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October 15, 2012

MEMORANDUM

TO: LESC Interim Subcommittee on School Bus Transportation

FR: David T. Craig

RE: STAFF BRIEF: SCHOOL BUS REPLACEMENTS & RENTAL FEES

Introduction

During the August 2012 Legislative Education Study Committee (LESC) Transportation Subcommittee meeting, members received testimony from:

- LESC staff summarizing the provisions in the *School Finance Act* relating to school transportation program requirements for the purchase of school bus transportation equipment (refer to Attachment 1, *Provisions in Current Law and Administrative Rule, School Bus Transportation*), including the provisions on pages 6 to 9 relating to the:
 - replacement of school-owned and contractor-owned school buses on a 12-year cycle, including petitions to replace or use buses prior to or in excess of the 12-year cycle; and
 - for contractor-owned buses, the
 - ✓ payment of rental fees over a five-year period;
 - ✓ process by which a school district may file a lien on contractor-owned school buses; and
 - ✓ reimbursement calculations required upon contract termination or non-renewal.

- And, from the Public Education Department (PED) staff, information relating to the bus replacement system established by PED, indicating that:
 - the average yearly replacement varies from year to year but is about 150 to 175 buses based on to-and-from buses being used for 12 years;
 - ✓ the amount for current replacements is about \$4.5 million;
 - ✓ the replacement schedule is approximately three to four years behind;
 - ✓ the PED request for FY 14 school-owned bus replacements request is projected to be approximately \$20.1 million from capital outlay funds; and
 - ✓ the state may be able to better leverage the state's purchase of school buses by considering a statewide purchasing agreement coordinated through the State Purchasing Division of the General Services Department¹.

This staff report includes a summary relating to the:

- school bus replacement appropriations;
- increased insurance costs;
- school bus contractor rental fees;
- and a policy option.

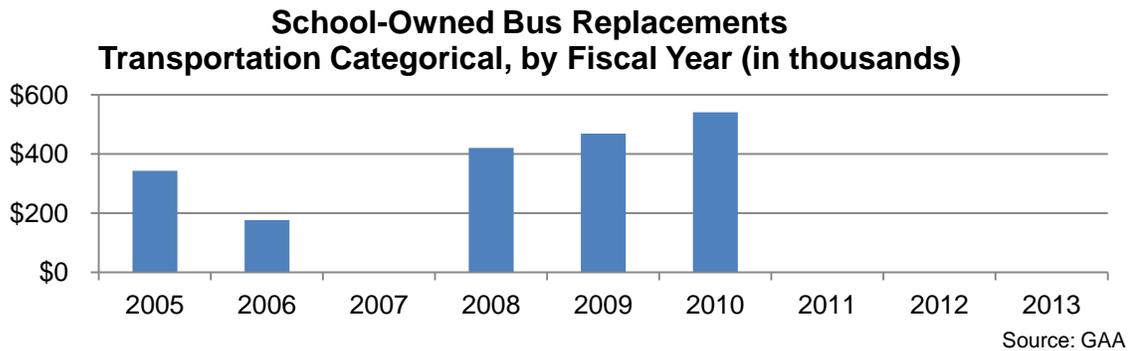
School Bus Replacement Appropriations

According to information from the Student Transportation Bureau at PED, provided as Attachment 2, the FY 14 capital outlay request for district-owned school buses includes:

- 101 buses that were bought in 2002 that need replacement;
- a total of 237 buses that are behind (bought between 1999 and 2002);
- a total appropriation request of \$20.1 million to bring the replacement schedule up-to-date; and
- assuming the current request is funded, out-year appropriations may require \$6.4 million in 2016 and about \$9.0 million in 2018.

¹ Currently, school districts may purchase school bus equipment from two approved vendors: Robert's Truck and Bus Center (Zia Bus Sales) and Tillery Chevrolet. According to PED staff, school districts receive a 40 percent discount on purchases from these vendors. The use of a statewide purchasing agreement may allow for similar savings; however, it is unclear whether a fleet contractor would be eligible to purchase bus equipment under the same agreement. Due to the anti-donation clause, it may be necessary to structure any fleet contractor participation on as a purchase by the state or as a lease-purchase option which may require statutory changes.

The graph below visually describes the General Fund appropriations from 2004 to 2010 for school-owned bus replacements:



The table below indicates that these General Fund revenues were not sufficient to fully fund the cost of bus replacements and that the Legislature supported school bus replacements with other sources of funding from FY 06 through FY 13, including severance tax bonds (STBs), general obligation bonds (GOBs), General Fund (GF) revenue, and the Capital Projects Fund (CPF).

**School-owned Bus Replacements by Funding Source
and Fiscal Year**

Fiscal Year	Fund Source	Appropriation Amount
2013	STBs	\$2,500,000
2012	N/A	\$0
2011	GOBs	\$500,000
2010	STBs	\$5,000,000
2009	STBs	\$4,000,000
2008	GF	\$3,500,000
2007	GF	\$2,000,000
2006	GF	\$600,000

Source: LFC & bill locator NMLegis.gov

However, even with using other sources of funding, as indicated in the table below the bus replacement need outpaces available funding appropriated by the Legislature.

**School-owned Bus Replacement Request by
Fiscal Year**

Fiscal Year	No. of Buses	Price per Bus	Total Request
FY06	65	\$58,800	\$3,822,000
FY07	63	\$60,285	\$3,797,955
FY08	70	\$70,070	\$4,904,900
FY09	64	\$78,125	\$5,000,000
FY10	64	\$80,500	\$5,152,000
FY11	72	\$88,000	\$6,336,000
FY12	103	\$85,000	\$8,755,000
FY13	176	\$85,000	\$14,960,000

Source: PED

Increased Insurance Costs

According to Poms and Associates,² data specifically linked to aging school buses is unavailable. However, as shown in the table below, 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, it appears that the double digit growth in claim costs influence the growth in the average collision claim cost per bus.

Claims Costs and Average Cost per Bus by School Year

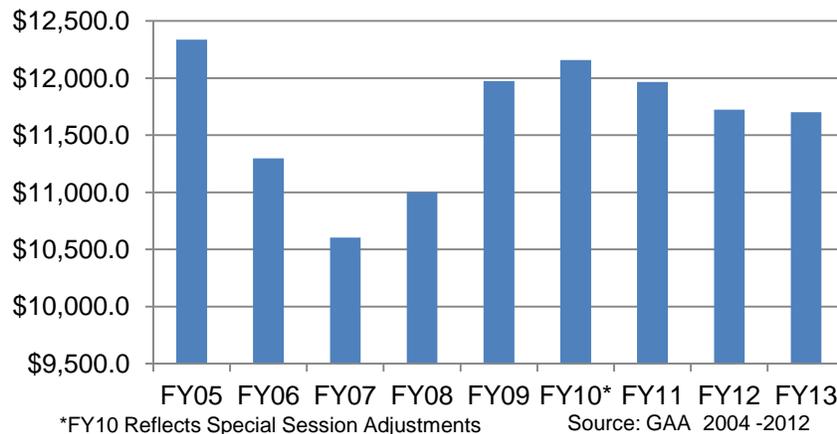
	Collision Claim costs	Percent Difference	Number of Insured buses	Average collision claim cost per bus (collision claim cost divided by number of insured buses)
2007-08	\$320,167		2,952	\$108
2008-09	\$310,803	-2.92%	3,063	\$101
2009-10	\$290,913	-6.40%	2,430	\$120
2010-11	\$347,722	19.53%	2,921	\$119
2011-12	\$403,322	15.99%	2,853	\$141

Source: Poms and Associates

School Bus Contractor Rental Fees

As indicated in testimony provided to the Transportation Subcommittee in August, General Fund appropriations support contractor bus purchases which in current law are established as rental fees to be paid by a school district to a contractor over a five-year period.

**General Fund Appropriations for Contractor Bus Needs
FY 05-FY 13 (in thousands)**



² Poms and Associates is the New Mexico Public Schools Insurance Authority risk insurance consultant.

A Policy Option

The subcommittee may wish to consider 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. For this option, however, the department would need to determine if a fleet bus contractor would be eligible to purchase a bus through this type of agreement.

Presenter

For this report, Mr. Antonio Ortiz, Director of Student Services and Transportation Division, PED, will give an overview of the bus replacement system established by PED.

Provisions in Current Law and Administrative Rule:
School Bus Transportation

Current Law		Administrative Rule
<p>7-9-26. Exemption; gross receipts and compensating tax; fuel. (1995)</p>	<p>Exempted from the gross receipts and compensating tax are the receipts from selling and the use of gasoline, special fuel or alternative fuel on which the tax imposed by Section 7-13-3, 7-16-3 or 7-16A-3 NMSA 1978 or the Alternative Fuel Tax Act has been paid and not refunded.</p>	<p>3.2.114 Gross Receipts Taxes Exemption – Gross Receipts and Compensating Tax - Fuel 3.2.114.8 Refund of Tax: When a refund of tax imposed by Sections 7-13-3 and 7-16A-3 NMSA 1978 is given the purchaser under Sections 7-13-17 or 7-16A-13.1 NMSA 1978, the compensating tax will be deducted from such refund and no gross receipts tax will be charged at the time of sale of the product. The reasonable value of gasoline or special fuel for compensating tax purposes will be the price paid for the fuel, including any applicable excise taxes whether separately stated or included in the price. This version of 3.2.114.8 NMAC applies to transactions on or after July 1, 1998. [12/5/69, 3/9/72, 11/20/72, 3/20/74, 7/26/76, 6/18/79, 4/7/82, 5/4/84, 4/2/86, 11/26/90, 11/15/96; 3.2.114.8 NMAC - Rn, 3 NMAC 2.26.8 & A, 10/31/00; A, 10/15/02; A, 12/30/10]</p>
<p>7-9-54. Deduction; gross receipts tax; governmental gross receipts tax; sales to governmental agencies. (2003)</p>	<p>A. Receipts from selling tangible personal property to the United States or New Mexico or any governmental unit or subdivision, agency, department or instrumentality thereof may be deducted from gross receipts or from governmental gross receipts. Unless</p>	<p>3.2.212 Gross Receipts Taxes Deduction – Gross Receipts Tax – Sales to Governmental Agencies 3.2.212.9 Sale of Service to a Governmental Agency: A. Receipts from the sale of a</p>

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	<p>contrary to federal law, the deduction provided by this subsection does not apply to:</p> <p>(1) receipts from selling metalliferous mineral ore;</p> <p>(2) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code [3-60A-1 NMSA 1978];</p> <p>(3) receipts from selling construction material; or</p> <p>(4) that portion of the receipts from performing a "service" that reflects the value of tangible personal property utilized or produced in performance of such service.</p> <p>B. Receipts from selling tangible personal property for any purpose to an Indian tribe, nation or pueblo or any governmental subdivision, agency, department or instrumentality thereof for use on Indian reservations or pueblo grants may be deducted from gross receipts or from governmental gross receipts.</p> <p>C. When a seller, in good faith, deducts receipts for tangible personal property sold to the state or any governmental unit, subdivision, agency, department or instrumentality thereof, after receiving written assurances from the buyer's representative that the property sold is not</p>	<p>service to a governmental agency are not deductible pursuant to Section 7-9-54 NMSA 1978. Only the receipts from selling tangible personal property to a governmental agency are deductible.</p>

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	construction material, the department shall not assert in a later assessment or audit of the seller that the receipts are not deductible pursuant to Paragraph (3) of Subsection A of this section.	
7-15A-5. Exemption from tax. (2006)	Exempted from imposition of the weight distance tax is the use of the highways of this state by: A. school buses; B. buses used exclusively for the transportation of agricultural laborers; C. buses operated by religious or nonprofit charitable organizations; and D. commercial motor carrier vehicles as defined in Subsection B of Section 7-15-2.1 NMSA 1978 while operating exclusively within ten miles of a border with Mexico in conjunction with crossing the border with Mexico.	3.12.5.8 Highway Use Taxes and Fees Exemption From Tax Registration of School Buses Required: Only those school buses registered under the provisions of Section 66-6-12 NMSA 1978, those buses used exclusively for the transportation of agricultural laborers registered under the provisions of Section 66-6-8 NMSA 1978, and those buses operated by religious or nonprofit charitable organizations registered under the provisions of Section 66-6-5 NMSA 1978 are exempt from the imposition of the weight distance tax under Section 7-15A-5 NMSA 1978. [9/20/93, 9/14/96; 3.12.5.8 NMAC - Rn & A, 3 NMAC 12.5.8, 11/15/01]
7-16A-10. Deductions; special fuel excise tax; special fuel suppliers. (2009)	F. special fuel that is number 2 diesel fuel sold for the generation of power to propel a vehicle authorized by contract with the public education department as a school bus; provided that the fuel has a distillation temperature of five hundred degrees Fahrenheit at a ten percent recovery point	N/A

Provisions in Current Law and Administrative Rule:
School Bus Transportation

Current Law		Administrative Rule
	and six hundred forty degrees Fahrenheit at a ninety percent recovery point;	
<p>7-16A-13.1. Claim for refund of special fuel excise tax paid on special fuel. (2006)</p>	<p>A. Upon the submission of proof satisfactory to the department¹, a user of special fuel² may submit and the department may allow a claim for refund of tax paid on special fuel used to propel a vehicle authorized by contract with the public education department as a school bus, to propel a vehicle off-road, to operate auxiliary equipment by a power take-off from the main engine or transmission of a vehicle or to operate a non-automotive apparatus mounted on a vehicle when the special fuel used for such purposes and the special fuel used to propel the vehicle on the highways are drawn from a common supply tank. The vehicle must be registered with the department. The user must be registered with the department for purposes of reporting and paying gross receipts tax.</p> <p>B. No person may submit claims for refund pursuant to the provisions of this section more frequently than quarterly. No claim for refund may be submitted or allowed on less than one hundred gallons.</p>	<p>3.1.4. Tax Administration Filing 3.1.4.11 Semi-Annual or Quarterly Filing D. Filing Periods for Alternative Fuel Tax Distributors: (1) In anticipation that distributors who are required to file and pay the alternative fuel excise tax will have a tax liability of less than \$200 per month, distributors are authorized to report and pay this tax on a quarterly basis without advance approval of the secretary. The quarterly reporting and payment intervals shall only be for the three-month periods ending March 31, June 30, September 30 and December 31. (2) After December 31, 1996, any distributor reporting and paying on a quarterly basis whose alternative fuel excise tax liability averages more than \$200 per month during a calendar quarter will be required to report and pay alternative fuel excise</p>

¹ "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

²"special fuel" means any diesel-engine fuel or kerosene used for the generation of power to propel a motor vehicle, except for gasoline, liquefied petroleum gas, compressed or liquefied natural gas and products specially prepared and sold for use in aircraft propelled by turbo-prop or jet engines

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	<p>C. The department may prescribe the documents necessary to support a claim for refund pursuant to the provisions of this section. The department may prescribe the use of types of monitoring or measuring equipment.</p> <p>D. This section applies to special fuel purchased on or after July 1, 2001, except for the refund for special fuel used to propel a school bus, which applies to special fuel purchased on or after July 1, 2005.</p>	<p>tax on a monthly basis. After December 31, 1996, any distributor reporting on a monthly basis but whose alternative fuel tax liability is less than \$200 per month may report and pay the alternative fuel excise tax on a quarterly basis if the distributor obtains the prior approval of the secretary or the secretary's delegate. (3) This regulation is retroactively applicable to tax periods beginning on or after January 1, 1996.</p>
<p>22-8-26. Transportation distribution.</p>	<p>A. Money in the transportation distribution of the public school fund shall be used only for the purpose of making payments to each school district or state-chartered charter school for the to-and-from school transportation costs of students in grades kindergarten through twelve attending public school within the school district or state-chartered charter school and of three- and four-year-old children who meet the department approved criteria and definition of developmentally disabled and for transportation of students to and from their regular attendance centers and the place where vocational education programs are being offered.</p> <p>B. In the event a school district's or state-chartered charter school's transportation allocation exceeds the amount required to</p>	<p>6.43.3 Public School Transportation Operational Funding Reporting Requirements</p> <p>6.43.3.7 E. Remaining balance - Unexpended balance at the end of any fiscal year that is not obligated or necessary to meet the to-and-from transportation services included in the school district budget. [07-30-99; 6.43.3.7 NMAC - Rn, 6 NMAC 9.4.3.7, 12-29-2000; A, 11-13-2009]</p> <p>6.43.3.8 Requirements of the Public Education Department:</p> <p>B. The department shall prepare budget and reporting forms for the remaining balances carried forward and provide them to each school district.</p>

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	<p>meet obligations to provide to-and-from transportation, three- and four-year-old developmentally disabled transportation and vocational education transportation, fifty percent of the remaining balance shall be deposited in the transportation emergency fund.</p> <p>C. Of the excess amount retained by the school district or state-chartered charter school, at least twenty-five percent shall be used for to-and-from transportation-related services, excluding salaries and benefits, and up to twenty-five percent may be used for other transportation-related services, excluding salaries and benefits as defined by rule of the department.</p> <p>D. In the event the sum of the proposed transportation allocations to each school district or state-chartered charter school exceeds the amounts in the transportation distribution, the allocation to each school district or state-chartered charter school shall be reduced in the proportion that the school district or state-chartered charter school allocation bears to the total statewide transportation distribution.</p> <p>E. A local school board or governing body of a state-chartered charter school, with the approval of the state transportation director, may provide additional transportation services pursuant to Section 22-16-4 NMSA</p>	<p>[07-30-99; 6.43.3.8 NMAC - Rn, 6 NMAC 9.4.3.8, 12-29-2000; A, 11-13-2009]</p> <p>6.43.3.9 Requirements of School Districts</p> <p>B. School districts shall use their remaining balance as follows.</p> <p>(1) At least twenty-five percent of the total remaining balance shall be used for to-and-from transportation-related services, excluding salaries and benefits.</p> <p>(2) Up to twenty-five percent of the total remaining balance may be used for other transportation-related services, excluding salaries and benefits.</p> <p>(3) The school district may use fifty percent of the total remaining balance for to-and-from transportation-related services, excluding salaries and benefits.</p> <p>[07-30-99; 6.43.3.9 NMAC - Rn, 6 NMAC 9.4.3.9, 12-29-2000]</p> <p>HISTORY OF 6.43.3 NMAC: [RESERVED]</p>

Provisions in Current Law and Administrative Rule:
School Bus Transportation

Current Law		Administrative Rule
	<p>1978 to meet established program needs. F. Nothing in this section prohibits the use of school buses to transport the general public pursuant to the Emergency Transportation Act [22-17-1 through 22-17-4 NMSA 1978].</p>	
<p>22-8-27. Transportation equipment. (2009)</p>	<p>A. The department shall establish a systematic program for the purchase of necessary school bus transportation equipment. B. In establishing a system for the replacement of school-district-owned buses, the department shall provide for the replacement of school buses on a twelve-year cycle. School districts requiring additional buses to accommodate growth in the school district or to meet other special needs may petition the department for additional buses. Under exceptional circumstances, school districts may also petition the department for permission to replace buses prior to the completion of a twelve-year cycle or to use buses in excess of twelve years contingent upon satisfactory annual safety inspections. C. In establishing a system for the use of contractor-owned buses by school districts or state-chartered charter schools, the department shall establish a schedule for the payment of rental fees for the use of contractor-owned buses. The department shall establish procedures to ensure the</p>	<p>6.43.2. Requirements for School Bus Contracts and Per Capita Feeder Agreements K. The local board shall comply with the procedures established by the secretary of public education for the purchase and replacement of school buses. M. The school district shall ensure that a lien is filed in its name on every contractor-owned school bus under the contract. The school district shall also ensure that a lien is perfected in its name on each contractor-owned school bus with the motor vehicle division of the taxation and revenue department. The lien shall be recorded on the title of the school bus. The school district shall provide documentation to the state transportation director that the school district has filed a lien on each school bus authorized under contract with the school district. A school bus contractor shall not refinance or use a</p>

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law	Administrative Rule
	<p>systematic replacement of buses on a twelve-year replacement cycle. School districts requiring additional buses to accommodate growth in the school district or to meet other special needs may petition the department for additional buses. Under exceptional circumstances, school districts may also petition the department for permission to replace buses prior to the completion of a twelve-year cycle or to use buses in excess of twelve years contingent upon satisfactory annual safety inspections.</p> <p>D. The school district shall file a lien on every contractor-owned school bus under the contract on which the contractor owes money, which lien shall have priority second only to a lien securing the purchase-money obligation. The school district shall perfect its lien on each contractor-owned school bus by filing the lien with the motor vehicle division of the taxation and revenue department. The lien shall be recorded on the title of the school bus. A school bus contractor shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the department. A school bus lien shall be collected and enforced as provided in Chapter 55, Article 9 NMSA 1978. The school district shall release its lien on a school bus:</p>

school bus on which a school district has a lien as collateral for any other loan without prior written permission of the public education department. The school district shall release its lien on a school bus when:

- (1) the public education department authorizes a replacement of the school bus; or
- (2) the contractor has reimbursed the school district the amount calculated by the public education department; if the school district fails to take action to collect money owed to it when a school bus contract is terminated or not renewed, the public education department may deduct the amount from the school district's transportation distribution.

[12-31-98; 6.43.2.8 NMAC - Rn, 6 NMAC 9.4.1.8, 10-15-01; A, 11-13-09]

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	<p>(1) when the department authorizes a replacement of the school bus; or (2) when the contractor has reimbursed the school district the amount calculated pursuant to Subsection E of this section if the school bus service contract is terminated or not renewed and the contractor owes the school district as provided in that subsection. E. No school district shall pay rental fees for any one bus for a period in excess of five years. In the event a school bus service contract is terminated or not renewed by either party, the department shall calculate the remaining number of years that a bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The school district shall deduct an amount equal to that value from any remaining amount due on the contract, or if no balance remains on the contract, the contractor shall reimburse the school district an amount equal to the value calculated. F. If the school district fails to take action to collect money owed to it when a school bus contract is terminated or not renewed, the department may deduct the amount from the school district's transportation distribution.</p>	
<p>22-8-29. Transportation distributions; reports; payments. (2010)</p>	<p>A. Prior to November 15 of each year, each local school board of a school district and governing body of a state-chartered charter school shall report to the state transportation</p>	<p>6.43.3 Public School Transportation Operational Funding Reporting Requirements 6.43.3.9 Requirements of School</p>

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	<p>director, upon forms furnished by the state transportation director, the following information concerning the school district's or state-chartered charter school's operation on the first reporting date of the current year:</p> <ul style="list-style-type: none"> (1) the number and designation of school bus routes in operation in the school district; (2) the number of miles traveled by each school bus on each school bus route, showing the route mileage in accordance with the type of road surface traveled; (3) the number of students transported on the first reporting date of the current year and adjusted for special education students on December 1; (4) the projected number of students to be transported in the next school year; (5) the seating capacity, age and mileage of each bus used in the school district for student transportation; and (6) the number of total miles traveled for each school district's or state-chartered charter school's per capita feeder routes. <p>B. Each local school board of a school district and governing body of a state-chartered charter school maintaining a school bus route shall make further reports to the state transportation director at other times specified by the state transportation director.</p> <p>C. The state transportation director shall certify to the secretary that the allocations</p>	<p>Districts</p> <p>A. Each school district that receives transportation distributions in accordance with Sections 22-8-26, 22-8-29, 22-8-29.1, 22-8-29.4, and 22-8-29.6, NMSA, 1978 shall report to the department their budget and expenditures on forms provided by the department.</p>

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	<p>from the transportation distributions to each school district and state-chartered charter school are based upon the transportation distribution formula established in the Public School Code [Chapter 22 [except Article 5A] NMSA 1978]. The allocations for the first six months of a school year shall be based upon the tentative transportation budget of the school district or state-chartered charter school for the current fiscal year.</p> <p>Allocations to a school district or state-chartered charter school for the remainder of the school year shall adjust the amount received by the school district or state-chartered charter school so that it equals the amount the school district or state-chartered charter school is entitled to receive for the entire school year based upon the November 15 report and subject to audit and verification.</p> <p>D. The department shall make periodic installment payments to school districts and state-chartered charter schools during the school year from the transportation distributions, based upon the allocations certified by the state transportation director.</p>	

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
<p>22-8-29.1. Calculation of transportation allocation.</p>	<p>A. As used in this section: (1) "annual variables" means the coefficients calculated by regressing the total operational expenditures from two years prior to the current school year for each school district and state-chartered charter school using the number of students transported and the numerical value of site characteristics; (2) "base amount" means the fixed amount that is the same for all school districts and an amount established by rule for state-chartered charter schools; (3) "total operational expenditures" means the sum of all to-and-from school transportation expenditures, excluding expenditures incurred in accordance with the provisions of Section 22-8-27 NMSA 1978;</p>	<p>6.43.3 Public School Transportation Operational Funding Reporting Requirements 6.43.3.8 Requirements of the Public Education Department: The department is responsible for determining the distribution for each school district in accordance with Sections 22-8-26, 22-8-29, 22-8-29.1, 22-8-29.4, and 22-8-29.6 NMSA 1978.</p>

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	<p>and (4) "variable amount" means the sum of the product of the annual variables multiplied by each school district's or state-chartered charter school's numerical value of the school district's and state-chartered charter school's site characteristics multiplied by the number of days of operation for each school district or state-chartered charter school. B. The department shall calculate the transportation allocation for each school district and state-chartered charter school. C. The base amount is designated as product (A.) Product A is the constant calculated by regressing the total operations expenditures from the two years prior to the current school year for school district or state-chartered</p>	

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	<p>charter school operations using the numerical value of site characteristics approved by the department. The legislative education study committee and the legislative finance committee may review the site characteristics developed by the state transportation director prior to approval by the department.</p> <p>D. The variable amount is designated as product B. Product B is the predicted additional expenditures for each school district or state-chartered charter school based on the regression analysis using the site characteristics as predictor variables multiplied by the number of days.</p> <p>E. The allocation to each school district and state-chartered charter school shall be equal to product A plus product B.</p> <p>F. For the 2001-2002, 2002-2003 and 2003-2004 school years, the transportation allocation for each school district shall not be less than ninety-five percent or more than one hundred five percent of the prior school year's transportation expenditure.</p> <p>G. The adjustment factor shall be applied to the allocation amount determined pursuant to Subsections E and F of this section.</p>	

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
<p>22-8-29.4. Transportation distribution adjustment factor.</p>	<p>A. The department shall establish a transportation distribution adjustment factor. The adjustment factor shall be calculated as follows: (1) calculate the unadjusted transportation allocation for each school district and state-chartered charter school, designated in Section 22-8-29.1 NMSA 1978 as product A plus product B; (2) the sum total of product A plus product B in all school districts and state-chartered charter schools added together equals product C; and (3) subtract product C from the total operational transportation distribution for the current year and divide the result by product C and then add 1 in the following manner: "[total operational transportation distribution - C] ÷ C] + 1". The result is the transportation distribution adjustment factor. B. As used in this section, "total operational transportation distribution" means the total legislative appropriation for the transportation distribution minus amounts included for capital outlay expenses.</p>	<p>6.43.3 Public School Transportation Operational Funding Reporting Requirements 6.43.3.8 Requirements of the Public Education Department: A. The department shall calculate the remaining balances for each school district and submit the amount to each school district that they are allowed to maintain and use for to-and -from operations and other transportation related services.</p>
<p>22-8-29.6. Transportation emergency fund. (1999)</p>	<p>A. The "transportation emergency fund" is created in the state treasury. Money in the fund shall not revert to the general fund at the end of any fiscal year. Money in the fund is appropriated to the department for the purpose of funding transportation</p>	<p>6.20.2 Public School Finance – Budgeting and Accounting Governing Budgeting and Accounting for New Mexico Public Schools and School Districts 6.20.2.24 Other Administrative</p>

**Provisions in Current Law and Administrative Rule:
School Bus Transportation**

Current Law		Administrative Rule
	<p>emergencies. The state superintendent [secretary] shall make distributions only to ensure the safety of students receiving to-and-from transportation services.</p> <p>B. The state superintendent [secretary] shall account for all transportation emergency distributions and shall make full reports to the governor, the legislative education study committee and the legislative finance committee of payments made.</p>	<p>Standards:</p> <p>B. Transportation: Student transportation is provided for in Section 22-16-1 et seq., NMSA 1978. Monies allocated by the transportation unit of the department shall be utilized for transportation expenditures only and accounted for in accordance with department transportation regulations and GAAP.</p>
<p>22-16-2. State transportation division; duties. (1997)</p>	<p>Subject to the policies of the state board [department], the state transportation division of the department of education [public education department] shall:</p> <p>F. establish standards and certify for safety, vehicles that are defined as school buses by the Motor Vehicle Code [Articles 1 through 8 of Chapter 66 [except 66-7-102.1] NMSA 1978]; and</p>	<p>6.41.2. Transportation – School Bus Safety Part 2 School Bus Inspections</p> <p>6.41.2.8 Requirements of the Public Education Department: The department, working cooperatively with other agencies and entities, will establish a safety audit program. The department, or its authorized representatives, will be required to:</p> <p>A. randomly audit district school bus maintenance and inspections records;</p> <p>B. conduct random school bus inspections as a division, or through joint power agreements with other agencies, or contract with other entities;</p> <p>C. conduct random school bus inspections in compliance with the department’s guide for school bus maintenance and safety audit</p>

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Current Law		Administrative Rule
		<p>program; D. maintain records of the school districts inspection and safety audits. [12-31-98; 6.41.2.8 NMAC - Rn, 6 NMAC 9.5.1.8 & A, 07-31-01; A, 11-13-09] 6.41.2.9 Requirements of School Districts: School districts shall ensure that all school buses are inspected semi-annually in accordance with the guide for school bus maintenance and safety audit program. A. School districts must maintain the following: (1) maintenance records in accordance with the department’s guide for school bus maintenance and safety audit program; (2) semi-annual inspection records completed by the contractor or in the case of owned operations, the local school district superintendent; (3) pre-and-post trip records of daily inspections for the school year completed by the contractor or school district transportation director; (4) inspection records of random inspections conducted by inspectors or auditor authorized by the department.</p>

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		<p>B. School districts must certify to the department that semi-annual inspections and daily driver inspections have been conducted and are on file. [12-31-98; 6.41.2.9 NMAC - Rn, 6 NMAC 9.5.1.9 & A, 07-31-01; A, 11-13-09]</p>
<p>22-16-3. School bus service contracts. (2009)</p>	<p>C. In addition to approving the form of the contract, the department shall, by rule, establish the parameters of school bus service contracts to include recognition of fuel costs, operation and maintenance costs and employee salary and benefits costs. In entering into school bus service contracts, school districts shall give preference to in-state service providers and the use of multiple providers. Upon request, the department shall provide assistance to local school districts in the negotiation and award of school bus service contracts.</p> <p>E. In the event a contract with a school bus operator is terminated or not renewed by either party, the buses owned by the operator that are used pursuant to the operator's school bus service contract shall be appraised by three qualified appraisers appointed by the local school board and approved by the state transportation director. The operator succeeding to the contract shall purchase, with the approval of the operator whose</p>	<p>6.43.2. Requirements for School Bus Contracts and Per Capita Feeder Agreements</p> <p>D. For fleet contractors, the amount of the contract shall include recognition of fuel costs, operation and maintenance costs, and salary and benefits costs. For individual owner operator equipment contracts, the amount of the contract shall include recognition of fuel and operations and maintenance costs.</p> <p>M. The school district shall ensure that a lien is filed in its name on every contractor-owned school bus under the contract. The school district shall also ensure that a lien is perfected in its name on each contractor-owned school bus with the motor vehicle division of the taxation and revenue department. The lien shall be recorded on the title of the school bus. The school district shall</p>

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	contract was terminated, all of the buses owned by the former operator at their appraised value.	provide documentation to the state transportation director that the school district has filed a lien on each school bus authorized under contract with the school district. A school bus contractor shall not refinance or use a school bus on which a school district has a lien as collateral for any other loan without prior written permission of the public education department. The school district shall release its lien on a school bus when: (1) the public education department authorizes a replacement of the school bus; or (2) the contractor has reimbursed the school district the amount calculated by the public education department; if the school district fails to take action to collect money owed to it when a school bus contract is terminated or not renewed, the public education department may deduct the amount from the school district's transportation distribution. [12-31-98; 6.43.2.8 NMAC - Rn, 6 NMAC 9.4.1.8, 10-15-01; A, 11-13-09]
22-16-9. School buses; termination of use; resale. (1967)	A. When a school bus is being operated for purposes other than to actually transport students to and from school or on school	6.40.2. Transportation – School Bus Equipment Part 2 New Mexico School Bus Standards and School

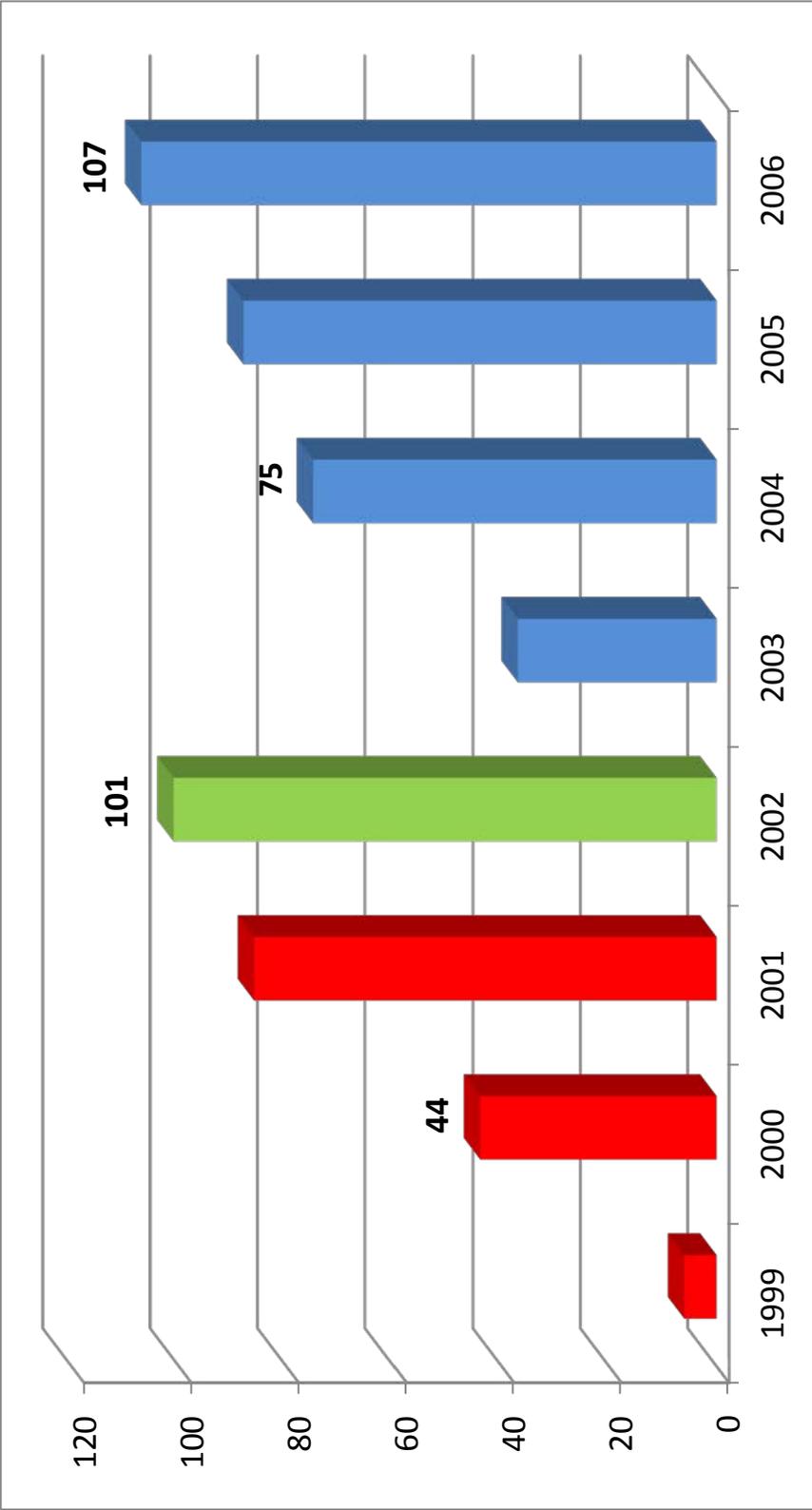
**Provisions in Current Law and Administrative Rule:
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Current Law	Administrative Rule
	<p>activity trips, all markings indicating "school bus" shall be covered or removed.</p> <p>B. When a school bus is sold to be used exclusively for purposes other than the transportation of students, all school bus identification shall be removed. In addition, unless the motor vehicle is painted a different color than that prescribed by the state board [department] for school buses, a series of diagonal black stripes shall be painted on the rear of the motor vehicle. The stripes shall be at least three feet long, four inches wide, and shall be spaced not more than ten inches apart.</p> <p>C. The provisions of this section shall apply to any school bus that is operated on any public street or highway, except for the purpose of taking it to a place to be painted or moving it to a place of storage.</p>

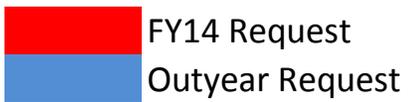
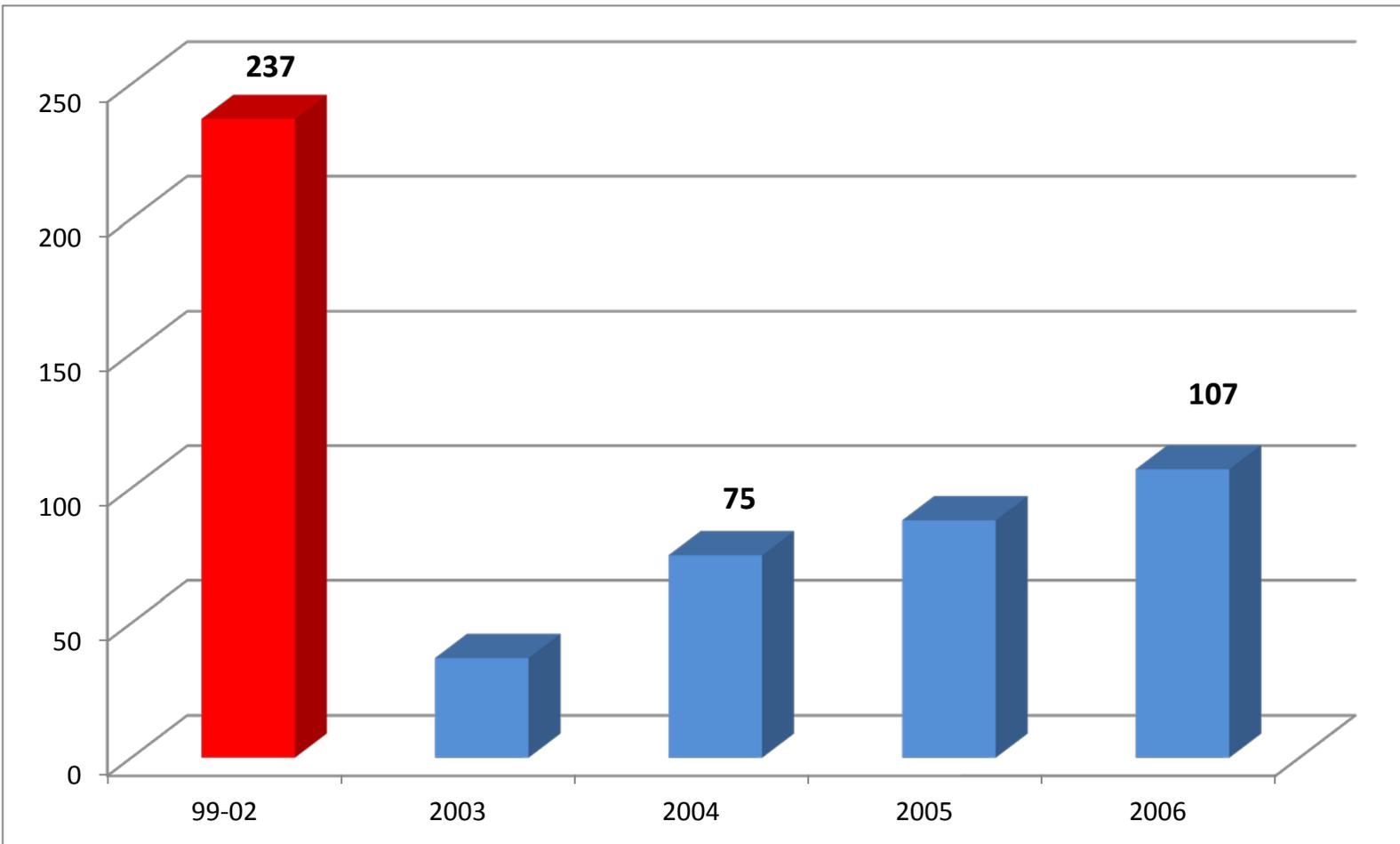
Bus Phase-Out
6.40.2.6 Objective
E. To establish school bus construction costs for small, medium and large buses, and to establish a maximum useful life criteria for spare and activity buses. [7-01-96; 6.40.2.6 NMAC - Rn, 6 NMAC 9.2.6, 6 NMAC 9.2.8 & A, 7-31-2000]

6.40.2.8 School Bus Phase-Out
A. All school buses including spare and activity buses shall not be operated for any purpose once they have become twenty (20) years of age, from the date of (body) manufacture.
B. School buses twenty (20) years of age, from the date of (body) manufacture shall be removed from service in accordance with Section 22-16-9, NMSA, 1978. [7-01-96; 6.40.2.8 NMAC - Rn, 6 NMAC 9.2.9 & A, 7-31-2000]

REPLACEMENT CYCLE FOR DISTRICT OWNED BUSES



5 YEAR REPLACEMENT REQUEST FOR DISTRICT OWNED BUSES



5 YEAR REPLACEMENT REQUEST FOR DISTRICT OWNED BUSES IN DOLLARS

