

2011 SENATE TRANSPORTATION

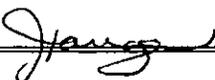
SCR 4023

2011 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee
Lewis and Clark Room, State Capitol

SCR 4023
March 3, 2011
14906

Conference Committee



Explanation or reason for introduction of bill/resolution:

This bill comes at the request of a student who is concerned about his own safety and that of his fellow school mates when they ride the bus to school.

Minutes:

One written testimony

Chairman Senator G. Lee opened the hearing on SCR 4023 urging the Legislative Management to study transportation safety for minors.

Senator Heckaman, District 23, introduced SCR 4023. Written testimony # 1

Senator Sitte asked if this was a mandatory study.

Senator Heckaman said that it just says "urging".

Senator Oehlke asked if the studies talked about airbags in buses, versus seatbelts, versus other types of restrain.

Senator Heckaman replied that the studies she looked at didn't mention anything about airbags. There was information on a new concept called compartmentalizing. There was information on seatbelts and because of the few deaths caused by accidents; it would be too costly to put them in buses. Some states are going to the point of requiring seatbelts after a certain date. Their new buses will have some type of child restraint.

Senator Sitte asked if there have been fatalities in North Dakota and for those statistics.

Senator Heckaman replied that in 2008, eleven children were in fatal accidents across the United States. She didn't have any current statistics on North Dakota.

Kenneth Steiner, Director of Student Transportation for the Department of Public Instruction testified in support of SCR 4023. He said in the U.S. we transport twenty five million students a day. He stated that buses are the safest mode of transportation in the country according to statistics. He said that one concern with the seatbelts is the evacuation issue. He said that he thought it was a good idea to study the seatbelt safety

as well as a van study. Presently, 10-15 passenger vans are outlawed in public schools but not private schools or daycares.

Senator Mathern asked what The Department of Public Instruction's position was on SCR 4023 and what they have had for discussions, specifically on seatbelts.

Mr. Steiner said his position on seatbelts is that we are better off without seatbelts. Buses are built to protect kids. He said that internally the Department of Public Instruction haven't had a lot of discussion but feels this subject is worthy of a study.

No opposing testimony.

Senator Mathern moved a **Do Pass**.

Senator Nething seconded the motion.

Roll call vote: 5-0-1. **Motion passed.**

Carrier is **Senator Sitte**.

REPORT OF STANDING COMMITTEE

SCR 4023: Transportation Committee (Sen. G. Lee, Chairman) recommends DO PASS
(5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4023 was placed on the
Eleventh order on the calendar.

2011 HOUSE TRANSPORTATION

SCR 4023

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SCR 4023
03/17/2011
Job #15603

Conference Committee

Committee Clerk Signature *Jeanette Cook*

Explanation or reason for introduction of bill/resolution:

SCR 4023 is a concurrent resolution that urges the Legislative Management to study transportation safety for minors.

Minutes:

Attachment #1 and #2.

Senator Joan Heckaman, District 23 in New Rockford, introduced SCR 4023 and spoke to support the bill. See attached testimony #1.

Vice Chairman Weiler: Have you checked into information about the cost of adding seat belts to school busses?

Senator Joan Heckaman: When I researched this I found that it could be anywhere from \$10,000 to \$17,000 per school bus.

Representative R. Kelsch: We have had the seat belt issue before us on a couple of occasions. The biggest obstacle is the cost, but the second obstacle was how would they make sure the students are buckled in? Would the bus driver be responsible for doing a seat belt check? What if the student gets up and unhooks his seat belt? Would the bus driver have to stop the bus to make another check? The schools may have to have an aide on each of the buses to make sure that the students remain buckled in. The other issue is enforcement. If seatbelts are required, then they need to be used, and law enforcement needs to be involved as well.

Senator Joan Heckaman: I know those are issues; I have been in education since the sixties. Maybe the study could bring forth some light on them. When I see kids standing up in buses it really scares me. It is not the deaths, but the injuries that we need to look at. The compartmentalization in the new buses is a good deal. The Senate moved this right through because there are so many questions. The student that sent the request in is a special needs student and has some challenges. That is one reason that he doesn't feel safe on the school bus, but doesn't have another option.

Chairman Ruby: The last bill like this may have been in 1999. A lot of the issues that Representative R. Kelsch brought up were the reason that it didn't pass. There were really no solutions. There is also the liability issue.

Senator Joan Heckaman: The van issue was eye-opening for me. When I did work in school; we used vans. Daycares can use them around the state, but they are outlawed for schools. There are issues with that.

Chairman Ruby: I remember when they banned the vans because of the rollovers. That was the exact vehicle that I was using for my family.

Senator Joan Heckaman: I would also like to address the conditions of the roads. In the Devils Lake Basin, and I would imagine the oil country as well, we are putting our bus drivers and our children on some very perilous roads. I think we need a lot more money in our budgets for road improvements this year.

Jim Jacobson, North Dakota Protection and Advocacy Project, spoke to support SCR 4023. He provided written testimony and an article that gives some perspective of what has happened in another state. See attachment #2.

There was no further support for SCR 2023.

There was no opposition to SCR 2023.

The hearing was closed on SCR 2023.

2011 HOUSE STANDING COMMITTEE MINUTES

House Transportation Committee
Fort Totten Room, State Capitol

SCR 4023
03/17/2011
Job # 15629

Conference Committee

Committee Clerk Signature 

Minutes:

Chairman Ruby brought SCR 4023 before the committee.

Representative Heller moved a **DO NOT PASS** on SCR 4023.
Representative Louser seconded the motion.

Representative R. Kelsch: I think the reason that we have not seen a seatbelts in buses bill since 1999 is due to the fact that states that are looking at this are realizing there are liability issues. There are large costs associated with installing the seatbelts. There also has not been a proven study to show that seatbelts in school buses are actually safer. Rep. Coats had a mission to get blue strobe lights on buses and seatbelts in buses. He was successful in getting the blue lights, but not the seatbelts. I don't think the arguments have changed, and don't think the barriers to doing this have been broken down. If you are looking at adding child seats and other things, you are going to have additional personnel on buses because the bus driver cannot be responsible for everything that is going on in the bus. It is an interesting study, but I am not sure that we would get any different results than we have had in the past.

Representative Vigesaa: I would imagine that there have been lots and lots of studies on this issue both on the federal level and state level. I think the information could be easily gathered by doing some study.

Chairman Ruby: We already know the cost. I also remember the issue and the discussions. I don't know that there have been any resolutions. If there was any data that showed that other states were implementing this, and that it protects children, no matter what the cost we could work on the cost and start funding it over a period of time. I don't see data to show that.

Representative R. Kelsch: They don't have seatbelts on Greyhound buses or charter buses either. There has to be something about putting seatbelts in buses that determines that they don't provide additional safety. I do know that school buses no longer have the metal bar to hold onto. They are padded.

Representative Hogan: I thought that the discussion about vans being used by daycare centers, but not by schools was interesting. If we have one set of standards for schools and another for preschools or day care centers, that might be something that we need to look at.

Chairman Ruby: As far as them being able to use vans?

Representative Hogan: The inconsistent standards between day care and schools on those issues.

There was no further discussion.

A roll call vote was taken on SCR 4023. Aye 11 Nay 2 Absent 1

The motion carried.

Vice Chairman Weiler will carry SCR 4023.

Date: 2-17-11

Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SCR 4023

House TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Heller Seconded By Louser

Representatives	Yes	No	Representatives	Yes	No
Chairman Ruby	X		Representative Delmore	A	
Vice Chairman Weiler	X		Representative Gruchalla	X	
Representative Frantsvog	X		Representative Hogan		X
Representative Heller	X		Representative Onstad		X
Representative R. Kelsch	X				
Representative Louser	X				
Representative Owens	X				
Representative Sukut	X				
Representative Vigesaa	X				
Representative Weisz	X				

Total (Yes) 11 No 2

Absent 1

Floor Assignment Weiler

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SCR 4023: Transportation Committee (Rep. Ruby, Chairman) recommends DO NOT PASS (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). SCR 4023 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

SCR 4023

SCR 4023-Transportation safety issues

Mr. Chairman and members of the Transportation Committee:

For the record I am Senator Joan Heckaman from New Rockford and I represent District 23. I am here today to introduce you to SCR 4023.

This bill comes at the request of a student who attends a school in my district. This student is concerned about his own safety and that of his fellow school mates when they ride the bus to school.

Today I will present areas I feel are important when addressing transportation safety for our children.

SEATBELTS: I did some research on this issue and found that there are 7 states that have seat belt laws for buses. More states are now considering such legislation because of one main issue, injuries to students when school buses are involved in accidents. Of course there is also the issue of deaths from school bus accidents, but reports by the National Highway Traffic Safety Administration (NHTSA) indicate there is little cause for concern with deaths of children in school bus accidents. And while deaths are few, the injuries from school bus accidents I mentioned previously are a different issue. In preparing for this testimony, I went on You Tube and watched video of news reports of children injured in bus accidents. Some of the video is very difficult to watch and listen to. But at the same time, it points to the seriousness of this issue and brings up a question. Should buses have seat belts? I don't have that answer for our students and schools in North Dakota. Let's do this study.

LITTLE ONES: North Dakota is supporting kindergarten for our little ones. I would propose that some of those tiny tots would benefit from some sort of seat restraint. We mandate them in cars, trucks, and vans. Why not buses? Let's do this study.

VANS VS SMALL BUSES: The other basic question I hope this study would answer is whether the small buses or people movers are safer than the vans. Vans are currently outlawed as a means of transporting school children in North Dakota. I

have heard that the people movers are indeed difficult to maneuver on icy or mucky, muddy roads and in inclement weather. Have we made a wise decision when addressing this very issue when transporting our student? Let's do this study.

ROAD CONDITIONS: My last point is the condition of the roads we expect bus drivers to travel over with the most important asset we have-our children. That is one reason I will continue to push for more funding for road improvements. We have all heard during this session that the roads have been in poor winter traveling condition due to the amount of snow we have had. Travel this spring will be perilous to say the least. Whether it is in oil country, the Devils Lake Basin, or any of our many other cities, counties, and townships with roads in poor condition, we need to study how the condition of our roads affects the safety of our children on school buses. Let's do this study.

Please give your support to SCR 4023 and urge Legislative Management to study transportation safety issues for our children.

That concludes my testimony and I would stand for any questions.

#1

SCR 4023-Transportation safety issues

Mr. Chairman and members of the Transportation Committee:

For the record I am Senator Joan Heckaman from New Rockford and I represent District 23. I am here today to introduce you to SCR 4023.

This bill comes at the request of a student who attends a school in my district. This student is concerned about his own safety and that of his fellow school mates when they ride the bus to school. He reported he would feel much safer if the school bus had seat belts on it. He is required to have one on in a care, why not a school bus?

Today I will present areas I feel are important when addressing transportation safety for our children.

SEATBELTS: I did some research on this issue and found that there are 7 states that have seat belt laws for buses. More states are now considering such legislation because of one main issue, injuries to students when school buses are involved in accidents. Of course there is also the issue of deaths from school bus accidents, but reports by the National Highway Traffic Safety Administration (NHTSA) indicate there is little cause for concern with deaths of children in school bus accidents. And while deaths are few, the injuries from school bus accidents I mentioned previously are a different issue. In preparing for this testimony, I went on You Tube and watched video of news reports of children injured in bus accidents. Some of the video is very difficult to watch and listen to. But at the same time, it points to the seriousness of this issue and brings up a question. Should buses have seat belts? I don't have that answer for our students and schools in North Dakota. Let's do this study.

LITTLE ONES: North Dakota is supporting kindergarten for our little ones. I would propose that some of those tiny tots would benefit from some sort of seat restraint. We mandate them in cars, trucks, and vans. Why not buses? Let's do this study.

VANS VS SMALL BUSES: The other basic question I hope this study would answer is whether the small buses or people movers are safer than the vans. Vans are currently outlawed as a means of transporting school children in North Dakota. But it is not against the law for a day care to transport the same child to and from school. I have also heard that the people movers are indeed difficult to maneuver on icy or mucky, muddy roads and in inclement weather. Have we made a wise decision when addressing this very issue when transporting our student? Let's do this study.

ROAD CONDITIONS: My last point is the condition of the roads we expect bus drivers to travel over with the most important asset we have-our children. That is one reason I will continue to push for more funding for road improvements. We have all heard during this session that the roads have been in poor winter traveling condition due to the amount of snow we have had. Travel this spring will be perilous to say the least. Whether it is in oil country, the Devils Lake Basin, or any of our many other cities, counties, and townships with roads in poor condition, we need to study how the condition of our roads affects the safety of our children on school buses. Let's do this study.

Please give your support to SCR 4023 and urge Legislative Management to study transportation safety issues for our children.

That concludes my testimony and I would stand for any questions.

Senate Concurrent Resolution 4023
House Transportation Committee

March 17, 2011
Testimony of Jim Jacobson
ND Protection and Advocacy Project

Chair Ruby and members of the House Transportation Committee, I am Jim Jacobson, Director of Program Services for the ND Protection and Advocacy Project (P&A). P&A is Federal and State funded disability rights protection agency.

I am here today to testify in support of Senate Concurrent Resolution 4023. P&A supports this study and would like to ensure that the study address the specialized transportation needs of students with disabilities.

In our experience at P&A we have responded to several situations where the safe transport of students using wheel chairs has been a concern. P&A has assisted providers in identifying resources to adapt tie downs to ensure safe and secure transportation. The resources are readily available through sources such as local durable medical equipment providers. These adaptations are often at very low cost. For example in a recent case, where a barrier to safely transporting a person in their power chair was the concern, the adaptation cost \$3.50. This study could help identify both needs and resources to address those needs.

Thank you for the opportunity to testify in support of Senate Concurrent Resolution 4023 and I would be happy to answer any questions.

AP Enterprise: Few states make wheelchair users buckle up on buses; restraints not always used

By JOHN SEEWER Associated Press Writer , The Associated Press - TOLEDO, Ohio



In this Feb. 23, 2010 photo, Margaret Griscti looks on as husband Joseph Griscti wheels their son Stephen Griscti, 41, and his wheelchair in a specially equipped van, in North Brunswick, N.J. Previously, their son was injured when his wheelchair tipped over. A review by The Associated Press of seat belt laws in all states found just five

Lonnie Acton's lifeless body sat in a wheelchair fastened to the floor of a mangled minibus. No shoulder or lap belt protected him.

Those restraints, attached to the bus, are specially made to secure passengers in their wheelchairs. They weren't being used when a tractor-trailer slid across a snowy highway and slammed into the bus in January, killing Acton and two other residents of a special-needs center in western Ohio.

While federal law requires buses to be equipped with straps that lock down wheelchairs, as well as seat belts and shoulder harnesses to secure passengers themselves, laws in Ohio and most states don't require that people in wheelchairs on small buses and vans actually wear the seat belts _ even though they're vulnerable to injuries from being tossed around in an accident.

"It just doesn't make any sense," said Acton's stepfather, Steve Hoessli. "If they're required to have restraints, why aren't they required to use them?"

A review by The Associated Press of seat belt laws in all states found just five _ Arkansas, Georgia, Minnesota, Washington and Wisconsin _ that require both wheelchairs and their users to be secured on paratransit buses that help people in wheelchairs to travel to work, doctor's offices and shopping centers.

Just a handful of other states require seat belt use for wheelchairs, with some exceptions.

Oregon requires buckling up on commercial buses with less than 16 seats but says nothing about floor restraints. New Jersey limits its requirements to passenger cars and vans. North Carolina's law doesn't mention wheelchairs, but a state police spokesman said the rules cover nearly all vehicles.

It's not known how many people riding in wheelchairs are injured in vehicle accidents because little data are available.

University of Michigan researchers have found 52 auto crashes involving wheelchairs during the past three years. While not a comprehensive list, the accident data show that simply strapping a wheelchair to the floor of a bus or van wasn't enough protection.

In most of the crashes the wheelchairs were secured. However, seat belts weren't always used or fastened the right way, and in some instances, people slid from under lap belts and were injured.

"By and large, many of these injuries are preventable if the restraints had been used, or used properly," said Gina Bertocci, a professor who works in wheelchair transportation safety at the University of Louisville.

A survey of wheelchair users who ride on public and private transportation found in 2007 that one in seven never used restraints, mainly because drivers didn't take time or know how to secure their wheelchairs and lap belts, according to Easter Seals Project Action, a program that helps the disabled with transportation.

"I've seen drivers who drop off the kids and they're in a hurry so they don't take time for each chair," said Margaret Griscti, of North Brunswick, N.J., whose son, Stephen, broke his leg when his wheelchair tipped over in a vehicle.

That accident nearly 10 years ago and other crashes led to New Jersey's 2008 law, which includes fines for violators.

Acton's relatives hope Ohio lawmakers now will take another look at their state's seat belt laws.

Crash investigators were surprised, too, that seat belts aren't required for people in wheelchairs. "I guess I thought there would be something," said State Highway Patrol Lt. Craig Cvetan.

There's no guarantee restraints would have saved Acton, a 28-year-old born with spina bifida, because he died of multiple injuries. The only thing keeping him in his seat was a strap designed to help him sit up, not protect him in an accident.

His stepfather pointed out that Acton was in the back of the bus and that most of the damage was up front. A man in a wheelchair across from Acton survived even though he, too, did not have lap and shoulder belts.

The bus driver also died, and six passengers were injured. Three of the survivors had on lap belts, according to accident reports.

Two employees on the bus told investigators that they usually attached the lap and shoulder belts for passengers in wheelchairs, but not always, and that they didn't know who secured Acton before the accident.

Administrators at the Creative Learning Workshop in Springfield, Ohio, which operated the bus, referred all questions to the company's attorney, Steve Freeze, who did not return messages seeking comment.

Under the Americans with Disabilities Act, the decision on whether to use the safety restraints on buses and paratransit vans is left up to the wheelchair users and bus operators. The law says passengers riding on buses in wheelchairs can be told to buckle up only if everyone else aboard must wear a seat belt.

The law sets out to treat people with disabilities the same as anyone else, said Lex Frieden, a former head of the National Council on Disability who helped draft the ADA in the mid-1980s.

"If we're not going to require the general public to wear seat belts on buses, we shouldn't require people with disabilities," he said. "Clearly, one could argue we need to look after the well-being of the people using these vehicles, but that leads us to a patronizing approach."

Some operators of small buses do require all passengers to be belted, setting standards that vary by city, according to interviews with transit managers. And some transit operators, especially those that are government-funded, say it's too risky not to make everyone buckle up.

"It's a liability issue," said Robert Hiatt, who oversees a rural paratransit service in Griffin, Ga., that requires seat belts for all. "If we didn't properly secure them and there's an accident, we'd get in all kinds of problems. Defending one lawsuit could put us out of business."

Larry Schneider, a research professor at the University of Michigan's Transportation Research Institute, said he hopes legislation being considered in Massachusetts will become a model for other states. The proposal would require wheelchairs and users to be secured on all paratransit buses and vans and require training for caregivers.

Paula Cieplik and her 35-year-old son, Kenny, of Middleborough, Mass., pushed for the proposal after he was injured in a crash a year ago when the seat belts holding him in his wheelchair broke, throwing him out of his seat.

"The people who are most vulnerable aren't protected," she said. "It's mind-boggling."