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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number HB265/HTPWCS **Sponsor** HTPWC

Tracking Number .214278.2 **Committee Referrals** HEC/HTPWC; SEC/SFC

Short Title Seat Belts in School Buses

Analyst Bedeaux **Original Date** 1/29/19
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BILL SUMMARY

Synopsis of Bill

The House Transportation, Public Works, and Capital Improvements Committee Substitute for HB265 (HB265/HTPWCS) would require the Public Education Department (PED) to adopt rules that require all school buses of model year 2020 or later be equipped with seat belts for all passengers, electronic stability control (ESC), and collision avoidance systems (CAS), and air conditioning systems if they are operated in a school district that regularly experiences temperatures that would pose a risk to students riding in school buses without air conditioning. The bill also places seat capacity requirements on school districts and school bus contractors, allowing two or three students per seat only when the students' combined seated width is not more than the actual width of the seat. The bill qualifies that school bus drivers would not be guilty of a misdemeanor as long as they make "a good faith effort" to ensure students use seat belts.

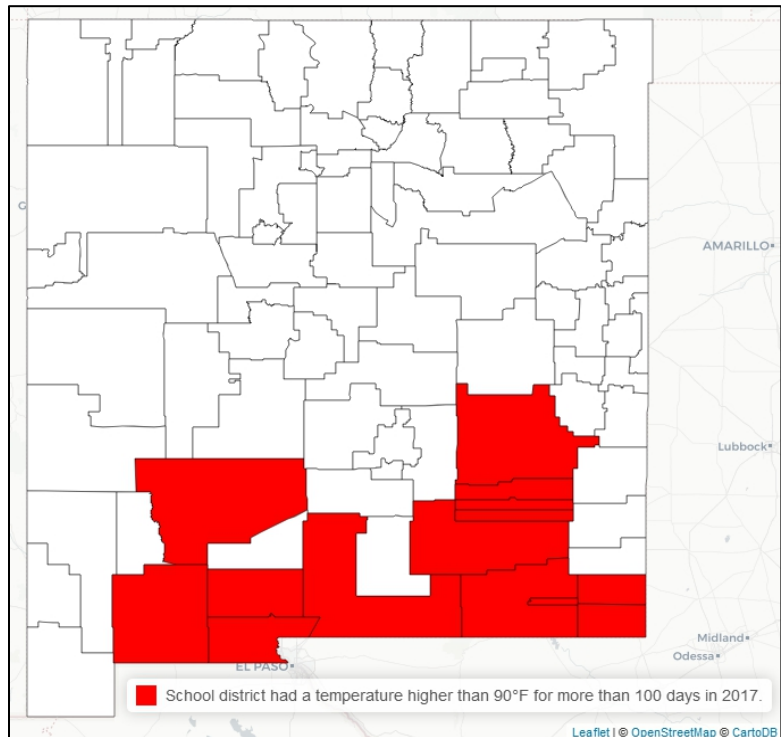
FISCAL IMPACT

New Mexico funds school bus replacements using a non-recurring appropriation and the number of buses replaced per year is based on how much the Legislature appropriates for that specific purpose. The House Appropriations and Finance Committee Substitute for HB2 (HB2/HAFCS) includes \$32.9 million from the Public School Capital Outlay Fund for the replacement of school district-owned buses in FY20. Funds for the replacement of school buses in FY21 will be appropriated by the 2020 Legislature.

PED staff estimates a school bus without seatbelts or air conditioning costs \$85 thousand. PED further estimates school buses with seatbelts and CAS will cost \$95 thousand per bus, and school buses with seat belts, CAS, and an air conditioning system will cost \$103 thousand. It is unclear how ESC impacts these cost estimates, but PED staff noted ESC will likely be standard on all school buses within five years.

The fiscal impact of HB265/HTPWCS depends on standards PED will be required to adopt to determine which school districts are regularly hot enough to pose a risk to students if school buses do not have air conditioning. The National Oceanic and Atmospheric Administration (NOAA)

publishes temperature data for every weather station in New Mexico and makes that data readily available to the public. As an example of a standard the department could set using this data, weather stations in 14 school districts showed the school district had a temperature above 90°F for more than 100 days in 2017 (highlighted in red on the map to the right). If PED used these criteria to determine which school districts are required to purchase school buses with air conditioners, the cost of new school-district owned buses in FY20 would be approximately \$515 thousand for five new school buses with air conditioning, seat belts, CAS, and ESC.



After buses with air conditioning and seatbelts are purchased, the remaining \$32.4 million included in HB2/HAFCS would cover the cost of 340 school buses with seatbelts, CAS, and ESC. However, PED analysis notes 387 school buses are due for replacement in FY20.

HB265/HTPWCS would also impact school bus rental fees for school bus contractors, but this impact is difficult to project. The increase in rental fees for school bus contractors in those school districts would range from \$3,300 to \$3,600 per bus depending on whether buses replaced are required to have air conditioning. With contractors in hotter-than-average districts (using the above methodology) scheduled to replace 30 buses, and other contractors scheduled to replace 22 buses, HB265/HTPWCS will require approximately \$180 thousand to cover the increased cost of school bus rental fees in the public school support budget in FY20. This increase will recur and compound annually as a greater number of contractor-owned buses are replaced.

SUBSTANTIVE ISSUES

The National Highway Traffic Safety Administration (NHTSA) regards school buses as the safest form of school transportation. School bus fatalities are exceedingly rare. According to the US Census, motor vehicle accidents cause approximately 40 thousand fatalities per year. The NHTSA Center for Statistics and Analysis reports that, between 2006 and 2015, the average number of occupant fatalities in school transportation-related crashes per year was 11 (0.0003 percent of total motor vehicle fatalities), and the average number of pedestrian fatalities in school transportation-related crashes per year was 22 (0.0006 percent of total pedestrian fatalities).

According to NHTSA Fatality Analysis Reporting System data, since 2010, New Mexico has had two school bus-related crashes, both of which occurred in 2013. One involved a brand new bus and two semi-trucks; while the driver of the bus was killed, there were no children on board at the time of the crash. The second was a bus that veered off the road carrying children. The 69-year-

old driver was killed, and nine children sustained injuries. Authorities believe the driver was going 10 to 15 miles per hour over the speed limit at the time of the crash.

ESC systems are systems designed to help drivers maintain control during emergency steering maneuvers. According to the NHTSA, an ESC system will detect when a driver attempts an extreme steering maneuver and engages to keep the driver moving in the intended direction and prevent common mistakes like over-correcting. ESC systems are currently required on all U.S. passenger vehicles under 10 thousand pounds, and according to a 2019 fact book from School Bus Fleet, are becoming increasingly prevalent in school buses. CAS are systems designed to alert drivers of imminent threats and, in some cases, automatically brake or steer to avoid danger. The National Transportation Safety Board completed an investigation of several high-profile school bus crashes and concluded that ESC and CAS would have mitigated a large amount of the damage and loss of life in those cases.

ADMINISTRATIVE IMPLICATIONS

HB265/HTPWCS would require PED to promulgate rules requiring all school buses purchased on or after January 1, 2020, to be equipped with seatbelts for all passengers, ESC, and CAS. The rules would need to apply to both school district-owned and contractor-owned school buses.

PED would be required to promulgate rules to define which school districts are required to purchase buses with air conditioning.

It is unclear how the changes to school bus capacity will affect school districts, or whether school buses are currently seating more than three students per seat due to capacity issues. Creating a law regulating students' combined seat width could create a burden on school districts and school bus contractors to measure the width of students on school buses nearing capacity. If school districts or school bus contractors are currently overloading buses, HB265/HTPWCS may require school districts and school bus contractors to reevaluate school bus routes to ensure the bill's seating requirements are being met, and potentially add more buses if capacity is exceeded.

PED staff notes buses to be purchased in FY20 have likely already been constructed based on current construction standards. To make buses from New Mexico dealers eligible for purchase, the dealers will need to retrofit the buses with seat belts and electronic safety systems. Retrofitting school buses with equipment and systems can be significantly more expensive, though it is unclear by how much. PED staff recommended amending the bill to apply to school buses manufactured after the effective date.

OTHER SIGNIFICANT ISSUES

According to the National Conference of State Legislatures, only eight states require seat belts on full-size school buses: Arkansas, California, Florida, Louisiana, Nevada, New York, New Jersey, and Texas. The laws in Arkansas, Louisiana, and Texas, however, are contingent on appropriations and subject to approval or denial by the local school districts.

TECHNICAL ISSUES

HB265/HTPWCS would create a conflict between the Public School Code and the Motor Vehicle Code. As written, the bill would make any driver who fails to make a good faith effort to ensure students are wearing seat belts guilty of a misdemeanor and subject to removal from employment.

However, the Motor Vehicle Code at section 66-7-369 NMSA 1978 specifically exempts school buses from a provision of law requiring children to wear seat belts in vehicles. The sponsor may wish to add another section to the bill removing school buses as a class of vehicle in which children need not wear seat belts.

RELATED BILLS

Related to HB24, Monitoring for School Bus Illegal Passes, which would require every school bus to be equipped with a camera to record license plates of drivers who illegally pass the school bus.

Substantively duplicates SB156, School Bus Seat Belts, which would become effective July 1, 2019, and appropriates \$8.5 million for the purchase of school buses with seat belts.

Related to *SB321/SECS, School Bus Air Conditioners, which would require school buses operated in hotter-than-average school buses to be equipped with air conditioning and would create new provisions for school bus seating arrangements.

SOURCES OF INFORMATION

- LESC Files
- Public Education Department (PED)

TB/mc/mhg