with disabilities; and providing for the study, development, and implementation of systems and policies that positively affect the educational success of students with disabilities. SB64 also requires the OSE to develop and maintain—and for school districts and charter schools to use—a statewide uniform online system for the formulation of individualized education programs (IEPs).

The bill also removes gifted education and Section 504 from the Special Education Act to align state law with federal law, and current department practice.

SB64 also recompiles existing law addressing special education, such as Section 22-13-32 NMSA 1978 outlining supports for students displaying characteristics of dyslexia, into the proposed Special Education Act. SB64 would also add definitions, such as multilayered systems of support (MLSS) and student assistance team (SAT), to the Public School Code.

The bill would be effective July 1, 2026.

### **FISCAL IMPLICATIONS**

SB64 does not contain an appropriation.

PED has already established and staffed an office focused on special education within the department so additional funding needed to continue duties is expected to be minimal. The FY27 budget recommendations from LESC, LFC, and the Executive each include \$4 million in recurring funding to support special education initiatives.

In FY26, the state equalization guarantee (SEG), the state's public school funding formula, distributed \$840.4 million for special education programs and services, including gifted education programs and services. Those funds are based on student needs as specified in their IEP or Gifted Individualized Education Plans (GIEP), along with the number of full-time-equivalent certified or licensed staff providing diagnostic services or speech therapy and other ancillary services.

Additionally, the federal Individuals with Disabilities Education Act (IDEA) distributes grant funding for states to provide special education and related services for students between the ages of three and 21 who have been identified as having a disability. In FY26, those grant programs will distribute \$108.8 million to public schools in New Mexico. The Legislature also appropriated \$12 million in nonrecurring funding for a statewide student information system to house the statewide IEP in FY26.

The FY27 LESC, LFC, and Executive budget recommendations each include \$8.5 million in

funding to support the statewide student information system housing the statewide IEP. LESC and LFC recommend this as recurring funding and the Executive recommends this as a non-recurring appropriation.

### **SIGNIFICANT ISSUES**

Section 504 of the Rehabilitation Act of 1973 (Section 504) and IDEA ensure children with disabilities have a right to a public education . Section 504 protects the rights of individuals with disabilities in programs and activities receiving federal financial assistance. It also requires schools to provide free appropriate public education (FAPE) to each qualified student, regardless of the nature or severity of the disabilities.

IDEA applies to every student in the United States who receives special education services. The law requires schools to develop an IEP for each student. IDEA also governs how states and public agencies must provide special education, intervention services, and any other related services to all students. SB64 would codify responsibilities to ensure compliance with both state and federal laws.

### **PERFORMANCE IMPLICATIONS**

SB64 will assist the state to meet the requirements of 34 CFR §361.22(a)(1), which requires coordination between the Commission for the Blind and education officials to facilitate the transition of students with disabilities from the receipt of educational services to the receipt of vocational rehabilitation services. SB64 will also assist the Commission for the Blind to provide for the development and approval of an individualized plan for employment (IPE) as early as possible during the transition planning process as required by 34 CFR §361.22(a)(2). SB64 will further assist the Commission for the Blind to meet the requirement for a formal interagency agreement at 34 CFR 361.22(b)

### **ADMINISTRATIVE IMPLICATIONS**

SB64 will provide for clear lines of communication and responsibility, which will enhance compliance with IDEA and the Rehabilitation Act of 1973.

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

The Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act, requires that vocational rehabilitation agencies reserve and spend at least 15% of their VR grant on the provision of Pre-employment transition services on students age 14 to 21, 29 USC § 730(d)(1). The vocational agencies in New Mexico are the Commission for the Blind and the Division of Vocational Rehabilitation. The Rehabilitation Act further requires that vocational rehabilitation agencies participate with educational agencies in planning and coordinating services for students with disabilities, including individualized education programs (IEPs) and pre-employment transition services, 34 CFR § 361.22 and § 361.48(a).

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

The administration of President Trump is working to close the U.S. Department of Education. Although such closure would require Congressional approval, the Trump administration is entering into “interagency agreements” to move programs from the Department of Education to other federal agencies. The Department of Education is the cognizant federal agency for both the special education program and for the vocational rehabilitation program. The Office of Special Education and Rehabilitative Services (OSERS) is located within the Department of Education.

OSERS includes the Office of Special Education Programs (OSEP) and the Rehabilitation Services Administration (RSA). The statutory requirement that special education programs and vocational rehabilitation programs must coordinate services makes it likely that OSEP and RSA will be moved to the same federal agency. However, an interagency agreement to move OSERS has not been reached as of the date of the submission of this FIR. A move of OSEP to another federal agency would likely weaken federal oversight of the special education program. The Trump administration has also stated its goal of transferring authority for public education to the states and has eliminated positions within OSERS. Regardless of what takes place with the Department of Education, SB64 will help ensure continued state compliance with IDEA and continued provision of a free and appropriate public education to students with disabilities.

## **ALTERNATIVES**

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

SB64 will improve special education services and ensure the continued provision of a free and appropriate public education for students with disabilities. Should SB64 not be enacted, the state will be less able to meet these critical goals.

## **AMENDMENTS**

Senate Finance Committee amendment should provide for enhanced communication and coordination, and do not otherwise change in any significant way SB64.