

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: *HB 447a

51st Legislature, 1st Session, 2013

Tracking Number: .191430.1

Short Title: Transportation Emergency Fund

Sponsor(s): Representative Roberto “Bobby” J. Gonzales and Others

Analyst: David Craig

Date: March 8, 2013

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AS AMENDED

The House Appropriations and Finance Committee amendments:

- **allow the Public Education Department (PED) to use \$1.0 million of the existing balance in the Transportation Emergency Fund for emergency fuel costs in FY 13 and FY 14; and**
- **removes the \$1.0 million appropriation to the Transportation Emergency Fund from the General Fund.**

Original Bill Summary:

HB 447 makes an appropriation to the Transportation Emergency Fund for the purposes of that fund.

*HB 447 contains an emergency clause.

Fiscal Impact:

\$1.0 million is appropriated from the General Fund to the Transportation Emergency Fund for FY 13 and subsequent years. Unexpended or unencumbered funds shall not revert to the General Fund.

CS/HB 2 et al., the *General Appropriation Act of 2013*, includes approximately \$13.5 million for fuel, the first time that fuel has been separately funded from transportation maintenance and operations.

Substantive Issues:

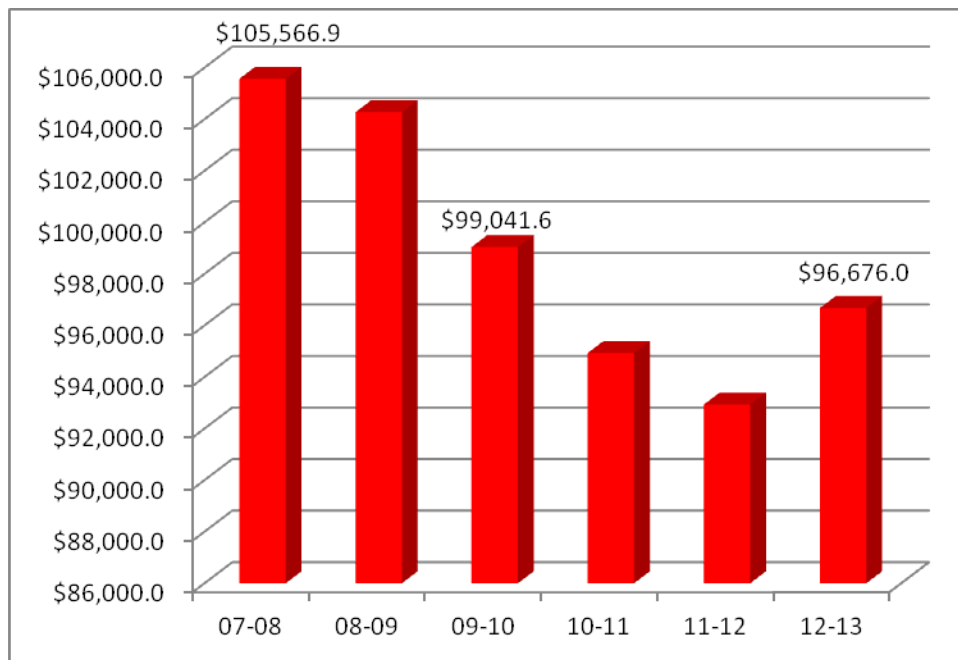
Endorsed by the Legislative Education Study Committee (LESC), HB 447 reflects the work of the 2012 LESC School Transportation Subcommittee (see “Background,” below). One of the topics that the subcommittee discussed was the uses of the Transportation Emergency Fund, which was created in statute in 1995 to address school transportation emergencies. The statute authorizes the Secretary of Public Education to make distributions from the fund “only to ensure the safety of students receiving to-and-from transportation services.”

As part of its participation in the LESC subcommittee, the Public Education Department (PED) provided a reconciliation of the Transportation Emergency Fund as of June 30, 2012 (see Attachment 1). Attachment 1 shows that expenditures from the fund for fuel supplements were:

- \$558,919 for FY 11; and
- \$641,081 for FY 12.

This attachment also indicates a fund balance of nearly \$3.1 million at that time. However, according to the PED analysis of HB 447, \$600,000 has since been budgeted for FY 13 in the event that funding is needed for current year emergencies; and another \$600,000 has been budgeted in the event that the department needs to purchase buses to deal with an emergency situation in the Española Public Schools district.

Another factor, as the PED bill analysis illustrates, is that the funding of to-and-from transportation has decreased by approximately \$8.8 million since FY 08. This reduced funding has affected school districts' ability to negotiate their school bus contracts and to administer their to-and-from operations, creating the possibility of increased expenditures from the Emergency Transportation Fund. The graph below, taken from the PED bill analysis, shows the total dollars that have been funded over the last six years with General Fund dollars for to-and-from transportation.



Still other conditions may increase the need for distributions from the Transportation Emergency Fund. According to the PED bill analysis:

- PED has submitted a request for \$20.1 million for the replacement of 237 school-owned buses to catch up on the replacement cycle;
- SB 60, which is the capital outlay bill, currently has \$10.0 million listed for school-owned bus replacements; and
- if only half of PED's request is funded, the department may have to use the Emergency Transportation Fund to purchase additional equipment.

Aside from direct legislative appropriations, the fund receives revenues from school districts through reversions. According to provisions in the *Public School Finance Act*, if 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, 50 percent of the remaining balance shall be deposited in the transportation emergency fund.

For example, in FY 11, the Quemado Independent Schools district had \$1,010 remaining in FY 11 in its transportation account. It then reverted \$505 to the Transportation Emergency Fund and retained \$505 as a cash balance. Attachment 2, *Revenues for Emergency Transportation Fund*, which PED provided to the LESC subcommittee, illustrates these reversions for all school districts from FY 08 to FY 11.

After considering all these possible fiscal circumstances – the uses of the Transportation Emergency Fund, the expenditures for FY 11 and FY 12, the budgeted expenditures for FY 13, the reduced funding for school transportation in recent years, PED's funding request, and the revenues into the fund – the LESC subcommittee recommended a direct legislative appropriation of \$1.0 million to the fund as a means of anticipating supplemental fuel costs in the near future.

According to PED, the *General Appropriation Act of 2012* appropriated \$1.5 million for increased fuel costs on the basis of to-and-from miles travelled and requiring supporting documentation from districts that the increased costs were associated with increased fuel costs. HB 447 would allow for distributions without the supporting documentation requirement, which subcommittee members felt hampered the timing of the emergency funding.

Background:

Realizing that school bus transportation had not been examined since the late 1990s and that several issues had arisen since then, the LESC appointed the LESC Subcommittee on School Transportation, which met in August, October, and December 2012. The Chair requested that discussions be focused on agreement or consensus about legislation that the LESC could consider endorsing for the 2013 legislative session and further suggested that the subcommittee may be reconvened in future interims for an ongoing discussion of issues and concerns.

During the August meeting, after hearing testimony on a variety of topics, the subcommittee reached consensus that staff be requested to examine and report on the following three issues:

- fuel costs, including the supplemental distributions from the Transportation Emergency Fund;
- replacement schedule for school buses and rental fees; and
- site characteristics used in the allocation process.

Regarding fuel in particular, LESC staff explained that it is difficult to track appropriations specific to fuel because fuel costs are one of the three components that comprise the single categorical public school support line item for school transportation; the other two are operations and maintenance, and salaries and benefits. Among other points related to fuel costs, LESC staff:

- reviewed provisions in the *Special Fuels Supplier Tax Act* that provide for a refund of state taxes on fuel and a credit to ensure that special fuel is not subject to double – once from the supplier and again from the user;
- identified several variables that affect the cost of fuel and that complicate cost estimates;
- explained that, in New Mexico, fuel prices vary by region and that, because the transportation allocation does not consider regional fuel price variation either directly or indirectly through the site characteristics, a district’s annual budget for fuel could fall short of actual expenditures even if the statewide annual average price projection were correct;
- noted that variances in fuel costs have been the subject of legislative debate at least since 2008 and that the cost of diesel fuel is not expected to decrease soon; and
- suggested several options for reducing fuel costs or distributing fuel more efficiently.

Testimony by PED staff explained that the department:

- uses an average diesel price per gallon to help determine the fuel base funding request;
- reviewed provisions in current law relating to the distribution of available transportation dollars;
- described the transportation data that school districts and charter schools submit to PED; and
- identified the site characteristics that the department considers in its current transportation calculation.

Committee Referrals:

HTPWC/HAFC

Related Bills:

- HB 290 *K-3 Plus Program School Buses*
- HB 328a *School Bus Fuel Gross Receipts*
- HB 419a *School Transportation Reporting Dates*
- HB 532 *School District Liens on Certain School Buses*
- HB 553a *Charter Schools Transportation Funding*
- *SB 60 *Severance Tax Bond Projects*
- *SB 160a *Biodiesel Definitions*

**EMERGENCY TRANSPORTATION
BALANCE AS OF 6/30/2012**

REVENUES

Prior Year Balance	\$ 276,415
FY09 Cash Balance	\$ 1,994,845
FY10 Cash Balance	\$ 1,754,629
FY11 Cash Balance	\$ 662,244
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Total	\$ 4,688,133

EXPENDITURES

Fuel Supplement - FY11	\$ 558,919
Fuel Supplement - FY12	\$ 641,081
Emergency payment to take over bus fleet from Mesa Transportation mid year in Grants	\$ 317,984
FY12 Emergency Requests	\$ 104,734
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Total	\$ 1,622,718

BALANCE AS OF 6/30/12 **\$ 3,065,415**

REVENUES FOR EMERGENCY TRANSPORTATION FUND

DISTRICT	FY 2008	FY 2009	FY 2010	FY 2011	TOTAL
Alamagodo	\$ -	\$ 198	\$ -	\$ -	\$ 198
Albuquerque	\$ -	\$ 89,886	\$ 36,253	\$ 1,957	\$ 128,096
Animas	\$ -	\$ -	\$ 12,979	\$ 2,130	\$ 15,109
Artesia	\$ -	\$ -	\$ -	\$ -	\$ -
Aztec	\$ -	\$ -	\$ 69,970	\$ 346	\$ 70,316
Belen	\$ -	\$ -	\$ -	\$ -	\$ -
Bernalillo	\$ -	\$ -	\$ -	\$ 21,806	\$ 21,806
Bloomfield	\$ -	\$ -	\$ 79	\$ 20,554	\$ 20,633
Capitan	\$ -	\$ -	\$ 4,215	\$ 182	\$ 4,397
Carlsbad	\$ -	\$ -	\$ -	\$ -	\$ -
Carrizozo	\$ -	\$ -	\$ 346	\$ 175	\$ 521
Central	\$ -	\$ 45,698	\$ -	\$ 4,397	\$ 50,095
Chama	\$ -	\$ -	\$ 685	\$ 4,258	\$ 4,943
Cimarron	\$ -	\$ 31,788	\$ 95,069		\$ 126,857
Clayton	\$ -	\$ -	\$ 30	\$ -	\$ 30
Cloudcroft	\$ -	\$ -	\$ -	\$ -	\$ -
Clovis	\$ -	\$ -	\$ -	\$ -	\$ -
Cobre	\$ -	\$ -	\$ -	\$ -	\$ -
Corona	\$ -	\$ -	\$ 5,351	\$ 1,641	\$ 6,992
Cuba	\$ -	\$ 7,342	\$ 8,129	\$ -	\$ 15,471
Deming	\$ -	\$ -	\$ 3,502	\$ 2,254	\$ 5,756
Des Moines	\$ -	\$ -	\$ 21,723	\$ -	\$ 21,723
Dexter	\$ -	\$ -	\$ -	\$ 5	\$ 5
Dora	\$ -	\$ -	\$ 2	\$ 1	\$ 3
Dulce	\$ -	\$ -	\$ 35,779	\$ -	\$ 35,779
*El Camino Rael Charter	\$ -	\$ -	\$ -	\$ 529	\$ 529
Elida	\$ -	\$ -	\$ 8,332	\$ 5,051	\$ 13,383
Espanola	\$ -	\$ -	\$ -	\$ -	\$ -
Estancia	\$ -	\$ -	\$ 268	\$ -	\$ 268
Eunice	\$ -	\$ -	\$ 71,013	\$ 39,793	\$ 110,806
Farmington	\$ -	\$ -	\$ 147,273	\$ 31,769	\$ 179,042
Floyd	\$ -	\$ -	\$ 6,004	\$ -	\$ 6,004
Fort Sumner	\$ -	\$ 7,991	\$ -	\$ 5,549	\$ 13,540
Gadsden	\$ -	\$ 27,019	\$ 11,863	\$ 7,698	\$ 46,580
Gallup-McKinley	\$ -	\$ 1,689,039	\$ 580,073	\$ 305,690	\$ 2,574,802
Grady	\$ -	\$ 1,350	\$ -	\$ 5	\$ 1,355
Grants-Cibola	\$ -	\$ -	\$ 6	\$ -	\$ 6
Hagerman	\$ -	\$ -	\$ -	\$ -	\$ -
Hatch	\$ -	\$ -	\$ 298	\$ -	\$ 298
Hobbs	\$ -	\$ 149	\$ 76	\$ 69	\$ 294
Hondo	\$ -	\$ -	\$ 48,506	\$ 28,008	\$ 76,514
House	\$ -	\$ -	\$ -	\$ -	\$ -
Jal	\$ -	\$ -	\$ 2,646	\$ 1,150	\$ 3,796
Jemez Mountain	\$ -	\$ -	\$ -	\$ -	\$ -
Jemez Valley	\$ -	\$ -	\$ 4,461	\$ -	\$ 4,461
Lake Arthur	\$ -	\$ -	\$ 33	\$ 36	\$ 69
Las Cruces	\$ -	\$ 33,228	\$ 98,662	\$ 37	\$ 131,927
Las Vegas City	\$ -	\$ -	\$ -	\$ -	\$ -
Logan	\$ -	\$ -	\$ -	\$ -	\$ -
Lordsburg	\$ -	\$ -	\$ 11,596	\$ 450	\$ 12,046
Los Alamos	\$ -	\$ -	\$ -	\$ -	\$ -
Los Lunas	\$ -	\$ -	\$ 46,207	\$ -	\$ 46,207
Loving	\$ -	\$ -	\$ -	\$ -	\$ -
Lovington	\$ -	\$ -	\$ 497	\$ 248	\$ 745
Magdalena	\$ -	\$ -	\$ 2,840	\$ 1,420	\$ 4,260
Maxwell	\$ -	\$ -	\$ 21,947	\$ -	\$ 21,947

REVENUES FOR EMERGENCY TRANSPORTATION FUND

DISTRICT	FY 2008	FY 2009	FY 2010	FY 2011	TOTAL
Melrose	\$ -	\$ -	\$ -	\$ -	\$ -
Mesa Vista	\$ -	\$ -	\$ 246	\$ 123	\$ 369
Mora	\$ -	\$ -	\$ 22,427	\$ -	\$ 22,427
Moriarty	\$ -	\$ -	\$ 40,739	\$ 21	\$ 40,760
Mosquero	\$ -	\$ 2,275	\$ 439	\$ 4,781	\$ 7,495
Mountainair	\$ -	\$ -	\$ 2,641	\$ -	\$ 2,641
Pecos	\$ -	\$ 1,217	\$ 976	\$ 511	\$ 2,704
Peñasco	\$ -	\$ 461	\$ 5	\$ 22	\$ 488
Pojoaque	\$ -	\$ -	\$ 1,545	\$ -	\$ 1,545
Portales	\$ -	\$ -	\$ -	\$ -	\$ -
Quemado	\$ -	\$ 246	\$ 882	\$ 505	\$ 1,633
Questa	\$ -	\$ -	\$ 1,206	\$ -	\$ 1,206
*RFK Charter	\$ -	\$ -	\$ -	\$ 10,436	\$ 10,436
Raton	\$ -	\$ -	\$ 27,255	\$ 25,387	\$ 52,642
Reserve	\$ -	\$ -	\$ 40,012	\$ 31,770	\$ 71,782
Rio Rancho	\$ -	\$ -	\$ -	\$ -	\$ -
Roswell	\$ -	\$ -	\$ 10,168	\$ -	\$ 10,168
Roy	\$ -	\$ -	\$ 703	\$ 16,206	\$ 16,909
Ruidoso	\$ -	\$ -	\$ 1,917	\$ -	\$ 1,917
San Jon	\$ -	\$ -	\$ 4,485	\$ 2,267	\$ 6,752
Santa Fe	\$ -	\$ -	\$ -	\$ -	\$ -
Santa Rosa	\$ -	\$ 686	\$ 6,351	\$ -	\$ 7,037
Silver	\$ -	\$ -	\$ 227	\$ 31	\$ 258
Socorro	\$ -	\$ 30,096	\$ 3,336	\$ -	\$ 33,432
Southwest Secondary	\$ -	\$ -	\$ 59,235	\$ 34,620	\$ 93,855
Springer	\$ -	\$ -	\$ 25,653	\$ 1,383	\$ 27,036
T or C	\$ -	\$ -	\$ 31	\$ 15	\$ 46
Taos	\$ -	\$ -	\$ 22,093	\$ -	\$ 22,093
Tatum	\$ -	\$ 22,824	\$ 2,999	\$ -	\$ 25,823
Texico	\$ -	\$ -	\$ -	\$ -	\$ -
Tucumcari	\$ -	\$ -	\$ 11,692	\$ 1,503	\$ 13,195
Tularosa	\$ -	\$ 3,352	\$ 763	\$ 395	\$ 4,510
Vaugh	\$ -	\$ -	\$ 39,899	\$ -	\$ 39,899
W. Las Vegas	\$ -	\$ -	\$ -	\$ -	\$ -
Wagon Mound	\$ -	\$ -	\$ 6,268	\$ 3,134	\$ 9,402
Zuni	\$ -	\$ -	\$ 63,723	\$ 41,926	\$ 105,649
Prior Year Balance	\$ 276,415	\$ -	\$ -	\$ -	\$ 276,415
	\$ 276,415	\$ 1,994,845	\$ 1,754,629	\$ 662,244	\$ 4,688,133