

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Lopez ORIGINAL DATE 1/21/18  
 LAST UPDATED 2/12/18 HM \_\_\_\_\_

SHORT TITLE VW Settlement Funds for Electric School Buses SM 112

ANALYST Liu

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
	See Fiscal Implications	Nonrecurring	Volkswagen Trust Settlement Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HJM 6  
 Relates to HB 86, SB 94

### SOURCES OF INFORMATION

LFC Files

#### No Responses Received From

- Department of Environment (NMED)
- Department of Health (DOH)
- Department of Transportation (DOT)
- Energy, Minerals and Natural Resources Department (EMNRD)
- Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

Senate Memorial 112 requests the governor to use the Volkswagen trust settlement fund for the purchase of electric school buses.

### FISCAL IMPLICATIONS

The memorial does not contain an appropriation, but requests the governor to use the Volkswagen trust settlement fund for the purchase of electric school buses. New Mexico is entitled to about \$18 million from a settlement with Volkswagen, to replace eligible vehicles with more fuel-efficient alternatives. By statute, school buses must be replaced every 12 years unless an alternative replacement schedule is approved by PED.

For FY19, PED requested \$27.1 million in capital outlay appropriations to replace 319 school buses, including 201 buses that are beyond their 12-year replacement cycle. In prior analyses, PED has indicated the average cost of a new diesel bus to be about \$85 thousand. The estimated cost of an electric bus is between \$225 thousand to \$260 thousand, about three times that of a diesel bus; however, long-term operational and maintenance costs are typically lower for electric buses.

The FY19 LFC capital outlay framework for 2018 includes \$6 million for school bus replacements, comprised of \$2 million from general obligation bond capacity and \$4 million from the Volkswagen trust settlement fund (See FY19 LFC Volume 3, page 152).

In 2017, the Public School Facilities Authority indicated about \$31.4 million was appropriated from the public school capital outlay fund (PSCOF) to replace school buses during the previous five fiscal years. Using the Volkswagen trust settlement fund may alleviate pressure to use general fund, PSCOF, or other capital outlay appropriations for school bus replacement.

## **SIGNIFICANT ISSUES**

On September 25, 2016, a partial consent decree in the lawsuit entitled *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Product Liability Litigation* was finalized. The lawsuit addressed Volkswagen’s admission of purposely, and over a sustained period of time, employing prohibited emissions defeat devices on their diesel passenger vehicles that resulted in excess emissions of nitrogen oxides (NOx). Under the consent decree, New Mexico is eligible to receive over \$18 million to implement projects that reduce emissions of NOx from vehicles. Eligible mitigation projects include projects that reduce NOx emissions in freight trucks; school, shuttle, or transit buses; ferries and tugs; forklifts; electric or hydrogen vehicle charging stations; and airport ground support equipment.

Proceeds of the settlement can be used to provide reimbursements to replace or repower older class 4-8 trucks or buses. Eligible buses include class 4-8 school buses with a 2009 engine model year or older. New Mexico school buses with 2010-2012 engine model years may also qualify due to state regulations requiring upgrades to older model years. Funding is contingent upon scrapping or repowering the older bus. For buses owned by governmental entities, funding is authorized at up to 100 percent of the cost of a new replacement bus or repowered engine regardless of the technology type. For buses owned by non-governmental entities, the funding is up to:

- 25 percent of the cost of a new diesel or alternate-fueled bus;
- 40 percent of the cost of repowering the bus with a new diesel or alternate-fuel engine; or
- 75 percent of the cost of replacing or repowering the bus with electric vehicle technology.

## **ADMINISTRATIVE IMPLICATIONS**

The New Mexico Volkswagen settlement team, a group responsible for developing an application process for the settlement proceeds, is led by NMED and includes DOT, EMNRD, and PED. PED indicated the department would make a funding request to the team for school bus replacement funding. However, a timeline has not been set for the application process, and the settlement proceeds are likely to be phased in over the next three years rather than becoming immediately available. Funding requests must be accompanied by a spending plan that includes a detailed description of mitigation actions, estimate of nitrous oxide reductions, project

management plan, detail of cost estimates, description of any cost sharing, and description of the impact on communities that have been disproportionately affected by nitrous oxide emissions.

**RELATIONSHIP**

This bill duplicates House Joint Memorial 6. This bill relates to House Bill 86, which changes the school bus replacement cycle, and Senate Bill 94, which appropriates \$2 million to PED for school bus acquisitions.

**OTHER SUBSTANTIVE ISSUES**

According to the U.S. Environmental Protection Agency, newer diesel engines operate more cleanly than in the past, but many older diesel engines that emit far more air pollution are still on the road. Diesel emissions contain numerous pollutants, including soot, nitrogen oxides, and carbon monoxide, that adversely affect cardiovascular and respiratory health. Diesel exhaust is carcinogenic to humans and classified as a Group 1 carcinogen by the International Agency for Research on Cancer. The American Journal of Respiratory and Critical Care Medicine published a study in 2015 which found diesel soot from school buses has also been associated with reduced lung function and increased incidences of pneumonia in children.

SL/al