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MEMORANDUM

To: House Committee on Judiciary

From: Office of Revisor of Statutes

Date: February 10, 2021

Subject: Bill Brief on HB 2154

HB 2154 allows school districts to equip school buses with stop arm cameras to detect illegal passing of school buses.

Subsection (a) requires the state department of education to create policies and procedures to contract with a private vendor to install and operate stop signal arm cameras to capture violations of K.S.A. 8-1556. The board of education of a school district would have to adopt a resolution specifying the intent to work with the private vendor. An agreement between the department and a private vendor shall specify the compensation owed to the vendor for installation, operation and maintenance of the cameras and contain data reporting requirements. Civil penalties collected pursuant to this section shall be remitted to the school bus safety and education fund and shall be used for the purpose of covering expenses for work by the vendor, verifying violations and educating the public on the dangers of illegal passing of school buses.

Whenever a violation of K.S.A. 8-1556 is detected by a camera, the alleged violation shall be forwarded to the department of education and reviewed and verified by a designated official working with the department. The designated official reviewing the recorded images shall be a certified Kansas law enforcement officer or a retired law enforcement officer. The designated official shall review the recorded images, the location where the alleged violation occurred, an image of the vehicle involved and an image of the registration plate of the vehicle. Recorded images showing a violation of K.S.A. 8-1556 shall be prima facie evidence that a violation occurred. If the designated official verifying the file determines that a violation occurred, a notice of violation shall be issued by the department to the registered owner of the vehicle in the recorded images. The notice shall be sent to the vehicle owner's last known address within 14 calendar days of the violation and shall include the information collected and

reviewed by the designated official, the amount of the civil penalty and date by which the penalty shall be paid, a signed affidavit by the party who verified the violation, information advising the owner of the appeal process, and a warning listing additional penalties for failure to pay or file an appeal in a timely manner.

The civil penalty for violation shall be \$250. If the registered owner fails to pay, the department of education is authorized to inform the division of vehicles and instruct the division to require payment to the department at the time of registration or otherwise refuse to register the vehicle. The registered owner of a vehicle is presumed to be the driver responsible for a violation. The owner may contest that they were the driver by appealing the notice of violation within 15 business days. The defenses available to the owner are that the vehicle was stolen, the registration plate was stolen, the owner was already charged with an infraction for a violation of K.S.A. 8-1556 for the same incident, or the owner no longer owned the vehicle at the time of the violation. Upon receipt of a contest from the owner, the department shall investigate the contest and either dismiss or confirm the violation. An owner may then pay the penalty or contest by requesting an administrative hearing within 15 business days pursuant to the Kansas administrative procedure act.

Recorded images shall be released by the department or private vendor to the registered owner, a court or person as directed by a court order, or a law enforcement agency. Images that capture no violation shall be retained for no longer than 28 business days and then shall be destroyed. Images that do capture a violation shall be retained until the case is closed and then destroyed. Recorded images shall not be subject to the open records act.

The department shall make an annual report to the legislature on the total number of violations, the total number of notices issued and the total amount of civil penalties collected, and the department shall publish its report on its website.