

**AUGUST 21, 2015**

**“School District Transportation Challenges and Solutions:  
The Legislative Branch Perspective”**

**Presented to the New Mexico State Indian Affairs Committee**

**By**

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**I. INTRODUCTION.**

- Without a doubt, Arizona continues to experience a cross-border flow of students from New Mexico and Utah. This is in part due to the fact that some of the out-of-state students reside closer to Arizona schools.
- In order for the District to properly educate these additional students and avoid future financial hardships, Arizona allows the affected School Districts to enter into an Intergovernmental Agreement (IGA) with the school districts in the neighboring state.
- The school district can transport or contract for transportation for these students. However, route miles run to transport non-resident students are not fundable by the state.
- Transportation costs in addition to other costs of education should be part of the IGA.
- As neighbor states, we must work together to develop a sustainable funding mechanism that cover the costs of education including the transportation of our students who cross our common state line to get an education.

**II. Arizona Current Law and its History**

**A. TRANSPORTATION BETWEEN SCHOOL DISTRICTS.**

In Arizona, school boards must adopt and implement policies to allow nonresident pupils to enroll in any school within the school district; and school districts receiving students under open enrollment may provide transportation, subject to varying mileage restrictions based on socio-economic status.

**B. TRANSPORTATION OF STUDENTS BETWEEN SCHOOL DISTRICTS IN NEIGHBORING STATES.**

**1. Legislative History: HB 2332 school governing board; admission; nonresidents.**

During the Forty-eight Legislature – First Regular Session in 2007 Rep. Albert Tom introduced **HB 2332 school governing board; admission; nonresidents** to allow a school district governing board to admit nonresident children from another state through an IGA without charging tuition if the child is a member of a federally recognized Indian tribe and resides on Indian lands with overlapping boundaries in Arizona and another state.

**2. Arizona Law.**

HB 2332 received bipartisan support from both legislative bodies and was signed into law by Governor Napolitano. It allowed school district governing board to admit children who are nonresidents of the state but reside in the United States without charging tuition through an IGA with the governing board in another state, if the child is a: member of a federally recognized Indian tribe, resident on Indian lands under the jurisdiction of the child’s tribe, and resident on Indian lands with overlapping boundaries in Arizona and another state.

The IGAs used must specify the number of nonresident children admitted into Arizona and the number of Arizona resident children admitted by the governing board of another state. Typically, these IGAs do not address the transportation funding for these students.

**3. Background re HB 2332.**

A 1990 audit conducted by the Arizona Department of Education (ADE) found that the state had provided funding to instruct nonresident pupils who lived on an Indian reservation extending from Arizona into another state and who crossed the border to attend a school district on the same reservation in Arizona. In 1991, the Legislature allowed the Superintendent of Public Instruction (SPI) to enter into compacts with federally recognized Indian tribes, states adjacent to Arizona or with a department or agency of the U.S. government in order to “exchange” students from adjacent states without tuition agreements (Laws 1991, Chapter 199). In 1993, the Legislature extended the SPI’s ability to enter into compacts until 1996 (Laws 1993, Chapter 24). Laws 1993, Chapter 202, provides for an interstate compact with another state or an intergovernmental agreement agreed upon between the sending and receiving school districts that allows for tuition free attendance in the receiving district (A.R.S. § 15-825.01).

The main school districts impacted by this legislation were Window Rock Unified School District, Red Mesa Unified and Sanders Unified. The likely Border States are New Mexico and Utah.

**III. Laws in Neighbor States regarding School District Transportation.**

**A. New Mexico.**

Current Public Education Department rule provides for transportation services to students who attend school in a district other than the district in which they live; the resolution of boundary disputes between local school

districts; and the creation of transportation boundary agreements. However, while the rule authorizes a school district to enter into transportation boundary agreements with adjoining districts, these agreements:

- address only students living within a specified geographic area where geographical conditions would otherwise make it impractical to transport such students to school within the district where they live;
- must be approved by both local boards of education prior to a district crossing boundary lines to transport students; and
- are not authorized to provide services to students who attend school out-of-district as a matter of choice.

Additionally, regarding transportation funding, New Mexico laws indicate that eligible students are those who live within the legal boundaries of the school district, who meet the statutory requirements for eligibility, and who utilize the transportation services on a regular basis; and only eligible students shall be counted for purposes of funding.

**B. Utah.**

Local school boards provide educational services to the extent reasonably feasible for any student who resides in another district in the state and desires to attend a school in the district; and a local school board may provide for the transportation of students regardless of the distance from school, using operational funds of the district or a local property tax.

**C. Texas.**

The school boards of two or more adjoining school districts may, by agreement, arrange for the transfer and assignment of any student from one district to that of another; and school boards may establish and operate a public school transportation system outside the school district if the school district enters into an inter-local cooperation contract with the transferring school district.

**D. Oklahoma.**

Provisions of the *Education Open Transfer Act* allow the transfer of a student between school districts if the transfer has the approval of the school board of the receiving district; school districts receiving transfer students may provide such transportation only within the boundaries of the receiving school district; and the receiving school district shall not cross school district boundaries to transport a kindergarten through eighth-grade student transferred pursuant to the *Education Open Transfer Act* unless by resolutions of agreement between the two school districts.

**E. Colorado.**

Current laws do not address school transportation between districts.

**F. New Mexico.**

During the 2013 interim, the Legislative Education Study Committee (LESC) convened the LESC Interim Subcommittee on School Bus Transportation. The subcommittee met several times during the interim to discuss issues related to school transportation including:

- a dispute between Gallup-McKinley County Public Schools (GMCS) and Central Consolidated Schools (CCS) regarding school district transportation boundaries; and
- concerns over the circumstances of transportation boundary agreements between districts as instituted in rule.

In the last couple of legislative session, New Mexico has introduced legislation to permit school district to come into transportation boundary agreements, but has yet passed any significant changes.

#### **IV. CONCLUSION.**

A. Neighboring states have laws that address transportation and education costs related to students crossing school district boundary.

B. Except for Arizona, the states do not address the education costs (tuition, transportation, etc.) related to its students who cross the state line to attend school in the neighboring state.

C. Pursuant to Arizona law, Arizona school districts have developed and presented IGAs to New Mexico. The Window Rock School District proposed IGA with Gallup-McKinley County School District:

1. New Mexico has not acted on the IGA.
2. Reason given: under NM law, an IGA has to be approved by the State Secretary of Education and the State Director of Finance. Upon information, NM Director of Finance has refused to approve the IGA.

D. Solution recommended: NM adopted a law authorizing local school districts to enter into IGA concerning the education of its students attending schools in neighboring states.

E. In the meantime, students living within a few miles from a school but the school located in another state must be transported many miles to the nearest school within their state. The education of these students is adversely affected.

F. More often than not, the problem affects Navajo students who live on the Navajo Nation. The Navajo Nation straddles the Arizona – New Mexico state line and the Arizona – Utah state line.

G. A solution must be found!

Thank you.