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September 11, 2013

MEMORANDUM

TO: LEFSC Interim Subcommittee on School Bus Transportation

FR: David T. Craig DC

RE: STAFF REPORT: TRANSPORTATION PROGRAM OVERVIEW

INTRODUCTION

The Legislature appropriates public school transportation funds to the Public Education Department (PED), which then distributes funds to the school district through a statutory, categorical funding formula designed to provide for eligible to-and-from school transportation costs. Local school districts are responsible for the daily management of school transportation programs based on distance parameters specified in law that require school bus routes to be maintained for students in:

- grades K through 6 that live at least one mile one way from school;
- grades 7 through 9 that live at least one and one-half miles one way from school; and
- grades 10 through 12 that live at least two miles one way from school.

According to PED, approximately 30 percent of school districts statewide administer their own school transportation services. A local board may choose to provide these services by entering into school bus service contracts with an individual (one-bus) school bus owner-operators or with school bus fleet owners or with both.

Chronology

- In 1993, the state transportation system was the subject of a Legislative Finance Committee (LFC) performance audit that found problems with:
 - a lack of meaningful administrative oversight;
 - an inequitable and non-objective funding system; and
 - a recommendation for a thorough overview by an independent agent.

As a result of the LFC audit, at that time the State Superintendent of Public Instruction acknowledged many of the programmatic shortcomings of the transportation.

- In 1994, the Legislature appropriated \$19,800 to establish a joint interim school transportation task force to examine "statutes, constitutional provisions, regulations and court decisions governing public school transportation in New Mexico, including those provisions related to the transportation funding formula, the school bus inspection program, transportation costs and the administration of the public school transportation program..." Recommendations of the task force included the recommendation that the funding formula be placed in statute with school districts receiving revenue similarly to the equalization distribution.
- In 1995, the Legislature placed the formula in statute. Prior to 1995, school transportation funding was administered by a State Board of Education (SBE) regulation. The Legislature also changed the determination of each school district's school transportation allocation from actual miles traveled per student to the average cost per student. The 1995 formula changes assigned districts to groups according to the average number of students transported per square mile (sparsity/density). Each district's revenues were based on the group average with an annual adjustment for increased costs.
- In 1997, the Legislature passed a memorial to address school districts' questions regarding the equitable distribution of funds through the formula. The then State Department of Education (SDE) formed the Public School Transportation Task Force (PSTTF) comprised of 16 representatives from the Legislative Education Study Committee (LESC), the Executive branch, SBE, school district superintendents, transportation directors, and public school transportation contractors. The task force selected Representative W.C. "Dub" Williams as Chairman and Representative Roberto "Bobby" J. Gonzales as Vice Chairman. The SBE allocated \$30,000 from the 1997 special projects appropriation and \$60,000 that was contributed by school districts through the New Mexico State Superintendents Association (NMSSA). The PSTTF hired an independent contractor, DMG-Maximus, Inc. to study the transportation formula.
- In 1999, the Legislature passed two bills to amend the public school transportation funding formula. Both pieces of legislation included the recommendations of the PSTTF, which were also adopted by SBE and the LESL.
 - The first was HB 123, *Change Transportation Funding Formula*, from the regular session that was vetoed by the Governor. In addition to amend the formula, this bill would also have allowed SDE to use any unexpended or unencumbered balance in the

school bus equipment appropriation for FY 99 to implement a transportation management information system.

➤ The second bill was SB 13, *School Transportation Funding Formula*, from the special session, which the Governor signed on May 21, 1999 (Laws of 1999, Chapter 11). SB 13 was essentially the same to HB 123, with the exception of the transportation management information system. The changes to the public school transportation formula include:

- ✓ changing the calculation of the transportation formula to what is referred to as the modified current formula by eliminating the density groupings and by incorporating density and additional site characteristics such as special education students, unpaved/unimproved miles, and the total number of school service days in order to better reflect to-and-from transportation expenditures;
- ✓ adopting, through FY 02, a hold-harmless provision at no less than 100 percent but not more than 115 percent of a school district's 1998-1999 transportation expenditures;
- ✓ changing the transportation reserve fund to a non-reverting transportation emergency fund for to-and-from transportation services;
- ✓ reallocating year-end balances from school transportation distributions to allow 50 percent to be deposited in the transportation emergency fund. The remaining 50 percent will be retained by the school district to be used as follows: 25 percent for to-and-from transportation-related services, excluding salaries and benefits; and up to 25 percent for other transportation-related services, excluding salaries and benefits;
- ✓ requiring the State Superintendent of Public Instruction to provide reports on the distributions from the transportation emergency fund to the Governor, the LESC, and the LFC; and
- ✓ adding a repeal clause effective July 1, 2001.

SB 13 contained an emergency clause. The difference between HB 123 and SB 13 was the deletion in SB 13 of a temporary provision that would have allowed for any unexpended or unencumbered balance remaining at the end of FY 99 in the school bus equipment appropriation to be used by SDF to develop and implement a transportation management information system.

- Since at least 2007, the LESC has been concerned with establishing another work group or task force to study school transportation.
- During the 2008 legislative session, LESC-endorsed SJM 12 passed requesting that PED, the LESC, and the LFC, in collaboration with public school district administrators and representatives of private school bus contractors, examine the funding of school transportation contracts to ensure that employees of private school bus contractors have full access to the wages and benefits available to the contractor. The memorial requested a report from PED by October 1, 2008.

However, in December 2008, PED reported in a letter to the LESC that it did not convene such a work group during the 2008 interim, and the department recommended that the Legislature form a task force to study issues related to public school transportation, as was recommended in 1994 by the previous legislative school transportation task force.

- During the 2011 regular session, in the bill analysis for HB 76, PED notes that a legislative task force appointed in 1994 to study school transportation recommended that the issue be revisited every 10 years. In 2009 the Legislature passed LESC-endorsed legislation establishing a Public School Transportation Task Force; however, the bill was vetoed.
- Finally, during the June 2012 interim meeting of the LESC, the LESC established a transportation subcommittee to discuss and make recommendations regarding the State's public school transportation program (the transportation program).

The purpose of this staff brief is to provide an overview of some of the main elements in the program, including:

- key provisions in current law;
- appropriations history;
- PED appropriation development and allocation methodology; and
- additional items for consideration.

KEY PROVISIONS IN CURRENT LAW

Attachment 1, *Transportation of Students*, includes the current *Public School Code* (code) provisions for the school transportation program. Key provisions are summarized below.

Administration of Program

Among its provisions, the code provides in PED for a State Transportation Division (division) and a State Transportation Director, appointed by the Secretary of Public Education. These provisions require the division to establish:

- standards for bus transportation;
- standards for school bus design and operation;
- procedures for resolution of transportation issues regarding boundary disputes between local school districts;
- standards and certify for safety vehicles defined as school buses; and
- regulations regarding commercial bus advertisements.

The division is also required to audit records of school bus contractors or district-owned bus operations.

Other provisions in the code establish the legal framework for:

- school bus service contracts;
- school bus routes;
- reimbursements of parents or guardians;
- termination of school bus use and resale requirements;
- use of state or county equipment for snow removal; and

- regulatory authority of the state transportation director and school district personnel, including penalties for misconduct or breach of contract.

Public School Finance Act

Attachment 2 includes provisions from the *Public School Finance Act* in the code relating to the:

- **transportation distribution** as it relates to a school districts' or state-chartered charter school's transportation allocation, including provisions that require:
 - allocations to only be used to-and-from school transportation costs of public school students in grades K-12; for three- and four-year-old developmentally disabled students;
 - 50 percent of any excess funds to revert to the transportation emergency fund;
 - 25 percent of the remaining excess to only be used for to-and-from transportation except for salaries and benefits;
 - the remaining 25 percent of excess to be used for any other transportation services except salary and benefits;
 - if the amount of an allocation exceed distributions, each school district or state-chartered charter school to have their allocations reduced in the proportion to the total state distribution; and
 - a local board or governing body of a state-chartered charter school to seek approval to provide additional transportation services.
- **purchase of school bus transportation equipment**, including the:
 - replacement of buses on a 12-year cycle including petitions to replace buses early;
 - payment of rental fees for contractor-owned buses and replacement of buses on a 12-year replacement cycle;
 - process by which a school district files a lien against contractor-owned school buses with the motor vehicle division of the taxation and revenue department;
 - rental period limit for buses to five years; and
 - provisions to allow PED to recoup money owed to a school district by a bus contract that is terminated.
- **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, 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.

This section of law also requires PED to:

- base allocations for the first six months of a school year on the tentative transportation budget for the current fiscal year;
 - adjust allocations for the remainder of the year based on the amount the school district is to receive on the November 15 reporting date; and
 - make installment payments to districts and state-chartered charter schools based on their approved allocations.
- **calculation of the transportation allocation** that includes:
 - a base amount to which is added a variable predicted amount calculated from a regression analysis of site characteristics and predictor variables multiplied by number of days; and
 - then multiplied by an adjustment factor which is calculated by subtracting the amount of the sum of the base and variable amounts from the total transportation appropriation and dividing by the sum of the base and variable and then adding one.
 - **distributions from the transportation emergency fund** for transportation emergencies.

LESC staff has provided a worksheet as Attachment 3 that outlines how the transportation allocation is distributed. PED allocates transportation funding on the basis of the following variable characteristics:

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

Whether these items impact the allocation will depend on the size of the district, as illustrated in Attachment 3. As indicated on page 6 of the worksheet provided as Attachment 3, each of these items is then multiplied by a variable to make a determination on additional funds over a predetermined base amount to determine a base allocation which is then multiplied by an adjustment factor for an initial allocation. Variable figures are determined by a regression analysis of prior expenditures and expected expenditures.

Charter Schools Act

Among its provisions, the *Charter Schools Act* in the code addresses the transportation of charter school students by:

- requiring a locally chartered charter school to negotiate with a school district to provide transportation to students eligible for transportation under the provisions of the *Public School Code*;
- allowing a school district, in conjunction with a charter school, to establish a limit for student transportation to and from the charter school site not to extend beyond the school district boundary; and
- allowing a charter school to contract with a school district or other party for provision of certain services, including transportation.

Special Fuels Supplier Tax Act

Finally, as they relate to school transportation, provisions in the *Special Fuels Supplier Tax Act* provide for a refund of state taxes on fuel.

APPROPRIATIONS HISTORY

Table 1 below outlines legislative appropriations for transportation over the last 10 years (FY 03 through FY 14). The table reflects that transportation funding:

- peaked in FY 09;
- decreased beginning in FY 10 before seeing an increase in FY 13; and
- for school-owned bus replacements, no appropriations from the General Fund were made in FY 03, FY 04, FY 07, and in FY 11 through FY 14. Bus replacements for those years were made from several funding sources, primarily capital outlay funds.

TABLE 1. TEN YEAR HISTORY OF TRANSPORTATION FUNDING THROUGH THE GENERAL APPROPRIATION ACT (in thousands)

FISCAL YEAR	Operational	Fuel	Rental Fees (Contractor Owned)	School-owned Bus Replacements	Other	Transportation Total
2014	\$73,759.7	\$13,546.4	\$11,700.2	\$0.0	\$1,336.2	\$100,342.5
2013	\$83,874.2		\$11,700.2	\$0.0	\$1,101.6	\$96,676.0
2012	\$82,339.0		\$11,724.4	\$0.0	(\$1,133.1)	\$92,930.3
2011	\$83,049.3		\$11,578.2	\$0.0	\$0.0	\$94,627.5
2010	\$86,671.1		\$12,158.8	\$541.0	(\$320.0)	\$99,041.7
2009	\$97,039.4		\$11,974.1	\$468.8	\$1,566.0	\$111,048.3
2008	\$91,186.6		\$11,000.4	\$420.4	\$2,959.5	\$105,566.9
2007	\$91,385.0		\$10,605.1	\$0.0	\$2,399.4	\$104,389.5
2006	\$87,678.7		\$11,296.5	\$178.4	\$802.4	\$99,954.0
2005	\$84,717.8		\$12,336.0	\$342.6	\$840.4	\$98,236.8
2004	\$94,500.0		\$0.0	\$0.0	\$1,222.2	\$95,722.2
2003	\$82,181.9		\$0.0	\$0.0	\$0.0	\$82,181.9

SOURCE: LESC Annual Memo to the Legislature

PED APPROPRIATION DEVELOPMENT AND ALLOCATION METHODOLOGY

According to information provided by PED during the 2013 legislative session (for FY 14) (Attachment 4), the PED appropriation request considered three funding categories:

- 1) operations and maintenance;
- 2) fuel costs (which is discussed further below); and
- 3) salary and benefits.

For fuel costs the appropriation request considered:

- an average retail diesel price;
- district and contractor purchases of fuel;
- projected increases to base funding of the previous year's expenditures; and
- projected retail and wholesale prices for diesel.

Beginning in FY 14, fuel is considered separately in the public school support budget development for Transportation categorical funding.

Fuel Cost Issues

Variances in fuel costs were the subject of legislative debate in legislative sessions beginning in 2008.

- during the 2008 regular session, legislation was introduced to address large increases in the price of diesel fuel. While the legislation did not pass; the Legislature addressed FY 08 fuel shortfalls for public school buses by providing a \$1.6 million Supplemental and Deficiency appropriation to PED;
- in the 2008 second special session, in a Special Appropriation to PED, the Legislature appropriated \$4.0 million to supplement funding to school districts for price increases in fuel in FY 09. However, in the 2009 regular session, as part of appropriations reductions, the public school transportation distribution was reduced by \$4.0 million an amount equal to the funds appropriated for increased fuel costs in the 2008 second special session;
- during the 2011 regular session, legislation was passed to allow for temporary relief from increased diesel fuel costs by providing revenues from the transportation emergency fund on the basis of miles travelled to-and-from. While the legislation was pocket vetoed, the Legislature appropriated \$1.2 million from the Transportation Emergency Fund to PED for increased fuel costs incurred by school districts or state-chartered charter schools in FY 12; and
- in the 2012 legislative session, the Legislature appropriated \$1.5 million from the Transportation Emergency Fund to PED for increased fuel costs faced by school districts and state-chartered charter schools.

According to the FY 14 PED appropriation request, the school transportation request included additional funds to accommodate an increased price for diesel fuel that has been sustained over the past year and are not expected to decrease soon.

ADDITIONAL ITEMS FOR CONSIDERATION

As an informational item, LESC staff has included a copy of the PED contract templates for both fleet and owner-operator school bus contractors as Attachment 5 and Attachment 6, respectively.

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ARTICLE 16
Transportation of Students

Section	
22-16-1	State transportation division; director.
22-16-2	State transportation division; duties.
22-16-3	School bus service contracts.
22-16-4	School bus routes; limitations; exceptions; minimum requirements.
22-16-4.1	Repealed.
22-16-5	Repealed.
22-16-6	Reimbursement of parents or guardians.
22-16-7	Repealed.
22-16-8	Cattle guards on school bus routes.
22-16-9	School buses; termination of use; resale.
22-16-10	Use of state or county equipment for snow removal.
22-16-11	Regulations relative to school buses.

22-16-1. State transportation division; director.

A. The "state transportation division" is created within the department of education [public education department].

B. The state superintendent [secretary] shall appoint a director of the state transportation division to be known as the "state transportation director".

C. The state board [department] may delegate to the state superintendent [secretary] its administrative functions relating to public school transportation.

History: 1953 Comp., § 77-14-1, enacted by Laws 1967, ch. 16, § 219; 1995, ch. 208, § 4.

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

Laws 2004, ch. 25, § 27, provided that all references to the superintendent of public instruction shall be deemed references to the secretary of public education and all references to the former state board of education or state department of education shall be deemed references to the public education department. See 9-24-15 NMSA 1978.

Cross references. — For emergency transportation, see 22-17-1 NMSA 1978 et seq.

For divisions of the public education department, see 9-24-4 NMSA 1978.

The 1995 amendment, effective July 1, 1995, deleted "With approval of the state board" from the beginning of Subsection B, and substituted "Superintendent" for "transportation division" in Subsection C.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 68 Am. Jur. 2d Schools §§ 263 to 269.

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One transporting children to or from school as independent contractor, 66 A.L.R. 724.

Constitutionality of statute providing school-bus service for pupils of parochial or private schools, 168 A.L.R. 1434.

Buses: constitutionality, under state constitutional provision forbidding financial aid to religious sects, of public provision of school bus service for private school pupils, 41 A.L.R.3d 344.

78 C.J.S. Schools and School Districts § 7.

22-16-2. State transportation division; duties.

Subject to the policies of the state board [department], the state transportation division of the department of education [public education department] shall:

- A. establish standards for school bus transportation;
- B. establish standards for school bus design and operation pursuant to provisions of Section 22-16-11 NMSA 1978;
- C. establish procedures pertaining to the resolution of transportation issues in areas where local school districts are engaged in school district boundary disputes;
- D. enforce those regulations adopted by the state board [department] relating to school bus transportation;
- E. audit records of school bus contractors or school district-owned bus operations in accordance with regulations promulgated by the state transportation director;
- F. establish standards and certify for safety, vehicles that are defined as school buses by the Motor Vehicle Code [Articles 1 through 3 of Chapter 66 [except 66-7-102.1] NMSA 1978]; and
- G. establish regulations for the purpose of permitting commercial advertisements on school buses.

History: 1953 Comp., § 77-14-2, enacted by Laws 1967, ch. 16, § 220; 1975, ch. 342, § 3; 1976 (S.S.), ch. 20, § 3; 1978, ch. 200, § 2; 1978, ch. 211, § 15; 1979, ch. 53, § 1; 1979, ch. 305, § 5; 1993, ch. 226, § 46; 1995, ch. 208, § 5; 1997, ch. 233, § 2.

Cross references. — For divisions of the public education department, see 9-24-4 NMSA 1978.

For transfer of powers and duties of the former state board and former department of education, see 9-24-16 NMSA.

For provisions relating to financing of public school bus transportation generally, see 22-8-29 to 22-8-32 NMSA 1978.

For school bus advertisements, see 22-28-1 NMSA 1978.

For transportation of blind children to New Mexico school for visually handicapped, see 21-5-6 NMSA 1978.

For design and operation regulations for school buses, see 22-16-11 NMSA 1978.

The 1997 amendment, effective June 20, 1997, added Subsection G.

The 1995 amendment, effective July 1, 1995, inserted "provisions of" in Subsection B, rewrote Subsection C, and in Subsection F, deleted "inspect" preceding "and certify" and inserted "that are".

The 1993 amendment, effective July 1, 1993, inserted "of the department of education" in the introductory paragraph; inserted "for school bus design and operation" and substituted "22-16-11" for "66-7-365" in Subsection B; substituted "vocational and special" for "cooperative" in Paragraph (2) of Subsection C; deleted former Paragraphs (3) to (5) of Subsection C, pertaining to transportation routes to and from training centers for exceptional children, early childhood education programs and state institutions under the authority of the secretary of health, making a related grammatical change; deleted former Subsection D, which read "cooperate with the director in matters relating to the financing of public school bus transportation"; redesignated former Subsections E to G as Subsections D to F; deleted "issue and" at the beginning of Subsection D; substituted "state transportation director" for "school transportation director" in Subsection E; and substituted "the Motor Vehicle Code" for "Section 66-1-4 NMSA 1978" in Subsection F.

ANNOTATIONS

Duty of care. — The state transportation division of the state board of education had a legal duty to establish bus stops on school bus routes, and thus owed a duty of care to a child injured in an accident while crossing a road to catch the bus to her school. *Gallagos v. State Bd. of Educ.*, 1997-NMCA-040, 123 N.M. 382, 940 P.2d 468.

22-16-3. School bus service contracts.

A. A school district may provide transportation services to students through the use of school bus service contracts. School districts may enter into school bus service contracts with individual school bus owner-operators or with school bus fleet owners or with both. A school district shall not enter into any school bus fleet service contract with any person who is simultaneously employed by that school district as an individual school bus owner-operator.

B. All contracts entered into by a school district to provide school bus service to students attending public school within the school district shall be approved by the local school board. The contracts shall be in writing on forms approved by the department and the department shall require documentation that the school district has filed a lien on each school bus as provided in Section 22-8-27 NMSA 1978.

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.

D. A school district may enter into a school bus service contract for a term not to exceed five years. A school bus service contract may provide, at the expiration of the term of the contract, for annual renewal of the school bus service contract on the same terms and conditions at the option of the local school board.

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 contract was terminated, all of the buses owned by the former operator at their appraised value.

History: 1953 Comp., § 77-14-3, enacted by Laws 1967, ch. 16, § 221; 1993, ch. 226, § 47; 1995, ch. 208, § 6; 2009, ch. 92, § 2.

Cross references. — For transfer of powers and duties of the former state board and department of education, see 9-24-15 NMSA.

The 2009 amendment, effective June 19, 2009, in Subsection B, in the second sentence, after "approved by the", deleted "state board" and added the remainder of the sentence; in Subsection C, after "contract, the", changed "state board" to "department" and changed "regulation" to "rule"; and in Subsection E, after "terminated", added "or not renewed by either party".

Applicability. — Laws 2009, ch. 92, § 3 provided that the provisions of Laws 2009, ch. 92, §§ 1 and 2 apply to contracts, including contract renewals, entered into on or after June 19, 2009.

The 1995 amendment, effective July 1, 1995, added Subsection A, redesignated former Subsection A as Subsection B, deleted "and the state transportation director" at the end of the first sentence in Subsection B, added Subsection C, redesignated former Subsection B as Subsection D, substituted "five years" for "four years" and deleted "if approval is granted by the state transportation director" following "school board" in Subsection D, and redesignated former Subsection C as Subsection E.

The 1993 amendment, effective July 1, 1993, inserted "local school board and the" in the first sentence and substituted "approved by the state board" for "provided by the state transportation division" at the end of the second sentence of Subsection A; and made a minor stylistic change in Subsection C.

22-16-4. School bus routes; limitations; exceptions; minimum requirements.

A. Bus routes shall be established by the local school district.

B. Except as provided in Subsections C and D of this section, no school bus route shall be maintained for distances less than:

- (1) one mile one way for students in grades kindergarten through six;
- (2) one and one-half miles one way for students in grades seven through nine; and

- (3) two miles one way for students in grades ten through twelve.

C. In school districts having hazardous walking conditions as determined by the local school board and confirmed by the state transportation director, students of any grade may be transported a lesser distance than that provided in Subsection B of this section. General standards for determining hazardous walking conditions shall be established by the state transportation division of the department of education [public education department] with the approval of the state board [department], but the standards shall be flexibly and not rigidly applied by the local school board and the state transportation director to prevent accidents and help ensure student safety.

D. Exceptional children whose handicaps require transportation and three- and four-year-old children who meet the state board [department] approved criteria and definition of developmentally disabled may be transported a lesser distance than that provided in Subsection B of this section.

History: 1953 Comp., § 77-14-4, enacted by Laws 1967, ch. 16, § 222; 1975, ch. 342, § 4; 1987, ch. 149, § 3; 1993, ch. 234, § 1; 1995, ch. 208, § 7.

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

Laws 2004, ch. 25, § 27, provided that all references to the superintendent of public instruction shall be deemed references to the secretary of public education and all references to the former state board of education or state department of education shall be deemed references to the public education department. See 9-24-15 NMSA 1978.

The 1995 amendment, effective July 1, 1995, substituted "established by the local school district" for "approved annually" in Subsection A, deleted "approved or" preceding "maintained" in Subsection B, inserted "of the department of education" in Subsection C, and deleted former Subsections E, F and G relating to bus routes serving less than ten students.

The 1993 amendment, effective June 18, 1993, in Subsection C, deleted "extremely" preceding "hazardous" near the beginning, added "General" at the beginning of the second sentence and added the language beginning "but the standards" at the end of the second sentence.

22-16-4.1. Repealed.

Repeals. — Laws 1993, ch. 226, § 64 repealed 22-16-4.1 NMSA 1978, as enacted by Laws 1979, ch. 289, § 2 and ch. 305, § 6, concerning vocational education school bus routes, effective July 1, 1993. For provisions of former section, see the 1992 NMSA 1978 on New Mexico One Source of Law.

22-16-5. Repealed.

Repeals. — Laws 1995, ch. 208, § 16 repealed 22-16-5 NMSA 1978, as enacted by Laws 1967, ch. 16, § 223, relating to procedures for the local school board to object to a school bus route, effective July 1, 1995. For provisions of former section, see the 1994 NMSA 1978 on New Mexico One Source of Law.

22-16-6. Reimbursement of parents or guardians.

A local school board may, subject to regulations adopted by the state board [department], provide per capita or per mile reimbursement to a parent or guardian in cases where regular school bus transportation is impractical because of distance, road conditions or sparseness of population or in cases where the local school board has authorized a parent to receive reimbursement for travel costs incurred by having a child attend a school outside the child's attendance zone.

History: 1953 Comp., § 77-14-6, enacted by Laws 1967, ch. 16, § 224; 1973, ch. 337, § 1; 1990 (1st S.S.), ch. 9, § 12; 1993, ch. 226, § 48; 1995, ch. 208, § 8.

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

Laws 2004, ch. 26, § 27, provided that all references to the superintendent of public instruction shall be deemed references to the secretary of public education and all references to the former state board of education or state department of education shall be deemed references to the public education department. See 9-24-15 NMSA 1978.

The 1995 amendment, effective July 1, 1995, deleted "and with the approval of the state transportation director" preceding "provide" near the beginning of the section, and deleted the former last sentence of the section which read: "A schedule providing for the reimbursement of parents and guardians in an amount that is reasonable and comparable to that which would be paid to a school bus contractor for the transportation of pupils, when computation for payment excludes the factors of size and age of school bus equipment and the driver's salary, shall be established by the state transportation division of the department of education with the approval of the state board."

The 1993 amendment, effective July 1, 1993, deleted the subsection designation "A" at the beginning of the section and deleted former Subsections B and C, pertaining to the requirement for application for reimbursement of a parent for transportation costs and defining "attendance zone".

The 1990 (1st S.S.) amendment, effective June 18, 1990, added the Subsection A designation, inserting therein "subject to regulations adopted by the state board and", "or in cases where the local school board has authorized a parent to receive reimbursement for travel costs incurred by having a child attend a school outside the child's attendance zone", and "of the department of education", made minor stylistic changes, and added Subsections B and C.

ANNOTATIONS

Purpose of reimbursement schedule. — The reimbursement schedule provision is apparently designed to insure a maximum amount of uniformity in payments for this type of transportation in school districts where similar conditions prevail, 1988 Op. Att'y Gen. No. 66-134 (decided under prior law).

22-16-7. Repealed.

Repeals. — Laws 1993, ch. 226, § 54 repealed 22-16-7 NMSA 1978, as enacted by Laws 1967, ch. 16, § 225, concerning county school bus transportation expenditures, effective July 1, 1993. For provisions of former section, see the 1992 NMSA 1978 on New Mexico One Source of Law.

22-16-8. Cattle guards on school bus routes.

The board of county commissioners of each county shall construct cattle guards where privately owned fences intersect school bus routes on county roads when consent is obtained from each owner of real property upon which the cattle guards are to be constructed. The cost of constructing the cattle guards shall be paid out of the county road fund as other county road expenses are paid.

History: 1953 Comp., § 77-14-8, enacted by Laws 1967, ch. 16, § 226; 2009, ch. 49, § 1.

The 2009 amendment, effective June 19, 2009, required a county to pay for cattle guards only where publicly owned fences intersect a school bus route.

22-16-9. School buses; termination of use; resale.

A. When a school bus is being operated for purposes other than to actually transport students to and from school or on school activity trips, all markings indicating "school bus" shall be covered or removed.

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.

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.

History: 1953 Comp., § 77-14-9, enacted by Laws 1967, ch. 16, § 227.

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

Laws 2004, ch. 25, § 27, provided that all references to the superintendent of public instruction shall be deemed references to the secretary of public education and all references to the former state board of education or state department of education shall be deemed references to the public education department. See 9-24-15 NMSA 1978.

22-16-10. Use of state or county equipment for snow removal.

The state or any county may, in order to provide for the public health, safety and welfare, use its road equipment for snow removal on any school bus route.

History: 1953 Comp., § 77-14-10, enacted by Laws 1975, ch. 79, § 1.

22-16-11. Regulations relative to school buses.

A. The state transportation director, appointed as provided in Section 22-16-1 NMSA 1978, shall adopt and enforce regulations adopted by the state board [department] not inconsistent with the Motor Vehicle Code [Articles 1 through 8 of Chapter 66 [except 66-7-102.1] NMSA 1978] to govern the design and operation of all school buses, used for the transportation of school children, when owned and operated by any school district or privately owned and operated under contract with any school district in this state, and the regulations shall by reference be made a part of any such contract with a school district. Every school district, its officers and employees and every person employed under contract by a school district shall be subject to the regulations.

B. Any officer or employee of any school district who violates any of the regulations or fails to include obligation to comply with the regulations in any contract executed by him on behalf of a school district is guilty of misconduct and subject to removal from office or employment. Any person operating a school bus, under contract with a school district, who fails to comply with any of the regulations is guilty of breach of contract, and the contract may be canceled after notice and hearing by the state transportation director acting in conjunction with the responsible officers of the school district.

C. Any driver of a school bus who fails to comply with any of the regulations is guilty of a misdemeanor.

History: 1953 Comp., § 64-7-365, enacted by Laws 1978, ch. 35, § 469; 1978 Comp., § 66-7-365, recompiled as § 22-16-11 by Laws 1993, ch. 226, § 53; 1995, ch. 208, § 9.

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

Laws 2004, ch. 25, § 27, provided that all references to the superintendent of public instruction shall be deemed references to the secretary of public education and all references to the former state board of education or state department of education shall be deemed references to the public education department. See 9-24-16 NMSA 1978.

Cross references. — For duty of the state transportation division to establish standards pursuant to this section, see 22-16-2 NMSA 1978.

For overtaking and passing a school bus, see 66-7-347 NMSA 1978.

For the markings which indicate a school bus, see 66-7-347 and 22-16-9 NMSA 1978.

For special lighting equipment on school buses, see 66-7-348 NMSA 1978.

For the penalty for a misdemeanor, see 65-6-7 NMSA 1978.

The 1995 amendment, effective July 1, 1995, inserted "adopted by the state board" in Subsection A, substituted "state transportation director" for "director of transportation" in Subsections A and B, and made minor stylistic changes throughout the section.

ANNOTATIONS

Liability under Tort Claims Act. — Neither the adoption and enforcement of regulations to govern the design and operation of school buses, nor the design, planning and enforcement of safety rules for school bus transportation, fall within the meaning of "operation" of a motor vehicle, for purposes of Section 41-4-5 NMSA 1978 (liability of government employees under Tort Claims Act). *Chee Owens v. Leavitts Freight Serv., Inc.*, 106 N.M. 512, 746 P.2d 1166 (Ct. App. 1987).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 79 C.J.S. Schools and School Districts § 480.

Tort liability of public schools and institutions of higher learning for accidents associated with transportation of students, 23 A.L.R.5th 1.

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22-8-26. Transportation distribution.

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.

B. In the event a school district's or state-chartered charter school's transportation allocation exceeds the amount required to 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.

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.

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.

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 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].

History: 1953 Comp., § 77-6-22, enacted by Laws 1967, ch. 16, § 76; 1969, ch. 180, § 21; 1974, ch. 73, § 1; 1975, ch. 342, § 2; 1976 (S.S.), ch. 20, § 1; 1978, ch. 127, § 3; 1979, ch. 67, § 1; 1979, ch. 289, § 1; 1979, ch. 305, § 2; 1987, ch. 149, § 2; 1988, ch. 64, § 31; 1995, ch. 208, § 1; 1999 (1st S.S.), ch. 11, § 1; 2001, ch. 48, § 1; 2006, ch. 94, § 17.

Cross references. — For transportation of students generally, see 22-18-1 NMSA 1978 et seq.

For transfer of powers and duties of the former state board, see 9-24-14 NMSA 1978.

For other divisions of the public education department, see 9-24-4 NMSA 1978.

For the transportation emergency fund, see 22-8-29.6 NMSA 1978.

The 2006 amendment, effective July 1, 2007, added state-chartered charter schools in Subsections A through D and added governing body of a state-chartered charter school in Subsection E.

The 2001 amendment, effective June 15, 2001, added Subsection F.

The 1999 amendment, effective May 21, 1999, substituted "fifty percent of the remaining balance shall be deposited in the transportation emergency fund" for "the district shall revert remaining transportation funds to the transportation distribution in the department" in Subsection B; added Subsection C and redesignated the subsequent subsections accordingly; updated a section reference in Subsection E; and made a minor stylistic change.

The 1995 amendment, effective July 1, 1995, rewrote Subsections A and B, deleted former Subsection C relating to an objective allocation formula developed by the transportation director and superintendent, rewrote and redesignated former Subsection D as Subsection C, deleted former Subsection E relating to negotiation of school bus contracts, and redesignated former Subsection F as Subsection D.

The 1988 amendment, effective May 18, 1988, deleted "of instruction" following "superintendent" at the end of Subsection C.

ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — Buses: constitutionality, under state constitutional provision forbidding financial aid to religious sects, of public provision of schoolbus service for private school pupils, 41 A.L.R.3d 344.

Free transportation: nature and extent of transportation that must be furnished under statute requiring free transportation of school pupils, 52 A.L.R.3d 1036.

22-8-27. Transportation equipment.

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 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.

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:

- (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.

History: 1953 Comp., § 77-6-23, enacted by Laws 1967, ch. 16, § 77; 1988, ch. 64, § 32; 1993, ch. 226, § 24; 1995, ch. 208, § 2; 2006, ch. 94, § 18; 2009, ch. 92, § 1.

Cross references. — For transfer of powers and duties of former state superintendent to secretary of public education, *see* 9-24-15 NMSA 1978.

The 2009 amendment, effective June 18, 2009, added Subsection D; in Subsection E, after "is terminated", added "or not renewed by either party"; and added Subsection F.

Applicability. — Laws 2009, ch. 92, § 3 provided that the provisions of Laws 2009, ch. 92, §§ 1 and 2 apply to contracts, including contract renewals, entered into on or after June 19, 2009.

The 2006 amendment, effective July 1, 2007, changed "state superintendent" to "department" in Subsections A through C; and added state-chartered charter school in Subsection C.

The 1995 amendment, effective July 1, 1995, deleted "Local school boards may, with the approval of the state transportation director and" from the beginning of the section, designated the existing provisions as Subsection A, inserted "shall" in Subsection A, deleted "from the annual budget allocation for school transportation within the school district" from the end of Subsection A, and added Subsections B and C.

The 1993 amendment, effective July 1, 1993, rewrote the catchline, which formerly read "Transportation of students; additional budget allowance; purchase of equipment"; deleted former Subsections A and B, pertaining to authorization for an additional budget allowance for the cost of transporting students where special equipment is necessary or where special physical conditions exist; and deleted the subsection designation "C".

The 1988 amendment, effective May 18, 1988, substituted "state superintendent" for "chief" in Subsection C.

ANNOTATIONS

Reimbursement of rental fees. — A local school district is entitled to reimbursement from a school bus operator of unearned rental fees paid to the operator for bus purchases at the termination of the school bus service contract without distinction as to the reason for or the time of termination of the contract. *Gladden Motor Co., Inc. v. Eunice Sch. Bd.*, 2007-NMCA-118, 142 N.M. 483, 167 P.3d 931, cert. denied, 2007-NMCERT-009, 142 N.M. 715, 169 P.3d 408.

22-8-29. Transportation distributions; reports; payments.

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 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:

- (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.

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.

C. The state transportation director shall certify to the secretary that the allocations 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. 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.

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.

History: 1953 Comp., § 77-6-24, enacted by Laws 1967, ch. 16, § 78; 1974, ch. 73, § 2; 1978, ch. 127, § 5; 1979, ch. 305, § 4; 1988, ch. 64, § 33; 1995, ch. 208, § 3; 1999 (1st S.S.), ch. 11, § 2; 2006, ch. 94, § 19; 2010, ch. 116, § 7.

Repeals. — Laws 2001, ch. 350, § 2, repealed Laws 1999 (1st S.S.), ch. 11, § 7, effective June 15, 2001, which would have repealed 22-8-29 on July 1, 2001.

Cross references. — For transportation of students generally, see 22-16-1 NMSA 1978 et seq.

For transfer of powers and duties of the former state superintendent, see 9-24-15 NMSA 1978.

For the program support and student transportation division of the public education department, see 9-24-4 NMSA 1978.

The 2010 amendment, effective May 19, 2010, in Subsection A, in the introductory sentence after "operation on the", deleted "fortieth day of school" and added "first reporting date of the current year"; and in Subsection A(3), after "transported on the", deleted "fortieth day of school" and added "first reporting date of the current year".

Temporary provisions. — Laws 2010, ch. 116, § 9 provided that references in the Public School Code pertaining to the fortieth-day or forty-day report of public school membership or enrollment shall be deemed to be references to the first reporting date, which is the second Wednesday in October; references pertaining to the eightieth-day or eighty-day report of public school membership or enrollment shall be deemed to be references to the second reporting date, which is the second Wednesday in December; and references pertaining to the one-hundred twentieth-day or one-hundred twenty-day report of public school membership or enrollment shall be deemed to be references to the third reporting date, which is the second Wednesday in February.

As the public schools transition from former reporting dates to new reporting dates, the public education department may use any combination of former and new reporting dates as necessary to develop membership and cost projections and budgets for the 2010-2011 school year.

The 2006 amendment, effective July 1, 2007, added the governing body of a state-chartered charter school in Subsections A and B and added state-chartered schools in Subsection A, Paragraph (6) of Subsection A, and in Subsections C and D.

The 1999 amendment, effective May 21, 1999, in Subsection A added "and adjusted for special education students on December 1" at the end of Paragraph (3), deleted former Paragraph (5), which read "the percentage of unpaved or unimproved roads utilized by school buses in the school district; and" and redesignated the subsequent paragraph accordingly, substituted "used" for "utilized" in Paragraph (5), and added Paragraph (6).

The 1995 amendment, effective July 1, 1995, in Subsection A, in the introductory paragraph, deleted "maintaining a school bus route" following "school district" and substituted "the district's operation on the fortieth day of school" for "the school year to and including October 30", deleted "which have been approved by the state transportation director" from the end of Paragraph (1), deleted former Paragraph (2) relating to the number and capacity of the buses operating on the district, redesignated former Paragraphs (3) and (4) as Paragraphs (2) and (3), substituted "on the fortieth day of school" for "on each school bus route" in Paragraph (3), and added Paragraphs (4) to (6); deleted "concerning the information required by this section" following the first "director" in Subsection B, and rewrote Subsection C.

The 1988 amendment, effective May 18, 1988, deleted the last sentence of Subsection B regarding required periods for reporting; in Subsection C, substituted "state superintendent" for "director" near the beginning of the first sentence and "state superintendent" for "director of the public school finance division" at the end of the first sentence; and substituted "department" for "director" and deleted "to him"

following "certified" in Subsection D.

22-8-29.1. Calculation of transportation allocation.

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; 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 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.

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.

E. The allocation to each school district and state-chartered charter school shall be equal to product A plus product B.

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.

G. The adjustment factor shall be applied to the allocation amount determined pursuant to Subsections E and F of this section.

History: Laws 1995, ch. 208, § 10; 1999 (1st S.S.), ch. 11, § 3; 2001, ch. 350, § 1; 2006, ch. 94, § 20.

Cross references. — For the legislative education study committee, see 2-10-1 NMSA 1978.

For the legislative finance committee, see 2-5-1 NMSA 1978.

For references to the former state board, see 9-24-15 NMSA 1978.

For the program support and student transportation division of the department, see 9-24-4 NMSA 1978.

The 2006 amendment, effective July 1, 2007, added state-chartered charter schools in Paragraphs (1) and (4) of Subsection A and Subsections B through E; and added an amount established by rule for state-chartered charter schools in Paragraph (2) of Subsection A.

The 2001 amendment, effective June 15, 2001, in Subsection F, deleted "1999-2000, 2000-2001 and", inserted "2002-2003 and 2003-2004" substituted "ninety-five percent" for "one hundred percent" and "one hundred five percent" for "one hundred fifteen percent", and substituted "prior" for "1998-1999".

The 1999 amendment, effective May 21, 1999, added present Subsections A, C through E, and G and redesignated subsequent subsections accordingly; in Subsection B deleted "in the following manner" from the end of the introductory language and deleted Paragraphs (1) through (7), which set out the manner for calculating the transportation allocation for each school district; deleted former Subsection C, relating to determination of the transportation allocation by districts transporting less than 75 students; and in Subsection F substituted "1999-2000, 2000-2001 and 2001-2002 school years" for "1997-98, 1998-99 and 1999-2000 school years", "one hundred percent" for "ninety-five percent", "of the 1996-1999" for "of the 1996-97", and "expenditure" for "allocation".

22-8-29.4. Transportation distribution adjustment factor.

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: $[(\text{total operational transportation distribution} - C) \div C] + 1$. 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.

History: Laws 1995, ch. 208, § 13; 1999 (1st S.S.), ch. 11, § 4; 2006, ch. 94, § 21.

Cross references. — For transfer of powers and duties of former state superintendent, see 9-24-15 NMSA 1978.

For the public education department, see 9-24-4 NMSA 1978.

The 2006 amendment, effective July 1, 2007, changed "state superintendent" to "department" in Subsection A; added state-chartered charter schools in Paragraphs (1) and (2) of Subsection A; and added the reference to Section 22-6-29.1 NMSA 1978 in Paragraph (1) of Subsection A.

The 1999 amendment, effective May 21, 1999, in Subsection A, in Paragraphs (1) and (2), inserted "product A plus product" and "school", and in Paragraphs (2) and (3), inserted "product" preceding "C".

22-8-29.6. Transportation emergency fund.

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 emergencies. The state superintendent [secretary] shall make distributions only to ensure the safety of students receiving to-and-from transportation services.

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.

History: Laws 1995, ch. 208, § 15; 1999 (1st S.S.), ch. 11, § 5.

Bracketed material. — The bracketed material was inserted by the compiler and is not part of the law.

Laws 2004, ch. 25, § 27, provided that all references to the superintendent of public instruction shall be deemed references to the secretary of public education and all references to the former state board of education or state department of education shall be deemed references to the public education department. See 9-24-15 NMSA 1978.

The 1999 amendment, effective May 21, 1999, rewrote this section to the extent that a detailed comparison would be impracticable.



Public Education Department
 School Transportation
 2012-2013
 Final Operation Allocations

FY13	Enrollment	12-13 Transp. Students	Students	SE Stu	Buses	Lifts	Area	Density	BUS MILES TRAVELED	PER CAPITA MILES TRAVELED	TOTAL MILES TRAVELED	Days	Student Daily Variable	S.E. Student Daily Variable	
> 1000													\$	1.15	\$
ANDREWS	13,851.50	11,020.00	10,633	357	83	12	1907	8.13542	1,842,281.4	28,170.0	1,868,451.4	178	\$ 12,260.06	\$	1,022.25
GALLUP	11,432.50	8,317.00	7,870	327	109	15	4657	1.57565	2,438,820.0	232.0	2,438,820.0	180	\$ 8,005.09	\$	563.76
GRANTS	3,545.50	1,526.00	1,480	46	32	3	3929	0.37669	376,897.8	28,718.0	405,615.8	173	\$ 1,706.47	\$	121.51
HATCH	1,288.00	1,348.00	1,324	20	14	2	1125	1.17669	143,307.8	0.0	143,307.8	179	\$ 1,526.66	\$	52.83
PORES	8,065.50	3,839.00	3,521	118	26	6	757	4.65125	410,688.0	0.0	410,688.0	180	\$ 4,059.78	\$	311.69
LAS CRUCES	24,643.00	9,909.00	9,296	610	335	25	1456	6.38596	1,803,486.0	22,489.2	1,825,975.2	178	\$ 10,720.78	\$	1,811.28
LAS VEGAS EAST	1,811.00	664.00	645	19	18	1	1288	0.50988	192,614.4	12,300.0	204,914.4	152	\$ 743.76	\$	50.19
LAS VEGAS WEST	1,610.00	816.00	754	24	18	3	3585	0.21805	233,100.0	7,820.0	240,920.0	180	\$ 915.50	\$	63.40
LOS ALAMOS	3,515.50	1,417.00	1,385	32	24	6	110	12.89281	169,750.0	0.0	169,750.0	180	\$ 1,596.93	\$	94.53
LOS LUNAS	8,297.50	4,445.00	4,384	111	81	11	689	6.47633	841,596.8	0.0	841,596.8	176	\$ 4,997.19	\$	233.20
LOWINGTON	3,485.50	1,738.00	1,608	128	17	2	992	1.62186	252,306.0	0.0	252,306.0	180	\$ 1,855.21	\$	94.75
MCRIARY	2,900.50	2,782.00	2,742	53	46	5	1051	2.60894	690,548.8	27,362.0	717,910.8	172	\$ 3,181.58	\$	132.07

Public Education Department
 School Transportation
 2012-2013
 Final Operation Allocations

FY13	Enrollment	12-13 Transp. Students	Students SE Site	Buses	Lifts	Area	Density	BUS MILES TRAVELED	PER CAPITA MILES TRAVELED	TOTAL MILES TRAVELED	Days	Student Daily Variable	S.E. Student Daily Variable
POJOAQUE	1,902.50	1,279.00	1,270	16	1	309	4.11003	338,256.0	0.0	338,256.0	174	\$ 1,464.34	\$ 23.77
POPCALES	2,909.00	2,408.00	2,299	20	1	350	6.56357	189,148.4	0.0	189,148.4	178	\$ 2,550.79	\$ 267.92
ERATON	1,105.00	906.00	922	8	1	1002	0.92316	68,237.9	1,710.0	70,947.9	171	\$ 1,053.02	\$ 73.96
RIO RANCHO	18,731.00	11,622.00	11,223	74	17	157	71.48408	1,045,326.8	60.4640	1,105,790.6	177	\$ 12,840.34	\$ 1,053.94
ROSWELL	10,104.00	4,892.00	4,497	56	4	3190	1.40972	543,641.6	38.5010	582,148.6	178	\$ 5,185.13	\$ 1,016.96
RUIDOSO	2,094.00	1,597.00	1,586	12	21	165	8.69606	264,506.0	0.0	264,506.0	178	\$ 1,827.54	\$ 31.70
SANTA FE	14,205.50	9,763.00	9,510	70	8	1016	9.39024	976,624.0	4.4860	981,122.0	179	\$ 10,965.22	\$ 668.29
SAN JER CITY	3,025.00	1,731.00	1,696	45	21	2929	0.57562	268,119.5	0.0	268,119.5	177	\$ 1,943.89	\$ 118.87
SCOBORO	1,868.00	1,128.00	1,384	35	13	2615	0.41836	134,066.0	89.8900	233,045.8	181	\$ 1,261.40	\$ 92.45
TACS	2,813.50	1,664.00	1,596	88	17	637	2.59349	254,497.1	15,142.0	269,639.1	169	\$ 1,840.22	\$ 179.62
TRUTH CR CONS.	1,502.60	1,233.00	1,184	49	17	4237	0.27944	275,284.9	32.5240	307,810.9	173	\$ 1,365.38	\$ 29.43
TUCUMCARI	1,020.50	631.00	600	31	7	996	0.60241	85,241.8	0.0	85,241.8	152	\$ 691.81	\$ 81.89
ZUNI	1,260.00	906.00	904	15	10	506	1.78656	79,200.0	0.0	79,200.0	180	\$ 1,342.33	\$ 42.26
TOTALS	923,965	180,797	173,474	7,329	2,126	904	199,103	249	30,442,121.9	1,828,368.2	32,070,480.1	\$ 189,950.78	\$ 18,722.67

Public Education Department
 School Transportation
 2012-2013
 Final Operation Allocations

		\$	5.54	\$	1.11	\$	(15,537,901)	\$	125,346.00	TOTAL
FY13										
Name	Bus Daily Variable	Lift Bus Daily Variable	Daily Variable	Annual Student Bus Variable	Annual Mileage Variable	Annual Density Adjustment	PRODUCT B Annual Variable	PRODUCT A Base Amount	PRODUCT C BASE ALLOCATION	ADM. FACTOR 1.0749488 FINAL ALLOCATION
FLAMINGO	\$ -	\$ 44.34	\$ 2,987.00	\$ 513,769.35	\$ 491,753.54	\$ (9,625.10)	\$ 985,908.88	\$ 25,346.00	\$ 1,121,262.88	\$ 1,205,322
ALBUQUERQUE	\$ -	\$ 315.89	\$ 5,338.88	\$ 9,138,921.42	\$ 8,787,793.65	\$ (513,698.65)	\$ 15,412,477.01	\$ 25,346.00	\$ 15,537,823.01	\$ 16,792,362
ARTESIA	\$ -	\$ 16.63	\$ 3,523.17	\$ 894,170.43	\$ 359,551.07	\$ (15,868.14)	\$ 977,853.36	\$ 25,346.00	\$ 1,103,199.36	\$ 1,185,883
AZTEC	\$ -	\$ 33.26	\$ 3,630.46	\$ 551,683.61	\$ 351,094.92	\$ (109,364.35)	\$ 883,354.18	\$ 25,346.00	\$ 1,018,700.18	\$ 1,096,051
BELEN	\$ -	\$ 27.71	\$ 3,464.50	\$ 623,686.51	\$ 623,758.82	\$ (39,785.22)	\$ 1,207,659.10	\$ 25,346.00	\$ 1,333,005.10	\$ 1,403,912
BERNALILLO	\$ -	\$ 27.71	\$ 3,302.60	\$ 584,460.17	\$ 479,421.60	\$ (64,357.60)	\$ 899,524.17	\$ 25,346.00	\$ 1,124,870.17	\$ 1,209,376
BLOOMFIELD	\$ -	\$ 11.08	\$ 3,228.12	\$ 574,783.44	\$ 420,907.54	\$ (26,325.62)	\$ 959,365.28	\$ 25,346.00	\$ 1,084,711.28	\$ 1,176,759
CARLSBAD	\$ -	\$ 16.63	\$ 2,864.28	\$ 512,708.16	\$ 497,751.50	\$ (13,714.67)	\$ 936,746.08	\$ 25,346.00	\$ 1,122,091.08	\$ 1,206,190
CENTRAL CONS.	\$ -	\$ 44.34	\$ 5,667.34	\$ 1,008,786.74	\$ 1,043,567.32	\$ (25,023.79)	\$ 2,027,330.27	\$ 125,346.00	\$ 2,152,676.27	\$ 2,314,917
CLAVIS	\$ -	\$ 27.71	\$ 3,473.28	\$ 597,405.75	\$ 395,180.41	\$ (86,827.43)	\$ 905,768.74	\$ 25,346.00	\$ 1,031,114.74	\$ 1,109,296
COBRE CONS.	\$ -	\$ 11.08	\$ 1,023.41	\$ 183,191.19	\$ 185,947.26	\$ (12,237.03)	\$ 366,907.44	\$ 25,346.00	\$ 432,247.44	\$ 529,341
DEMING	\$ -	\$ 35.78	\$ 5,068.33	\$ 886,527.65	\$ 684,636.40	\$ (21,060.97)	\$ 1,530,503.08	\$ 25,346.00	\$ 1,855,879.08	\$ 1,779,985
ESPERANZA	\$ -	\$ 27.71	\$ 3,599.90	\$ 644,185.39	\$ 553,813.52	\$ (6,863.73)	\$ 1,196,106.18	\$ 125,346.00	\$ 1,261,452.18	\$ 1,356,000
FARMINGTON	\$ -	\$ 72.05	\$ 2,396.86	\$ 1,331,358.27	\$ 1,235,636.51	\$ (116,540.21)	\$ 2,451,464.57	\$ 25,346.00	\$ 2,675,840.57	\$ 2,769,372

Public Education Department
 School Transportation
 2012-2013
 Final Operation Allocations

	\$	-	\$	5.54	\$	1.11	\$	(15,537.90)	\$	125,346.00	\$	TOTAL
FY13												
Name	Bus Daily Variable	Lift Bus Daily Variable	Daily Variable	Annual Student Bus Variable	Annual Mileage Variable	Annual Density Adjustment	PRODUCT B Annual Variable	PRODUCT A Base Amount	PRODUCT C BASE ALLOCATION	ADJ. FACTOR	FINAL ALLOCATION	
GADSDEN	\$ -	\$ 66.50	\$ 13,348.81	\$ 2,376,088.26	\$ 1,850,273.25	\$ (126,407.41)	\$ 4,109,854.10	\$ 125,346.00	\$ 4,235,303.10	\$	\$ 4,565,731	
GALLUP	\$ -	\$ 63.13	\$ 9,951.97	\$ 1,739,355.20	\$ 2,718,466.81	\$ (24,480.73)	\$ 4,485,344.27	\$ 125,346.00	\$ 4,611,690.27	\$	\$ 4,957,331	
GRANTS	\$ -	\$ 16.63	\$ 1,844.80	\$ 319,115.27	\$ 452,246.45	\$ (5,852.91)	\$ 765,512.80	\$ 125,346.00	\$ 890,858.80	\$	\$ 957,525	
HATCH	\$ -	\$ 11.08	\$ 1,560.51	\$ 263,111.07	\$ 159,783.90	\$ (7,296.38)	\$ 424,608.59	\$ 125,346.00	\$ 549,954.59	\$	\$ 591,173	
HCBBS	\$ -	\$ 33.25	\$ 4,404.73	\$ 792,850.86	\$ 457,964.80	\$ (72,270.73)	\$ 1,178,485.63	\$ 125,346.00	\$ 1,303,831.63	\$	\$ 1,401,652	
LAS CRUCES	\$ -	\$ 138.55	\$ 12,470.62	\$ 2,218,770.37	\$ 2,005,628.87	\$ (89,224.86)	\$ 4,156,475.35	\$ 125,346.00	\$ 4,281,821.35	\$	\$ 4,602,739	
LAS VEGAS EAST	\$ -	\$ 5.54	\$ 788.43	\$ 121,513.00	\$ 223,338.32	\$ (7,903.74)	\$ 341,748.17	\$ 125,346.00	\$ 467,094.17	\$	\$ 502,102	
LAS VEGAS WEST	\$ -	\$ 16.83	\$ 865.52	\$ 178,193.39	\$ 264,730.37	\$ (4,025.75)	\$ 443,958.31	\$ 125,346.00	\$ 569,304.31	\$	\$ 611,936	
LOS ALAMOS	\$ -	\$ 93.25	\$ 1,754.71	\$ 308,648.03	\$ 189,275.05	\$ (195,636.29)	\$ 302,286.82	\$ 125,346.00	\$ 427,632.82	\$	\$ 459,833	
LOS LUNAS	\$ -	\$ 50.86	\$ 5,351.35	\$ 541,838.04	\$ 933,355.12	\$ (1,006,659.58)	\$ 1,779,523.95	\$ 125,346.00	\$ 1,904,870.95	\$	\$ 2,047,643	
LOVINGTON	\$ -	\$ 1.08	\$ 2,207.04	\$ 397,267.47	\$ 261,313.62	\$ (25,202.0)	\$ 653,378.89	\$ 125,346.00	\$ 778,724.89	\$	\$ 837,690	
MORRIS	\$ -	\$ 27.71	\$ 3,321.96	\$ 571,274.56	\$ 767,022.20	\$ (40,587.51)	\$ 1,297,759.26	\$ 125,346.00	\$ 1,423,105.26	\$	\$ 1,529,765	

Public Education Department
 School Transportation
 2012-2013
 Final Operation Allocations

FY13	Bus Daily Variable	Lift Bus Daily Variable	Daily Variable	Annual Student Bus Variable	Annual Mileage Variable	Annual Density Adjustment	PRODUCT B Annual Variable	PRODUCT A Base Amount	PRODUCT C Base Allocation	ADJ. FACTOR FINAL ALLOCATION	TOTAL
> 1000	\$ -	\$ 5.54	\$ 1.11	\$ (15,537.90)	\$ 125,346.00	\$	\$	\$	\$	\$	\$
POLOQUIE	\$ -	\$ 5.54	\$ 1,493.65	\$ 259,859.19	\$ 377,145.29	\$ (83,881.27)	\$ 573,479.21	\$ 125,346.00	\$ 689,525.21	\$	\$ 750,875
PORTALES	\$ -	\$ 5.54	\$ 2,944.25	\$ 524,077.25	\$ 222,042.26	\$ (102,051.61)	\$ 644,157.69	\$ 125,346.00	\$ 769,403.69	\$	\$ 837,070
RATCH	\$ -	\$ 5.54	\$ 1,142.58	\$ 195,382.43	\$ 79,104.78	\$ (-4,297.35)	\$ 265,189.88	\$ 125,346.00	\$ 385,535.88	\$	\$ 414,431
RIO RANCHO	\$ -	\$ 5.54	\$ 14,088.50	\$ 2,493,664.44	\$ 1,232,923.35	\$ (1,110,712.43)	\$ 2,615,875.35	\$ 125,346.00	\$ 2,741,221.35	\$	\$ 2,946,673
ROSWELL	\$ -	\$ 22.17	\$ 5,224.26	\$ 1,107,949.45	\$ 648,078.22	\$ (21,904.06)	\$ 1,735,092.62	\$ 125,346.00	\$ 1,860,438.62	\$	\$ 1,989,876
RUDDOSO	\$ -	\$ 5.54	\$ 1,064.78	\$ 331,890.16	\$ 294,978.48	\$ (148,258.01)	\$ 477,590.64	\$ 125,346.00	\$ 602,936.64	\$	\$ 646,128
SANTA FE	\$ -	\$ 44.34	\$ 11,677.56	\$ 2,090,334.33	\$ 1,093,921.50	\$ (145,438.41)	\$ 3,032,817.51	\$ 125,346.00	\$ 3,158,163.51	\$	\$ 3,401,314
SILVER CITY	\$ -	\$ 22.17	\$ 2,065.09	\$ 369,049.49	\$ 296,775.26	\$ (8,943.97)	\$ 656,820.77	\$ 125,346.00	\$ 782,166.77	\$	\$ 840,769
SOCORRO	\$ -	\$ 22.17	\$ 1,376.02	\$ 249,060.14	\$ 295,435.34	\$ (8,500.37)	\$ 507,974.82	\$ 125,346.00	\$ 633,320.82	\$	\$ 680,757
TANOS	\$ -	\$ 11.08	\$ 2,090.52	\$ 343,226.31	\$ 300,639.51	\$ (88,939.72)	\$ 604,935.40	\$ 125,346.00	\$ 730,281.40	\$	\$ 785,015
TERRITH OR CONS.	\$ -	\$ 18.63	\$ 1,511.23	\$ 281,443.34	\$ 343,208.84	\$ (4,341.96)	\$ 600,310.22	\$ 125,346.00	\$ 725,656.22	\$	\$ 780,043
TUCUMCARI	\$ -	\$ 5.54	\$ 779.24	\$ 118,444.36	\$ 95,041.83	\$ (8,360.18)	\$ 204,126.01	\$ 125,346.00	\$ 329,472.01	\$	\$ 354,166
ZUNI	\$ -	\$ 11.38	\$ 1,095.68	\$ 197,221.93	\$ 68,305.62	\$ (27,799.41)	\$ 267,768.15	\$ 125,346.00	\$ 383,114.15	\$	\$ 411,828
TOTALS	\$ 30,413.08	\$ 2,492.79	\$ 249,017.32	\$ 42,190,903.25	\$ 35,002,186.25	\$ (3,542,674.56)	\$ 73,661,389.94	\$ 7,764,838.30	\$ 81,416,328.24	\$	\$ 87,515,331

ATTACHMENT 4

2013-2014 PROJECTED NEED FOR SCHOOL TRANSPORTATION

OPERATION AND MAINTENANCE		2011-2012 Actuals	
PURCHASE SERVICES (53000, 64000 & 55000) (less rent and leases (54620) (less fuel and oil, and ben. for contractors)			\$20,373,700
SUPPLIES AND MATERIALS (68000) (Less Fuel, Objects 56210,56211,56212)			\$1,958,020
PROPERTY (57000) (Less school owned buses, Object 57312)			\$890,042

OPERATION AND MAINTENANCE INCREASE (2013)

Estimated Increase Current Year CPI	2.00%	\$	460,615
Following Year Projected CPI	1.90%	\$	437,663

FUEL

FUEL		2011-2012 Actuals	
Average diesel fuel price (FY12)	\$3.42		
District Purchase (FY12)			\$4,745,043
Contractor Purchase (FY12)			\$8,428,341

FUEL PRICE INCREASE (2013)

Projected (FY13)			
Wholesale projected price	\$3.62	\$	371,433

SALARY AND BENEFITS

SALARY AND BENEFITS		2011-2012 Actuals	
CONTRACT ACTUAL (FY12) REPORTED			\$21,028,315
SCHOOL DISTRICT (FY12) REPORTED			\$27,902,377
BUDGETED SALARY INCREASE (FY12)			\$0
CRA			\$0

OPERATIONAL NEEDS

OPERATIONAL NEEDS		\$	97,006,100
OPERATIONAL APPROPRIATION (2013)		\$	97,006,100
TOTAL INCREASE		\$	3,180,287
PERCENT OF INCREASE			3.78%

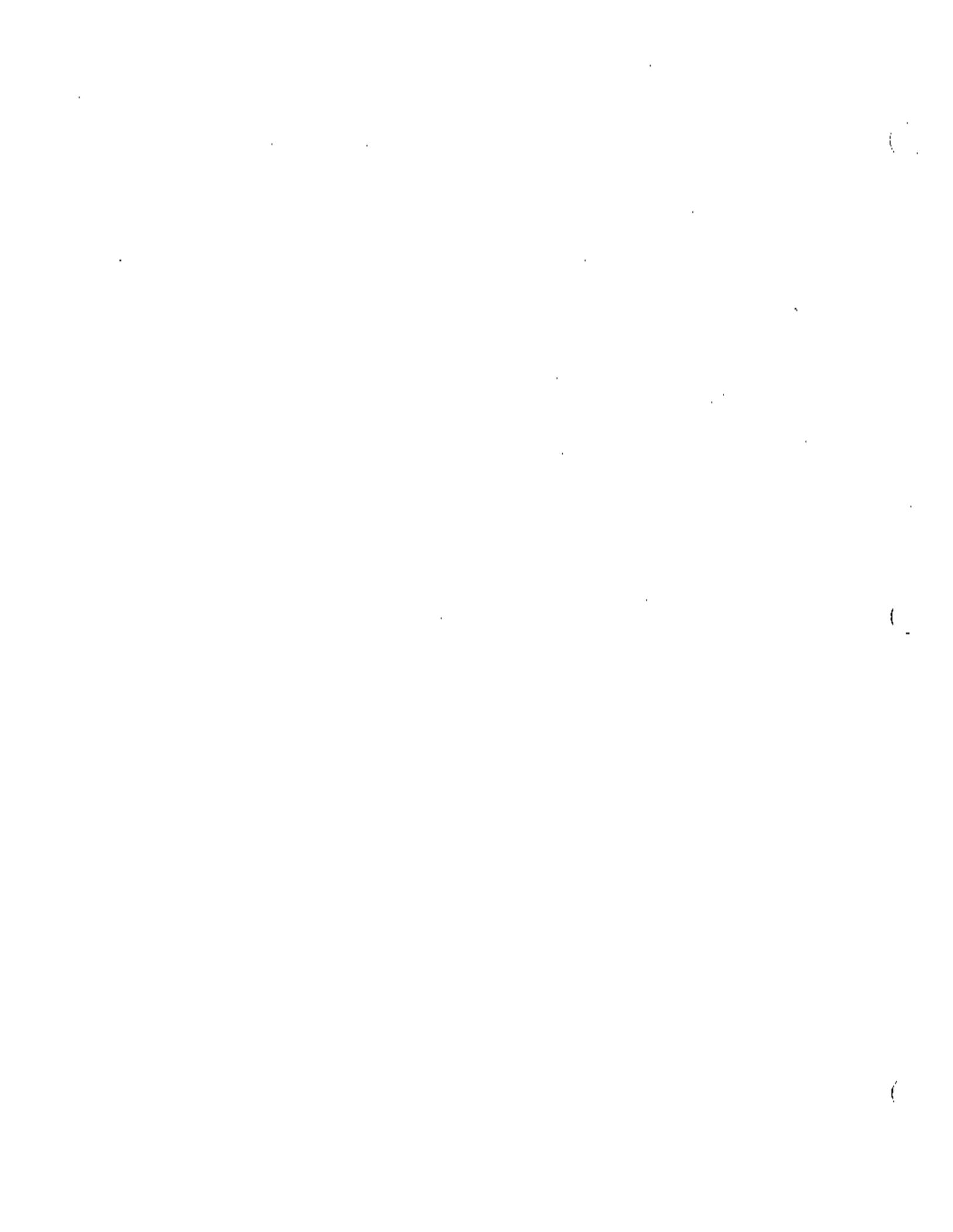
EQUIPMENT

EQUIPMENT		RENTAL FEES (RENTS & LEASES)	
Obligation For Existing Equipment	\$9,880,249		
102 Normal Cycle Replacements @ \$20,000	2,040,000		
		\$	11,780,200

CONTRACTOR EQUIPMENT NEED

OPERATIONAL NEEDS/RENTAL FEES

OPERATIONAL NEEDS/RENTAL FEES		\$	97,006,368
OPERATIONAL APPROPRIATION (2013)		\$	97,006,368
TOTAL INCREASE		\$	2,330,300
PERCENT OF INCREASE			2.41%



16 FLEET SERVICE CONTRACT (FORM)

THIS AGREEMENT is made and entered into as this _____ day of _____,

20____, by and between _____ hereinafter called "BOARD"
(local board of education)

and _____ hereinafter referred to as "CONTRACTOR."
(contractor)

WITNESSETH:

WHEREAS, BOARD has engaged CONTRACTOR to provide the pupil transportation services described herein; and

WHEREAS, CONTRACTOR desires to provide such transportation services;

NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:
[12-31-93]

13.1 TERM

The term of this agreement shall commence _____, 20____ and shall continue through _____, 20____. This contract may be renewed annually thereafter on the same terms and conditions at the option of the BOARD. [12-31-93]

13.2 SCOPE OF SERVICES

a. CONTRACTOR shall, during the term of the agreement supply the buses listed on Appendix A incorporated herein by reference and shall maintain such number of school buses specified to provide transportation services to the BOARD consistent with the terms of this contract.

b. CONTRACTOR shall, provide for the efficient management of the transportation services as set forth herein. CONTRACTOR shall advise the BOARD of the name(s), address(es), and phone number(s) of individual(s) designated as responsible for the management of services.

c. CONTRACTOR shall provide for the to-and-from transportation of students in grades kindergarten through twelve who attend school within the school district, of three and four year old children who meet the State Board of Education approved criteria and definition of developmentally disabled, and for the

transportation of students to and from their regular attendance centers and vocational programs approved by the Public Education Department.

d. Transportation services shall be provided for _____ school days in accordance with bus routes and schedules agreed to under the terms of this contract. For each day that a bus is not operated, the compensation paid the CONTRACTOR shall be decreased by 1/____th of the total compensation for services provided in paragraph 3.a of this contract.

e. CONTRACTOR shall comply with all federal and state laws, regulations, policies and directives of the BOARD.
[12-31-93]

13.3 COMPENSATION

a. The BOARD shall pay CONTRACTOR all sums due and calculated in accordance with the conditions of this contract. The BOARD agrees to pay the CONTRACTOR \$_____ for purchase allowance/rental fees, and \$_____ for services herein for a total of \$_____ to be paid in consecutive monthly installments as follows: _____ equal installments of \$_____ each, and a final installment of \$_____, commencing on the _____ day of _____, 20_____.

b. The compensation payable pursuant to this contract is subject to adjustment by the BOARD for route changes, the addition of to and from buses approved by the Public Education Department, or changes in the provision of services. Contract amendments required; as a result of such adjustments shall be approved by the BOARD.

c. This contract may be further adjusted or payments withheld where audits or investigations by the BOARD or Public Education Department verify overpayments, underpayment, or expenditures in violation of state laws or regulations or the terms of this contract.

d. The terms of this contract are contingent upon sufficient legislative appropriations for to-and-from transportation and authorization of the appropriation. [12-31-93]
[12-31-93]

13.4 FUEL

CONTRACTOR shall furnish all fuel to be used in its performance of this agreement. [12-31-93]

13.5 OPERATION AND MAINTENANCE

a. CONTRACTOR shall furnish buses of a type and with the equipment required by federal and state law and regulations, including applicable State Board of Education Regulations.

b. CONTRACTOR shall provide for all operation and maintenance of buses utilized for service under the terms of this agreement.

c. CONTRACTOR shall ensure that buses operating under this contract meet established State Board of Education safety inspection requirements. [12-31-93]

13.6 SALARIES

CONTRACTOR shall provide for salaries and benefits of all employees providing service under the terms of this agreement. [12-31-93]

13.7 ROUTES AND SCHEDULES

a. CONTRACTOR shall operate the bus(es) according to the routes approved by the BOARD. The BOARD on the basis of safety, efficiency and economy shall approve such routes.

b. On the 40th day of the school year, CONTRACTOR shall furnish BOARD a complete route map and roster of eligible students who are transported. Additional reports shall be submitted as follows:

c. The BOARD reserves the right to modify the routes consistent with the terms of this contract, should circumstances require such modifications. The superintendent or designee may modify stops and time schedules as required. The CONTRACTOR shall be notified in writing by the BOARD's superintendent or designee when changes are necessary, and CONTRACTOR shall adjust its operations to incorporate such changes. [12-31-93]

13.8 RECORDS AND REPORTS

a. All records required by state law or regulations shall be subject to inspections and audits by the Public Education Department, the Office of the State Auditor, and any auditor designated to conduct such inspections or audits. The Public Education Department and the State Auditor shall have the right to audit both before and after payment, and payment under this contract shall not foreclose the right of the BOARD to recover excessive or illegal payments.

b. The CONTRACTOR shall complete Appendix B, incorporated herein by reference, and shall submit annually a final expenditure report for fuel, operation and maintenance, and salary and benefits on forms provided by the Public Education Department.

c. The CONTRACTOR shall make such reports as may be required by the BOARD or the Public Education Department. Failure to make required reports on time and with accuracy shall be considered a breach of contract and shall be cause to adjust payments or withhold payments until reporting requirements are met. [12-31-93]

13.9 INDEMNIFICATION

CONTRACTOR shall hold BOARD, its officers and employees harmless and does hereby indemnify the BOARD, its officers and employees from and against every claim or demand which may be made by any person, firm or corporation, or other entity arising from or caused by any act, neglect, default or omission of CONTRACTOR in the performance of this agreement, except to the extent that such claim or demand arises from or is caused by the negligence or willful misconduct of BOARD, its agents or employees. [12-31-93]

13.10 INSURANCE

a. The BOARD shall provide automobile liability coverage to the CONTRACTOR, which includes bodily injury, property damage, and physical damage for all buses under contract to the BOARD. The terms, conditions and limits of coverage shall be in accordance with that provided by the New Mexico Public Schools Insurance Authority or any other coverage provided by the local BOARD and allowed by statute.

b. The CONTRACTOR shall carry Worker's Compensation insurance as statutorily required by the State of New Mexico and shall provide evidence of insurance to the BOARD. [12-31-93]

13.11 INCLEMENT WEATHER AND SCHOOL CLOSINGS

In the event of inclement weather or impassability of roads or whenever school is canceled, delayed or is dismissed early, BOARD shall notify CONTRACTOR not later than _____ hours before service. [12-31-93]

13.12 SAFETY

CONTRACTOR shall be responsible for meeting all safety requirements established by local, state, or federal laws or regulations. A record of training and other safety reporting requirements shall be provided to the BOARD upon request. [(12-3)-98]

13.13 OPERATIONAL PERSONNEL AND DRIVER QUALIFICATIONS

a. CONTRACTOR shall employ a sufficient number of drivers and support personnel to carry out the terms of this contract.

b. CONTRACTOR shall ensure that employees meet training requirements set forth by federal and state law, State Board of Education regulations and BOARD policies and shall assume the cost of training for drivers and bus assistants.

c. CONTRACTOR shall establish rules, which prohibit the driver from smoking on the bus or driving under the influence of drugs or alcohol while operating any bus.

d. CONTRACTOR shall comply with federal laws and regulations for drug and alcohol testing and shall provide to the BOARD verification of compliance.

e. CONTRACTOR shall be responsible for hiring and discharging personnel employed by CONTRACTOR to perform its obligations hereunder; provided, however, that the BOARD shall have the right to require CONTRACTOR to remove from service under this agreement any employee whose performance is, in good faith, deemed by the BOARD unsuitable to the provision of transportation services for BOARD; and provided further that BOARD shall provide the CONTRACTOR such notification in writing and provide justification for its determination.

f. CONTRACTOR shall provide qualified drivers, trained and licensed in accordance with the laws of this State and the rules and regulations of BOARD. [(12-3)-98]

13.14 TERMINATION OF CONTRACT BY BOARD

Subject to procedures hereinafter set forth, the BOARD may terminate this contract before its expiration date for violation of law, terms of the contract, or regulations and policies of the State Board of Education or BOARD. The procedures for termination of this contract are as follows:

a. The BOARD shall serve notice upon the CONTRACTOR in person, or by registered or certified mail, specifying the charges against the CONTRACTOR

under which the contract is sought to be terminated, with a copy of such notice provided to the State Transportation Director.

b. The notice shall also specify a time and place at which the BOARD will hold a hearing on the charges made against the CONTRACTOR which hearing shall not be more than ten (10) calendar days after service of the notice upon the CONTRACTOR.

c. The CONTRACTOR shall have the right to appear and be represented by legal counsel, to be heard, and to call witnesses in his/her own behalf.

d. The BOARD shall have the power to suspend the CONTRACTOR pending a hearing on the charges.

e. The decision of the BOARD shall be final and conclusive, subject only to the approval of the State Transportation Director.

f. In the event that this contract is terminated, the Secretary of Education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the CONTRACTOR shall reimburse the DISTRICT an amount equal to the value calculated.

g. In the event that this contract is terminated, the buses owned by the CONTRACTOR and used pursuant to the terms of this contract as set forth in Appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the State Transportation Director. The operator succeeding to the contract shall purchase, with the approval of the CONTRACTOR, all said buses at their appraised value.

[12-31-93]

13.15 TERMINATION OF CONTRACT BY CONTRACTOR

Subject to procedures hereinafter set forth, the CONTRACTOR may cancel this contract before its expiration by the following procedures:

a. The CONTRACTOR shall give a written notice upon the BOARD in person or by registered or certified mail, with a copy of such notice provided to the State Transportation Director, specifying the reason for cancellation.

b. The notice shall also specify the date at which such cancellation shall be effective, but not less than sixty (60) calendar days after the service of notice.

c. Cancellation of the contract shall be effective only after the BOARD grants written consent and notice provided to the State Transportation Director.

d. This contract shall not be assigned to another individual or corporation.

e. In the event that this contract is terminated, the Secretary of Education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the CONTRACTOR shall reimburse the DISTRICT an amount equal to the value calculated.

f. In the event that this contract is terminated, the buses owned by the CONTRACTOR and used pursuant to the terms of this contract as set forth in Appendix A herein shall be appraised by three qualified appraisers appointed by the BOARD and approved by the State Transportation Director. The operator succeeding to the contract shall purchase with the approval of the CONTRACTOR all said buses at their appraised value.

IN WITNESS WHEREOF we have set our hands and seals.

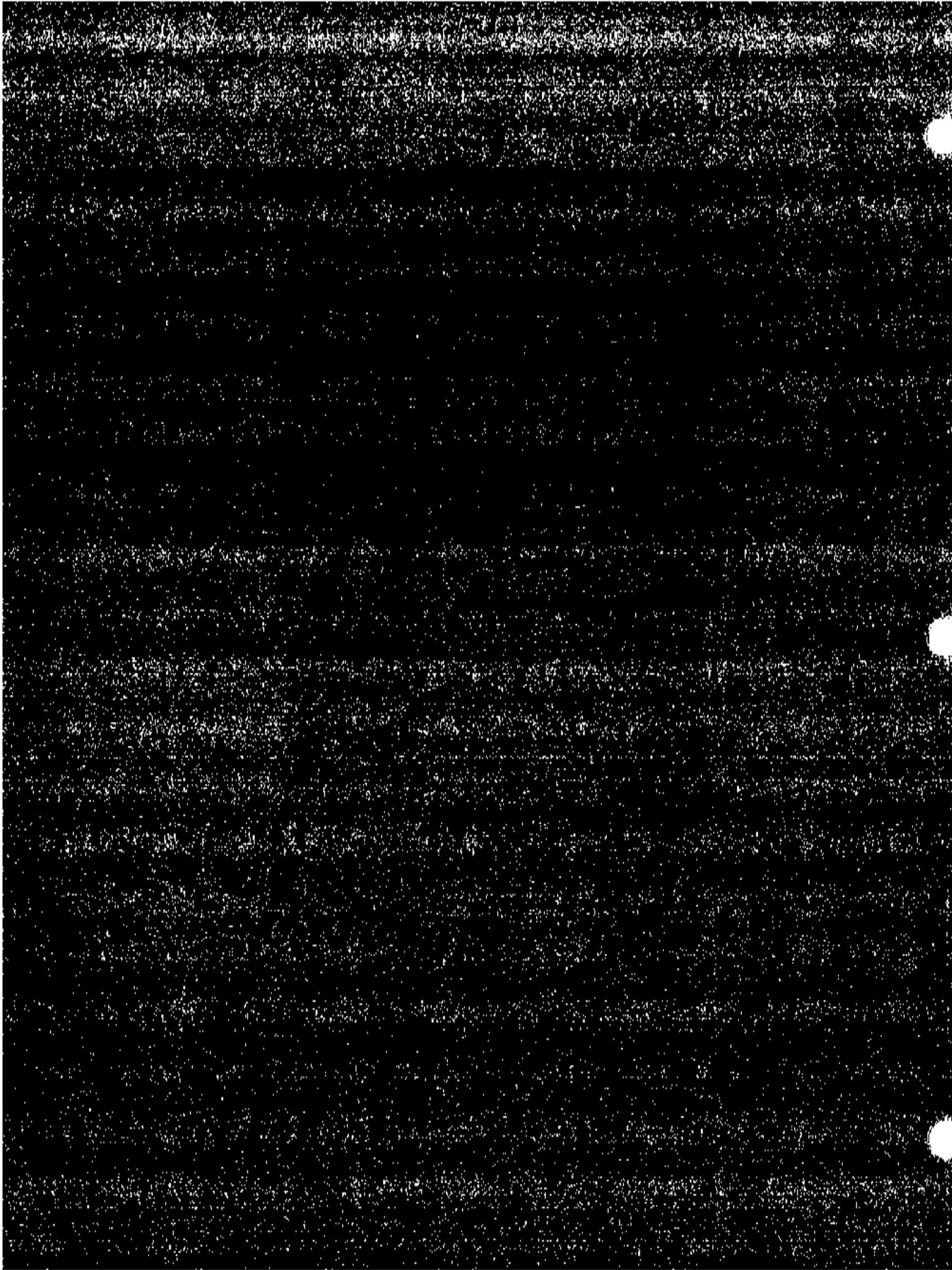
BOARD OF EDUCATION

BY: _____ PRESIDENT

ATTEST: _____ SECRETARY

CONTRACTOR

[12-31-93]



APPENDIX B

FILE # CONTRACT PAYMENT SCHEDULE

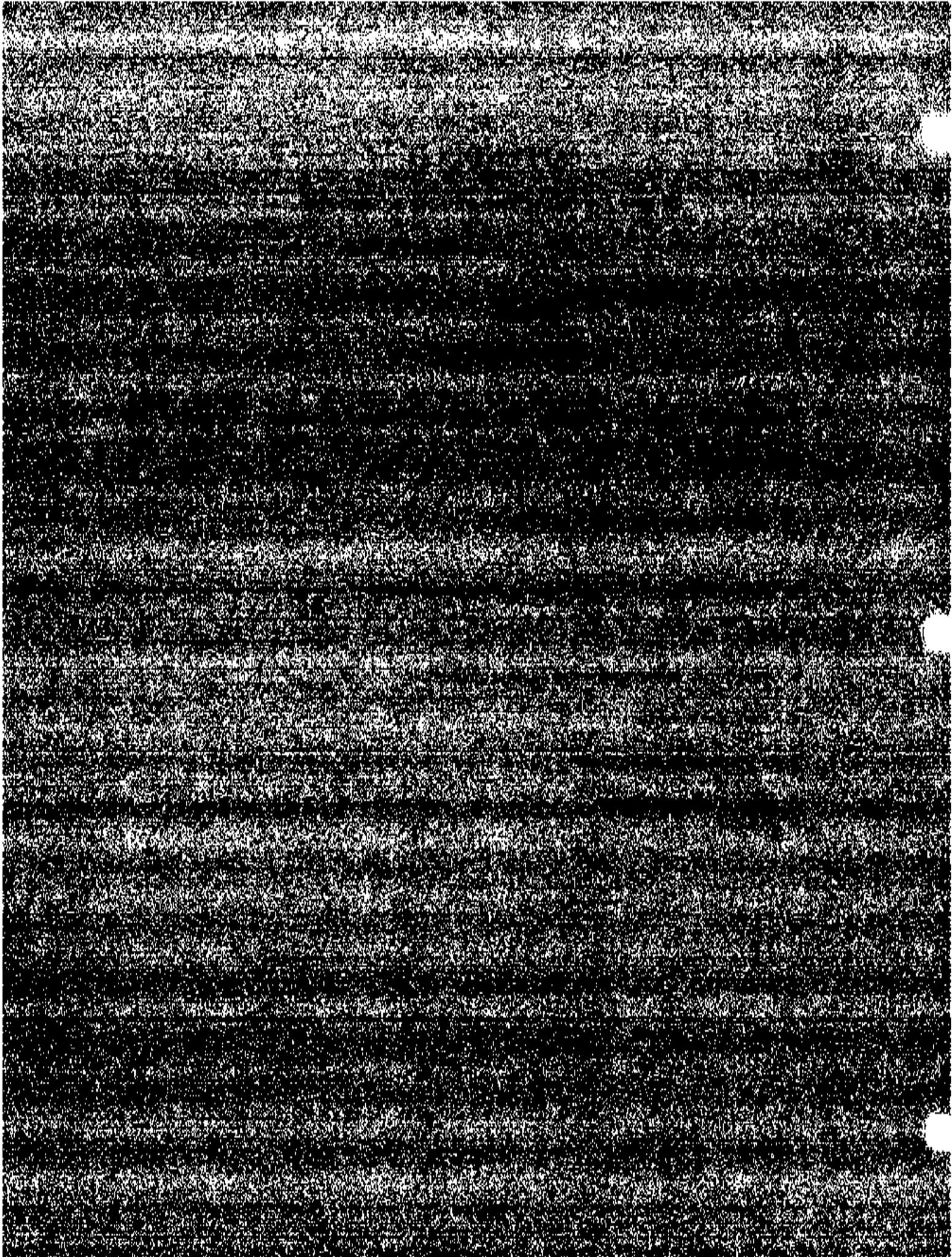
_____ SCHOOL YEAR

This contract approved by the _____
(BOARD)

on ____ / ____ / ____ for _____
(CONTRACTOR)

to operate _____ buses/routes set forth in Appendix A to provide school transportation services; includes the following amounts deemed necessary for CONTRACTOR to carry out the terms of the contract safely, efficiently, and economically:

I. BUS PURCHASE/RENTAL FEE:	\$ _____
II. TRANSPORTATION SERVICES: (Estimated Budget)	
a. Fuel	\$ _____
b. Operation & Maintenance and All other expenses	\$ _____
c. Salary and Benefits	\$ _____
Total Transportation Services	\$ _____
III. Total Estimated Budget [12-31-93]	\$ _____



14 **INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT (Form)**

THIS AGREEMENT is made and entered into as this _____ day of _____, 20____, by and between _____ hereinafter called
(local board of education)

"BOARD" and _____ herein after referred to as "OWNER/OPERATOR."
(owner/operator)

WHEREAS, OWNER/OPERATOR desires to provide such transportation equipment, fuel, and operation and maintenance associated with the use of the equipment under the terms of this contract;

NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:
[12-31-98]

14.1 TERM

The term of this agreement shall commence _____, 20____ and shall continue through _____, 20____. This contract may be renewed annually thereafter on the same terms and conditions at the option of the BOARD. [12-31-98]

14.2 SCOPE OF SERVICES

a. OWNER/OPERATOR shall, during the term of the agreement supply and maintain the bus listed on Appendix A herein to provide transportation equipment to the BOARD consistent with the terms of this contract.

b. OWNER/OPERATOR shall, provide for the efficient maintenance and operation of the equipment as set forth herein.

c. OWNER/OPERATOR shall provide for the to-and-from transportation of students in grades kindergarten through twelve who attend school within the school district, of three and four year old children who meet the State Board of Education approved criteria and definition of developmentally disabled; and for the transportation of students to and from their regular attendance centers and vocational programs approved by the Public Education Department.

d. Transportation services shall be provided for _____ school days in accordance with bus routes and schedules agreed to under the terms of this contract. For each day that a bus is not operated, the compensation paid the OWNER/OPERATOR shall be decreased by 1/____th of the total compensation for services provided in paragraph 3.a of this contract.

e. **OWNER/OPERATOR** shall comply with all federal and state laws, regulations, policies and directives of the **BOARD**.

[12-31-98]

14.3 COMPENSATION

a. The **BOARD** shall pay to **OWNER/OPERATOR** all sums due and calculated in accordance with the conditions of this contract. The **BOARD** agrees to pay the **OWNER/OPERATOR** \$ _____ for purchase allowance/rental fees, and \$ _____ for fuel, operation and maintenance for a total of \$ _____ to be paid in consecutive monthly installments as follows: _____ equal installments of \$ _____ each, and a final installment of \$ _____, commencing on the _____ day of _____, 20_____.

b. The operation and maintenance reimbursement payable pursuant to this contract is subject to adjustment by the **BOARD** for route changes, bus replacement approved by the Public Education Department, or changes in the provision of services. Contract amendments required; as a result of such adjustments shall be approved by the **BOARD**.

c. This contract may be further adjusted or payments withheld where audits or investigations by the district, hereinafter referred to as **DISTRICT**, or Public Education Department verify overpayments, underpayment, or expenditures in violation of state laws or regulations or the terms of this contract.

d. The terms of this contract are contingent upon sufficient legislative appropriations for to-and-from transportation and authorization of the appropriation.

[12-31-98]

14.4 FUEL

OWNER/OPERATOR shall furnish all fuel to be used in its performance of this agreement. [12-31-98]

14.5 OPERATION AND MAINTENANCE

a. The bus furnished and maintained by the **OWNER/OPERATOR** shall be of a type and with the equipment required by federal and state law and regulations, including applicable State Board of Education Regulations.

b. **OWNER/OPERATOR** shall provide for all operation and maintenance of buses utilized for service under the terms of this agreement.

c. **OWNER/OPERATOR** shall ensure that buses operating under this contract meet established State Board of Education safety inspection requirements.
[12-31-98]

14.6 ROUTES AND SCHEDULES

a. **OWNER/OPERATOR** shall operate the bus according to the routes approved by the **BOARD**. The **BOARD** based on safety, efficiency and economy shall approve such routes.

b. On the 40th day of the school year, **OWNER/OPERATOR** shall furnish **BOARD** a complete route map and roster of eligible students who are transported. Additional reports shall be submitted as follows:

c. The **BOARD** reserves the right to modify the routes consistent with the terms of this contract, should circumstances require such modifications. The superintendent or designee may modify stops and time schedules as required. The **OWNER/OPERATOR** shall be notified in writing by the **BOARD's** superintendent or designee when changes are necessary, and **OWNER/OPERATOR** shall adjust its operations to incorporate such changes.
[12-31-98]

14.7 RECORDS AND REPORTS

a. All records required by state law or regulations shall be subject to inspections and audits by the Public Education Department, the Office of the State Auditor, and any auditor designated to conduct such inspections or audits. The Public Education Department and the State Auditor shall have the right to audit both before and after payment, and payment under this contract shall not foreclose the right of the **BOARD** to recover excessive or illegal payments.

b. The **OWNER/OPERATOR** shall complete Appendix B, incorporated herein by reference, and shall submit annually a final expenditure report for fuel, operation and maintenance costs on forms provided by the Public Education Department.

c. The **OWNER/OPERATOR** shall make such reports as may be required by the **BOARD** or the Public Education Department. Failure to make required reports on time and with accuracy shall be considered a breach of contract and shall be cause to adjust payments or withhold payments until reporting requirements are met. [12-31-98]

14.8 INSURANCE

The **BOARD** shall provide automobile liability coverage to the **OWNER/OPERATOR**, which includes bodily injury, property damage, and

physical damage for the bus under contract to the **BOARD**. The terms, conditions and limits of coverage shall be in accordance with that provided by the New Mexico Public Schools Insurance Authority or any other coverage provided by the **BOARD** and allowed by statute. [12-31-98]

14.9 INCLEMENT WEATHER AND SCHOOL CLOSINGS

In the event of inclement weather or impassability of roads or whenever school is canceled, delayed or is dismissed early, **BOARD** shall notify **OWNER/OPERATOR** not later than _____ hours before service. [12-31-98]

14.10 SAFETY

OWNER/OPERATOR shall be responsible for meeting all safety requirements established by local, state, or federal laws or regulations. A record of training and other safety reporting requirements shall be provided to the **BOARD** upon request. [12-31-98]

14.11 TERMINATION OF CONTRACT BY BOARD

Subject to procedures hereinafter set forth, the **BOARD** may terminate this contract before its expiration date for violation of law, terms of the contract, or regulations and policies of the State Board of Education or **BOARD**. The procedures for termination of this contract are as follows:

- a. The **BOARD** shall serve notice upon the **OWNER/OPERATOR** in person, or by registered or certified mail, specifying the charges under which the contract is sought to be terminated, with a copy of such notice provided to the State Transportation Director.
- b. The notice shall also specify a time and place at which the **BOARD** will hold a hearing on the charges made against the **OWNER/OPERATOR** which hearing shall not be more than ten (10) calendar days after service of the notice.
- c. The **OWNER/OPERATOR** shall have the right to appear and be represented by legal counsel, to be heard, and to call witnesses in his/her own behalf.
- d. The **BOARD** shall have the power to suspend the **OWNER/OPERATOR** pending a hearing on the charges.
- e. The decision of the **BOARD** shall be final and conclusive, subject only to the approval of the State Transportation Director.

f. In the event that this contract is terminated, the Secretary of Education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The **DISTRICT** shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the **OWNER/OPERATOR** shall reimburse the **DISTRICT** an amount equal to the value calculated.

g. In the event that this contract is terminated, the buses owned by the **OWNER/OPERATOR** and used pursuant to this contract as set forth in Appendix A herein shall be appraised by three qualified appraisers appointed by the **BOARD** and approved by the State Transportation Director. The operator succeeding to the contract shall purchase, with the approval of the **OWNER/OPERATOR**, all said bus at its appraised value.

[12-31-98]

14.12 TERMINATION OF CONTRACT BY OWNER/OPERATOR

Subject to procedures hereinafter set forth, the **OWNER/OPERATOR** may cancel this contract before its expiration by the following procedures:

a. The **OWNER/OPERATOR** shall serve a written notice upon the **BOARD** in person or by registered or certified mail, with a copy of such notice provided to the State Transportation Director, specifying the reason for cancellation.

b. The notice shall also specify the date at which such cancellation shall be effective, but not less than sixty (60) calendar days after the service of notice.

c. Cancellation of the contract shall be effective only after the **BOARD** grants written consent and notice provided to the State Transportation Director.

d. This contract shall not be assigned to another individual or corporation.

e. In the event that this contract is terminated, the Secretary of Education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The **DISTRICT** shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the **OWNER/OPERATOR** shall reimburse the **DISTRICT** an amount equal to the value calculated.

f. In the event that this contract is terminated, the bus owned by the **OWNER/OPERATOR** and used pursuant to the terms of this contract as set forth in Appendix A herein shall be appraised by three qualified appraisers appointed by the **BOARD** and approved by the State Transportation Director.

The operator succeeding to the contract shall purchase with the approval of the **OWNER/OPERATOR** all said bus at its appraised value.

IN WITNESS WHEREOF we have set our hands and seals.

_____ **BOARD OF EDUCATION**

BY: _____ **PRESIDENT**

ATTEST: _____ **SECRETARY**

DECLARATION

OWNER/OPERATOR hereby declares that he/she has no ownership interest of any type or degree in any fleet service contract with the **BOARD**, including without limitation, an interest in the nature of legal or rightful title, possessory interest, or a beneficial, equitable or pecuniary interest.

_____ **OWNER/OPERATOR DATE**

[12-31-98]

14.13

**Appendix A (part I)
INDIVIDUAL OWNER OPERATOR
EQUIPMENT CONTRACT**

BUS #	OWNER	YEAR	MODEL	SEATING	SEAT	VEHICLE IDENTIFICATION	LICENSE PLATE	RENTAL FEE/PUR. ALLOW.

[12-31-98]

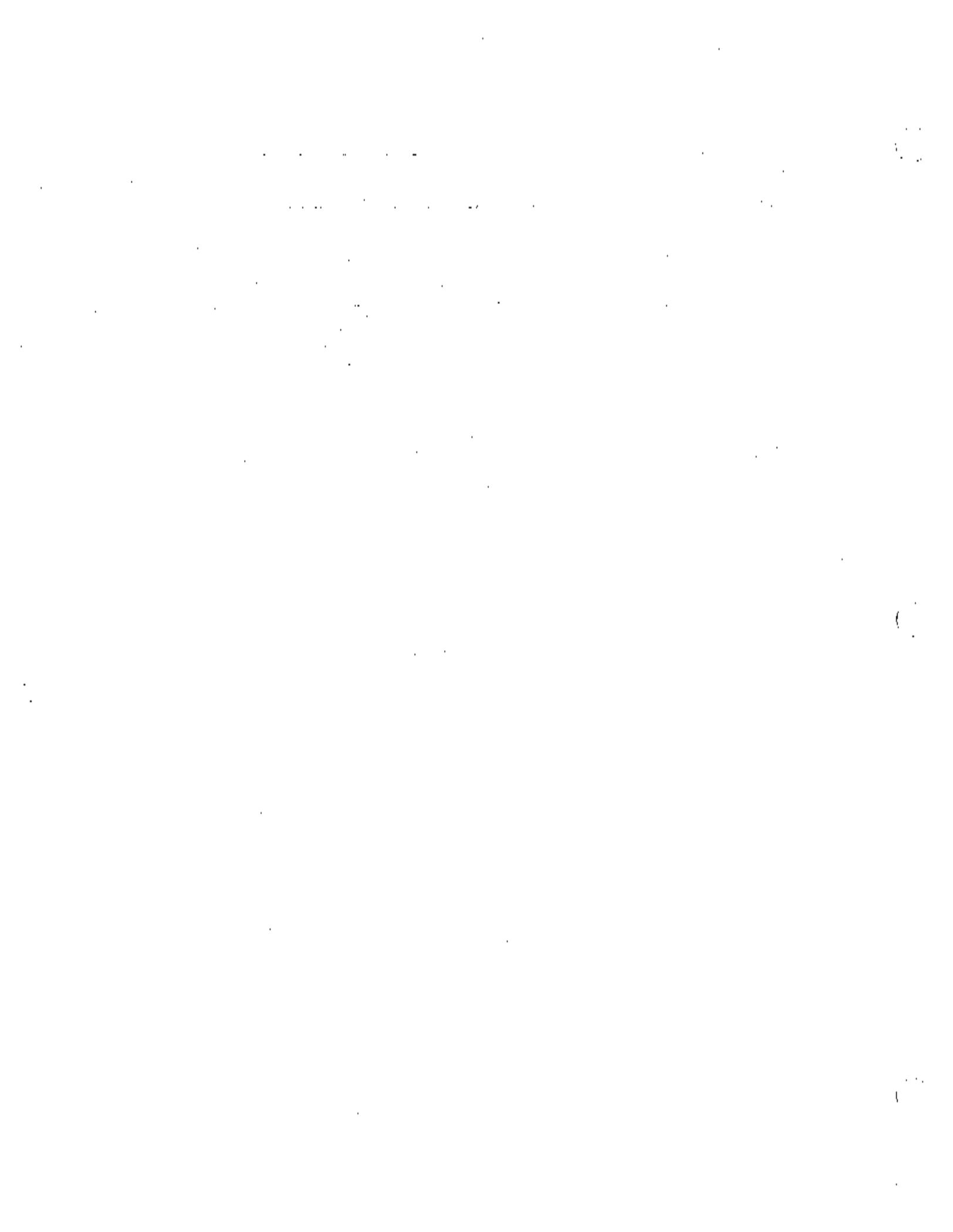
14.14

**Appendix A (part II)
INDIVIDUAL OWNER OPERATOR
EQUIPMENT CONTRACT**

Bus #	Route Mileage	Route Description (area served)

[12-31-98]

6.43.2 NMAC



14.15

APPENDIX B
INDIVIDUAL OWNER OPERATOR EQUIPMENT CONTRACT

_____ - _____ SCHOOL YEAR

This contract approved by the _____
(BOARD)

on ____ / ____ / ____ for _____
(OWNER/OPERATOR)

to operate _____ buses/routes set forth in Appendix A to provide school transportation services includes the following amounts deemed necessary for **OWNER/OPERATOR** to carry out the terms of the contract safely, efficiently, and economically:

I. BUS PURCHASE/RENTAL FEE: \$ _____

II. TRANSPORTATION SERVICES: (Estimated Budget)

a. Fuel \$ _____

b. Operation & Maintenance and all other expenses \$ _____

Total Transportation Services \$ _____

III. Total Estimated Budget \$ _____

[12-31-98]

