

<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*

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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**   

**Date** 3/11/19  
**Bill No:** SB321SFC

**Sponsor:** Sen. Steinborn, Sen. Ferrary  
**Short**    SCHOOL BUS AIR  
**Title:**    CONDITIONERS

**Agency Name and Code**  
**Number:**    924 PED  
**Person Writing**    Daniel Manzano  
**Phone:** 505-670-3820    **Email** Daniel.Manzano@state.nm.us

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
	See fiscal impact	Recurring	Capital Outlay Fund
	See fiscal impact	Recurring	General Fund

(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>						

(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 of Senate Finance Committee Amendment: The committee substitute requires all buses purchased after July 1, 2019 to be equipped with air conditioners. The amendment changes the date from July 1, 2019 to July 1, 2020. The bill also strikes the appropriation and the emergency clause in the bill. The amendments fix a substantive issue and one of the proposed amendments that was raised in the substitute bill. The three vendors will now have ample time to sell all stock buses that do not have air conditioners prior to the July 1, 2020 deadline. This will also give PED more time to promulgate rules for the addition of the air conditioners to the school bus construction standards.

However, provisions in the bill still require the PED Transportation Director or staff to enforce the seating requirements contained within this bill and to provide all the training to all new drivers. Currently the School Transportation Bureau within the PED consists of only 4 FTE's. Therefore it will be impossible for the PED to provide these trainings and enforce this requirement. Also, 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 responsibility to 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

Synopsis: Senate Education Committee Substitute for SB-321 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 if they are operated in school districts which temperatures are regularly high enough to pose a risk to students riding in a school bus without air conditioning. School districts and bus contractors may request funds from the department to purchase or retrofit buses with air conditioning. The new section also adds language pertaining to the maximum amount of students allowed per seat. The Public Education Department is also required to 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.

The bill appropriates \$1,500.0 from the general fund to PED to purchase buses with air conditioning systems and to install air conditioning systems on buses already in use.

#### **FISCAL IMPLICATIONS**

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 contains an appropriation for FY19 and FY20 however 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.

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. PED will also be replacing one hundred additional buses from the G.O.B. that was recently passed in the 2018 General election along with the VW settlement funds that were recently awarded to the department. 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. 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 \$9.0 dollars. This will depend if the district chooses to install a single air conditioner or a front and rear air conditioner.

If the desire is to place air conditioners on all school buses PED would require an additional \$3,500.0 million dollars in the FY20 request to meet the requirements within this bill for school owned buses. To replace all of the 387 buses mentioned above, the PED capital outlay request will need to be increased to \$36,400.0 million dollars. The state would also need an additional 900.0 thousand to install air conditioners on the additional 100 buses that are slated to be replaced with G.O.B. and VW settlement funds. If the state remains on schedule and replaces buses according to the replacements schedule approximately 102 school-owned buses should be replaced annually. This would equate to an additional \$918.0 dollars annually that would be needed in capital outlay funds for the purchase of district owned buses. The state also replaces approximately 68 contractor buses annually. This would also cost an additional \$122.4 dollars in additional rental fees to contractors for the replacement of contractor buses that is paid from the transportation allocation funded through the Public School Support allocation. On average this will be a total recurring cost of approximately \$1,040.0 annually.

## **SIGNIFICANT ISSUES**

This bill states that contractors may request funds from the department to retrofit school buses with air conditioning however this may not be possible and may violate the anti-donation within the New Mexico Constitution.

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 the bill is enacted school districts and contractors will be required to absorb the additional cost for the installation of air conditioning in activity buses.

SB-321 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. PED shall develop rules and determine which districts qualify for air conditioned buses if the buses are operated in districts in which temperatures are regularly high enough to pose a risk to students riding in a school bus without air conditioning. This language is very vague and may be difficult for PED to determine which school districts would qualify.

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. However, 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 and HB-265 which are proposing that seat belts be required in all school buses purchased after July 1, 2019.

### **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 district quicker. If this bill is enacted these dealers will not be able to sell any of the buses that they have currently in stock because they are not equipped with air conditioning. This may have a major financial impact for these 3 vendors because these stock buses on the lot do not have air conditioners 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.

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

School district and contractors will continue to purchase air conditioners with other funds if they choose to purchase this option.

## **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. 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 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 responsibility to 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.