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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/22/13

SPONSOR Anderson/Martinez R. LAST UPDATED 03/11/13 HB 591/aHTPWC/aHEC

SHORT TITLE School Zone Posting SB \_\_\_\_\_

ANALYST Soderquist

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		~\$3,625.0	~\$275.0	~\$3,900.0	Recurring ~\$275.0/year	State Road Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Transportation (NMDOT)

Department of Public Safety (DPS)

Public Education Department (PED)

### SUMMARY

#### Synopsis of HEC Amendment

The House Education Committee (HEC) amendment to House Bill 591: 1) inserts the phrase “as school zones” after the word “designate” on page 2, line 8 and; 2) strikes the remainder of the line after the word “street” and inserts in its place the phrase “on which access points to a public elementary school, where students enter or exit the school site or where students are dropped off at or picked up from the school site, are located”.

According to the response from the NMDOT, the HEC amendment mitigates the requirement in the original legislation that the NMDOT designate and install school zones on highways and streets not within the NMDOT’s jurisdiction. However, while limiting the designation requirement to public elementary schools, the amendment still requires that school zones be designated on streets where children are dropped off and picked up or there is access a public school site. The response notes that these designations are required by the proposed legislation as amended without regard to accepted traffic engineering standards or practices, including agreements between the NMDOT and local government entities designed to reduce potentially dangerous interaction between pedestrians and vehicles, including school buses. The NMDOT response expresses concerns that public safety could be negatively impacted.

As a consequence, the NMDOT suggests an amendment that allows greater cooperation between the NMDOT and local authorities in the placement of school zones consistent with accepted traffic engineering standards and practices and specific community needs.

The HEC amendment reduces the costs associated with House Bill 591 as introduced and amended by the House Transportation and Public Works Committee (HTPWC). However, according to the NMDOT, the amendment would require one additional school zone at each elementary school, totaling 125 new school zones. Further, there is a potential to add another 21 school zones adjacent to roadways under the NMDOT jurisdiction that do not currently exist. The NMDOT estimates the cost associated with the installation of school zones to be \$3.6 million and annual maintenance costs to be \$554.4 thousand, an increase of \$275.0 thousand above annual maintenance costs. This difference is reflected in the Estimated Additional Operating Budget Impact table above.

#### Synopsis of HTPWC Amendment

The House Transportation and Public Works Committee (HTPWC) amendment to House Bill 591: (1) amends page 2, line 7, after “transportation” by inserting “with respect to highways and streets under its jurisdiction, and local authorities, with respect to highways and streets under their jurisdiction,” and (2) amends page 2, line 9, by striking “that is adjacent to schools” and inserting in lieu thereof “on which an entrance or exit to a public elementary school is located or on which children are dropped off or picked up from a public elementary school”.

The language inserted on page 2, line 7 assigns responsibility to state, county and local governments responsible for roadways under their jurisdictions. The language inserted on page 2, line 9 limits the requirements in the proposed legislation to every roadway or street on which an entrance, drop off or pick up area to a public elementary school.

The response from the Department of Transportation (DOT) indicates the fiscal impact of the proposed legislation would not be decreased by the HTPWC amendment as it would still result in the DOT being responsible for the identification and designation of additional school zones, signage required for those school zones, and the maintenance costs for those school zones.

#### Synopsis of Original Bill

House Bill 591 (HB 591) amends Section 66-7-301, NMSA 1978 by adding a new Subsection B, which would require the Department of Transportation (DOT) to: (1) designate all highways or streets adjacent to schools as school zones; (2) post signs identifying the beginning and end of each school zone, and; (3) post signs, with or without flashing lights, to alert drivers to the school zone speed limit. The bill also substitutes “department of transportation” for “highway and transportation department” as the latter is written in existing statute.

### **FISCAL IMPLICATIONS**

According to the response from the DOT, the department would incur significant additional financial responsibilities as a consequence of having to identify and designate as a school zone every highway or street adjacent to a school, and, moreover, provide appropriate signage for that school zone, regardless of whether the highway or street is within the DOT’s jurisdiction.

The DOT currently has approximately 261 school zones under its jurisdiction, with an annual maintenance cost of \$575.0 thousand. If HB 591 is enacted, the DOT would be responsible for an additional 760 schools. According to the DOT, if one school zone were added per school, the DOT would need approximately \$22.5 million for studies, design and installation of new school zones. The additional school zones would also add \$1.7 million annually to the DOT's maintenance costs. These costs are reflected in the Additional Operating Budget Impact table above.

Further, current practice for school zones located on state highways is for the DOT to install appropriate signage and signals and then transfer routine maintenance costs to the local entity or school district through a maintenance agreement. If this practice were continued – an issue subject to interpretation as the proposed legislation does not address the issue explicitly – some portion of the additional \$1.7 million would be shifted to the local entities or school districts. The cost would increase based on the proposed legislation, which requires the DOT to identify and designate sections of every highway or street adjacent to a school as a school zone.

Other potential costs for the DOT include new liability for claims for personal injury and property damage occurring within school zones adjacent to streets and highways not otherwise within the DOT's jurisdiction. These potential costs are not included in the table above.

All additional costs would impact the State Road Fund. Current revenue for state road funds, even when combined with federal funds, is insufficient to address needs critical to the economic welfare of the state. The DOT economic analysis suggests state road funds will be negatively impacted even further as a result of fuel-efficient vehicles and declining population in the state. According to the DOT, there are currently at least \$1.5 billion in unfunded construction needs across the state, including a routine maintenance gap of approximately \$225 million, structurally deficient bridge repair needs of \$250 million, and heavy equipment replacement needs of \$150 million. Further, there are downtown “main street” reconstruction funding needs of approximately \$340 million and major investment project and interchange funding needs of approximately \$425 million. GRIP projects that have been deferred for lack of funding total \$390 million.

## **SIGNIFICANT ISSUES**

Although the responses from agencies recognize that school zone safety is of particular concern because of the concentrated presence of children and the periodic high level of traffic activity on the arterial or collector roads where most urban school are located, the proposed legislation is ambiguous on the question of whether the DOT or localities would be responsible for maintenance of the school zones. Current practice for school zones located on state highways is that the DOT erects appropriate signage and then the school district, by agreement with the DOT, assumes the maintenance responsibility.

The DOT also states that HB591 may conflict with Section 67-2-4(A), NMSA 1978 which defines “state highways” as opposed to public highways under the jurisdiction of counties or municipalities. Further, HB591 may conflict with Section 67-3-14(A) and (B) NMSA 1978, which gives the State Transportation Commission authority over the state highway system and the state road fund, and further provides that the Commission has no duty to maintain or supervise the maintenance of roads that are not designated state highways.

## **ADMINISTRATIVE IMPLICATIONS**

The DOT states the Department would be required to dedicate technical staff to inventory all roadways adjacent to every school in the state to determine if there are existing school zones and if they meet current standards per the Manual of Uniform Traffic Control Devices (MUTCD). If no school zone exists, the DOT would be required to design, install and maintain new school zones.

## **TECHNICAL ISSUES**

The Department of Public Safety (DPS) suggests a technical correction on Page 1, Line 24, insert “on a highway” to read “seventy-five miles per hour on a highway; and”.

The DOT makes another observation. Currently school zones are designated by school districts often in cooperation with local government entities and, when impacting a state or federal highway, with the DOT. Many school districts develop safety plans which determine preferred routes for students who walk to school, designate parent drop-off locations and bus drop-off points. Current practices aim to reduce interaction between pedestrians, vehicles and busses. The result of these plans is often a reduced number of school zones in order to channel pedestrian traffic to preferred access locations. By mandating every roadway adjacent to a school be designated a school zone, the safety benefits expected from these safety plans may be diminished. Another potential impact of designating school zones on every street adjacent to a school could result in drivers becoming de-sensitized to the school zone in locations where little or no students are present. This may be the case in locations where a street is adjacent to a school, but no pedestrian or vehicular access is provided along the street.

## **ALTERNATIVES**

The DOT proposes the following amendment of Subsection B:

“The department of transportation, with respect to state highways, and local authorities, with respect to highways and streets under their jurisdiction, shall:

- (1) in accordance with traffic engineering standards and practices, designate sections of highways or streets adjacent to schools as school zones;
- (2) post signs to identify the beginning and end of each school zone; and
- (3) post signs, with or without flashing lights, to alert drivers to the school zone speed limit.”

RS/svb:blm