

**MINUTES  
LESC INTERIM SUBCOMMITTEE  
ON SCHOOL BUS TRANSPORTATION  
AUGUST 21, 2012**

Representative Roberto "Bobby" J. Gonzales, Chair, called the meeting of the Legislative Education Study Committee (LESC) Interim Subcommittee on School Bus Transportation to order at 9:41 a.m. on Tuesday, August 21, in Room 317 of the State Capitol in Santa Fe, New Mexico.

The following members of the subcommittee were present:

Representatives Roberto "Bobby" J. Gonzales, Chair, George Dodge, Jr., and Dennis J. Roch; and Senators Cynthia Nava and Howie C. Morales; Mr. Cory Adair, manager of Adair Transportation, Mr. Billy Huish, Supervisor of Transportation, Farmington Municipal Schools, Mr. Brett Kasten, Grant County Commissioner, board member of the New Mexico School Transportation Association and manager at Porter Transportation, Inc., and Mr. Dane Kennon, Associate Superintendent for Operations, Las Cruces Public Schools.

The following member of the subcommittee was not present:

Senator Lynda M. Lovejoy.

The following list of others in attendance were present:

Ms. Frances Ramirez-Maestas, Director, Mr. David Craig, Senior Fiscal Analyst I, Ms. Sarah Guzman, Fiscal Analyst, and Mr. Michael Bowers, Editor, Legislative Education Study Committee; Mr. Antonio Ortiz, Director, Capital Outlay Bureau and Mr. Hipolito "Paul" Aguilar, Deputy Secretary, Finance and Operations, Public Education Department; Ms. Theresa Saiz, contract lobbyist and Mr. Maurice Ross, Executive Director of Transportation, Rio Rancho Public Schools; Mr. Brad Winter, Chief Administrative Officer, Albuquerque Public Schools; Mr. Sammy J. Quintana, Executive Director, Ms. Christy Edwards, Deputy Director of Benefits, and Mr. Frank Koppler, Contract Attorney, New Mexico Public Schools Insurance Authority; Mr. Charles Sallee, Deputy Director, Legislative Finance Committee; and Ms. Julie C. Garcia, Regional Director, Poms and Associates.

**TRANSPORTATION PROGRAM OVERVIEW**

Referring the subcommittee to the Legislative Education Study Committee (LESC) staff brief, Mr. David Craig, Senior Fiscal Analyst I, LESE, provided the subcommittee with an overview of the state's school transportation program, including:

- key provisions in current law;
- appropriations history; and
- Public Education Department (PED) appropriation development and allocation methodology.

### ***Key Provisions in Current Law***

Mr. Craig explained that provisions in the *Public School Code* require PED to:

- establish, by rule, standards for school bus transportation, school bus design, and operation; and
- audit the records of school bus contractors or district-owned bus operations.

Among other provisions in current law, Mr. Craig stated that the *School Finance Act* includes provisions relating to the:

- allocation and distribution of appropriations that support public school transportation statewide;
- distribution of available dollars in the transportation emergency fund;
- reporting requirements;
- purchase of school buses and related equipment;
- process by which a school district may file a lien on school buses owned by contractors; and
- the school bus rental fee payment timeline for fleet contractors.

Mr. Craig also reported that the *Charter Schools Act* contains transportation provisions for locally chartered charter schools, including requirements that:

- require a charter school to negotiate with a local school district for the transportation of charter school students; and
- establish a limit for student transportation to-and-from the charter school site not to extend beyond the school district boundary.

Finally, Mr. Craig noted that provisions in the *Special Fuels Supplier Tax Act* provide for a refund of state excise taxes on fuel.

### ***Appropriations History***

Referring the subcommittee to a table in the LESC staff brief, Mr. Craig stated that the appropriations for the school transportation program:

- peaked in FY 09,
- decreased beginning in FY 10;
- increased in FY 13; and
- overall, resulted in a total decrease of \$14.4 million.

Mr. Craig also noted that in FY 03, FY 04, FY 07, and in FY 11 through FY 13, appropriations for school-owned bus replacements were made from varied funding sources, primarily capital outlay funds.

### ***PED Appropriation Development and Allocation Methodology***

With regard to the PED appropriation request for the school transportation program, Mr. Craig reported that the department considers three funding categories:

- operations and maintenance;
- fuel costs; and
- salary and benefits.

Mr. Craig stated that the volatility in the price of diesel fuel over a number of years has been a concern since 2008. He noted that the FY 13 PED appropriation request included additional funds to accommodate an increased price for diesel fuel that has been sustained over the previous year.

## INSURANCE

Mr. Sammy J. Quintana, Executive Director, Ms. Christy Edwards, Deputy Director of Benefits, and Mr. Frank Koppler, Contract Attorney, New Mexico Public Schools Insurance Authority (NMPSIA) reported that the agency currently provides health benefits to approximately 25,000 school transportation employees, including one-bus contractors who are considered public school employees.

Mr. Koppler stated that, for the school bus operators and contractors, NMPSIA provides liability coverage. The maintenance and age of a bus influence insurance coverage rates, he added. NMPSIA insures 88 of the state's school districts and all of the state's charter schools, he added. Albuquerque Public Schools district, Mr. Koppler emphasized, is exempted in law from NMPSIA coverage.

## PUBLIC SCHOOL TRANSPORTATION EVALUATION (2011)

Mr. Charles Sallee, Deputy Director, Legislative Finance Committee (LFC) provided the subcommittee with an overview of the 2011 LFC program evaluation, titled *School Bus Transportation Program*. According to Mr. Sallee, issues identified in the program evaluation report included:

- an inequitable and overly complicated funding formula;
- weak Public Education Department (PED) oversight, as PED lacked standard internal controls; and
- differences in per mile basis and per rider amounts.

## SUBCOMMITTEE DISCUSSION

Among items discussed by subcommittee members were:

- the possible need to amend current provisions in law relating to school bus routes, primarily for sixth graders who attend middle school;<sup>1</sup>

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<sup>1</sup> It was noted that because current law requires certain bus routes by grade, these students cannot ride a middle school bus that is designated for students in grades 7-9.

- school transportation for prekindergarten students, who are not eligible for school transportation according to current law;
- school bus purchases;<sup>2</sup>
- the purchase backlog of school buses; which Mr. Antonio Ortiz, Director, Capital Outlay Bureau, Public Education Department, reported that the state is three to four years behind on the purchase of school buses;
- the purchase of natural gas fueled school buses, because the state has an abundance of this resource;
- fuel, for which staff were requested to examine the use of a statewide fuel price agreement and the taxes required of contractors;
- site characteristics, specifically fuel, locally chartered charter school transportation, prekindergarten transportation, and large area distances required to transport students to- and-from school; and
- current-year versus prior-year funding for the school transportation program.<sup>3</sup>

The Chair requested that the subcommittee focus on at least three areas of concern for discussion at the next subcommittee meeting. He noted that the LESC may continue the examination of issues related to the school transportation program in the next interim, as well as future interims, to address potential changes in current law.

After discussion, the consensus of the subcommittee was to request staff to examine and report on the following three issues:

- fuel costs;
- bus replacements; and
- site characteristics.

The Chair reported that the next subcommittee meeting is to be held on October 15-16 at Rio Rancho Public Schools.

## **ADJOURNMENT**

There being no further business, the Chair adjourned the LESC Interim Subcommittee on School Bus Transportation meeting at 1:14 p.m.

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<sup>2</sup> It was noted that the Public Education Department currently purchases school-owned buses from two contractors in the state but that school bus contractors must find and purchase buses from other vendors. A possible option, it was noted, would be for the state to consider a statewide price agreement, through the State Purchasing Division of the General Services Department, to facilitate the purchases of all buses.

<sup>3</sup> Several individuals stated that while public school budgets are determined on prior-year reporting dates, the school transportation distribution is based on a current-year reporting date. It was noted that using prior-year number would allow more predictability on available dollars.

**MINUTES**  
**LESC INTERIM SUBCOMMITTEE ON SCHOOL BUS TRANSPORTATION**  
**October 15, 2012**

The subcommittee meeting was called to order at 10:00 a.m. by Representative Roberto "Bobby" J. Gonzales, Chair.

Chairman Gonzales explained that since school transportation issues have not been comprehensively studied since the late 1990's, the subcommittee may be meeting in future interims to provide for an ongoing discussion of issues and concerns. He requested that discussions be focused on agreement or consensus of legislation that can be considered for endorsement by the Legislative Education Study Committee (LESC) and possible consideration by the 2013 Legislature.

**Welcome .**

On behalf of Rio Rancho Public Schools (RRPS), Dr. V. Sue Cleveland, Superintendent, welcomed the subcommittee to the district, emphasizing that over 12,000 of the district's 17,000 students are transported in school buses each school day. Dr. Cleveland then introduced Mr. Maurice Ross, Executive Director of Transportation, RRPS, for an overview of the district's school transportation program. He noted issues related to the cost of fuel, overcrowding in school buses because of the need for more buses, and the district's need to replace at least 21 buses in the next school year.

The Chair recognized Mr. David Craig, LESC Staff, and Mr. Antonio Ortiz, Director of Student Services and Transportation Division, Public Education Department (PED) to discuss the two staff briefs provided to the subcommittee relating to: (1) school bus replacements and rental fees; and (2) fuel costs and appropriation request.

**LESC Staff Brief: School Bus Replacements & Rental Fees**

*School Bus Replacement Appropriations*

Mr. Craig reviewed the General Fund appropriations from 2004 to 2010 for school-owned bus replacements. He emphasized from FY 06 through FY 13, General Fund revenues were not sufficient to fully fund the cost of bus replacements and that the Legislature supported these replacements with other sources of funding, including severance tax bonds, general obligation bonds, General Fund revenue, and the Capital Projects Fund. He noted, however, that even with using other sources of funding, the bus replacement needs outpaced available funding appropriated by the Legislature. As a result, he stated, according to information from PED, the FY 14 capital outlay request for district-owned school buses include an appropriation request of \$20.1 million to bring the replacement schedule up-to-date. The request, he explained, considers the replacement of 101 buses purchased in 2002 and a total of 237 buses that were purchased beginning in 1999 that are behind the 12-year replacement schedule in current law. Assuming the current request is funded, he noted, out-year appropriations may require \$6.4 million in 2016 and about \$9.0 million in 2018.

### *Insurance Costs*

With regard to insurance costs, Mr. Craig reported that according to Poms and Associates, the New Mexico Public Schools Insurance Authority risk insurance consultant, that while the number of insured buses has remained relatively flat, collision claims costs and the associated average cost per bus have both increased. In calculating risk, he stated, it appears that the double digit growth in claim costs influence the growth in the average collision claim cost per bus.

### *School Bus Contractor Rental Fees*

Referring the subcommittee to a graph in the staff report, Mr. Craig discussed that General Fund appropriations support contractor bus purchases which in current law are established as rental fees paid to a contractor over a five-year period. The graph, he emphasized, outlines the spikes in available funding beginning with FY 05.

### *Policy Option*

For consideration of the subcommittee, Mr. Craig suggested amending current law to require PED to include the use of a statewide pricing agreement coordinated through the State Purchasing Division of the General Services Department for the purchase of school buses statewide. He indicated, however, that the department would need to determine if a fleet bus contractor would be eligible to purchase a bus through this type of agreement.

### **Subcommittee Discussion**

Among issues discussed by those in attendance were:

- the 12-year replacement provisions in current law;
- maintenance costs, including costs associated with different kinds of roads and road surfaces;
- the funding of school bus replacements with revenue sources other than the General Fund;
- the \$20.1 million need to address school bus replacements that are behind the 12-year replacement cycle in current law;
- a potential policy relating to the use of spare buses;
- special need buses;
- consideration of having air conditioning as standard equipment rather than an option;
- the procurement process for school-owned and contractor-owned buses;
- available New Mexico vendors;
- issues relating to the rental fees, including consideration for amending current law to provide for a longer payment period; and
- a tax exemption for services provided to a public school by a contractor.

A subcommittee member requested a comparison of other states to New Mexico relating to bus purchases, replacements, and leases.

The Chair requested that special education staff from PED be requested to attend the next subcommittee meeting.

### **LESC Staff Brief: Fuel Costs and Appropriation Request**

Mr. Craig explained that during the August subcommittee meeting, LESC staff outlined provisions in current law relating to school transportation, including provisions in the *Special Fuels Supplier Tax Act* (act) that provide for a refund of state taxes on fuel. He stated that current law and PED administrative rule both:

- require the special fuel excise tax to apply to special fuel suppliers and users;
- define a special fuel user as an owner or operator of a motor vehicle using special fuel and having a gross vehicle weight in excess of 26,000 pounds; and
- exclude school districts operating their own buses from the definition of a special fuel user.

The act, Mr. Craig noted, provides a credit to ensure that special fuel is not to be subject to double taxation – once from the supplier and again from the user. For school bus operators, the act also provides for a refund of taxes paid on special fuel. For the subcommittee’s review, he then referred to a table in the staff brief that compared tax rates paid by school districts and private contractors for retail or wholesale fuel purchases.

### *Comparison of the School Transportation Request and the Appropriation*

Mr. Craig reported that when discussing fuel allocations, it is difficult to track appropriations specific to fuel for school transportation because of the nature of the transportation appropriation.

In the *General Appropriation Act*, Mr. Craig explained, the school transportation appropriation is a categorical public school support line item. As reported by LESC staff during the August subcommittee meeting, he stated, three components comprise the operational transportation appropriation request:

- operations and maintenance;
- fuel; and
- salary and benefits.

Mr. Craig emphasized that because the appropriation request is aggregated to one operational line item, the impact of appropriation reductions or increases for fuel is unknown.

Referring the subcommittee to a comparison of the transportation request to the appropriation by fiscal year that was included in the staff brief, he noted the reductions in FY 10 through FY 12: nearly \$8.8 million in FY 10; over \$9.7 million in FY 11; and approximately \$2.2 million in FY 12.

### *Fuel Price Forecasts and the Appropriation Development*

Mr. Ortiz reported that when developing the appropriation request, PED staff use an average diesel price per gallon to help determine the fuel base funding request. Historically, he stated,

the department used the Lundberg survey to determine an estimate for diesel fuel; however, in recent years PED has discontinued use of this survey in fuel cost projections.

Mr. Craig stated that LESC staff believes that econometric forecasting techniques, when used to estimate statewide fuel prices, face the following obstacles:

- price forecasts for diesel fuel, if available, are generally national;
- price history for diesel specific to New Mexico is either very costly or unavailable; and
- models result in extremely broad confidence intervals, suggesting inaccurate results.

Several key factors, he added, support a simpler approach:

- diesel fuel prices tend to trend with oil prices;
- New Mexico diesel prices appear to be closely linked to Gulf Coast prices; and
- oil price forecasts are available from the consensus revenue estimating group, and historical diesel prices for the Gulf Coast region are available for free from the national Energy Information Agency.

Mr. Craig reported that after meeting with a New Mexico Department of Transportation economist, LESC staff believes sufficient predictive power can be attained by growing the prior year's fuel price consistent with the oil price growth rates of the consensus group. He indicated that assuming the fuel price estimate used in preparing the appropriation request is reasonably accurate, two additional factors could result in budget shortfalls for fuel: price volatility and regional price variation.

Mr. Craig stated that the estimates developed by LESC staff during the appropriation process assume an average annual price; however, fuel prices can fluctuate on a daily basis. It is possible, he added, that at the district or contractor level, refueling happens to occur more frequently on days of high prices rather than low prices. Under those unlucky circumstances, he stated, a district's annual budget for fuel could fall short of actual expenditures even if the statewide annual average price projection were correct.

Referring the subcommittee to an attachment in the staff brief, Mr. Craig noted that fuel price differentials exist between regions. If fuel prices are systemically higher in one region than another, he emphasized, the transportation allocation could underfund some school districts relative to others. He reported that the transportation allocation does not consider regional fuel price variation either directly or indirectly through the site characteristics.

#### *Options for Reducing Fuel Costs*

For the subcommittee's review, Mr. Craig outlined options for reducing fuel costs, including:

- statewide price agreements that allow small entities to gain access to below-market rates;
- bulk purchase agreements that allow for the purchase of fuel in large volumes allowing the buyer to obtain below-retail rates; and
- the use of alternative fuel-powered fleets allow natural gas and propane fuels which are currently less expensive per gallon than diesel and gasoline.

Mr. Craig also discussed the experience of agencies like the General Services Department (GSD) and the New Mexico Department of Transportation (NMDOT) which could provide a model for districts and private contractors. He reported that examples of efficient fuel distribution models include:

- GSD's fuel card system; and
- NMDOT's district model with interspersed maintenance/refueling yards.

Examination of these best practices, Mr. Craig stated, could lead to additional policy options, such as a partnership between NMDOT and small rural districts to use existing refueling facilities under mutually beneficial terms.

### **Policy Options**

For the subcommittee's consideration, Mr. Craig reviewed the following policy options:

- recommending a separate categorical appropriation for school transportation fuel in the *General Appropriation Act*;
- recommending that PED develop future diesel price estimates based on the Energy Information Agency Gulf Coast region price estimate adjusted by the growth in oil prices as estimated by the consensus revenue forecast and incorporating regional fuel price differences in the fuel estimate;
- recommending that PED consider fuel as a site characteristic;
- amending current law to establish a transportation fuel fund to address budget shortfalls; and
- recommending that PED explore the following alternative models for fuel purchase, distribution or use:
  - ✓ statewide price agreements;
  - ✓ bulk purchase agreements;
  - ✓ alternative fuel vehicles; and
  - ✓ utilizing the best practices of other state agencies.

### **Subcommittee Discussion**

Items discussed by the subcommittee included:

- a separate appropriation category for fuel;
- establishing a separate fund for fuel;
- issues with the reimbursement for increases in fuel;
- establishing a reimbursement "trigger" to address fuel cost increases over a certain percentage; and
- the use of alternative sources of fuel, including natural and/or propane gas.

**MINUTES**  
**LESC INTERIM SUBCOMMITTEE ON SCHOOL BUS TRANSPORTATION**  
**October 16, 2012**

The subcommittee meeting was called to order at 9:00 a.m. by Representative Roberto "Bobby" J. Gonzales, Chair.

The Chair again recognized Mr. Craig and Mr. Ortiz to discuss the remaining staff brief provided to the subcommittee relating to site characteristics.

**Staff Brief: Site Characteristics and School Transportation Allocation**

Mr. Craig reported that during the August subcommittee meeting, members heard a report from the Legislative Education Study Committee (LESC) staff describing how the school transportation allocation is distributed. Referring the subcommittee to several attachments to the staff brief, he noted that the report included a review of the provisions in the *Public School Finance Act* that require the calculation of the allocation to include:

- a base amount calculated by regressing the total operations expenditures from the two prior years using a numerical value of site characteristics approved by PED;
- a variable amount defined as predicted additional expenditures based upon a regression analysis of site characteristics as predictor variables multiplied by number of days; and
- an adjustment factor applied to the allocation amount.

*Site Characteristics*

Mr. Ortiz explained that the current transportation calculation used by the department considers the following site characteristics:

- students eligible for transportation;
- students transported;
- special education students;
- buses;
- buses with lifts;
- area;
- density (students divided by area);
- total miles traveled; and
- days.

He referred the subcommittee to an attachment to the staff brief which outlines the initial operation allocations by school district and charter school for school year 2011-2012.

*Transportation Distribution Reporting Requirements*

Mr. Ortiz stated that provisions in current law relating to the distribution of available transportation dollars require, prior to November 15 of each year, that each local school board or

governing body of a state-chartered charter school to report certain information to the Public Education Department (PED), including the:

- number and designation of bus routes;
- number of miles by road surface;
- number of students transported on the first reporting period and adjustments for special education on December 1;
- projected students for the next year;
- seating capacity, age, and mileage of each bus; and
- number of total miles traveled for each per capita feeder route.

### **Testimony to the LESC**

Mr. Craig summarized testimony to the LESC relating to additional site characteristics that affect school transportation operations, including:

- roadway miles, elevation, and high fuel costs;
- charter schools;
- small school districts with large land areas;
- high cost of fuel and equipment parts; and
- declines in student membership that affect transportation budget but that may require providing more transportation services as a result of students in charter schools or an increase in special needs students.

### **Policy Option**

For the committee's consideration, Mr. Craig suggested requesting that PED provide the LESC and the Legislative Finance Committee (LFC) with a report that considers the feasibility of additional site characteristics, including (possibly):

- road surface(s);
- roadway miles;
- elevation;
- high fuel costs;
- charter schools; and
- small school districts with large land areas.

### **Subcommittee Discussion**

Subcommittee members discussed several concerns relating to the current site characteristics used in the calculation of the transportation allocations and additional characteristics that may need to be considered, including:

- unimproved roads;
- unmaintained roads;
- road miles associated with road surfaces;

- fuel consumption associated with high elevations; and
- higher fuel costs in certain regions of the state.

A subcommittee member indicated that the use of prior year numbers may provide more stability in school transportation funding.

A subcommittee member expressed concern that transportation funding does not consider fixed costs for the program.

A subcommittee member stated that changes to the site characteristics should be considered only if consistent and accurate data is available for the school transportation program statewide. Mr. Ortiz reported that to address these issues, PED used \$966,400 from a 2007 capital outlay appropriation to purchase a statewide public school bus global positioning system that has the capability to determine site characteristics by school district. The system, however, is currently not funded. Mr. Craig added that according to an LFC program evaluation of the school transportation program this system has the potential to significantly increase PED's oversight of the school transportation program statewide.

There being no further discussion, the Chair, within the context of the discussions of the two-day meeting, requested consensus on the main priorities to be considered, which included:

- 1) student counts;
- 2) an additional appropriation request of \$20.1 million to bring the school bus replacement schedule up-to-date;
- 3) accountability measures in order to provide for an appropriate and adequate appropriation for the school transportation program statewide;
- 4) fuel funding, to include consideration for a separate line item and/or the creation of a fuel fund;
- 5) road surfaces as a site characteristic;
- 6) bus replacements and rental fees;
- 7) potential for using the New Mexico Finance Authority as a financing option for the purchase of buses;
- 8) allocations to state-chartered charter schools; and
- 9) weighting of student counts versus miles travelled.

Acknowledging the various priority issues, the Chair reminded the subcommittee that the LESC has discussed convening the subcommittee in future interims to provide for an ongoing discussion of issues and concerns. He requested that the subcommittee members focus their recommendations for consideration of the LESC to three to five issue areas.

**MINUTES**  
**LESC INTERIM SUBCOMMITTEE ON SCHOOL BUS TRANSPORTATION**  
**December 3, 2012**

The subcommittee meeting was called to order at 10:00 a.m. by Representative Roberto "Bobby" J. Gonzales, Chair.

**OVERVIEW OF OCTOBER SUBCOMMITTEE MEETING:**  
**MINUTES FOR OCTOBER 15-16, 2012**

The Chair recognized Ms. Frances Maestas, LESC Director, for a brief review of the subcommittee meeting minutes for October 15 and 16, 2012. LESC staff reports heard by the subcommittee, she stated, included:

- past school bus replacement appropriations;
- increased insurance costs with an aging fleet;
- school bus contractor rental fees; and
- a staff policy options relating to a statewide pricing agreement coordinated through the State Purchasing Division of the General Services Department for the purchase of school buses statewide.

**STAFF REPORT: State Comparisons of School Bus Purchases, Replacement, and Leases**

The Chair recognized Mr. David Craig, LESC staff, who reported that during the October 2012 subcommittee meeting, members heard a report from LESC staff concerning past school bus replacement appropriations, increased insurance costs with an aging fleet, school bus contractor rental fees, and a policy option to consider a statewide pricing agreement coordinated through the State Purchasing Division of the General Services Department for the purchase of school buses statewide. Members of the subcommittee then asked LESC staff to compile a comparison of methods used to purchase, replace, and/or lease school buses.

Referring to an attachment to the staff report, Mr. Craig provided an overview of provisions in other state laws, including Arizona, Arkansas, California, Colorado, Idaho, Louisiana, Montana, Nevada, Oklahoma, Texas, and Utah. He noted that the information for the state of Utah also includes additional information on this topic from the state's transportation director.

To conclude, he stated that because many or other states in our region allow more flexibility in local property taxes, more flexibility is allowed on the replacement of buses. Many states, he reported, provide a central state fund from which districts can borrow funds to facilitate school bus purchases, replacements, and leases. Other states, he added, also allow more flexibility in financing options, like the issue of bonds or levy of sales taxes.

**STAFF REPORT: Site Characteristic Data Option: Global Positioning System (GPS)**

Mr. Craig reported that during the October 2012 subcommittee meeting, members heard a staff report that outlined the provisions relating to the distribution of available transportation dollars and the

current transportation calculation used by the Public Education Department (PED) that considers the following site characteristics:

- students eligible for transportation;
- students transported;
- special education students buses;
- buses with lifts;
- area;
- density (students divided by area); total miles traveled; and
- days.

According to PED staff, Mr. Craig noted, data is limited for school transportation in high elevation areas, different road surfaces, and school districts providing school bus services for charter school students. He emphasized that data may be needed in order for decision-makers to determine the need for additional site characteristics in the current transportation formula.

Mr. Craig stated the PED staff has suggested that a potential solution for additional data is the use of Global Positioning Systems (GPS) in all to- and from-school buses. He stated that according to a Legislative Finance Committee School Bus Transportation Program Evaluation report, these systems have the potential to significantly increase PED's oversight of the school transportation program statewide. He stated that information to LESC staff from one GPS vendor indicates that all school buses in New Mexico currently are formatted with the hardware to use the vendor's service. Information from another vendor, he added, indicates that they do business with nine districts, one contractor, and one nonprofit. Information from these vendors, he stated, generally cite increased efficiency and safety, creation of an audit trail, improved fleet maintenance, and increased data for policymakers in its literature. To conclude, Mr. Craig stated that in order to determine the feasibility of including additional site characteristics in the transportation funding formula and to provide better data to PED, the subcommittee may wish to consider an appropriation recommendation to fund a statewide GPS system.

#### **STAFF REPORT: New Mexico Finance Authority (NMFA) Financing**

Mr. Craig reported that in 1992 the Legislature established the *New Mexico Finance Authority Act* (act) and created the NMFA primarily to finance infrastructure projects of the state's counties and cities and certain departments of state government. The act also includes provisions for the Public Projects Revolving Fund as the vehicle to accomplish this financing objective.

Among its other provisions, Mr. Craig stated, the act:

- authorizes NMFA to issue tax-exempt Public Projects Revolving Fund bonds to obtain the funds it loans to New Mexico governmental entities;
- creates the Governmental Gross Receipts Tax as a source of funding for NMFA operations and to serve as a credit enhancement for NMFA bonds; and
- defines a "qualified entity" as:

“the state or an agency or institution of the state or a county, municipality, school district, two-year public post secondary educational institution, charter school, land grant corporation, acequia association, public improvement district, federally chartered college located in New Mexico, intercommunity water or natural gas supply association or corporation, special water, drainage, irrigation or conservancy district or other special district created pursuant to law, nonprofit foundation or other support organization affiliated with a public university, college or other higher educational institution located in New Mexico, including a university research park corporation, an Indian nation, tribe or pueblo located wholly or partially in New Mexico, including a political subdivision or a wholly owned enterprise of an Indian nation, tribe or pueblo or a consortium of those Indian entities or a consortium of any two or more qualified entities created pursuant to law.”

Mr. Craig reported that in 1994, the Public Projects Revolving Fund (PPRF) was established in law as the vehicle to accomplish this financing objective. According to NMFA, he stated, over the past several years the fund has evolved from a broad-based financier of state and local government agencies to one that now includes a greater diversity of entities. This diversity has helped the fund attain higher bond ratings, lower costs of issuance to all borrowers, and provide below-market interest rate loans to disadvantaged entities. Through June 30, 2011, the NMFA made more than 1,020 fund loans totaling nearly \$1.95 billion. He emphasized that although the Legislature has created additional program responsibilities for NMFA, the PPRF remains the core of its activities.

As a policy option, Mr. Craig stated, the subcommittee may wish to consider recommendations to:

- include a bus contractor providing services to a public school district in the definition of a qualified entity; and
- adding a new section in the act to provide for the financing of school bus purchases.

#### **STAFF REPORT: Prior Year Funding**

Mr. Craig reported that during the August 2012 subcommittee meeting, LESC staff provided an overview of reporting requirements for allocations that the local board or governing body of a state-chartered charter school must report on the first reporting date of the current year.

According to PED staff, Mr. Craig stated, the tentative transportation budget for the current fiscal year is based upon the prior-year first reporting date reporting requirements. This tentative transportation budget, he noted, is then adjusted by the current-year first reporting date reporting data.

Mr. Craig noted that subcommittee members and district members have indicated that the adjustment of allocations based on current-year data is disruptive to school district budget development, school district contract management, and contractor operations management. He

added that subcommittee members heard testimony that basing transportation allocations on prior-year data would provide a more stable fiscal environment for operations.

**STAFF REPORT: Tax Policy Options**

Mr. Ian Kleats, LESC staff, provided the subcommittee with an overview of provisions in current law that allow private school bus contractors to claim a deduction or credit against their special fuel excise tax liability. The provisions relating to the gross receipts tax (GRT) exemption for fuel, he reported, are designed to eliminate the double taxation of fuel, and are worded such that it only applies when the applicable fuel taxes have been "paid and not refunded." This language, he stated requires that wholesalers of fuel purchased by the contractors pass on the cost of the GRT, which might contradict the intent of the special fuel excise tax credit and deduction.

He indicated that any change would require a new section within the *Gross Receipts and Compensating Tax Act*. Mr. Kleats reported that a preliminary scoring of this measure indicates that it could reduce general fund revenues from GRT between \$200,000 and \$300,000 per year; however, the reimbursement of contractor fuel costs could decrease by more than \$500,000 annually. Under those conditions, he noted, this proposal could result in a net cost savings to the general fund of several hundred thousand dollars.

Mr. Kleats indicated that the purchase of school buses by private contractors is subject to the motor vehicle excise tax; however, school districts receive an exemption from this tax. He added that at 3.0 percent of the price paid for the vehicle, this tax is effectively passed on to the State through rental fees charged by the contractors. He noted that providing an exemption from motor vehicle excise tax for private school bus contractors would require amendment of the *Motor Vehicle Excise Tax Act* and a new section within the *Gross Receipts and Compensating Tax Act*. The amendment to the *Motor Vehicle Excise Tax Act* would place an additional subsection in the section provided as Attachment 5b. A new section in the *Gross Receipts and Compensating Tax Act*, he stated, would serve to close a loophole that would incur GRT liability from the sale.

**STAFF REPORT: School Transportation Fuel Fund**

Mr. Craig reported that at the October 2012 subcommittee meeting, the members discussed options for addressing fluctuations in the price of fuel by creating a Transportation Fuel Fund with provisions for an emergency price adjustment distribution. He noted that according to PED the transportation allocation is distributed by the department on a monthly basis year, excluding the month of June.

Items the subcommittee may also have to consider, Mr. Craig, stated, would include an emergency price trigger in instances when the price of fuel exceeds the projected fuel cost at the time budgets are approved. The price trigger, he added, could be based on a certain percentage increase or be based on an evaluation of the price of fuel on certain dates in the school year, such as November or March of each year.

## **Subcommittee Discussion**

The subcommittee and those in attendance discussed various initiatives covered by the subcommittee during the interim, including:

- including additional site characteristics to the current formula for school with large land areas and unimproved or unpaved roads;
- using the GPS to inform changes to the funding formula;
- purchasing buses that use alternative fuels, such as natural gas;
- providing for the actual reimbursement of fuel;
- options for funding fuel price increases;
- moving to a 14-year school bus replacement schedule; replacement period;
- basing bus replacements on miles traveled rather than years in operation;
- tax exemptions or deductions for public school bus contractors;
- rental fees for public school bus contractors; and
- a \$20.1 million appropriation for school bus replacements.

Following subcommittee discussion with those in attendance, the Chair requested consensus on the following items as subcommittee recommendations:

### **Rental Fee Extension**

Amend current law for school transportation equipment to extend the period of time during which a school district can pay rental fees on any one bus from five years to 12 to allow for flexibility in contractor financing.

### **Gross Receipts Exemption**

Amend the *Gross Receipts and Compensating Tax Act* to allow for an exemption from gross receipts tax for school bus contractors for purchases of gasoline, special, and alternative fuels, to allow contractors that do not take advantage of the special fuels excise tax credit tax relief.

### **Special Appropriation to the Public Education Department (PED) for Global Positioning System (GPS)**

Request a \$565,000 special appropriation is to PED for FY 14 for the purchase and/or operation of GPS equipment. The GPS would provide a method for PED to verify mileage, idle time, and fuel use for to-and-from in order to accurately reimburse costs and help inform future studies of the school transportation funding formula, including site characteristics.

### **Transportation Distribution Based on Prior Year 80<sup>th</sup> Day Reporting**

Amend current law to base transportation funding on prior year reporting of the second reporting date (often referred to as the 80<sup>th</sup> day). Subcommittee testimony and discussion on this issue was focused on stability in funding and budgets.

### **School-owned Bus Replacements Capital Appropriation**

Request an appropriation of \$20.145 million from the Public School Capital Outlay Fund to PED for the purchase of school-owned bus replacements.

### **Study of Transportation Issues**

Introduce legislation to create a school transportation task force to examine provisions related to: the transportation funding formula, recruitment and retention of school bus drivers, costs of and funding for fuel and review all safety concerns for school transportation. The bill would make a \$90,000 appropriation to the Legislative Council Service to support the work of the task force.

### **Supplemental Fuel Funding on a Mileage Basis**

Request an appropriation of \$1,000,000 to PED to be distributed on a quarterly basis by the department based on the determination of the Secretary of Public Education that there is a need for increased supplemental funding for to- and from-school transportation based on increased fuel costs.

There being no objection, the Chair requested that LESC staff schedule a subcommittee meeting later in the week for the purpose of discussing the subcommittee recommendations with the Secretary-designate ofr Public Education and her staff. He noted that the subcommittee recommendations would be presented to the LESC during the committee's December interim meeting for committee consideration of endorsed legislation.

There being no further business for the day, the Chair recessed the subcommittee at 3:34 p.m.

**MINUTES**  
**LESC INTERIM SUBCOMMITTEE ON SCHOOL BUS TRANSPORTATION**  
**December 7, 2012**

The subcommittee meeting was called to order at 1:00 p.m. by Representative Roberto "Bobby" J. Gonzales, Chair.

**SUBCOMMITTEE DISCUSSION WITH PUBLIC EDUCATION DEPARTMENT (PED)**  
**STAFF OF RECOMMENDATIONS FOR SCHOOL BUS TRANSPORTATION**

The Chair recognized Mr. David Craig and Mr. Ian Kleats, LESC staff, and Mr. Antonio Ortiz, Director of Student Services and Transportation Division, PED, for a discussion relating to the subcommittee's recommendations to the LESC.

Mr. Craig provided an overview of the discussions of previous subcommittee meetings, indicating that the December meeting focused largely on the issue of fuel. Referring to a subcommittee handout, Mr. Kleats reported that the reimbursement for fuel would be dependent on adequate levels of funding as well as access to accurate data.

Discussion focused on the subcommittee consensus recommendations of December 3. With regard to prior year funding, the Chair asked Mr. Ortiz if the department could accommodate the date change. Mr. Ortiz stated that the department staff would prefer to fund districts on the prior year 80<sup>th</sup> day. In response to using the average of the prior year 80<sup>th</sup> and 120<sup>th</sup> day, Mr. Ortiz stated that using these dates could result in increased administrative costs for PED.

The chair stated that contemplated changes to the current transportation funding formula may require a joint memorial for an interim study of the current site characteristics in the transportation funding formula.

Mr. Ortiz stated that PED staff is unable to take a position on any of the subcommittee recommendations until discussion drafts are provided to the department.

There being no further business for the day, the Chair adjourned the subcommittee meeting at 2:33 p.m.

