



A REPORT
TO THE
MONTANA
LEGISLATURE

PERFORMANCE AUDIT

School Transportation Funding and Safety

*Office of Public Instruction
Board of Public Education*

MAY 2013

LEGISLATIVE AUDIT
DIVISION

13P-01

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Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

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May 2013

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit on School Transportation Funding and Safety. This report presents audit findings and includes recommendations that have potential to provide cost savings related to state reimbursement for school district transportation services and enhance safety. Written responses from the Office of Public Instruction and Board of Public Education are included at the end of the report.

We wish to express our appreciation to the Office of Public Instruction, Board of Public Education, county and district officials and staff for their cooperation and assistance throughout the audit.

Respectfully submitted,

/s/ Tori Hunthausen

Tori Hunthausen, CPA
Legislative Auditor

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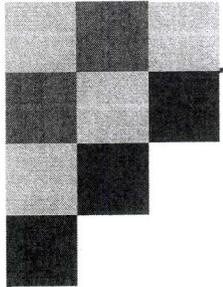
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Clay Christian, Commissioner of Higher Education*

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 MONTANA LEGISLATIVE AUDIT DIVISION

 PERFORMANCE AUDIT
 School Transportation Funding and Safety
 Office of Public Instruction
 Board of Public Education

MAY 2013

13P-01

REPORT SUMMARY

The state spends over \$17 million each year to fund school district transportation services and provides oversight of safety requirements for over 2,000 buses and bus drivers; the state's ability to verify reimbursement claims has been limited and improved controls could increase safety of bus operations.

Context

Public school students are eligible for transportation services if the student resides at least three miles from the nearest public school. A school district may provide transportation in the form of district- or contractor-operated bus routes or through the use of individual transportation contracts, which are agreements to reimburse a student's parents or guardians for providing transportation. In 2012, 331 of Montana's 419 school districts sought reimbursement for bus routes. To be eligible for reimbursement these routes must be operated in compliance with standards set forth by the Board of Public Education (BPE) and the Office of Public Instruction (OPI). The costs for pupil transportation are split between the state, counties, and district or local sources. The total cost of pupil transportation in Montana exceeds \$74 million annually and the state's portion is over \$17 million.

Results

The actual provision of student transportation is a responsibility of local schools, though state laws and rules provide guidance and specific requirements. Our audit work focused on the controls in place to ensure student transportation is provided safely and in a cost-effective manner. We found many controls operate at the local or county level, with little state involvement. In some areas this appears to work well, however, we have

identified several areas in which the state could take a more proactive role to help ensure the accuracy of state reimbursements and improve the safety of bus operations.

Reimbursement Issues

Schools providing transportation are required to report certain information before receiving reimbursement for the state's share of costs. School districts are reimbursed based on a per-mile rate according to bus capacity. Individual transportation contract holders receive a per-mile reimbursement for each day transportation is provided. OPI is responsible for establishing the validity of claims but generally relies on its local and county partners to provide accurate information.

OPI should improve its ability to verify the accuracy of reimbursement claims by strengthening controls over the claims process.

Some school districts are beginning to use global positioning systems to enhance route design and track bus location. These systems have the potential to provide accurate, reliable data for reimbursement purposes. It is likely that these systems will become increasingly common over time. We recommend that OPI plan to develop the ability to track pupil transportation information via a GPS-based system. Doing so could improve claim

(continued on back)

accuracy, increase student safety, reduce required paperwork, and provide other benefits.

Finally, the current state reimbursement schedule provides an incentive for school districts to purchase large buses because the state reimbursement is substantially greater for large buses than for small ones. Large buses do not cost substantially more to purchase or operate. The average Montana bus has increased in capacity by about 11 percent over the past 10 years, while eligible ridership has actually decreased. Due to the size increase, the total state and county reimbursement increased by nearly \$2 million for the 2011-12 school year. We recommend the legislature consider whether the state's reimbursement plan has produced the intended effect.

Safety Issues

Transportation via a school bus is often cited as the safest method for getting students to and from school. We reviewed the Highway Patrol inspection forms for selected buses and boarded 52 buses at selected school districts. The buses themselves appeared to be in good condition and generally received inspections in a timely fashion.

Bus drivers are required to hold a specially-endorsed commercial driver's license, are subject to random drug and alcohol testing, and must meet other requirements including that they are of "good moral character." Of the 1,435 drivers who were named on reimbursement claims during the second semester of 2011-12, almost all did appear to meet these requirements. However, we did identify eight individuals who had criminal histories that would appear to violate the moral conduct code in place for teachers and another individual with an active arrest warrant. Setting criteria for moral character, requiring the consistent use of background checks, and conducting periodic scans related to criminal activity would enhance student safety while onboard buses.

| Recommendation Concurrence | |
|---|---|
| Concur | 3 |
| Partially Concur | 1 |
| Do Not Concur | 1 |
| Source: Agency audit response included in final report. | |

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Chapter I – Introduction

Introduction

Public school students are eligible for daily transportation services to and from school if the student resides at least three miles from the nearest public school. A school district may provide transportation in the form of district- or contractor-operated bus routes or through the use of individual transportation contracts, which are agreements to reimburse a student's parents or guardians for providing transportation. The costs for pupil transportation are split between the state, counties, and school district or local sources. To be eligible for state transportation reimbursement, school districts must operate routes in compliance with standards set forth by the Board of Public Education (BPE) and the Office of Public Instruction (OPI).

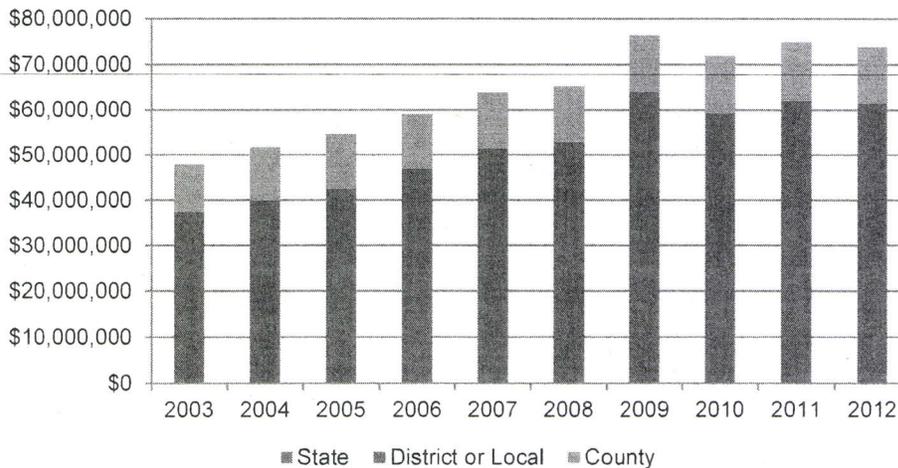
Background

Montana's system for providing transportation to and from school has been relatively static since 2003. By law, the state and counties provide for a portion of total transportation costs through a mileage-based reimbursement process. For bus routes, the reimbursement is based on the number of miles a bus travels to and from schools multiplied by a predetermined mileage rate that varies based on the capacity of the bus. A district is eligible for route miles for each school day that transportation is actually provided.

The total yearly cost of pupil transportation in Montana exceeds \$74 million. The state's share for mileage-based reimbursement exceeds \$12 million, and the state also contributes almost \$2 million in the form of block grants to counties that is used to pay for a portion of the counties' share of mileage reimbursement. Some districts also access other state funding sources to pay for transportation expenses. The bulk of the state funding is related to bus routes, though about \$600,000 is reimbursed to families through individual transportation contracts.

Typically, districts must also seek other types of funding to pay the full cost of pupil transportation. According to documents filed by the trustees of each district known as Trustees' Financial Statements, the total amount of revenue that has been secured for transportation services has increased from about \$48 million in 2003-04 to just over \$74 million during the 2011-12 school year. Over that time the portion of total transportation revenues supplied by the state has decreased. Figure 1 on the next page shows revenues from state, county, and local sources.

Figure 1
District Transportation Revenue
 School Years 2003-04 through 2011-12



Note: There is a very small amount of revenue from other sources not included in Figure 1.

Source: Compiled by the Legislative Audit Division from trustees' financial statements.

In addition to the mileage-based reimbursement, there are a few other sources of state funds that help pay for transportation services in some districts, including oil and gas taxes, general school block grants, and other sources. In total, the sum of state funding for transportation in the 2011-12 school year was \$15,138,654, excluding the transportation block grant, and is shown in blue in Figure 1.

The transportation block grant is paid by the state to counties and is used by counties to cover a portion of their share of the mileage reimbursement. Schools recognize this as coming from the county and therefore it is shown in the green portion of Figure 1, but is ultimately derived from the state. The amount of this grant is set in statute based upon the amount granted in fiscal years 2002-03 with an annual inflation factor of .76 percent. The total amount of this grant was \$1,980,485 for school year 2011-12. When combined with the other state sources discussed above, this increases the total amount of state funding for transportation to \$17,119,139.

Revenues discussed above are used to pay transportation expenses, primarily those directly related to regular and special education transportation, though they may include some administrative and other expense areas related to transportation. The total transportation expenses reported on trustees' financial statements for the 2011-12 school year were \$74,625,853.

Bus Routes

School buses travel over 17 million miles annually in the state. During the 2011-12 school year, Montana's school districts transported over 60,000 students to and from school. Districts (or their contractors) operated 1,952 bus routes.

School districts operating bus routes are required to report certain information to OPI before receiving reimbursement for the state's share of costs. Student transportation reimbursements are administered through the OPI School Finance Division, which is responsible for processing district applications for reimbursement, calculating and making payments to districts, and monitoring other reporting requirements for student transportation (such as bus and driver information).

Designing and Operating Routes

The design and operation of bus routes is performed by individual school districts or their contracted service providers. Routes, however, must be approved by a county transportation committee that is headed by the County Superintendent of Schools. It is the duty of the county transportation committee to establish the transportation service areas within the county; approve, disapprove, or adjust the school bus routes submitted by the trustees of each district; and conduct hearings to establish the facts of transportation controversies. The superintendent of public instruction also approves, disapproves, or adjusts all school bus routing submitted by the county superintendent and disburses the state reimbursement. Only transportation to and from school is eligible for state reimbursement. Extracurricular activities and other types of transportation are ineligible.

Eligible Transportees

Routes must serve "eligible transportees" (though routes may also accommodate students who are ineligible on a space-available basis) meaning a public school pupil who is between 5 years and 21 years of age, resides at least 3 miles from the nearest public school, and resides with a parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation.

Reimbursement for Routes

All bus miles traveled on bus routes approved by the county transportation committee are reimbursable. A school district may also seek reimbursement for "nonbus mileage" for a vehicle driven by a bus driver to and from an overnight location of a school bus when the location is more than 10 miles from the school. The reimbursement rate for each route mile traveled is listed in Table 1 on the following page.

The state transportation reimbursement is one-half of the reimbursement amounts listed in Table 1 or one-half of the district's transportation fund budget, whichever is smaller. The remaining half of the reimbursement rate is paid by the county. Reimbursement is computed on the basis of the mileage reported for each route times the number of days the transportation services was actually rendered, not to exceed 180 pupil-instruction days.

Table 1
Reimbursement Rates for School Bus Routes

| Bus Capacity | Reimbursement per Mile |
|-----------------------|------------------------|
| 49 passengers or less | \$0.95 |
| 50-59 passengers | \$1.15 |
| 60-69 passengers | \$1.36 |
| 70-79 passengers | \$1.57 |
| 80 or more passengers | \$1.80 |
| Nonbus rate | \$0.50 |

Source: Compiled by the Legislative Audit Division from Montana Code Annotated.

Individual Transportation Contracts

In addition to bus transportation routes, during the 2011-12 school year districts entered into over 1,000 individual transportation contracts with parents or guardians of students, who can receive reimbursement for transporting students where bus routing is unavailable or impractical. These contracts totaled over \$600,000 for the school year. A licensed driver in an insured vehicle must provide transportation.

Bus Driver Qualifications and Safety Issues

Riding a school bus is cited by transportation experts as the safest way for students to be transported to and from school. Buses may be owned and operated by the district itself or by an independent contractor, but in either case the entity must comply with the rules of BPE for the standards of equipment, operation and safety of the school bus, and qualifications of the driver. The number of pupils riding the school bus may not exceed the passenger seating positions of the bus. District trustees may require added safeguards by supplementing BPE policies with additional requirements for bus specifications, age of drivers, liability insurance, operating speed, or any other condition considered necessary by the trustees.

Driver Requirements

Requirements for bus drivers are established in state law. The basic requirements include the driver:

- ♦ Is 18 years of age or older.
- ♦ Is of good moral character.

- ◆ Is the holder of a commercial driver's license.
- ◆ Files a certification that the driver complies with medical examination, training, and first aid requirements.
- ◆ Meets further qualifications that may be established by BPE.

Federal regulations also impose drug and alcohol testing requirements on the employers of bus drivers. An employer must conduct annual random tests of safety sensitive employees, including bus drivers.

Bus Requirements

Buses must conform to standards set forth by BPE and be inspected biannually by the Department of Justice. Inspections are completed by the troopers of the Montana Highway Patrol. Copies of inspection forms are kept by each school district and the respective county superintendent. Each inspection covers approximately 50 features related to bus operation and safety standards promulgated by BPE. Inspection forms are signed by the inspecting trooper and classified as either "approved" or "disapproved." Buses that are disapproved may become approved following a subsequent inspection. Only approved buses are eligible for state reimbursement.

Bus and Service Contract Procurement

School districts are allowed to contract with outside parties to provide school bus transportation for students. School districts can either enter into new contracts or renew previously issued contracts. School districts are allowed to renew an existing contract provided the cost of the new contract does not exceed the previous year's contract by more than 12 percent.

In addition to school bus transportation contracts, school districts are allowed to purchase and operate their own buses. School districts can purchase school buses without advertising for bids provided there is no conflict of interest. Because there are few requirements related to district purchases of school buses, these activities are not included in this audit's scope.

Objectives, Scope, and Methodologies

Transporting students to and from school is a surprisingly complex area with many federal, state, and local jurisdictions involved in planning, operations, and oversight. Our audit focused on the state's role, but by necessity also involved working with county and school district officials. Our review also focused on the mileage-based reimbursement portion of state funding because this is the largest share of state funding. We focused our review on districts that operated bus routes during the second semester

of the 2011-12 school year, as this was the most recent time period for which school districts had received state reimbursements while we conducted fieldwork. We selected routes at random from four stratified clusters of school districts. This technique ensured that a representative sample of routes was reviewed while minimizing travel required to conduct fieldwork. Route information was considered the primary consideration for sampling purposes and other samples (such as individual transportation contracts or bus inspection records) were selected from the same districts selected for route review.

Audit Objectives

We developed four audit objectives:

1. Determine whether the controls in place are adequate to ensure accurate state reimbursement for school bus routes and individual transportation contracts.
2. Determine if school districts follow state law and rules regarding procurement procedures for school bus transportation contracts.
3. Determine if the state's reimbursement schedule promotes efficient bus route design and operations.
4. Determine if buses and drivers meet safety-related requirements and recommendations.

To address these objectives, we performed the following types of methodologies:

- ◆ Reviewed files to ensure required documentation was available and met requirements.
- ◆ Visited multiple districts to observe operations.
- ◆ Conducted interviews with state, county, and district officials.
- ◆ Compared mileage of routes based on mapped distance to claims reported.
- ◆ Evaluated compliance with school bus and driver standards to ensure safety of transportation services.
- ◆ Reviewed bus service contract renewals.
- ◆ Reviewed the financial and statistical data reports of districts.
- ◆ Interviewed officials in other states to identify related practices in the field of pupil transportation.

Area for Further Study

During the course of audit work, a related issue emerged that was outside of the scope of this audit, but may merit consideration for future performance audit work.

Out-of-District Attendance Agreements

At times, the parents or guardians of a public school pupil may wish to have a pupil attend a school outside the pupil's home district. In these cases, state law establishes a framework for both mandatory and discretionary out-of-district attendance procedures. The parent or guardian may be charged tuition and for transportation. Districts report information related to the agreements to the superintendent of public instruction. The superintendent pays the district of attendance the amount of the tuition obligation, prorated for the actual days of enrollment. A potential performance audit could obtain and review information related to the use of such attendance agreements and examine compliance with state laws.

Report Organization

The remainder of this report details our analysis of the audit objectives and contains five recommendations. It is organized in three additional chapters:

- ◆ Chapter II- Accuracy of Reimbursement Processes
- ◆ Chapter III- Contract Procurement and Reimbursement Schedule
- ◆ Chapter IV- School Bus Safety and Driver Qualifications

Chapter II – Accuracy of Reimbursement Processes

Introduction

School districts provide students with transportation to and from school each day in the form of district- or contractor-operated bus routes or, when bus routes are impractical, through the use of individual transportation contracts, which are agreements to reimburse a student's parents or guardians for providing transportation. The Office of Public Instruction (OPI) reimburses school districts on a per-mile basis for costs associated with providing pupil transportation. Our first audit objective was to determine whether the controls in place are adequate to ensure accurate state reimbursement for school bus routes and individual transportation contracts.

Multiple Layers of Review

In order to qualify for reimbursement, bus routes and individual contracts are subject to several layers of review. These include local school boards, county transportation committees, and OPI. Subsequent to reimbursement, local district auditors are also asked to verify the accuracy of claims.

School Boards and County Transportation Committees

Bus routes and individual contracts are first approved by a school district's board of trustees and then by a county transportation committee, headed by a county superintendent of schools. OPI has authority to approve, disapprove, or adjust all school bus routing submitted by the county superintendent and disburses the state reimbursement. State law sets forth conditions for the uniform and equal provision of transportation by all districts in the state and directs the superintendent of public instruction to prescribe rules and forms for the implementation and administration of transportation policies and prescribe rules for the approval of school bus routing by the county transportation committee.

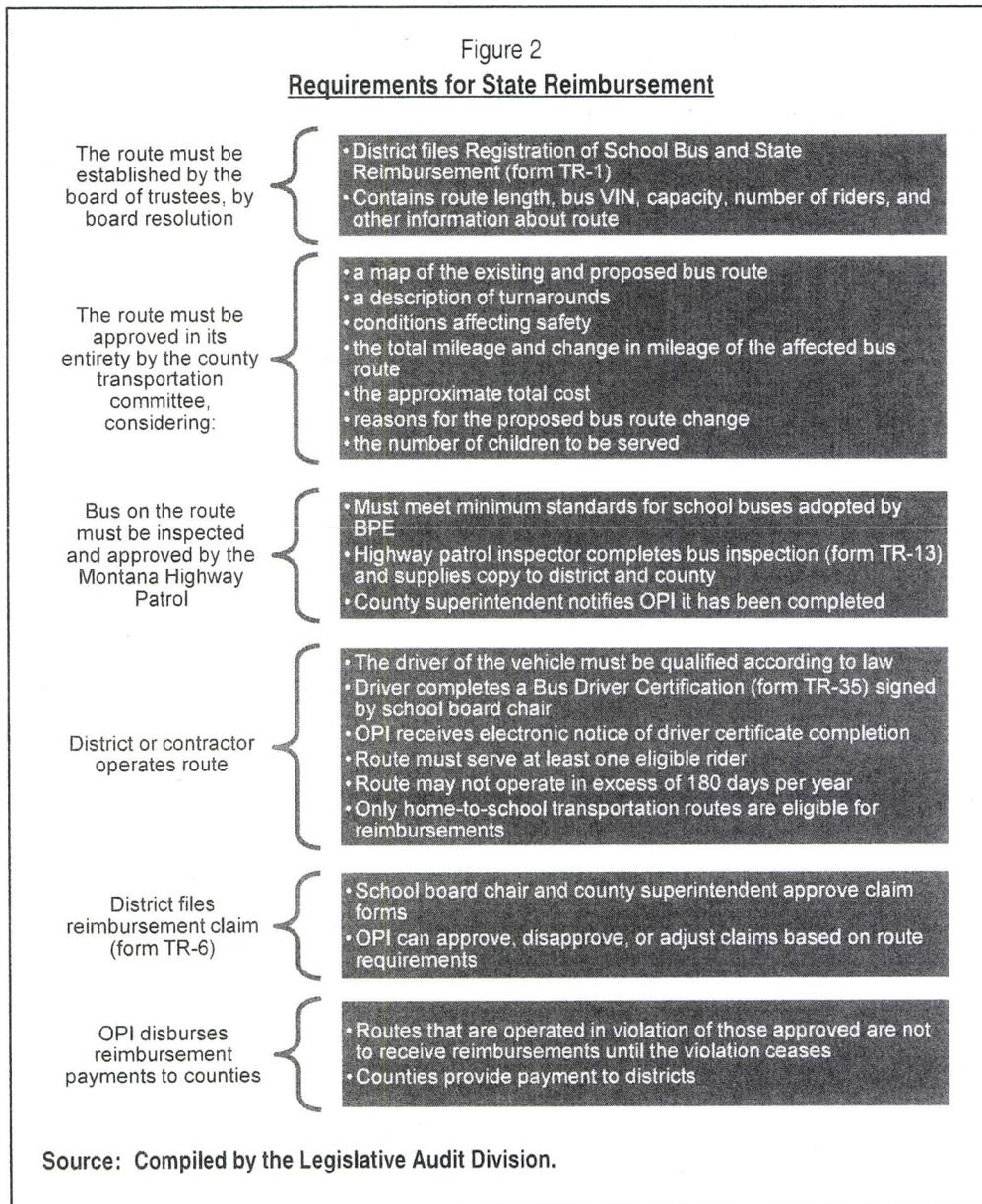
When the county transportation committee reviews a request for a new bus route or a change to an existing route, the committee is to consider a map of the route, cost, safety concerns, and other factors. Routes not approved by the county transportation committee are not to receive reimbursements until the violation ceases.

State Reimbursement Process

Requests for the state transportation reimbursement are made by each school district semiannually. Claims are routed by the district to the county superintendent, who after reviewing the claims, sends them to the superintendent of public instruction.

Claims must be approved by each county superintendent by February 22 for first semester claims and June 1 for second semester claims. Beginning in fiscal year 2013, as a result of legislation passed during the 2013 Legislative Session, there will be three annual reimbursement periods.

State law states that the superintendent of public instruction establishes the validity and accuracy of the claims by determining compliance with the law, BPE transportation policy, and the transportation rules of the superintendent of public instruction. After making any necessary adjustments to the claims, the superintendent of public instruction orders a disbursement for the state transportation reimbursement. Figure 2 describes the process and requirements for state reimbursement eligibility.



When the board of trustees changes a route's mileage per day, or if a different school bus is used on the route, the trustees amend the bus route form, show the effective date of the change, submit it first to the county transportation committee for approval and then to the OPI. When the claims for payments are submitted, the district reports the number of days the route operated at each mileage amount or number of days that each bus operated on the route. OPI will adjust the reimbursement for the route and will pay the adjusted rate for days the route operates after the date the change in mileage or bus became effective, subject to constraints of the budget or budget amendments. When routes are extended it is up to the district to determine if a budget amendment is required to cover the additional costs of the route.

Effectiveness of Reviews

To test the effectiveness of the various layers of review, we selected a random sample of districts that operated bus routes during the second semester of the 2011-12 school year. We used this same set of districts to sample individual transportation contracts. Overall, we concluded that several changes could be made to improve controls over bus route reimbursement while the controls over the individual contracts we reviewed appeared sufficient.

Bus Routes

During the second semester of the 2011-12 school year, 331 districts claimed reimbursement for at least one bus route. Each county featured at least one district with a reimbursement claim. Numerous routes are shared between multiple districts, especially in places where there are separate elementary and high school districts. In these locations, we considered the route to be operated by a school "system" rather than a district. In all, 232 systems operated a total of 1,952 bus routes during the semester. The total state reimbursement amount for these routes was \$6,272,486. An equal amount was reimbursed by the counties.

We selected a random sample of 227 bus routes from 30 school systems to test whether documentation supported reimbursement claims made for these routes. Our review involved examination of the OPI Application for Registration of School Bus & State Reimbursement (TR-1) form, which districts use to report information about a bus route, including mileage. Because mileage is one of two statutory variables used to calculate the reimbursement amount, we also reviewed documentation that could support the mileage reported on the TR-1 form. Documentation that districts could submit to support a claimed mileage would generally include a map of the route showing start and finish points, stops, turnarounds, etc.

Overall, our sample results identified documentation issues for both the TR-1 forms and the associated maps. For the TR-1 forms, issues included missing or incomplete forms, forms lacking school board chair signature approval, forms dated after the statutory submission deadline, and forms submitted without information on eligible ridership. For the map documentation, we found many routes were approved with no map available showing even basic route information, and some maps were submitted showing incomplete routes or without identifiable roads.

County Transportation Committees Do Not Regularly Scrutinize Routes

County transportation committees are comprised of a county superintendent of schools, representatives from each district in a county, and other county representatives. These committees are charged with approving all routes, and the state relies on this approval for mileage accuracy. Our interviews with county and district staff indicate that route mileage claims may not be adequately scrutinized by these bodies. A county superintendent is the chair of each committee but this individual is often a part-time employee or someone who has another full-time county position such as treasurer or clerk and recorder. County superintendents indicated it is often not possible to verify mileages given other demands on their time, the number of routes or other factors. Many reported it is necessary to rely on their trust that school districts will supply accurate route mileages.

We obtained meeting minutes from 22 counties for the 2011-12 school year. Eight of the committees did not meet the statutory deadline for route approval. Several officials cited the late July deadline as problematic due to late school registration by some students, making it difficult to define routes by the deadline. One county did not hold a meeting in person but rather approved routes via a mail ballot. Numerous counties cited the need to amend routes via mail, phone, or e-mail following the initial committee meeting.

Our review of county and school district documentation showed there is minimal scrutiny applied to bus route reimbursement claims at the local level. Based on the completeness of the documentation that was available, neither local school boards nor county transportation committees prioritize verification of basic bus route information. Even when an actual map was provided to the county transportation committee for review, it was often inadequate for the purposes of determining the accuracy of the reported mileage. Because mileage is integral to the statutory reimbursement schedule, the control weaknesses identified at the local level reduce assurance that the state's share of reimbursement payments are accurate and supported by adequate documentation.

OPI does not currently receive copies of the maps considered by the transportation committee, nor does it have available some other method to verify the accuracy of route miles claimed. In order to better rely on these bodies to verify the accuracy of route miles claimed, OPI would likely need to require additional scrutiny of the routes, for example by requiring the route maps considered be sufficiently detailed to verify mileage and be retained for audit purposes.

District Audits

School districts receive regular, periodic audits from local independent auditors. OPI asks local auditors to verify the accuracy of information submitted to OPI related to bus route and individual transportation reimbursements. We reviewed a sample of district audits and discussed the usual types of audit findings with OPI staff. In order to make the work of local auditors more effective with regard to transportation, OPI would likely need to require, and districts maintain, information related to actual miles traveled such as route maps or mileage logs. Even if this were the case, however, it is not appropriate to require an independent auditor be part of the control structure.

OPI Conducts Desk Audits of District Claims

There is a desk audit process recently put into place by OPI in an effort to verify district reimbursement claim information. An OPI staff member indicated that three desk audits were in process and six audits had been completed with plans to conduct about 10 audits per year in the future. The subjects for these audits have been selected randomly and include steps such as:

- ◆ Verifying driver qualifications.
- ◆ Verifying relevant forms are signed and dated.
- ◆ Checking mileage claimed versus as approved by county transportation committee.
- ◆ Checking listed bus capacities.
- ◆ Obtaining school calendar and compare to days claimed for transportation claims.

It is possible this process may help discover errors in reimbursement claims but OPI staff reported that it can be difficult to verify days of transportation operated based upon school calendars which do not always report the beginning and ending dates for a semester and would not list days on which a route was not operated due to weather, student absence, or other factors. Finally, the desk audits can only compare mileage as approved by the county transportation committee to the claim amount, not to the miles actually driven.

In order to make this process more effective, OPI could select districts for audits based on some risk factor rather than randomly. For example, OPI could stratify districts according to the proportion of total transportation funding received from mileage reimbursements and select districts that exhibit a high proportion of state funding when compared to other districts. These districts are at greater risk for inaccurate mileage claims.

Reimbursements Inaccuracies

The amount and type of information available to OPI related to bus route operations has been limited. County transportation committees and county superintendents rely on districts to supply accurate information related to route mileage claimed. This creates opportunities for the mileage claims to differ from the actual miles traveled or for ineligible routes to be claimed for reimbursement. While OPI is granted the authority to approve, disapprove, or adjust bus routes, it has lacked information to effectively carry out this authority in some cases. Below are the three examples of types of inaccuracies.

- ◆ Nonbus mileage is reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school bus when that location is more than 10 miles from the school. The use of nonbus mileage as a portion of a route can reduce the total claim amount because the nonbus reimbursement rate is lower than even the smallest bus rate. If a district uses a driver's vehicle for a portion of the route, it reduces the amount of mileage that would have otherwise been driven by a bus. However, one district has identified problems with inaccurate claims due to misallocation of bus and nonbus mileage—specifically claiming bus rate reimbursement for portions of a route that are actually nonbus miles. After discovering one route that had been claimed in this way, a district was asked to reimburse a total of \$141,102 to the state and county.
- ◆ Only transportation to and from school is eligible for state reimbursement. Administrative rule clarifies that a district shall not claim state and county transportation aid for the district's conveyance of students to and from alternative sites, buildings, or other locations where services or programs are offered during the school day, such as partial-day special education or classes at different buildings of the school district or community. During the course of audit work, we identified a district that appeared to have claimed reimbursement for a type of route that is ineligible according to this rule. Dating back to the 2006-07 school year this district appeared to have claimed reimbursement in the amount of over \$200,000 for such routes. During audit fieldwork, OPI had notified the county and district about this potential error but a resolution has not yet been reached.
- ◆ Some districts appear to claim a larger reimbursement than documentation would indicate is justified. We did note examples of apparent inaccurate mileage claims from a selection of the routes from our sample. In one example, we mapped a route using both a specialty geographic information system program and a web-based mapping program, and between the two

methods, we calculated driving the route would cover 53.7 miles per day. For the second semester of the 2011-12 school year, the district claimed this route was 117 miles per day. The reimbursement rate per mile for this route was \$1.15 for a total reimbursement of \$11,437. If the route was claimed at 53.7 miles per day the reimbursement would have been \$5,249 for the semester, or \$6,188 less than what was actually claimed. Other, less extreme examples of mileage inaccuracies were also identified using this method.

Improving Claim Accuracy

Information related to actual miles traveled could be improved more accurately matching actual eligible miles traveled to claims. We identified a variety of steps that could be undertaken in this area, including:

- ◆ Require route maps be kept that depict starting and ending location of buses, and enough detail to verify mileage. In the absence of actual daily route observation, a route map that is sufficiently detailed including the overnight location of a bus, whether the route contains nonbus mileage, if the route appears to provide home-to-school transportation, and other reimbursement requirements could be a valuable tool in estimating the accuracy of mileage claims. These maps could be used by county superintendents, OPI staff, or local auditors to compare to claims.
- ◆ Collect beginning and ending odometer reading on reimbursement claim forms. Buses may well travel more miles than are claimed for reimbursement if they are used for activities such as field trips, sporting events, or other nonreimbursable transportation. However, by including beginning and ending odometer readings with a claim, OPI could establish the maximum possible amount, which the claim could not exceed.
- ◆ Require periodic report from district or drivers of actual miles driven. Some district officials we interviewed indicated this is a method used to determine route mileages. If a periodic report (such as one week of each semester) was used, it could be helpful in identifying inaccurate estimates.
- ◆ Conduct risk-based audits of districts instead of choosing districts by random selection. There are likely risk-based factors that could be used in selecting districts that have inaccurate claims. If OPI selected districts based on a risk factor it may be more likely to identify inaccuracies through its own audit process.
- ◆ By including a field visit as part of its audit process, OPI could ensure elements such as verifying the actual existence or capacity of buses is completed. Elements such as these can best be verified through physical observation.
- ◆ Change the bus inspection form used by the Montana Highway Patrol form to require verification of certain bus attributes such as capacity, vehicle identification number (VIN), or odometer reading.

This list of suggestions provides an overview of some methods OPI could consider for improving the accuracy of mileage reimbursements; additional methods not listed here

may also be helpful. OPI should improve its ability to verify claims by enacting such methods.

RECOMMENDATION #1

We recommend the Office of Public Instruction improve its ability to establish the validity and accuracy of bus route reimbursement claims by strengthening controls over the claims process.

Global Positioning Systems Present Opportunity for Future System Refinements

Some districts are beginning to use global positioning systems (GPS) to track bus location information. A GPS device is installed on a bus and, most basically, provides information related to the location and time data. More advanced versions of GPS devices can also be used to transmit other data such as odometer readings, fault codes from the vehicle related to required maintenance, vehicle operations such as door openings, and safety-related information such as hard-braking, hard-acceleration, and hard-cornering. The devices transmit data via cellular networks to a location that can be accessed by district personnel. Data is generally available in real time, though there may be some very remote locations in which data is stored by the device and transmitted once the vehicle re-enters a coverage area. The data can be used to run reports related to vehicle miles traveled.

GPS Use in Montana

During the course of our audit work, we visited several districts that are already using GPS devices on board buses. We also discussed these systems with two providers of the devices. One bus service contractor reportedly has the devices in place on all its buses, which comprise 22 percent of all the buses in the state. Purported benefits of using the devices include:

- ◆ Ability to relay bus location information to concerned parents.
- ◆ Increased ability to locate bus in case of emergency.
- ◆ Reduction in need for bus routes through increased efficiency.

According to one provider, a district can expect to see a reduction in costs of up to 15 percent in one year through efficiencies that can be gained by implementing a GPS system.

Montana Information Technology Act

State law suggests that when information technology systems can be shown to provide improved services to Montana citizens, they should be deployed aggressively. Among the goals and objectives of the state's strategic plan for information technology are to:

- ♦ Seek out and implement innovative information technology solutions.
- ♦ Increase use of seamless cross-boundary information solutions.
- ♦ Explore and implement technology to enhance accessibility, availability, and usability of information.

The use of GPS devices on buses could help achieve each of these goals. Through its prescribed route reimbursement claim processes, OPI could provide incentives for the adoption of this type of technology. Incentives could include a reduction of required paperwork for districts reporting with GPS devices, expedited reimbursement for claims filed using GPS data, or other process improvements.

GPS Use in Other Locations

Nationally, there are many districts moving to adopt GPS technology. Some states require or provide bus tracking or routing software to all districts. The state of Hawaii is beginning to require that all bus contracts stipulate that the service provider use both bus tracking and student tracking devices. Hawaii expects these systems to cost about \$2 per bus per day but to return a greater level of savings. Through the implementation of a GPS pilot project, the state has already discovered a single route in which it overpaid \$130,000. In North Carolina, the state provides routing software that districts use and it is up to the district as to whether or not to couple that with a GPS device on each bus. One North Carolina official estimated that about one-third of the buses are equipped with GPS. District officials estimate the net savings with GPS-enabled buses will range from \$70,000-150,000 annually per district.

OPI's Agency Information Technology Plan Does Not Address GPS

OPI has adopted a strategic plan related to information technology (IT), and as part of this document, has established a series of IT-related goals. The plan does not address the potential use of a GPS systems as a reporting tool for bus route reimbursement claims. One goal in the plan is related to new application development and includes specific objectives related to educator licensure, web report cards, and data matching for free and reduced-price lunch programs. Integrating a GPS-based bus route reporting structure would be consistent with the objectives in this and other agency IT goals.

Technology Could Improve Reporting, Increase Safety

GPS devices have the potential to provide the most efficient and accurate reporting of actual miles traveled. The use of these devices could enable streamlining of the reimbursement process, potentially expedite reimbursement, would ensure the accuracy of miles traveled and days of operation, and could increase student safety in cases of an accident. Their use is becoming increasingly common by school districts. There are a variety of ways in which OPI could choose to include GPS devices within its IT plan, including working with BPE to set standards for districts that choose to use such systems, offering districts incentives for using systems to report reimbursement claims, seeking an appropriation to provide districts with GPS devices, developing agreements with districts that are using GPS for data access to expedite reimbursement, or other means.

Long-term, the use of GPS devices for reporting mileage has the potential to replace the current reimbursement claim processes. In the absence of standards, districts are likely to begin using a variety of GPS systems that may not be able to provide cohesive, useful information in the future. OPI should develop a plan to make beneficial use of the data these systems offer.

RECOMMENDATION #2

We recommend the Office of Public Instruction develop a plan to track pupil transportation information via global positioning systems.

Individual Transportation Contracts

The total reimbursement for individual contracts is calculated by multiplying the distance between the residence and the school or the nearest bus stop by a mileage rate and by the number of days of travel. A transportation contract between a parent or guardian of an eligible transportee and a district for the provision of individual transportation is subject to the following requirements:

- ◆ The district, county superintendent, and superintendent of public instruction must be provided copies.
- ◆ It must be completed on a form promulgated by OPI.
- ◆ The parent or guardian shall sign an affidavit attesting to the place of residence of the child or children.
- ◆ It must be signed by the presiding officer of the trustees and the parent or guardian of the eligible transportees.

A parent or guardian is only to receive reimbursement for days on which transportation is actually furnished as confirmed by the actual attendance of school recorded on the school attendance records or, in the case of a supervised correspondence course or supervised home study, as confirmed by the trustees. If the parent or guardian provides one-way transportation he or she is to be reimbursed at one-half the daily contract amount.

According to state law, the mileage between home and school is to be measured by a vehicle equipped with an accurate odometer, and the measurement begins 6 yards from the family home and ends 6 yards from the entrance of the school grounds closest to the route. When establishing the mileage of the route, the route shall be designated by the trustees and must be reasonably passable during the entire school year.

We obtained copies of 53 individual contracts within the school systems selected in our sample. Of the copies we reviewed, seven of these contracts did not fully meet the requirements discussed above—usually because they lacked the signature of the chair of the board of trustees. One copy did not include a physical home address and another did not identify the school of attendance. However, these errors were minor and the cost of enacting additional controls would likely exceed any benefit in preventing them.

Based on interviews with county superintendents and district staff, county superintendents are asked to verify the mileage claimed on individual contracts. They indicated they do not always follow the method of measurement described in statute, for practicality reasons. Sometimes county superintendents chose to use mapping software or started at a point other than 6 yards from the residence. District staff indicated there are methods for verifying attendance and demonstrated the type of reporting that is available and how it is used to check reimbursement claims.

There are now some districts in the state that are using only individual contracts and no bus routes, but the overall number of contracts has been decreasing over time. The total number of contracts that were reimbursed during the second semester of the 2011-12 school year was 1,082 with a total reimbursed value of \$309,376. The median value of the reimbursement amounts was \$168.11 while the reimbursement values ranged from \$5.88 to \$2,626.46 for the semester.

While not all contracts we reviewed met all the requirements it was apparent that there are efforts being made to provide for accuracy in reimbursement claims. Because of the relatively low dollar value of the average contract and the total state expenditure on individual contracts it is likely that additional controls would not be cost effective.

CONCLUSION

Existing controls over individual transportation contracts provide reasonable assurance claims are accurate.

Chapter III – Contract Procurement and Reimbursement Schedule

Introduction

The Office of Public Instruction (OPI) has authority to prescribe the method for route reimbursement and for approving, disapproving or adjusting routes but there are also state laws that set standards for establishing bus service contracts and the reimbursement rates. Our second objective was to determine if school districts follow state law and rules regarding procurement procedures for school bus transportation contracts. Our third objective was to determine if the state's reimbursement schedule promotes efficient bus route design and operations. This chapter contains our findings related to these objectives.

Bus Service Contract Requirements

School districts may either purchase and operate their own buses or contract for school transportation services. There were 1,275 district owned buses and 1,637 contracted buses operating during the 2011-12 school year. Choosing whether to deliver bus service by using district-owned or contractor-owned buses is a decision that involves availability of a qualified contractor and other factors. Evaluating the factors and making a contract or purchase decision is appropriately left to district officials.

State law requires school transportation contracts be awarded through one of two methods if the contract is greater than \$50,000 in value. For new service contracts districts must use a bidding process. School districts are required to publish three calls for bids over a 21-day period. Once bids are received, contracts shall be awarded to the lowest responsible bidder. For contract renewals, districts are allowed to negotiate a renewal of an existing contract with the current provider. Renewed contracts cannot exceed five years in length. Districts are required to publish a notice of the contract renewal one week prior to a public meeting. If contracts are renewed, they cannot exceed a 12 percent increase in cost in comparison to the previous year's contract.

Sampled Contracts Met Requirements

As discussed in the previous chapter, our primary purpose for selecting a sample of districts was to collect bus route information. We used this same sample of districts to obtain examples of bus service contracting. Of the districts we visited, 11 contracted for bus service. Three school districts had multiple providers, so we reviewed 17 total contracts.

Each of the contracts we reviewed met the requirements related to maximum contract length and followed the requirements for awarding contracts. Thirteen of the contracts we reviewed were renewals and each increased less than 12 percent over the previous year's contract cost. Two school districts indicated contracts were renewed, but only one year's contract was available for review and the renewal percentage could not be verified. Finally, school officials from two school districts indicated their contracts are sent out for bid every five years instead of simply being renewed.

Overall, the school transportation contracts we reviewed complied with state law and administrative rules. Interviews with school district officials indicated they are aware of the requirements when entering into these contracts and no district or county officials indicated they were aware of a conflict of interest between school trustees and bus service contractors. Our review of these contracts provides reasonable assurance that these requirements are generally met.

CONCLUSION

Existing controls over bus service contracting provide reasonable assurance that requirements are generally met.

Route Reimbursement Schedule

Montana's system for providing school transportation was devised in 2003. The previous reimbursement system included a factor related to bus capacity utilization known as "weighted ridership." This attempted to reward districts for efficient routing but was found cumbersome to implement. It was reported to be difficult for districts to conduct rider counts and may not have been an accurate representation of regular ridership, so that reimbursement method was discontinued. The current reimbursement schedule bases state and county reimbursements on the approved number of miles a bus travels to and from schools multiplied by a predetermined mileage rate that varies based on the capacity of the bus. The mileage rates themselves are shown in Table 1 in Chapter 1.

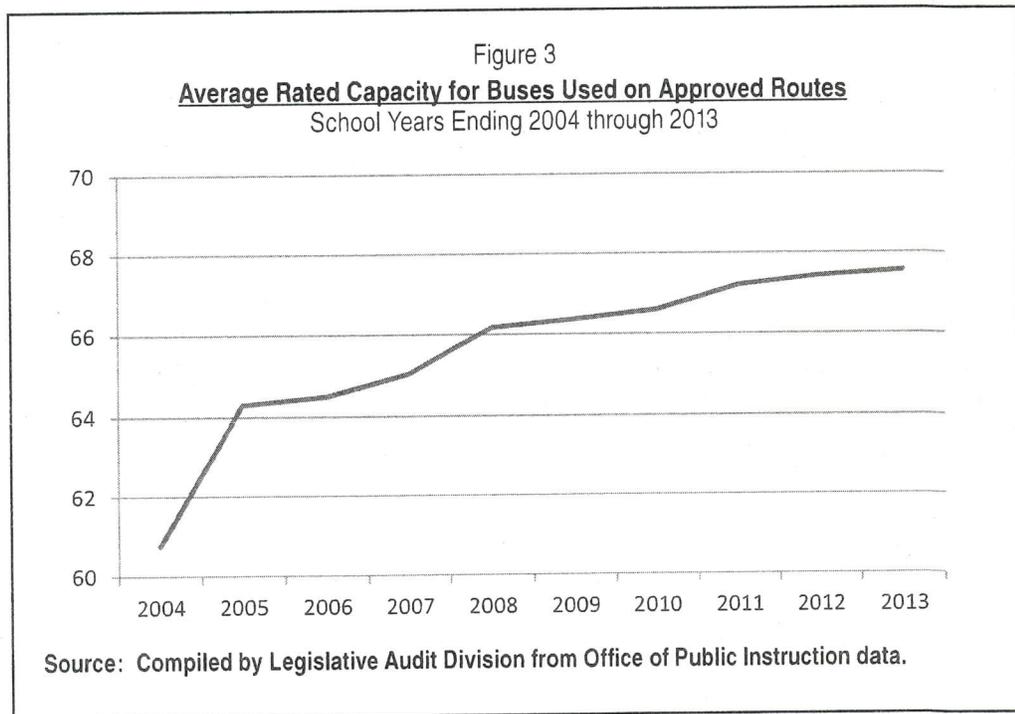
Reimbursement Schedule Provides Incentive for Large Buses

Numerous officials we spoke with indicated the higher mileage rates paid for large buses provide an incentive for districts to purchase larger buses than necessary. Larger buses do not cost substantially more to purchase or operate. According to one of the major bus manufacturers, it costs only \$4,000 more to purchase a 66-passenger bus than one that carries 42 passengers. Each of these buses cost roughly the same to operate and achieve equivalent fuel economy. Montana's reimbursement schedule provides \$.95 per

mile for the 42-passenger bus and \$1.36 per mile for the 66-passenger version. On a route that runs 60 miles per day (the average route length in the state) during a 180-day school year, the total reimbursement would be \$10,260 for the smaller bus and \$14,688 for the larger one, recouping the entire difference in purchase price in just the first year.

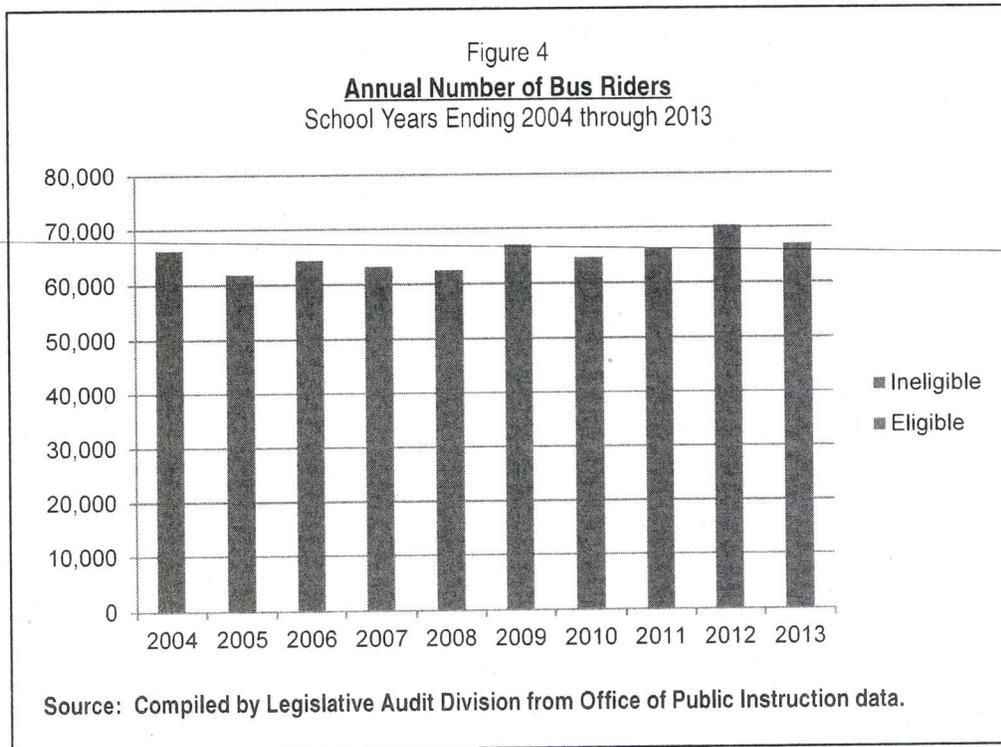
Average Bus Size Has Increased

Since the 2003 changes to the reimbursement schedule, average bus sizes increased even though the number of eligible riders decreased. We obtained 10 years of information for buses operating approved routes within the state. During the 2003-04 school year the average bus could transport 60.8 passengers and this year the size has increased to 67.6 passengers, an increase of over 11 percent. The trend over time is shown graphically in Figure 3.



Eligible Ridership Has Decreased Slightly

During the same time period discussed above, the number of eligible riders using bus routes decreased slightly. The total number of eligible riders claimed on route approval forms decreased 1.6 percent over the past 10 years. Ineligible ridership increased by 14.7 percent. The total number of riders is relatively steady, however, showing only a 1.2 percent overall increase. Districts appear to be using larger buses for purposes other than serving eligible riders. Figure 4 displays the trends in ridership over the past 10 years.



Larger Buses Increase Reimbursement Rate

Because bus sizes increased over the past decade, the average reimbursement rate per mile increased from \$1.37 to \$1.48 per mile. This may not seem like a significant amount, but when one considers districts were reimbursed for a total of 17,514,400 miles during the 2011-12 school year, the higher rate increases state and county reimbursement by over \$1.9 million for that year alone.

Districts Can Design Routes to Serve Few Eligible Riders

Some districts reported that due to high vehicle traffic volumes it is necessary to transport by bus students who live less than three miles away from their school. It may be impractical for these students to walk or find an alternate means of transportation. Districts can provide transportation to ineligible riders if they do not displace eligible students and districts may charge these students a proportionate share of the cost of operation of the bus; however, the district is reimbursed for the entire route if it serves an eligible rider.

We noted several routes that served almost exclusively ineligible riders. For example, one approved route during the 2012-13 school year serves only one eligible rider of 78 total riders. A total of 138 routes between the years 2003-04 and 2012-13 have served 5 percent or less eligible riders as a percent of the total riders.

In some districts we noted schools choose relatively large buses to serve a small number of pupils. For example, one of the routes selected in our sample was operated using a 54-passenger bus but was listed as serving only two students, who happened to reside in the same household. There is not a significant cost increase to purchase a bus that large, but the reimbursement rate paid by the state may be higher than necessary to adequately serve those students.

Seat Belts Reduce Capacity

Some districts are choosing to install seat belts on buses for safety or student behavior reasons. The National Student Transportation Association estimates the installation of the three-point belts decreases the rated capacity of buses by about 10 percent. A reimbursement schedule that rewards a district for using a large bus may dissuade districts from choosing buses that feature seat belts.

Variety of Funding Mechanisms Available

Montana's method of funding transportation does have the advantage of offering a relatively simple calculation and maintains local control in route design and operation. It does not promote an efficient or equitable use of state resources. We interviewed officials in several other states and identified a variety of funding mechanisms in place that could offer even greater simplicity or increased incentives for efficiency. For example, Idaho has a formula that rewards efficient districts but also factors the slope of routes, sparsely populated areas, and absence of paved routes. In Wisconsin, funds are based on the distance a student resides from school, with four tiers of distances representing progressively higher reimbursements. Other states simply provide block grants, which districts can use for transportation purposes. Five states provide no transportation-specific funding at all.

There are trade-offs when designing any pupil transportation reimbursement system. Our work has revealed potentially negative effects related to Montana's current inclusion of bus capacity as a factor in reimbursement. Options for change could include:

- ◆ Adjusting capacity-based reimbursement rates to more accurately reflect the costs of operating a variety of buses.
- ◆ Moving to an entirely block-grant based reimbursement schedule to simplify reimbursement procedures.
- ◆ Establishing efficiency goals to provide incentives for efficient operations.

RECOMMENDATION #3

We recommend the Montana Legislature review the effects of the statutory reimbursement schedule to determine if changes are necessary to promote efficiency, simplicity, or equity.

Chapter IV – School Bus Safety and Driver Qualifications

Introduction

Riding a school bus is cited by transportation experts as the safest way for students to be transported to and from school. Buses must comply with the regulations of the Board of Public Education (BPE) for the standards of equipment and qualifications of the driver. District trustees may require added safeguards by supplementing the BPE policies with additional requirements if considered necessary by the trustees. Our final objective was to determine if buses and drivers meet safety-related requirements and recommendations.

Bus Requirements

To be eligible for route reimbursement, a bus must be inspected biannually by the Department of Justice. Troopers of the Montana Highway Patrol conduct the inspections. The dates of inspections are established by administrative rule and are prior to the beginning of the first semester and prior to January 31 for the second semester. Copies of inspection forms are kept by each school district and the respective county superintendent. Each inspection covers approximately 50 features related to bus operation and safety standards. Inspection forms are signed by the inspecting trooper and classified as either “approved” or “disapproved.” Buses that are disapproved may become approved following a subsequent inspection.

Bus Observations Revealed no Significant Problems

As we visited districts, we asked to observe buses first hand when possible. We boarded 52 buses during the course of audit work and reviewed a variety of bus safety elements that would be evident to the layperson. The conditions we considered included:

- ◆ If the bus was properly labeled and colored as required.
- ◆ If safety equipment such as a fire extinguisher, mirrors, and stop signal were present.
- ◆ If emergency exits appeared to be unobstructed.
- ◆ If there was any notable damage or defects immediately evident.

Based on these observations, we noticed no significant problems with the buses we boarded.

Method of Filing Bus Inspections

Highway Patrol troopers who conduct inspections are provided with a pre-printed form which includes some basic information about the bus, including route identification

number, vehicle identification number (VIN), and other information. The inspecting trooper then completes the inspection assessing if the bus meets the established criteria in about 50 areas. The inspecting trooper signs each form and provides a signed copy of the form to the appropriate district and county superintendent. A district official also signs each form. County superintendents approve the inspection forms by signifying that the inspection is complete on the Office of Public Instruction's (OPI) pupil transportation system. OPI does not receive a completed and signed copy, only a notification that the inspection is complete. The pupil transportation system does track the approval status of bus inspections for reimbursement purposes.

Review of Inspection Forms

We also obtained a sample of 157 bus inspection forms for the second semester 2011-12 bus routes from 23 of the school districts we visited. We reviewed these inspection forms to determine if:

- ◆ Inspection forms match pupil transportation system data for route identification and VIN.
- ◆ Individual inspection items were approved.
- ◆ Overall inspection of the bus was approved.
- ◆ Inspection was completed by a trooper and badge number was included.
- ◆ Inspection was completed by January 31, 2012.

The results of our review showed that these inspections were generally completed in a timely fashion and buses met the requirements. There were a few forms in which the VIN did not match what was expected, but if changes are made to the inspection form requiring a verification of the VIN and other pre-printed bus information this type of error could be alleviated.

Districts Generally Pleased With Inspection Process

Based on our interviews with district and county officials, the Highway Patrol inspection process generally works well. A few districts indicated it can be difficult to arrange inspections by required dates, but we did not find this to be a significant problem.

CONCLUSION

The bus inspection process provides reasonable assurance that buses meet established standards.

Driver Requirements

School bus drivers are subject to a variety of regulations beyond those that apply to regular drivers. The general competence and degree of oversight is likely a strong factor contributing to the overall safety of riding a school bus. State law establishes the criteria, which stipulate the driver:

- ◆ Is 18 years of age or older.
- ◆ Is of good moral character.
- ◆ Is the holder of a commercial driver's license (CDL).
- ◆ Has filed a satisfactory medical examination report.
- ◆ Has completed a basic first aid course and holds a valid basic first aid certificate from an authorized instructor.
- ◆ Has filed with the county superintendent a certificate from the trustees of the district for which the school bus is to be driven, certifying compliance with the driver requirements.
- ◆ Complies with other qualifications established by BPE.

State Requires Current Bus Driver Certificate

In Montana, bus drivers are required to complete a certificate which is signed by a member of the board of trustees for which the driver is approved. The certificate states that the driver meets the statutory requirements including age, driving experience, CDL endorsement, medical exam, and first aid certificate. The certificate is filed with the county superintendent, though the superintendents do not generally receive supporting documentation that could be used to verify requirements are met. County superintendents notify OPI that the documentation has been received. OPI's pupil transportation system does track the approval status of these certificates for reimbursement purposes but it is reliant on this self-certification process.

We obtained a sample of 184 certificates from 22 of the school systems we selected and reviewed them for completeness. The criteria we evaluated were if the certificate was:

- ◆ Available.
- ◆ Signed by applicant and chair of school board.
- ◆ Indicated that CDL, first aid, and medical exam were current.

Based on this review, we estimate that 9.2 percent of driver certificates do not meet these criteria. Those in our sample failed this test primarily because the certificates were not available, which suggests this may be mainly an administrative issue.

Statute Stipulates Bus Drivers Must be of Good Moral Character

The statutory requirements for bus drivers stipulate that drivers are of good moral character but do not define what constitutes good moral character. The law grants BPE authority to set additional drivers requirements but it has not yet acted to define moral character. The bus driver certificate does include a statement that the driver is in compliance with that section of law, but it also does not specify what kinds of conduct may be construed to be of good or bad moral character.

Additional Testing Related to Good Moral Character and Driving History

Because much of the documentation requirements for driver qualifications rely on self-certification, we decided to perform additional testing related to the good moral character and driving history requirements.

BPE has promulgated through administrative rule a list of actions that constitute immoral conduct on the part of teachers. Individuals who commit one or more of the listed acts are not eligible to receive teaching certificates. The list includes offenses such as:

- ◆ Sexual intercourse without consent.
- ◆ Endangering the welfare of children.
- ◆ Criminal possession of drug paraphernalia.
- ◆ Possession of a destructive device.
- ◆ Other offenses indicating they may be dangerous to children.
- ◆ Repeated convictions for violations of any one or more of the criminal laws of the state which taken together, demonstrate that the individual is unwilling to conform their conduct to the requirements of law.

Bus drivers have unsupervised access to children in much the same manner as do teachers, so we used the rules describing teacher conduct as the basis for good moral character.

Testing Criminal History Information

There were 2,760 individuals listed as bus drivers in OPI's pupil transportation system. Of this list, only 1,435 were named on reimbursement claim forms during the second semester of the 2011-12 school year. The drivers not listed on claim forms could be substitute drivers or may be drivers who formerly drove school buses but no longer do so but have not been removed from the list by a district. Because we are not certain drivers who were not named on a claim form had actually driven buses, the bulk of our analysis focused on only those drivers who were listed on active claims.

Department of Justice Criminal History Information

The Montana Department of Justice (DOJ) records various types of criminal history information. One database, known as the Criminal History Online Public Record Search collects criminal history information on all felony offenses and misdemeanors, if the arresting agency submits fingerprint cards to the repository. We supplied the DOJ with the identities of each school bus driver in Montana and asked DOJ staff to inform us if any individuals were identified as having a criminal history. Our checks were completed using a name-based background check. Authorities report that fingerprint-based checks are more thorough and reliable, but obtaining fingerprints was not possible within the scope of this audit.

Once supplied with the names and date of birth for each of the school bus drivers, DOJ staff members queried the criminal history information database and classified each of the drivers as “clear” or “not clear” based on the results of their query. There were a few individuals who could not be classified into one of these categories and would have required fingerprints to ensure accurate classification. A total of 64 of the 1,435 active drivers were classified as not clear.

Next, we obtained the criminal history records for each of the drivers classified as not clear. Using the criteria that describe immoral conduct for school teachers, we sought to determine if any of the school bus drivers had committed an offense or offenses that would appear to be classified as “immoral conduct” that would have jeopardized their ability to work as a teacher. We identified eight drivers who had either:

- ◆ A felony warrant from another jurisdiction resulting in a Montana arrest.
- ◆ An arrest for one of the violations listed in the immoral conduct rules.
- ◆ Repeated convictions which taken together, demonstrate unwillingness to conform conduct to the requirements of law.

Additionally, while running the reports DOJ staff informed us there was a “hit” on one of the subjects, meaning that there was an active warrant for an individual. So, a total of 9 of the 1,435 active drivers may not have been deemed fit to work as teachers according to the immoral conduct rules.

As mentioned, our analysis focused on the active drivers listed on reimbursement claim forms but DOJ staff members did classify each of the 2,760 driver names, including the drivers who were not named. A total of 123 of these drivers were classified as not clear, and one of the drivers from that larger group was an offender listed on the Sexual and Violent Offender Registry.

Traffic Education Instructors Requirements

In order to qualify as a traffic education instructor, the state has also established certain rules related to driving history. Administrative rule (10.13.310, ARM) requires that an instructor's driving record be free from:

- ◆ More than one moving traffic violation within any 12-month period of the previous 36 months.
- ◆ Any conviction for driving under the influence of alcohol or drugs (DUI) within the preceding 36 months.
- ◆ A conviction resulting in mandatory revocation or suspension of a driver's license for a number of offenses in the previous five years and other factors.

Bus Driver Driving Records

In addition to criminal history information, we also obtained information on driving records for school bus drivers that are included on the second semester of the 2011-12 school year reimbursement claims. We reviewed these records and compared them to the standards set for traffic education teachers because of the similar relationship to the safety of children. In particular, we looked at the requirements that there be no more than one moving traffic violation within any 12-month period of the previous 36 months and prohibiting conviction for DUI within the preceding 36 months.

When compared to these standards, there were 16 school bus drivers that have been convicted of multiple moving traffic violations within a 12-month period within the 36 months preceding the second semester of the 2011-12 school year. Excluding offenses related to expired vehicle registration and failure to exhibit insurance considered, there were nine drivers with multiple offenses. Two drivers were included on a reimbursement claim less than 36 months after being issued a DUI.

Use of Background Checks

The National Child Protection Act authorizes the use of background checks for the purpose of determining whether a provider has been convicted of a crime that bears upon the provider's fitness to have responsibility for the safety and well-being of children.

Other States Require Background Checks, Periodic Updates for Bus Drivers

A number of other states have instituted policies that require background checks for bus drivers and periodic updates related to driving and criminal history. For example:

- ◆ Iowa law specifies that prior to hiring a school bus driver, an employer "shall have access to and shall review" court information, the sex offender registry,

and the registries for child abuse and dependent adult abuse. An employer must follow the same review procedure every five years. Employers must maintain documentation demonstrating compliance with the law.

- ◆ In Oregon, any person having direct, unsupervised contact with students is subject to a fingerprint-based background check. Individuals who have been convicted of any of a lengthy list of specified crimes is refused employment. The Oregon Department of Education places further requirements on drivers of activity buses that bar certain offenders from serving as drivers and also requires safe driving records.
- ◆ Nebraska's pupil transportation guide indicates a school or employing agency must obtain a record of satisfactory driving. A copy of the individual's driving record must be on file with the employing agency before employment. The school or employing agency is required to update the driving record annually and update the criminal history record with the state patrol every five years.

Defining Moral Character, Improving Safeguards

Numerous districts reported that it is very difficult to recruit and retain drivers. As such, they could overlook a potentially dangerous situation in order to provide needed transportation. Without specific guidance, districts or contractors may be unaware how to assess the good moral character requirement.

Some districts have policies to conduct background checks on all district staff but not all do. Background checks are required for teachers and other school staff members but this does not currently extend to bus drivers. There are not requirements to conduct background checks related to the criminal or driving history of bus drivers other than the self-certification of good moral character and any general requirements for maintaining a commercial driver's license. The lack of required background checks and periodic review of criminal and driving history could allow an individual without good moral character to be hired as a bus driver. OPI has authority to prescribe rules and forms for the implementation and administration of the transportation policies adopted by BPE.

RECOMMENDATION #4

We recommend:

- A. *The Board of Public Education work with the Office of Public Instruction and other stakeholders to establish criteria defining the good moral character and acceptable driving history for school bus drivers.*
- B. *The Office of Public Instruction require districts to perform background checks for school bus drivers to ensure drivers meet all criteria for criminal and driving history.*

Periodic Driver Review

The 1991 Federal Omnibus Transportation Employee Testing Act requires employers conduct annual random drug and alcohol tests of safety sensitive employees, which includes school bus drivers. The rules also define what alcohol-related conduct is prohibited while performing safety-sensitive functions. Employers are responsible for the testing programs. Testing responsibilities can be met using district employees, contracting for services, or joining a testing consortium. Verification of the completion of drug and alcohol testing requirements was not within the scope of this audit.

Though periodic drug and alcohol testing is part of maintaining a commercial driver's license, other periodic updates related to a driver's criminal history are not. Without a periodic status update, it may be possible that a driver commits an offense that would disqualify him or her from driving and go undetected if the offense is committed after the hiring date. As the state's drivers licensing agent, DOJ will be participating in a federal mandate to improve the availability of commercial drivers' licensing status. DOJ also indicates that the reporting of criminal history status is evolving to make periodic reviews easier to conduct, which could enhance OPI's ability to collect and share relevant driving and criminal history information when necessary.

RECOMMENDATION #5

We recommend the Office of Public Instruction work with Department of Justice to conduct a periodic review of driver criminal history and drivers' license status and provide results to school districts when necessary.

BOARD OF PUBLIC
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INSTRUCTION

BOARD & OFFICE RESPONSES



Board of Public Education

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May 22, 2013

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Public Instruction

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EXECUTIVE DIRECTOR:

Pete Donovan

Tori Hunthausen, Legislative Auditor
Legislative Audit Division
Room 160, State Capitol
PO Box 201705
Helena, MT 59620-1705

Dear Auditor Hunthausen,

The Board of Public Education has not had an opportunity to review the Student Transportation and Funding Safety Audit Report, as the final report has not been approved for public release at the current date. The Board of Public Education considers the safety of Montana's P-12 students to be a top priority and appreciates the research and analysis of the Legislative Audit Division on this topic.

The School Transportation Funding and Safety Audit Report will be presented to the Board of Public Education at the July 16-17, 2013 Board of Public Education Meeting. The Board of Public Education will carefully review, analyze and discuss recommendation 4A before reaching an ultimate decision on this recommendation.

Sincerely,

A handwritten signature in cursive script that reads "Peter Donovan".

Peter Donovan, Executive Director

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Office of Public Instruction
 Denise Juneau, State Superintendent

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 LEGISLATIVE AUDIT DIV.

May 28, 2013

Tori Hunthausen, CPA
 Legislative Auditor
 Legislative Audit Division
 PO Box 201705
 Helena, MT 59620-1705

Regarding: Response to Recommendations Contained in the Office of Public Instruction's School Transportation Funding and Safety Performance Audit Report Dated June 2013.

Dear Ms. Hunthausen:

The Office of Public Instruction (OPI) has reviewed the School Transportation Funding and Safety performance audit completed by the Legislative Audit Division and have included our responses to the five recommendations below. We appreciate the level of effort and professionalism of the staff of the Audit Division in conducting the audit and preparing this report. Staff of the Audit Division visited our schools, interviewed OPI staff, and provided numerous opportunities for management to discuss issues and concerns.

Recommendation #1

We recommend the Office of Public Instruction improve its ability to establish the validity and accuracy of bus route reimbursement claims by strengthening controls over the claims process.

OPI Response: We concur. The OPI, by July of 2013 will clarify the bus route approval processes and make the information publicly available on the OPI website. The OPI will also send out official notification of the newly clarified procedures to county superintendents and district administration personnel. The OPI will also update the bus inspection form used by the Montana Highway Patrol to include bus attributes such as capacity and vehicle identification number (VIN) by August of 2013.

Recommendation #2

We recommend the Office of Public Instruction develop a plan to track pupil transportation information via global positioning systems.

OPI Response: We partially concur. We believe that this audit recommendation deserves further analysis. Many school districts use GPS systems for safety purposes. It is unclear whether requiring GPS systems will improve the accuracy of bus mileage claims. The OPI will prepare a cost-benefit analysis to evaluate the potential use of a GPS system as a reporting tool for bus route reimbursement claims. The OPI will report its conclusions to the Board of Public Education (BPE).

Recommendation #3

We recommend the Montana Legislature review the effects of the statutory reimbursement schedule to determine if changes are necessary to promote efficiency, simplicity, or equity.

OPI Response: We concur. The OPI will work with the Legislature to provide data to assist them with their review of the current reimbursement schedule and any potential changes to the schedule.

Recommendation #4

We recommend:

- A. The Board of Public Education works with the Office of Public Instruction and other stakeholders to establish criteria defining the good moral character and acceptable driving history for school bus drivers.

OPI Response: We concur. The OPI will work with the Board of Public Education to establish criteria that defines the statutory requirement of "good moral character" and acceptable driving history for school bus drivers through administrative rule in the 2014 fiscal year.

- B. The Office of Public Instruction require districts to perform background checks for school bus drivers to ensure drivers meet all criteria for criminal and driving history.

OPI Response: We concur. The OPI will recommend to the Board of Public Education that it amend its administrative rules to require districts to perform criminal history background checks for school bus drivers.

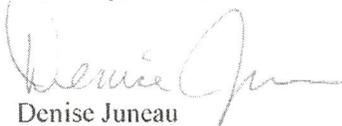
Recommendation #5

We recommend the Office of Public Instruction work with the Department of Justice to conduct a periodic review of driver criminal history and drivers' license status and provide results to school districts when necessary.

OPI Response: We do not concur and have concerns about this audit recommendation. The school district, as the employer or the contractor, is responsible for ensuring the safety of students. Many districts already require background checks for all their employees. If the Board of Public Education adopts an administrative rule requiring districts to perform background checks of school bus drivers, the districts will receive accurate and current information about their employees and contractors. The audit recommendation has the potential to confuse the responsibility for the employment or termination of school bus drivers.

Please contact me if you have questions concerning this response.

Sincerely,



Denise Juneau
State Superintendent

Cc: Janelle Mickelson
Julia Dilly
Dennis Parman