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FISCAL IMPACT REPORT

Chatfield/ Rehm/
 Trujillo, CH/
SPONSOR Herrera **ORIGINAL DATE** 1/31/19
LAST UPDATED 2/25/19 **HB** 265/aHEC

SHORT TITLE Seat Belts in School Buses **SB** _____

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
School District Buses		\$0.0 - \$4,309.5	\$1,486.0 - \$1,919.7	\$1,486.0 - \$6,229.1	Recurring	General Fund or Capital Outlay Funds
Contractor Rental Fees		\$0.0 - \$164.5	\$159.7 - \$206.3	\$159.7 - \$370.9	Recurring	General Fund
Total		\$0.0 - \$4,474.0	\$1,645.7 - \$2,126.0	\$1,645.7 - \$6,600.0	Recurring	General Fund or Capital Outlay Funds

(Parenthesis () Indicate Expenditure Decreases)

Conflicts with SB 156
 Relates to SB 321, SB 580, HB 510, HB 554

SOURCES OF INFORMATION

LFC Files
 Legislative Education Study Committee (LESC) Files
 National Conference of State Legislatures (NCSL) Files

Responses Received From
 Public Education Department (PED)
 Regional Education Cooperatives (REC)

SUMMARY

Synopsis of HEC Amendment

The House Education Committee amendment to House Bill 265 clarifies that only buses from model year 2020 and subsequent model years must be equipped with seat belts for all passengers, stability control systems, and collision avoidance systems. The amendment also limits school bus drivers to a good faith effort standard for ensuring that school children use seat belts and makes a technical correction relating to contractors.

Synopsis of Original Bill

House Bill 265 amends the Public School Code to require all school buses purchased on or after January 1, 2020, used for the transportation of school children to be equipped with seat belts for all passengers, stability control systems, and collision avoidance systems.

FISCAL IMPLICATIONS

The bill does not make an appropriation. Current law requires school buses to be replaced every 12 years. According to the latest PED data, approximately 330 school district buses and 63 contractor-owned buses are currently due or behind schedule for replacement. In prior analyses, PED indicated the cost of a school bus to be about \$85 thousand, and, according to a 2015 National Highway Traffic Safety Administration (NHTSA) estimate, costs to install seat belts in a school bus could range between \$7,346 and \$10,296, and costs to install electronic stability control systems (ESC) would be about \$463. PED estimates the costs of installing three-point seat belts on a regular 71-passenger school bus would be approximately \$7,500 and costs for a collision avoidance system (CAS) would be \$2,300. PED notes ESC will likely be a standard on school buses within 5 years; however, CAS are still considered optional equipment.

Altogether, costs to install seat belts, ESC, and CAS could be between \$10 thousand and \$13 thousand per school district bus. Contractor-owned buses are amortized over a 5-year period based on their purchase price, which is reflected in rental fees paid through the transportation distribution. LESC notes increasing the initial cost of school buses would impact rental fees paid to contractors by approximately \$2,350 per bus per year.

PED estimates the total cost to replace 387 school buses would amount to \$35.8 million in FY20, and the executive and LFC FY20 recommendations include \$32.9 million to cover these replacements. The remaining cost of replacement is anticipated to come from the Volkswagen settlement fund. The incremental costs of retrofitting 387 buses with seat belts, ESC, and CAS could be up to \$5 million.

Bus Model Year	School District Buses	Contractor Buses
2000 - 2007	330	63
2008	147	79
2009	96	102
2010	34	158
2011	27	40
2012	17	56
2013	55	75
2014	134	134
2015	57	47
2016	111	115

Source: PED

Starting in FY20, about 330 school district buses and 63 contractor-owned buses would be scheduled for replacement and potentially need seat belts, ESC, and CAS installed. The incremental costs of retrofitting 330 school district buses could be up to \$4.3 million and rental fees could increase up to \$164.5 thousand. **The HEC amendment requires buses from model year 2020 to meet new seat belt, ESC, and CAS criteria; however, model year 2019 school**

buses purchased in FY20 would be exempt from this requirement. In such cases, no additional operating budget impact would be noted.

Starting in FY21, about 147 school district buses and 79 contractor-owned buses would be scheduled for replacement and need seat belts, ESC, and CAS installed (assuming 330 school district buses and 63 contractor-owned buses are replaced in FY20). As such, the incremental costs of retrofitting 147 school district buses could be up to \$1.9 million and rental fees could increase up to \$206.3 thousand. The state would incur these additional costs each year when replacing school buses. PED notes if the state remains on schedule and replaces buses according to the replacement schedule, approximately 170 buses should be replaced annually.

SIGNIFICANT ISSUES

School buses are equipped with more safety equipment and must adhere to stricter standards than any other vehicle on the road. Buses are designed to protect passengers through “compartmentalization,” which includes closely spaced seats and high, energy-absorbing seat backs. The National Transportation Safety Board (NTSB) and the National Academy of Sciences confirmed the effectiveness of this design in studies of frontal and rear impacts. Concerns have been raised, however, about the effectiveness of compartmentalization in side-impact crashes. The NTSB concluded that “current compartmentalization is incomplete in that it does not protect school bus passengers during lateral impacts with vehicles of large mass and in rollovers, because in such accidents, passengers do not always remain completely within the seating compartment.” According to NHTSA, on average six student passengers die in school bus crashes each year, compared to approximately 2,000 children who are killed in motor vehicle crashes annually.

Federal regulations define two types of seat belts for school buses: lap belts and three-point belts. Lap belts are similar to belts on airplane seats that go across the passenger’s lap and are adjustable. Three-point belts are similar to belts in vehicles today, with the belt going over the shoulder and across the body, in addition to across the lap. NHTSA published a rule in 2008 increasing the minimum seat back height, requiring installation of lap/shoulder belts on small school buses, and establishing performance criteria for seat belts installed voluntarily on large buses.

NHTSA brought together student transportation stakeholders in July 2015 to discuss school bus safety, including seat belts. NHTSA Administrator Mark Rosekind announced in November 2015 that “NHTSA’s policy is that every child on every school bus should have a three-point seat belt” and that the administration would work toward achieving that goal. While it is not a new rule created by the administration, this announcement has prompted increased discussion on the topic.

In 2018, NTSB recommended to states that all new large school buses be equipped with both lap and shoulder seatbelts. NTSB also recommended requiring collision-avoidance systems and automatic emergency brakes on new buses. The recommendations are not binding on government agencies or the transportation industry.

PED notes 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 thousand 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 most recent reported school bus accident in New Mexico involved an overturned school bus south of Carlsbad on January 23, 2019. No major injuries were reported. On November 15, 2018, two adults and 10 students were injured after a school bus in Albuquerque collided with a truck. On April 8, 2013, a bus driver was killed and two students were seriously injured north of Espanola when the school bus suddenly left the roadway and traveled down a 30-foot embankment.

ADMINISTRATIVE IMPLICATIONS

The bill would require the state transportation director to enforce rules seat belts in school buses. PED notes it will be difficult for drivers to enforce seatbelt use on buses. 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. **The HEC amendment establishes a good faith effort standard for this issue.**

PED will be required to amend NMAC 6.40.2 to incorporate the changes within this bill and absorb the costs associated with the rulemaking process.

PED, school districts, and contractors will be required to provide training for drivers and students in the proper use of the belts and the way to get out of the belts for quick evacuation from the bus. PED will need to develop training materials for school districts to distribute annually to students and parents about the importance of the proper use of all types of passenger seat belts on school buses, "including the potential harm of not wearing a seat belt or wearing one but not adjusting it properly." PED will also have to incorporate procedures in the NMAC 6.41.1 to require school district to have annual drills to show students how to wear seat belts properly.

RELATIONSHIP

This bill relates to Senate Bill 321, which requires all school buses purchased on or after July 1, 2019, to be equipped with air conditioners and the state transportation director to promulgate and enforce rules about seat capacity in school buses; Senate Bill 580, which establishes a daily salary rate for school bus drivers; and House Bill 510, which requires school bus attendants for students with disabilities.

This bill conflicts with Senate Bill 156 and House Bill 554, which require seat belts on all school buses purchased on or after July 1, 2019. Senate Bill 156 further appropriates \$8.5 million for seat belts, and House Bill 554 further requires school buses in districts with regularly high temperatures to install air conditioning.

OTHER SUBSTANTIVE ISSUES

According to PED, 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 months and 6 months for a school bus to be built. However, these three vendors have stock buses on hand that are equipped and built with the current minimum New Mexico bus standards. PED notes provisions of this bill will prevent these vendors from selling any of the buses currently in stock without retrofitting them with seat belts and an ESC. Additionally, only one of the vendors currently has the ability to add a CAS to a school bus.

According to NCSL, eight states (Arkansas, California, Florida, Louisiana, Nevada, New Jersey, New York and Texas) have laws requiring the installation of seat belts on school buses. Arkansas, Louisiana and Texas' laws, however, are subject to appropriations or approval or denial by local jurisdictions.

New York, the first state to require seat belts in all buses, requires lap belts on all buses manufactured after July 1, 1987, but state policy allows individual school boards to determine whether students must use the belts. California requires three-point seat belts on all school buses manufactured after July 1, 2005, and New Jersey requires lap belts on all school buses.

Florida requires all school buses purchased after December 31, 2000, be equipped with seat belts, but does not specify whether they must be lap belts or three-point seat belts. The law requires that students who are riding on a bus equipped with seat belts must wear the belts and provides immunity from liability for injuries if the student was not wearing the seat belt. Buses transporting elementary school students were prioritized to have seat belts installed.

Louisiana and Texas both require school buses to be equipped with seat belts, with Texas specifically requiring three-point seat belts. However, both laws are subject to appropriation for the purchase of such buses and both states have not provided the necessary funding to trigger these requirements. Connecticut created a program in 2010 to provide funding to school districts to help pay sales taxes on school buses equipped with three-point seat belts. School districts using school buses equipped with seat belts are required to provide written notice to parents about the availability and proper use of the belts, as well as instruct students on their use. The law also specifies that schools are not liable for injuries resulting from students' use or misuse of a seat belt.

In Alabama, the Governor's Study Group on School Bus Seat Belts and the state department of education requested a pilot program to be conducted by the University of Alabama. The Legislature allocated \$1.4 million and 12 buses with seat belts were purchased for 10 local school districts. The results of the program, published in a study in October 2010, concluded that seat belts would make school buses safer, but also found that the costs of implementing a program would be greater than the benefits.

Some school districts have reported improved student behavior on school buses with seat belts, with the Bartholomew Consolidated School Corporation of Columbus, Indiana, experiencing 90 percent to 95 percent fewer write-ups for misbehaving students.

SL/gb/sb