

<b>LFC Requester:</b>	<b>Sunny Liu</b>
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**AGENCY BILL ANALYSIS  
2019 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:  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** 2/18/19  
**Bill No:** HB554

**Sponsor:** Rep. Cathrynn N. Brown  
SCHOOL BUS AIR  
**Short Title:** CONDITIONING & SEATBELTS

**Agency Name and Code Number:** PED-924  
**Person Writing** Daniel Manzano  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		

(Parenthesis ( ) Indicate Expenditure Decreases)

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

	<b>FY19</b>	<b>FY20</b>	<b>FY21</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		5,998.5	1,791.8	7,790.3	Recurring	GF and Capital Outlay Fund

(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-554 is adding a new section to the Public School Code to require all school buses purchased after July 1, 2019 to be equipped with air conditioning and seat belts. Air conditioning shall be required in school districts in which temperatures are regularly high enough to pose a risk to students and seat belts shall be provided however the owner or operator shall not be liable for injuries arising out of a passengers failure to use the seat belt. The new section also adds language pertaining to the maximum amount of students allowed per seat. The State Transportation Director is also required to enforce the rules and shall ensure that training for new drivers includes standard training in determining the legal capacity when loading the children to include a procedure for reporting the overload condition.

**FISCAL IMPLICATIONS**

Pursuant to 22-8-27, NMSA 1978, the Public Education Department (PED) shall provide for the replacement of school buses on a twelve-year cycle. The PED submitted a capital outlay request for \$32,900.0 million dollars through the Infrastructure Capital Improvements Plan (ICIP) process. This request includes the replacement of 387 school owned buses. This request will allow the PED to remain compliant with the statutory replacement cycle if funded in full. The request includes the replacement of 230 buses that are behind schedule and an additional 157 that are scheduled to be replaced next fiscal year. The estimate assumes the average price per bus is \$85.0 thousand dollars.

Pursuant to NMAC 6.40.2.10 air conditioning is optional equipment. Seat belts are also optional equipment. If this bill is enacted there will be an additional cost associated with all bus purchases. The average cost to add an air conditioner to a school bus is approximately \$8.0 thousand dollars. This will depend if the district chooses to install a single air conditioner or a front and rear air conditioner. The average cost to add seat belts is approximately \$7.5 thousand dollars. This will depend if the buses are equipped with standard lap belts or 3 point belts.

If this bill is enacted PED would require and additional \$5,900.0 million dollars in FY20 to meet the requirements within this bill for school owned buses. The provisions in this bill will become a recurring cost. On average the capital outlay recurring cost for district owned buses will be \$1,581.0 annually and \$210.8 thousand for contractor rental fees.

	# of Buses	Avg. Cost per bus \$85,000	Avg. Cost Air Conditioner \$8,000	Average Cost Seat belts \$7,500	Total Additional Funds Required in FY20
PED 2019 ICIP Request	387	\$ 32,895,000	\$ 3,096,000	\$ 2,902,500	\$ <b>5,998,500</b>
					Additional Annual Capital Outlay (ReCurring Cost)
Future Avg. District Owned Replacements per year	102	\$ 8,670,000	\$ 816,000	\$ 765,000	\$ <b>1,581,000</b>
					Additional Annual Rental Fees (ReCurring Cost)
Future Avg. Contractor Replacements per year	68	N/A	\$ 108,800	\$ 102,000	\$ <b>210,800</b>

Note: The graph assumes that all buses shall be equipped with seat belts and air conditioners. At this time it is difficult to determine the total fiscal impact due to the fact that rules have not been developed regarding which school districts and buses will qualify for air conditioning.

The bill does not make an appropriation.

## **SIGNIFICANT ISSUES**

Currently air conditioning is optional equipment. The state does not currently pay for this option however, when a school district or contractor replaces a school bus they have the option of keeping their current bus as a spare bus or trading the bus in. The proceeds given for the trade-in are typically used for either air conditioning or dual heaters.

It is important to note that the language in the bill does not differentiate between to-and-from school buses and activity buses. The state currently does not pay for activity buses. All activity buses are purchased by school districts. If HB-554 is enacted school districts and contractors will be required to absorb the additional cost for the installation of air conditioning and seat belts in activity buses.

It is important to note that the language in the bill does not indicate what type of seat belts are to be purchased. There is a price difference between standard lap belts and 3 point seat belts. between to-and-from school buses and activity buses.

About 25 million children are shuttled approximately 4.8 million miles to and from school each year on buses in the United States. According to the National Highway Traffic Safety Administration (NHTSA), bus crashes make up 0.6 percent of all traffic fatalities; traveling by

school bus is one of the safest modes of transportation.

School buses in the state of New Mexico are required to meet more stringent safety standards than any other type of bus or motor vehicle. Large school buses, weighing more than 10,000 pounds, are built to experience a lower crash force than passenger cars. They also have elevated seats that are situated closer together, with high, padded seat backs to absorb energy in an impact. The design of the seats is called compartmentalization.

The NHTSA has endorsed lap belts and lap-shoulder belts for school buses, with the caveat that more training is needed to ensure that the belts are used properly. However, the NHTSA still stresses that school buses are safe even without seat belts, in large part because of the protection of compartmentalization. The safety office has conducted crash testing, and based on the data, they found seatbelts have the potential to lower injuries or fatalities only in rollover crashes where ejection is more likely and if the seat belts are properly installed and used. At the Federal level, seatbelts are not required and the decision is still a local decision based on local need.

If seatbelts are required on all school buses it will be difficult for drivers to enforce. Bus drivers are required to monitor general student behavior and at the same time they have to be aware of what is happening with other motorists. The bill contains language that states the owner or operator of a school bus shall not be liable for injuries arising out of a passengers failure to use a seat belt however this bill does not address school bus liability of improper use. The bill requires seat belts on all new bus purchases however it does not require school bus passengers to buckle up. This may pose a liability issue to school districts, contractors and PED if there is a bus crash and injuries occur due to improper use of the seatbelts.

This is a complex issue with many pros and cons that also has a major funding implication. It is important that all the local policymakers are given all the essential information derived from fact-based analysis, testing data, and science before major decisions are made in changing the construction standards of school buses.

HB-554 is also adding maximum seat requirements. This language may not be necessary due to the fact that NMAC 6.40.2 (NN) already addresses this issue. Regulation currently requires the following:

In determining seating capacity of bus, allowable average rump width shall be:

- (a) 13-inches where 3-3 seating plan is used.
- (b) 15-inches where 3-2 seating plan is used.

## **ADMINISTRATIVE IMPLICATIONS**

PED will be required to amend NMAC 6.40.2 to incorporate the changes within this bill. Air conditioning will have to be changed from an option to a requirement. The PED will have to absorb the costs associated with the rulemaking process.

PED, school districts, and contractors will be required to provide training for drivers and students in the proper use of the belts and the way to get out of the belts for quick evacuation from the bus. PED will need to develop training materials for school districts to distribute annually to students and parents about the importance of the proper use of all types of passenger seat belts on school buses, "including the potential harm of not wearing a seat belt or wearing one but not adjusting it properly." PED will also have to incorporate procedures in the NMAC 6.41.1 to

require school district to have annual drills to show students how to wear seat belts properly. The cost of this is indeterminate at this time.

Currently the School Transportation Bureau within the Public Education Department (PED) consists of only 4 FTE's. It will be difficult for the Transportation Director or staff to enforce the seating requirements contained within this bill and to provide all the training to all new drivers.

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

Relates to SB-156, SB 321, HB-24 and HB-265.

## **OTHER SUBSTANTIVE ISSUES**

The State of New Mexico currently has three bus vendors in the state. These vendors work with all the school districts and contractors. The majority of school buses are ordered and are custom built according to the customer's needs. On average it takes between 3 to 6 months for a school bus to be built. However, these three vendors also have stock buses on hand that are equipped and built with the current minimum New Mexico construction standards. This helps the state to provide new school buses to school districts quicker. If this bill is enacted these dealers will not be able to sell any of the buses that they have currently in stock. This may have a major financial impact for these 3 vendors because these stock buses on the lot do not have air conditioners nor seat belts and will not be able to be sold after July 1, 2019. Approval letters from PED will not be sent out until after July 1, 2019.

## **AMENDMENTS**

The legislature may consider amending the language in the bill that states any school bus "**built**" or "**manufactured**" on or after July 1, 2019 in lieu of "**purchased**", shall be equipped with air conditioning and seat belts. This will prevent the three vendors from getting stuck with buses currently on their lots due to the enactment of this bill.

School buses can be equipped with front air conditioning, rear air conditioning or both. There are price differences associated if a bus is equipped with one or two air-conditioners. To provide clarity the legislature may consider adding language that specifies what type of air conditioner that should be added.

School buses can be equipped with regular lap belts or 3 point seat belts. There are price differences associated with both seat belts. To provide clarity the legislature may consider adding language that specifies what type of seat belts should be added.

Currently PED does not train new drivers. All new drivers are trained by School Bus Driver Instructors (SBDI's) who are trained and certified by PED. Therefore the legislature may also consider amending the language to place the burden and require school districts, contractors and/or SBDI's to be responsible for the enforcement and training of school bus drivers regarding the maximum loads per seat contained within this bill. It will be impossible for the PED to provide these trainings and enforce this requirement. There is no language regarding the training of current drivers. The legislature may also add language that encompasses current drivers must also be trained.