

LFC Requester:	Sunny Liu, LFC
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**AGENCY BILL ANALYSIS
2018 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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 01/25/18
Original **Amendment** **Bill No:** HB86
Correction **Substitute**

Sponsor: Representative Dennis J. Roch **Agency Code:** 924
Short SCHOOL BUS **Person Writing** Marian Rael
Title: REPLACEMENT &
CONTRACTS **Phone:** 827-6519 **Email** marian.rael@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
	None Noted		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		
	Indeterminate – see fiscal implications below		Recurring	District and Contractor Transportation Budgets

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(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:

HB-86 extends the school bus replacement cycle from 12 years to 15 years and provides for early replacement when the school bus mileage exceeds three hundred thousand miles. Any bus that exceeds three hundred thousand miles will be eligible for replacement regardless of the age.

FISCAL IMPLICATIONS

The provisions of this bill will have an impact on school district and contractor budgets because the costs of maintaining older buses increase significantly as the school buses age. Generally, a 15-year old bus will cost more to maintain and operate than a 12-year old school bus. Districts have expressed concern that if this bill is enacted transportation funding will need to be increased so districts and contractors can absorb the increased maintenance costs.

The immediate fiscal impact of this bill would be in a decrease in capital funding which has been used in recent years as the revenue source for purchasing school owned buses and rental fees for contractors which is derived from the transportation distribution in the Public School Support appropriation as the number of buses needing to be replaced would decrease for the first three years. It is important to note that this is a three year impact only and that once the replacement cycle evens out, the number of buses to be replaced annually would equal the number of buses currently replaced each year.

SIGNIFICANT ISSUES

It appears the intent of this legislation is to ease the pressure on the Public School Capital Outlay Fund (PSCOF), a fund that has been tapped in recent years to fund a number of initiatives not related to school buildings. It is important to note that the effect of this legislation will result in some savings for the first three years but will return to a similar cost structure after this time. In the past, school district bus replacements were funded from the general fund. The Legislature may wish to consider returning to this funding source as a way to ease pressure on the PSCOF.

A major objective of the Public Education Department (PED), Transportation Bureau is to

establish a safe and efficient unified system of transportation to ensure all eligible students are transported in a safe and timely manner. Extending the maximum number of years that a school bus can be used for transporting students to-and-from school increases the probability of safety components wearing out and will require more diligence on the part of safety inspectors to ensure those parts more prone to failure such as brakes, steering components, and suspension parts are identified early and replaced.

The state of New Mexico is very rural in nature and school buses drive several thousand miles per year, many over unimproved roads and in extreme conditions. Using data from FY17, it is important to note that 2,038 to-and-from school buses are used by districts and traveled more than 29.6 million miles. This averages to about 14,500 miles for every bus which equates to approximately 174,500 miles for a bus that is 12 years of age. Extending the life cycle another 3 years will add an additional 43,500 miles per bus. At the end of 15 years on average every bus will have approximately 217,500 miles. It is unclear how the 300,000 mile component was determined in the bill, but these are significantly more miles than an average bus would have traveled in 15 years.

Careful attention should be placed on the language currently contained in statute and also contained in Section 1, Subsection D of this bill that provides for school districts to petition the department for permission to replace buses prior to the completion of a fifteen-year cycle. A number of districts, particularly those in the northwest, north central, north east and the western parts of the state and in our rural ranching communities, deal primarily with extremely difficult unpaved roads and driving conditions and these districts struggle to keep their current fleet operational for 12 years. In these districts, buses simply will not last this long without a significant investment in replacement parts. Some parts like bus frames cannot be replaced and are prone to cracking and failure after such long-term usage especially in these severe conditions. These districts will need to invoke these early replacement provisions and consideration should be given to a permanent funding set-aside to PED for replacing these buses early. Current statute already allows for the petition of early replacement however few requests have been submitted to the PED in the past. PED anticipates that many districts will be petitioning for early replacements if the replacement cycle is extended to 15 years.

Current statute requires the following actions on the part of the PED regarding contractor owned buses:

1. establish a system for the use of contractor-owned buses
2. establish a schedule for the payment of rental fees for the use of contractor-owned buses
3. establish procedures to ensure replacement of buses on a twelve-year replacement cycle
4. pay rental fees not to exceed five years
5. calculate the remaining number of years that a bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use in the event a school bus service contract is terminated or not renewed by either party
6. ensure the school district deducts an amount equal to that value from any remaining amount due on the contract, or if no balance remains on the contract, the contractor shall reimburse the school district an amount equal to the value calculated.

All contractors who have been given an approval letter from PED and have purchased a bus have done so with the understanding that they have a commitment and obligation to run that bus for 12 years. This bill may pose some legal issues if the state requires school bus contractors to run their buses for 15 years when current statute required them to run buses for only 12 years at the time they were purchased. The bill does contain an option for those contractors who purchased a

bus prior to July 1, 2011 to replace a bus on a twelve year cycle or a 15 year cycle however, no option is given to those contractors who purchased their bus after July 1, 2011. There may be legal issues for these contractors because the statute didn't require them to run the buses for 15 years at the time of purchase. There may also be some legal issues because not all contractors are given the same option to replace at 12 years or 15 years. The legislature may want to consider a phase-in for contractors and grandfather them to the 12 year replacement cycle and implement these provisions when new buses are replaced after July 1, 2018.

ADMINISTRATIVE IMPLICATIONS

The PED will be required to change the current Administrative Code provisions to align with statute. The costs of making these rule changes are not provided for in this bill.

Implementing provisions to give contractors the option to replace their buses at 12 years or at 15 years will make it difficult for the PED to submit accurate funding requests to the legislature for future bus replacements. If this bill is enacted as it currently reads the legislature may consider implementing a date that contractors must notify PED on which option they will be selecting. This will assist PED in maintaining and accurate replacement database.

Extending the maximum life of a bus will affect how PED calculates the overpayment on rental fees of a bus whenever a school bus contract is terminated or not renewed.

ALTERNATIVES

If it is the desire for the legislature to extend the life of to-and-from school buses to 15 years it may consider applying these provisions to school districts and delay these provisions for contractors until new buses are purchased after July 1, 2018 to ensure that contractor commitments are not changed midway through their original obligation. The legislature may also consider extending the replacement cycle to 15 years for all buses purchased after July 1, 2018. This will give school districts and contractors the new requirement up front and will give sufficient time to plan changes to their maintenance operations so that their school buses will last the additional three years as proposed.