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FISCAL IMPACT REPORT

SPONSOR Lara/Akhil **ORIGINAL DATE** 2/25/19 24/aHTPWC/aHJC/
LAST UPDATED 3/12/19 **HB** aHF1#1

SHORT TITLE Monitoring For School Bus Illegal Passes **SB** _____

ANALYST Edwards

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
See Fiscal Implications			Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Senate Bill 280.

Conflicts with House Bill 76, House Bill 192 and House Bill 427 which also seek to amend Section 66-8-116 NMSA 1978.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Public Education Department (PED)

Responses Not Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HF1 #1 Amendment

House Floor Amendment #1 to House Bill 24 strikes from the short title language that states

finances are to be credited to the common school fund.

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 24 strikes a provision that sent penalty assessments collected pursuant to the bill to the common school fund. As amended by HJC, those penalty assessments are now sent to the general fund as is required by current law. References to the common school fund are not stricken from the short title.

Synopsis of HTPWC Amendment

The House Transportation, Public Works & Capital Improvements Committee (HTPWC) amendment to House Bill 24 strikes Section 1 (requiring certain buses to have monitoring equipment to record illegal school bus passings) and Section 2 (requiring cameras on school buses) from the bill.

The amendment inserts a new Section 1 in Chapter 22, Article 16 NMSA 1978 (Transportation of Students) that requires every school bus to have signage on the back of the bus warning of the illegality and fines associated with illegally passing a bus.

Synopsis of Original Bill

House Bill 24 creates a new section in the Public School Code and amends a section of the Motor Vehicle Code to require that all new and retrofitted buses have monitoring equipment on the outside of the school bus that records images of a vehicle and the license plate number of the motor vehicle that illegally passes a bus on either side when a bus has activated the amber lights, flashing red lights, stop arms and brakes. The monitoring equipment shall give a clear view of the vehicle passing the bus, the date, time and an electronic symbol showing all the warning lights are activated. The Transportation Director of the Public Education Department will be authorized to adopt standards and specifications for the equipment that can be used.

House Bill 24 increases the fine for passing a school bus from \$100 to \$300. Revenues for all penalties shall be sent to the State Treasurer for credit to the common school fund pursuant to the constitution of New Mexico.

The effective date of the provisions within this bill is July 1, 2019.

FISCAL IMPLICATIONS

Analysis of HJC and HF1#1 Amendments

The amendments send penalty assessments collected pursuant to the bill to the general fund instead of the common school fund. As explained below, there was no impact to the general fund to transfer penalties to the common school fund. However, the raised penalty from \$100 to \$300 will increase revenues to the general fund, also explained below.

Analysis of HTPWC amendment

The HTPWC amendment will reduce costs to PED related to buying camera equipment for

buses. It will require an expenditure for bus signage, however. PED analysis was not received in time for this FIR, but it is assumed the costs are minimal to the department.

Analysis of Original Bill

The bill increases the penalty assessment for the misdemeanor of illegally passing a school bus from \$100 to \$300. The bill also redirects all penalty assessment funds collected, except those pursuant to 66-8-116.3 (A through I) to the common school fund instead of the general fund.

The bill remits the fines or penalty assessment receipts to the State Treasurer for credit to the “common school fund.” The New Mexico constitution does not mention a “common school fund,” but does make references to the “current school fund,” which receives monthly transfers from the “common school current fund” (formerly “common school income fund”). At the end of each month, balances in the current school fund are transferred to the public school fund. Money in the public school fund is then distributed to appropriations for public schools, including the state equalization guarantee distribution and other categorical appropriations. Finally, balances remaining in the public school fund revert at the end of the year to the general fund. *Because appropriations for public schools are primarily from the general fund and funding levels far exceed balances in the public school fund, the bill’s provision to earmark these penalty assessment receipts to a common school fund will likely have no effect on increasing funding for public schools.*

In FY18, using the December 2018 consensus revenue estimate for MVD fees, \$4.6 million was collected from MVD penalty assessments and estimates assume \$4.6 million will be collected in future years. LFC does not have information on how much of the total \$4.6 million was collected pursuant to 66-8-116.3 (A through I) and how much in assessments was collected outside of that section of law. Raising the penalty assessment for illegally passing a school bus from \$100 to \$300 may increase revenue assuming the rate that section of law is violated remains about the same.

PED estimates a cost of \$2.8 thousand per bus to outfit with a camera system to take pictures of motorists passing a bus illegally when the stop arm and eight-way lights are activated:

Cost Per Bus for Camera System	
DVR 4 Channel	\$1,100
Wiring Bundle	\$150
Ext Cam 1	\$300
Ext Cam 2	\$300
Sensor	\$400
Installation	\$575
Total	<u>\$2,825</u>

The bill does not contain an appropriation to implement the required technology and will become an annual recurring cost for all to-and-from bus replacements. Using the estimated figures above, the bill will cost PED \$326.5 thousand annually.

Pursuant to 22-8-27 NMSA 1978, the Public Education Department (PED) shall provide for the

replacement of school buses on a twelve-year cycle. The PED submitted a capital outlay request for \$32.9 million dollars through the Infrastructure Capital Improvements Plan (ICIP) process. This request includes the replacement of 387 school owned buses. This request will allow PED to remain compliant with the statutory replacement cycle if funded in full. The request includes the replacement of 230 buses that are behind schedule and an additional 157 that are scheduled to be replaced next fiscal year. PED will also be replacing 100 additional buses from general obligation bond (GOB) proceeds that recently passed in the 2018 general election along with the Volkswagen settlement funds that were recently awarded to the department. The estimate assumes the average price per bus is \$85 thousand dollars.

If the desire is to place outside cameras on all school buses, PED would require an additional \$1.1 million in FY20 to meet the requirements within this bill for school owned buses. To replace all of the 387 buses mentioned above, the PED capital outlay request will need to be increased to \$34 million. The state would also need an additional \$282.5 thousand to install cameras on the additional 100 buses that are slated to be replaced with GOB and Volkswagen settlement funds. If the state remains on schedule and replaces buses according to the replacements schedule, approximately 102 school-owned buses should be replaced annually. This would equate to an additional \$288.1 thousand dollars annually that would be needed in capital outlay funds for the purchase of district owned buses. The state also replaces approximately 68 contractor buses annually. This would also cost an additional \$38.4 thousand dollars in additional rental fees to contractors for the replacement of contractor buses that is paid from the transportation allocation funded through the Public School Support allocation. On average this will be a total recurring cost of approximately \$326.5 thousand dollars annually.

The AOC explains there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and the number of offenders accepting a notice to appear in lieu of a notice of penalty assessment, increasing the impact upon court resources. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

PED explains:

The current school bus construction standards (NMAC 6.40.2) currently allow school buses to accommodate new technologies and equipment, which will better facilitate the transportation of students. New technology is allowed and may be acceptable as long as the technology, equipment or component does not compromise the effectiveness or integrity of any major safety system of the bus. Therefore, school districts currently have the option of adding stop arm cameras to the school buses within their district however they must pay for the technology from their own transportation or operational allocations.

The intent of this bill seems to be aimed at increasing the safety of students who are getting on and off a school bus and ultimately reducing the number of motorists illegally passing a school bus when the amber lights, red lights, and stop arms are activated. However, it is not clear if the required technology will be enforceable or admissible in court. There may be other sections of the Motor Vehicle Code that may need to be amended in order to fulfil the objective of this bill. There may not be direct benefit in requiring this technology on a school bus if it is not enforceable.

According to the National Association of State Directors of Pupil Transportation (NASDPTS) 3rd annual stop-arm survey, 85,279 vehicles passed a stopped school bus in a single day. According to the American School Bus Council, the school bus is the safest way to travel to school, however, nearly two-thirds of all school bus fatalities of school aged children occur outside of the school bus.

The goal of the stop arm monitoring equipment is to improve the safety and transportation of students riding school buses. Monitoring equipment can provide the following:

- trigger event recording without driver intervention
- Capture license plate numbers of violators in high-definition
- Tag video evidence with date, time, and GPS location

Violations are automatically detected allowing the bus driver to focus on the school children. Photo-enforcement systems serve as a force multiplier, allowing for continuous enforcement while law enforcement officials focus on other high-priority policing needs.

Many states are attempting to catch and punish motorists who pass stopped school buses by allowing cameras to be placed on the outside of the bus to record such illegal passing. According to the National Conference of State Legislatures at least 16 states have school bus stop-arm camera laws.

AOC provided the following analysis:

House Bill 24 does not provide any guidance or procedures for the use and verification of the electronic images captured, how long the images are to be kept or who the images may be shared with. The bill is also lacking guidance or requirements for assessing the penalty assessment based on the electronic images, who the penalty will be assessed against, what information required to be sent, payment instructions and provisions for appealing the assessment.

According to an [article](#) published on 10/31/18 by the National Conference of State Legislatures regarding state school bus stop-arm camera laws, at least 16 states have school bus stop-arm camera laws. The article provides a list of the states with a stop-arm camera law along with the corresponding statutes for each state and brief summaries for the laws, including any privacy safeguards included in the statutes.

A quick review of the laws in a couple of the states revealed requirements and procedures for issuing citations or assessing the penalties associated with violations captured through the electronic equipment mounted on the school buses. Examples of requirements for issuing citations, or notices of violation, in [Alabama](#) include “review of the violation by a law enforcement officer or trained technician,” requirement that the notice be sent no more than 14 days after review of the violation and that the notice be issued to the first person listed on the title or “other evidence of ownership” if there is more than one owner. The code also provides a list of the minimum information required to be included on the notice of violation.

TECHNICAL ISSUES

PED explains “language in the bill mentions that all new or retrofitted school buses shall have camera or video monitoring equipment for motorists passing school buses however activity buses usually are not equipped with stop arms or flashing eight-way lights. Activity buses are not

equipped with this equipment because they are not used for to-and-from transportation therefore this technology would not be needed on these buses. The Legislature may consider adding ‘to-and-from’ on page one, line 25 after the word ‘retrofitted’ and on page 3, line six after the word ‘a’ and on page 3, line 16 before the word ‘school’.”

TE/sb