LFC Requester:	Sunny Liu

AGENCY BILL ANALYSIS
2019 REGULAR SESSION

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{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** X

Date 3/4/19
Bill No: HB265HTPWC

Sponsor: House Transportation, Public Works and Capital Improvements Committee
Short Title: SEAT BELTS IN SCHOOL BUSES

Agency Name and Code Number: PED-924
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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)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected

(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: The House Education Committee Substitute for HB-265 amends the Public School Code to require that all school buses of a model year 2020 or subsequent year purchased on or after July 1, 2020 to be equipped with air conditioners, collision avoidance systems, seat belts, and stability control systems.

This bill is also adding maximum seat requirements. No bus shall exceed three students per seat when the combined seated width of those students is more than the actual width of the seat and shall exceed two students per seat when the combined seated width of those students is more than the actual width of the seat.

The bill also adds language to clarify that no rule established by PED shall place any additional responsibility on the bus driver other than the driver having to make a good faith effort that the students are using the seat belts.

The bill also has clean-up changes throughout the bill. The following words are changed: "regulations" is changed to "rules", "state board" is changed to "department", "him" is changed to "the officer or employer" and "person" is changed "contractor".

The effective date on this bill is July 1, 2020.

FISCAL IMPLICATIONS

It is important to note that there are only three bus vendors in the state of New Mexico. At this time **only one of the vendors** has the ability and technology to add the collision avoidance system to a school bus. The PED is scheduled to replace approximately 500 buses in the next fiscal year. If this language is not amended only one of the bus vendors will be able to sell buses in FY20. This will create an unfair advantage to one vendor and eliminate choices for school districts and contractors to purchase different types of buses. The estimated cost of the collision avoidance system is approximately $2.3 thousand dollars per bus. This is an additional cost of $1,100.0 million dollars that will be needed to replace approximately 500 buses and will be an addition to the cost of adding the air conditioners and seat belts.

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 $32.9 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 thousand dollars.

The estimated cost for a single unit air conditioner is approximately $6.5 thousand dollars and a dual unit is approximately $11.5 thousand dollars. To retrofit existing buses with air conditioning the cost will be approximately $9.4 thousand dollars for a single unit and a dual air conditioning system is approximately $17.0 thousand dollars. The provisions within this bill will be recurring. **At this time it is difficult to determine the fiscal impact due to the fact that rules have not been promulgated regarding which school districts and buses will qualify for air conditioning.** The bill does not contain an appropriation and this will become a recurring cost in the future. This bill does not specify if the requirement is for single unit air conditioners or dual unit air conditioners. There is a $5.0 thousand dollar price difference.

The additional cost to install 3 point seat belts on a regular 71 passenger school bus is approximately $7,500. If this bill is enacted PED would require and additional $2.9 million dollars in FY20 to meet the requirements within this bill. To replace all of the 387 buses mentioned above, the PED capital outlay request will need to be $35.8 million dollars. If the state remains on schedule and replaces buses according to the replacements schedule approximately 170 buses should be replaced annually. This would equate to an additional $637.5 thousand dollars annually that would be needed in capital outlay funds for the purchase of district owned buses. This would also cost an additional $127.5 thousand dollars in additional rental fees to contractors for the replacement of contractor buses.

SIGNIFICANT ISSUES

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 or monitor. The capacity of many buses is 71 passengers. 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. This bill does not address school bus driver liability, nor does it 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 or if the seatbelts are not used at all.

This bill 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. The PED will have to absorb the costs associated with the rulemaking process.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB-156, SB-321 and HB-554.

TECHNICAL ISSUES

The effective date on this bill is July 1, 2020. If it is the intent of the Legislature for the provisions in this bill to be effective in FY20 the Legislature may consider amending the effective date.

AMENDMENTS

The Legislature may consider amending language in the bill that states that makes the collision avoidance system optional equipment. Again, it is important to note that there are only three bus vendors in the state of New Mexico. At this **time only one of the vendors** has the ability and technology to add the collision avoidance system to a school bus.