

LFC Requester:	Iglesias
-----------------------	-----------------

**AGENCY BILL ANALYSIS
2021 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:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 2/16/2021
Bill No: SB307

Sponsor: Pete Campos
Short Title: DAILY SCHOOL BUS DRIVER SALARIES

Agency Name and Code PED-924
Number: _____
Person Writing John Sena
Phone: 505-570-7816 **Email** John.Sena@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	Indeterminate	Indeterminate	Indeterminate	Recurring	Transportation 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: Senate Bill 307 (SB307) proposes to add a new section to the public school code that requires school districts, charter schools, and contractors to pay a school bus driver \$150 per day each day a driver performs school bus driving services. The bill requires that the mandated salary requirement of this bill be included in school bus service contracts.

SB307 also adds language to require school districts and charter schools to pay school bus contractors the appropriate gross receipts tax on payments that contractors receive for other contract services that do not include the salaries mandated in this bill.

FISCAL IMPLICATIONS

This bill appears to be aimed at increasing the salaries of school bus drivers statewide. The Public Education Department (PED) submitted the FY22 transportation request based on FY20 expenditures which included FY20 salaries. The amount requested in the Public School Support Request may need to be adjusted to reflect the increases contained in this bill. However, the amount is indeterminate at this time. Research will need to take place in order to obtain an accurate figure of the estimated amount of the fiscal impact due to the fact that school bus drivers are paid differently throughout the state. Therefore, the impact is indeterminate at this time and may potentially lead to an unfunded mandate.

This bill does not contain an appropriation.

SIGNIFICANT ISSUES

Pursuant to 22-16-4 NMSA 1978, school bus routes are established by the local school district. Bus routes are based on the needs of each individual school district and vary vastly throughout the state. The time, distance, and number of students on each route are different and unique. Provisions within this bill may cause some inequities. According to SB307, all school bus drivers would receive \$150 per day no matter how many hours they may work, and all bus drivers would receive the same amount of compensation even if they have shorter routes or numbers of hours worked in comparison to other drivers. This bill does not specify if the \$150 minimum salary is for to-and-from transportation only or if it includes activity bus drivers.

New Mexico Administrative Code 6.43.2.8 allows local school boards and contractors to negotiate school bus contract amounts annually on forms approved by the PED. This bill

requires that the mandated salary provision be included in the school bus service contract. Due to the fact that the contract forms are established in regulation, the NMAC will need to be revised to include this provision.

Currently, the amount of a school bus contract is negotiated and shall include the recognition of fuel costs, operation and maintenance costs, and salary costs. Additionally, school bus contractors can negotiate the appropriate amount of gross receipts tax within their contracts and pass the cost on to school districts and charter schools just like other businesses. They can also include this amount in the operation and maintenance portion of their contracts. Therefore, language in this bill pertaining to gross receipts tax may not be necessary.

ADMINISTRATIVE IMPLICATIONS

PED will be required to amend NMAC 6.43.2 to incorporate the changes within this bill and absorb the costs associated with the rulemaking process.

TECHNICAL ISSUES

Section B requires PED to ensure distributions include the salary requirements of this bill. A school districts and charter schools transportation allocation is calculated using a statutory formula that includes the total miles, total number of students, and total number of school buses used on the 80th and 120th reporting dates. The amount of distribution payments is solely based on this data. PED does not have the ability to change the distributed payment amounts to ensure the appropriate amounts are distributed to cover the salary provisions of this bill. It will be the responsibility of school districts and charter schools to manage their school bus operations with their allocated funds to cover the mandated salaries of this bill.

Should the intent be to include salaries in the distribution formula, sections 22-8-29 and 22-8-29.1 NMSA 1978 would also need to be amended for the PED to collect the appropriate data and adjust the current formula.

OTHER SUBSTANTIVE ISSUES

Current school bus contractors are independent entities that are responsible for hiring their own drivers. SB307 mandates school bus contractors to pay the \$150 per day minimum salary. This may pose some legal issues as the state would be imposing a salary mandate on a private entity that is above the Federal and State minimum wage.

If this bill is enacted the Legislature may have to periodically update and amend this section of statute as the cost of inflation rises in future years.

ALTERNATIVES

AMENDMENTS

None as of 2/16/2021