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State Capitol North, 325 Don Gaspar, Suite 200
Santa Fe, New Mexico 87501
Phone: (505) 986-4591 Fax: (505) 986-4338
<http://www.nmlegis.gov/lcs/lesc/lescdefault.aspx>

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May 25, 2011

MEMORANDUM

TO: Legislative Education Study Committee

FR: Peter B. van Moorsel

**RE: STAFF BRIEF: DISTRIBUTION OF SPECIAL APPROPRIATIONS,
2011 LEGISLATIVE SESSION**

Section 5 of the *General Appropriation Act of 2011* makes special nonrecurring appropriations, including three appropriations to the Public Education Department (PED) totaling \$5.7 million, and also reauthorizes an appropriation made to PED in 2010 to extend the time of expenditure.

This staff brief discusses these three nonrecurring appropriations for (1) emergency support, (2) the Governor's educational reforms, and (3) increased fuel costs. The report also addresses (4) the reauthorized 2010 appropriation.

1 - Emergency Support - \$2.0 million

The appropriation for emergency support includes language requiring that:

- no money be distributed to any school district or state-chartered charter school having cash and invested reserves, or other resources or any combination thereof, equaling 5.0 percent or more of the school district's or state-chartered charter school's operational budget;
- the appropriation be from the separate account of the appropriation contingency fund dedicated for the purpose of implementing and maintaining educational reforms created in Section 12 of Chapter 114 of Laws 2004, also known as the "Education Lockbox";

- prior to the distribution of any emergency supplemental funds, the Secretary of Public Education provide the Legislative Finance Committee (LFC) and the Legislative Education Study Committee (LESC) with a report outlining:
 - the criteria used to qualify for funds;
 - the financial status of recipients, including the status of recipients' financial audits; and
 - any cost savings measures recipients implemented before applying for funds; and
- in no event money be distributed to any school district or charter school having cash and invested reserves, or other resources or any combination thereof, equaling 5.0 percent or more of their operating budget.

On May 19, 2011, PED reported that allocations of emergency supplemental funding would not be available until after July 1, 2011.

2 - Governor's Educational Reforms - \$2.5 million

Language included with the appropriation for the Governor's educational reforms and initiatives includes provisions that the reforms include:

- third-grade retention, contingent on enactment of House Bill 21 or similar legislation of the First Session of the Fiftieth Legislature (this contingency was not met, as no such legislation passed);
- providing technical assistance to low-performing schools;
- improving data systems;
- Innovative Digital Education and Learning; and
- computer-administered assessments and common core standards implementation.

Additional language provides that the appropriation be derived from the "Education Lockbox," and be contingent on PED providing a detailed action plan to the LFC and the LESL, and a report outlining the expenditure of funds and the results of reforms and initiatives.

PED reports that it will provide such an action plan, including a specific timeline and implementation plan for these funds, "at a later date."

3 - Increased Fuel Costs - \$1.2 million

The transportation distribution in the *General Appropriation Act of 2011* includes \$82.3 million for operational and maintenance costs, including the purchase of fuel. To address the risk of increased fuel costs during school years 2010-2011 and 2011-2012, the Legislature appropriated an additional \$1.2 million from the Transportation Emergency Fund¹. The appropriation includes language to require that:

¹ Money in the Transportation Emergency Fund is appropriated to PED for the purpose of funding transportation emergencies. The Secretary may make distributions only to ensure the safety of students receiving to-and-from transportation services. PED reports that the following commonly constitute an emergency: (1) the need to replace a school bus; (2) unexpected growth within a district; (3) start-up costs for a school district taking over transportation from a contractor; and (4) increased fuel costs.

- notwithstanding the provisions governing distributions from the Transportation Emergency Fund, for school years 2010-2011 and 2011-2012, the Secretary make distributions from the fund first to provide additional funding to school districts and state-chartered charter schools for increased school bus fuel costs;
- the distribution of funding be based on miles traveled for to-and-from transportation of public school students;
- school districts and state-chartered charter schools request funds for fuel from the secretary and provide supporting documentation that they have incurred increased costs due to higher fuel prices; and
- the Secretary approve requests for funding for fuel cost increases and make distributions on a reimbursement basis.

On May 18, 2011, PED reported that a “methodology on how the funds will be distributed is under review, and not final.” PED further reports that it is working to ensure that these funds go to districts that exhibit the most need, rather than distributing them on a pro rata basis to each school district. To this effect, the department reports that the information and supporting documentation required of school districts (and transportation contractors) will likely include:

- detailed expenditure reports for the current fiscal year from the district’s transportation fund;
- current unexpended cash balances;
- projected expenditures for the remainder of the fiscal year;
- operational expenditure reports if districts have had to use operational funds to cover transportation costs;
- fuel receipts or invoices for fuel purchased; and
- reports of miles traveled.

According to PED, the projected balance in the Fund at the end of FY 11 is approximately \$2.34 million. After budgeting \$1.2 million of the balance toward the appropriation for increased fuel costs, PED reports that approximately \$1.14 million remains to be used pursuant to the provisions of that fund.

4 - Reauthorized Emergency Support Appropriation - \$6.0 million

In addition to the special appropriations above, the *General Appropriation Act of 2011* extended through FY 12 the period of time for expending the \$6.0 million appropriation to PED made in the *General Appropriation Act of 2010* for emergency support to school districts experiencing shortfalls.

PED reports that approximately \$3.7 million of this appropriation will remain unexpended at the end of FY 11, and will be available for distribution in FY 12. As with the 2011 emergency support appropriation, PED reports that it will not be able to report its distribution until after the beginning of FY 12 (July 1, 2011).