

## Chapter 1

### Reimbursement Overview & School Transportation Laws of Montana

#### **Duty of Trustees to Provide Transportation (Montana Code Annotated § 20-10-121(1))**

The trustees of any district may furnish transportation to an eligible transportee who attends a school of the district or has been granted permission to attend a school outside of the district. Whenever the trustees of a district provide transportation for any eligible transportee, the trustees must provide all eligible transportees of the district with transportation. The trustees shall furnish transportation when directed to do so by the county transportation committee and such direction is upheld by the superintendent of public instruction.

The type of transportation provided by a district may be:

- by a school bus, or
- paying the parent or guardian for individually transporting the pupil, or
- paying board and room reimbursements, or
- providing supervised correspondence study, or
- providing supervised home study.

The offering of a contract to the parent or guardian fulfills the district's obligation to furnish transportation for an eligible transportee. (MCA 20-10-121(2))

#### **Eligible Transportees (MCA 20-10-101)**

To qualify as an eligible transportee a student must meet the following criteria:

- The student must reside at least 3 miles from the nearest operating public school or school bus stop.
- The student is considered to reside with his or her parent or guardian who maintains legal residence within the boundaries of the district furnishing the transportation regardless of where the eligible transportee lives when attending school.
- Transportation for the student must be listed as a related service in their Individual Education Plan (IEP). If this is the case, they are eligible even if they live within the three miles.

Note: Not all students receiving special education service are considered eligible riders. Only those students with transportation listed as a related service in their IEP are automatically eligible. Preschool children between the ages of 3 & 6 are always eligible even if the IEP does not address specialized transportation.

- The student must be between the ages of 5 and 21 or be a preschool child between the ages of 3 and 6 with a disability.

### ***Out of District Transportation***

When a student attends a school outside of his or her resident district, a Student Attendance Agreement (FP-14) must be completed by the district of residence and the district of attendance in order for the out-of-district student to be considered an eligible transportee. If no agreement is in place, the parent or guardian is responsible for all transportation costs.

When the trustees of a student's district of residence and district of attendance sign an FP-14 that includes transportation, either district may provide bus transportation or a pupil transportation contract, but not both.

See ***Individual Contracts*** for the rules on calculating the daily rate for an out-of-district individual contract. See School ***Bus Transportation*** for rules on calculating school bus rates per mile.

### ***Attendance With Mandatory Approval (MCA 20-5-321)***

Whenever a parent or guardian of a child, an agency of the state, or a court wishes to have a child attend a school under the provisions of this section, the parent or guardian, agency, or court shall complete an out-of-district attendance agreement in consultation with an appropriate official of the district the child will attend.

An out-of-district attendance agreement that allows a child to enroll in and attend a school in a Montana school district that is outside of the child's district of residence or in a public school district of a state or province that is adjacent to the county of the child's residence is mandatory whenever:

- the child resides closer to the school that the child wishes to attend and more than 3 miles from the school the child would attend in the resident district and;
- the resident district does not provide transportation; or
- the district of residence provides transportation and is not within the same county as the child's school district of choice;
- the child resides in a location where, due to road or geographic conditions, it is impractical to attend the school nearest the child's residence;
- the child is a member of a family that is required to send another child outside of the elementary district to attend high school and the child of elementary age may more conveniently attend an elementary school where the high school is located, provided that the child resides more than 3 miles from an elementary school in the resident district or that the parent is required to move to the elementary district where the high school is located to enroll another child in high school;

- the child is under the protective care of a state agency or has been adjudicated to be a youth in need of intervention or a delinquent youth, as defined in MCA 41-5-103; or
- the child is required to attend school outside of the district of residence as the result of a placement in foster care or a group home licensed by the state.

The attendance agreement must set forth the financial obligations, if any, for costs incurred for transportation as provided in MCA 20-5-323.

The amount, if any, charged for transportation may not exceed the lesser of the average transportation cost per student in the child's district of residence or 21.25 cents per mile. The average expenditures for the district transportation fund for the preceding school fiscal year must be calculated by dividing the transportation fund expenditures by the October 1 enrollment for the preceding fiscal year.

The transporting district may not charge the resident district or parent for "on-schedule costs" (i.e., costs reimbursed to the district from the state and county). Over-Schedule costs, which can be charged, are the difference between the total amount budgeted in the transportation fund and income expected from on-schedule reimbursements.

Except as noted in the following paragraph, the trustees of the resident district and the trustees of the district of choice shall approve the out-of-district attendance agreement and notify the county superintendent of schools in the county of the child's residence of the approval of the agreement within 10 days. The county superintendent shall approve the agreement for payment.

Unless the child is a child with a disability who resides in the district, the trustees of the district where the school to be attended is located may disapprove an out-of-district attendance agreement whenever they find that, due to insufficient room and overcrowding, the accreditation of the school would be adversely affected by the acceptance of the child.

***Attendance with Discretionary Approval (MCA 20-5-32)***

A child may be enrolled in and attend a school in a Montana school district that is outside of the child's district of residence or a public school in a district of another state or province that is adjacent to the county of the child's residence, subject to discretionary approval by the trustees of the resident district and the district of choice. If the trustees grant discretionary approval of the child's attendance in a school of the district, the parent or guardian may be charged tuition and may be charged for transportation.

- Whenever a parent or guardian of a child wishes to have the child attend a school under the provisions of this section, the parent or guardian shall apply to the trustees of the district where the child wishes to attend. The application must be made on an out-of-district attendance agreement form supplied by the district and developed by the superintendent of public instruction.
- The attendance agreement must set forth the financial obligations, if any, for tuition and for costs incurred for transporting the child.

- An out-of-district attendance agreement approved under this section requires that the parent or guardian initiate the request for an out-of-district attendance agreement and that the trustees of both the district of residence and the district of choice approve the agreement.
- If the trustees of the district of choice waive tuition, approval of the resident district trustees is not required. However, the child is an eligible transportee of the district of attendance only upon the resident district's approval of the attendance agreement with or without tuition charges.
- The trustees of a school district may approve or disapprove the out-of-district attendance agreement consistent with state regulations and the policy adopted by the local board of trustees for out-of-district attendance agreements.
- The trustees of the district where the child wishes to attend have the discretion to approve any attendance agreement.

***Discretionary Transportation and Payment (MCA 20-10-122)***

The trustees of any district also may provide school bus transportation to any pupil of a public school who is not an eligible transportee of the district:

- on a school bus conveying eligible transportees when the ineligible transportee will not displace an eligible transportee from such school bus because of the lack of seating capacity;
- on a school bus operated by the district for the sole purpose of providing transportation for ineligible transportees. Such school bus shall service those children living the greatest distance from the school to be attended; and
- on a school bus operated for the purpose of relieving congestion in a school building or to avoid the necessity of erecting a new building or for any other reasons of economy or convenience.

When the trustees of a district provide school bus transportation to an ineligible transportee, the district may charge each ineligible transportee his proportionate share, as determined by the trustees, of the cost of operating such school bus. Money realized from such payments shall be deposited to the credit of the transportation fund.

***Transporting Non Public School Children (MCA 20-10-123)***

Any child attending a nonpublic school may ride a school bus when a permit to ride such school bus is secured from the operating district by the parent or guardian of such nonpublic school child and when there is seating capacity available on such school bus. When a nonpublic school child rides a school bus, the operating district may charge such child his proportionate share, as determined by the trustees, of the cost of operating such school bus. Money realized from such payments shall be deposited to the credit of the transportation fund. (MCA 20-10-124)

***Duties Of County Transportation Committee (MCA 20-10-132)***

It is the duty of the county transportation committee to:

- establish the transportation service areas within the county, without regard to district boundary lines, for each district that operates a school bus transportation program;
- approve, disapprove, or adjust the school bus routes submitted by the trustees of each district in conformity with the transportation service areas established. In an emergency situation, the county superintendent may approve a temporary bus route change. A bus route change approved by the county superintendent must be confirmed by the county transportation committee within 30 days in order to be continued for a period longer than 30 days;
- approve, disapprove, or adjust applications, approved by the trustees, for increased reimbursements for individual transportation because of isolated conditions of the eligible transportee's residence. When an application for increased reimbursement for individual transportation is presented to the county transportation committee, it must include a signed individual transportation contract and a copy of the official minutes of the meeting at which the trustees acted upon the request for increased reimbursement; and
- conduct hearings to establish the facts of transportation controversies that have been appealed from the decision of the trustees and act on the appeals on the basis of the facts established at the hearing.

When the county transportation committee reviews a request for a new bus route or a change to an existing route, the committee shall consider the following:

- a map of the existing and proposed bus route;
- a description of turnarounds;
- conditions affecting safety;
- the total mileage and change in mileage of the affected bus route;
- the approximate total cost;
- reasons for the proposed bus route change;
- the number of children to be served;
- a copy of the official minutes of the meeting at which the school trustees approved the new bus route or route change; and
- any other information that the county transportation committee considers relevant.

***Duties Of Board Of Public Education (MCA 20-10-111)***

The board of public education, with the advice of the Montana department of justice and the superintendent of public instruction, shall adopt and enforce policies, not inconsistent with motor vehicle laws to provide uniform standards and regulations for the design, construction, and operation of school buses in the state of Montana.

These policies must:

- prescribe minimum standards for the design and construction of school buses not inconsistent with minimum standards adopted by the national conference on school transportation; or minimum standards adopted by the national highway traffic safety administration;
- prescribe standards and specifications for the lighting equipment and special warning devices to be carried by school buses in conformity with current specifications approved by the society of automobile engineers, motor vehicle laws, and the requirement that all school buses have an alternately flashing prewarning lighting system of four amber signal lamps to be used while preparing to stop and an alternately flashing warning lighting system of four red signal lamps to be used while stopped to load and unload school children;
- establish other driver qualifications considered necessary in addition to the qualifications required in MCA 20-10-103;
- prescribe criteria for the establishment of transportation service areas for school bus purposes by the county transportation committee that shall allow for the establishment of service areas without regard to the district boundary lines within the county;
- prescribe other criteria for the determination of the residence of a pupil that may be considered necessary in addition to the criteria established in MCA 20-10-105;
- prescribe other policies for the operation of school buses that are not inconsistent with motor vehicle laws, minimum standards adopted for school bus operation by the national conference on school transportation, highway safety standards, and the transportation provisions of this title; and
- prescribe standards for the measurement of the child seating capacity of school buses, to be known as the rated capacity.

The board of public education shall prescribe other policy necessary for the proper administration and operation of individual transportation programs that are not inconsistent with the transportation provisions of this title.

***Duties of Superintendent of Public Instruction (MCA 20-10-112)***

In order to have a uniform and equal provision of transportation by all districts in the state of Montana, the superintendent of public instruction shall:

- prescribe rules and forms for the implementation and administration of the transportation policies adopted by the board of public education;
- prescribe rules for the approval of school bus routing by the county transportation committee;
- prescribe the format of the contract for individual transportation and supply each county superintendent with a sufficient number of such contracts;

- prescribe rules for the approval of individual transportation contracts, including the increases of the schedule rates due to isolation under the policy of the board of public education, and provide a degree-of-isolation chart to school district trustees to serve as a guide;
- approve, disapprove, or adjust all school bus routing submitted by the county superintendent;
- approve, disapprove, or adjust all individual transportation contracts submitted by the county superintendent;
- prescribe rules for the consideration of controversies appealed to him and rule on such controversies; and
- disburse the state transportation reimbursement in accordance with the provisions of law and the transportation policies of the board of public education.

***Penalty for Violating Law or Rules (MCA 20-10-104)***

Every district, its trustees and employees, and every person under a transportation contract with a district is subject to the policies prescribed by the board of public education and the rules prescribed by the superintendent of public instruction. When a district knowingly violates a transportation law or board of public education transportation policy, the district shall forfeit any reimbursement otherwise payable by the state and by the county for any bus miles actually traveled during that fiscal year in violation of the law or policies.

A district knowingly violates a transportation law or board of public education policy when it operates a bus route in a manner that does not comply with state law or board policy relating to student safety.

A district that operates a bus route not approved by its county transportation committee may not receive transportation reimbursement on that route, but if the route is operated in compliance with transportation law, the operation of the route is not a violation that will result in the forfeiture of all transportation aid to the district.

When a person operating a bus under contract with a district knowingly fails to comply with the transportation law or the board of public education transportation policies, the district may not pay the person for any bus miles traveled during the contract year in violation of law or policies. Upon discovering a violation, the trustees of the district shall give written notice to the person that unless the violation is corrected within 10 days of the giving of notice, the contract will be canceled. The trustees of a district shall order the operation of a bus operated under contract suspended when the bus is being operated in violation of transportation law or policies and the trustees find that the violation jeopardizes the safety of pupils.

***Determination Of Residence (MCA 20-10-105)***

When the residence of an eligible transportee is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the OPI, the residence must be established on the basis of the general state residence law as provided in MCA 1-

1-215. Whenever a county is determined to be responsible for paying tuition for any pupil in accordance with MCA 20-5-321 through MCA 20-5-323, the residence of the pupil for tuition purposes is the residence of the pupil for transportation purposes.

Residence -- rules for determining. Every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

- It is the place where a person remains when not called elsewhere for labor or other special or temporary purpose and to which the person returns in seasons of repose.
- There may only be one residence. If a person claims a residence within Montana for any purpose, then that location is the person's residence for all purposes unless there is a specific statutory exception.
- A residence cannot be lost until another is gained.

The residence of a minor's parents or, if one of them is deceased or they do not share the same residence, the residence of the parent having legal custody or, if neither parent has legal custody, the residence of the parent with whom the minor customarily resides is the residence of the unmarried minor. In case of a controversy, the district court may declare which parental residence is the residence of an unmarried minor.

The residence of an unmarried minor who has a parent living cannot be changed by either the minor's own act or that of the minor's guardian. The residence can be changed only by the union of act and intent. (MCA 1-1-215)

### ***Determination Of Mileage Distances (MCA 20-10-106)***

When the mileage distance that transportation services are to be provided is a matter of controversy and is an issue before a board of trustees, a county transportation committee, or the superintendent of public instruction, the mileage shall be established on the following basis:

- The distance in mileage shall be measured by a vehicle equipped with an accurate odometer.
- A representative of the applicable district and a parent or guardian of the child to be transported shall be present when the distance is measured.
- The measurement shall begin 6 yards from the family home and end 6 yards from the entrance of the school grounds closest to the route.
- The route traversed for the measurement shall be the route designated by the trustees, except that the route shall be reasonably passable during the entire school fiscal year by the vehicle that provides the child's transportation. In determining reasonable passage, a route may not be disqualified because it is impassable during temporary, extreme weather conditions such as rain, snow, or floods.



### **Budgeting For Pupil Transportation (MCA 20-10-143)**

The purpose of the transportation fund is to finance the maintenance and operation of district owned school buses, contracts with private carriers for school bus service, individual transportation contracts, and any amount necessary for the purchase, rental, or insurance of school buses or operation of the transportation program.

The transportation fund is limited to the services provided for home-to-school transportation. Expenditures for activity trips or school-to-school transportation should not be included.

Beginning with school year 1999-2000, school districts are subject to tax limitations of SB 184 when budgeting the taxes needed to support the transportation fund. The Office of Public Instruction distributes annual worksheets to the clerk and superintendent for determining these limits. An election may be necessary to raise additional taxes.

The transportation fund budget must include:

- an adequate amount to finance the maintenance and operation of school buses owned and operated by the district;
- the annual contracted amount for the maintenance and operation of school buses by a private party;
- the annual contracted amount for individual transportation, including any increased amount because of isolation, which may not exceed the schedule amounts prescribed in MCA 20-10-142;
- any amount necessary for the purchase, rental, or insurance of school buses; and
- any other amount necessary to finance the administration, operation, or maintenance of the transportation program of the district, as determined by the trustees.

The trustees shall report the transportation fund budget on the regular budget form prescribed by the in accordance with MCA 20-9-103, and the adoption of the transportation fund budget must be completed in accordance with the school budgeting laws. When the adopted final budget is sent to the county superintendent, the trustees shall also send copies of all completed transportation contracts for school bus transportation to the county superintendent. The contracts must substantiate all contracted school bus transportation services incorporated in the final budget.

The reimbursement a district may receive from the state and county is equal to the lesser of the amount claimed using the reimbursement formulas or the amount of the district's on-schedule budget. It is imperative for districts to budget accurately in order to receive their full reimbursement. See **APPENDIX F** for Pupil Transportation Worksheets, which can be used to estimate your district's on-schedule reimbursement from the state and county.

A contingency amount may be included in the districts budget. Claims for reimbursement may be made against the contingency funds for unforeseen increases in district transportation obligations. The contingency amount is limited to 10% of the regular on-

schedule amount. If 10% of the transportation schedule amount is less than \$100, then \$100 is the maximum limitation for the budgeted contingency amount.

### ***Transportation Budget Amendments***

A budget amendment to the transportation fund budget may be adopted subject to the provisions of MCA 20-9-161 through MCA 20-9-166.

- Whenever the trustees adopt a budget amendment for the transportation fund, the trustees shall attach to the budget amendment a copy of each transportation contract that is connected with the budget amendment and that has been prepared and executed in accordance with the school transportation contract laws.
- After the trustees have adopted the budget amendment by a majority vote of the trustees, the presiding officer of the trustees and the clerk of the district must sign it and copies must be sent to the county superintendent and the superintendent of public instruction.
- Whenever a final budget amendment has been adopted for the transportation fund, the trustees may apply to the superintendent of public instruction for an increased payment for state transportation reimbursement.
- When the superintendent of public instruction approves an application, the superintendent of public instruction shall determine the additional amount of the state transportation reimbursement that will be made available to the applicant district because of the increase in enrollment or additional pupil transportation obligations.

The superintendent of public instruction shall notify the applicant district of the superintendent's approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the transportation fund. The superintendent of public instruction shall disburse the state aid to the eligible district at the time the next regular state aid payment is made.

### ***State Transportation Reimbursement (MCA 20-10-145)***

A district providing school bus transportation or individual transportation in accordance with applicable state regulations, board of public education transportation policy, and transportation rules must receive a state reimbursement of its transportation expenditures under the transportation reimbursement rate provisions of MCA 20-10-141 and MCA 20-10-142.

The state transportation reimbursement is one-half of the reimbursement amounts established in MCA 20-10-141 and MCA 20-10-142 or one-half of the district's on schedule transportation fund budget, whichever is smaller, and must be computed on the basis of the number of days the transportation services were actually rendered, not to exceed 180 pupil-instruction days.

In determining the amount of the state transportation reimbursement, an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in the regular manner provided for the payment of other financial obligations of the district.

Requests for the state transportation reimbursement must be made by each district semiannually during the school fiscal year on the TR-5 Individual and Isolated Claim forms and/or the TR-6 School Bus Transportation Claim forms provided to the districts by the superintendent of public instruction.

- The claims for state transportation reimbursements must be routed by the district to the county superintendent, who after reviewing the claims shall send them to the superintendent of public instruction.
- The superintendent of public instruction shall establish the validity and accuracy of the claims for the state transportation reimbursements by determining compliance with this state regulation, board of public education 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 shall order a disbursement from the state money appropriated by the legislature of the state of Montana for the state transportation reimbursement. The payment of all the district's claims within one county must be made to the county treasurer of the county, and the county superintendent shall apportion the payment in accordance with the apportionment order supplied by the superintendent of public instruction.

***School Transportation Not Reimbursable During Emergency (MCA 10-3-104)***

The authority of the Governor under MCA 10-3-104 to suspend the provisions of a regulatory statute during an emergency is discretionary. Therefore, when nothing in the Governor's executive order declaring a state of emergency specifically mentioned reimbursement for school transportation under this section, the state was not required to reimburse the costs for school bus transportation for districts closed in accordance with the declaration of emergency. 43 A.G. Op. 29 (1989)

***County Transportation Reimbursement (MCA 20-10-146)***

The apportionment of the county transportation reimbursement by the county superintendent for school bus transportation or individual transportation must be the same as the state transportation reimbursement payment, except that:

- If any cash was used to reduce the budgeted county transportation reimbursement as prescribed in (MCA 20-10-144(2)(b)), the annual apportionments limited to the budget amount;
- when the county transportation reimbursement for a school bus has been prorated between two or more counties because the school bus is conveying pupils of more than one district located in the counties, the apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under the proration; and

- when county transportation reimbursement is required under the mandatory attendance agreement provisions of MCA 20-5-321.

The county transportation net levy requirement for the financing of the county transportation fund reimbursements to districts is computed by the provisions of MCA 20-10-146 (2).

The net levy requirement determined in above must be reported to the county commissioners on the fourth Monday of August by the county superintendent, and a levy must be set by the county commissioners in accordance with MCA 20-9-142.

The county superintendent shall apportion the county transportation reimbursement from the proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make the apportionments in accordance with MCA 20-9-212(2) and after the receipt of the semiannual state transportation reimbursement payments.

### ***Reimbursement Schedule***

The superintendent of public instruction orders disbursement of the state transportation reimbursement semiannually. Payment for first semester claims is made in March and payment for second semester claims is made in June. The payment of all the districts' claims within one county is made to the county treasurer. The county superintendent apportions the payment in accordance with the apportionment order supplied by the superintendent of public instruction.

The county superintendent shall order the county treasurer to make the apportionment of the county share of the payment after the receipt of the semiannual state transportation reimbursement payments.

### ***Bus Depreciation Reserve (MCA 20-10-147)***

The trustees of a district owning a bus or a two-way radio used for purposes a district's conveyance of a pupil by a school bus between the pupil's legal residence or an officially designated bus stop and the school designated by the trustees for the pupil's attendance, or for purposes of conveying pupils to and from school functions or activities may establish a Bus Depreciation Reserve fund to be used for the conversion, remodeling, or rebuilding of a bus or for the replacement of a bus or radio.

Conversion, remodeling or rebuilding of a bus may include addition of wheel chair lifts and tie-downs, recovering or replacing all seats, major brake overhauls, engine replacements and rebuilds, and similar major structural work done to modernize or extend the bus's useful life. Routine maintenance such as replacing tires or recovering an individual seat should be charged to the transportation fund instead of the bus depreciation fund.

The trustees of a district may also use the Bus Depreciation Reserve fund to purchase an additional school bus for purposes of a district's conveyance of a pupil between the pupil's legal residence or an officially designated bus stop and the school designated by the trustees for the pupil's attendance.

School district trustees must conform their budget to the accounting procedure prescribed by the superintendent of public instruction, which requires paying the expenses of activity buses under the general fund rather than the transportation fund.

The Bus Depreciation Reserve cannot be used to pay expenses for operation of activity buses.

When a Bus Depreciation Reserve fund is established, the trustees may include in the district's budget an amount each year that does not exceed 20% of the original cost of a bus or a two-way radio. The amount budgeted may not, over time, exceed 150% of the original cost of a bus or two-way radio.

Note: "Cost" is usually the purchase price less trade-ins, but using the unadjusted purchase price is a legal alternative.

There is no limit on the number of years a district may use to depreciate the bus.

Any expenditure of Bus Depreciation Reserve fund money must be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and may be made only to convert, remodel, or rebuild buses, to replace the buses or radios, or for the purchase of an additional school bus for which the Bus Depreciation Reserve fund was created.

Whenever a district maintaining a Bus Depreciation Reserve fund sells all of the district's buses a portion of or all of the reserve balance may be transferred to any other fund maintained by the district. The electors of a district must approve such a transfer in a school election.

### ***Use of Nonconforming Vehicles (Vans) & Bus Depreciation Fund***

Federal requirements regulate new vehicles that carry 11 or more persons that are sold for transporting students to or from school or school related events. Those vehicles are required to meet all Federal Motor Vehicle Safety Standards for school buses. The FMVSSs applicable to school buses require that school buses have stop arms along with many other safety features over and above those of other passenger vehicles. Under 49 U.S.C. 30101, etseq., a vehicle is regarded as being sold for use as a school bus if, at the time of sale, it is evident that the vehicle is likely to be significantly used to transport students to or from school or school related events. This statute applies to school buses sold to public as well as parochial schools. Thus, a dealer selling a new 15-passenger van to be used for school transportation must ensure that the van is certified as meeting our school bus FMVSSs.

Federal regulations do not prohibit the use of vans by schools, but require any van (with a capacity of more than 10) sold or leased for use as a school bus to meet the safety standards applicable to school buses. Federal regulations apply only to the manufacture and sale/lease of new vehicles. Each State prescribes its own regulations that apply to the use of any vehicle that is used to transport students.

The Bus Depreciation Fund can be used to purchase additional or replace existing yellow school buses that meet school bus standards and are used fro home-to-school transportation. The Bus Depreciation Fund can also be used to replace a bus used for school functions or activities.



**YES**

These buses can be purchased/replaced with the bus depreciation fund. The yellow buses meet school bus standards. The other is an over the road coach.



**NO**

Neither of these vehicles meet school bus standards, and neither qualify as an over the road coach.

### ***Requirements for School Bus Drivers (MCA 20-10-103)***

In order to receive reimbursement for a bus route, the bus driver must hold a valid Montana Bus Driver Certificate (TR-35). The certificate is a form of an affidavit signed by the Board of Trustees that the driver has fulfilled all necessary requirements. In order to receive a certificate a bus driver must:

- hold a valid commercial license with the necessary endorsements,
- have completed a basic first aid course and hold a valid certificate, and
- have filed a satisfactory medical examination report signed by a licensed physician.

A Montana School Bus Driver Certificate remains valid until the earliest expiration date of the driver's license, first aid certificate, and/or physical examination. A new certificate must be issued to the driver when any of the above expires. The district must file copies of the certificate with the county superintendent and the superintendent of public instruction.

In addition to the above requirements, the board of public education requires that all Montana school bus drivers be not less than eighteen years of age and have five years of licensed driving experience. Each driver shall attend not less than 10 hours of in-service training annually. The district must design and implement a driver-training program that

meets the needs of the district and the driver. Records of the required training must be kept in a file at the district office for audit purposes.

The local school district has the right, in accordance with written district policy, to set qualifications in addition to the state requirements.

### ***First Aid Certificate***

In the event a district (or contractor) is obligated to employ a driver as a replacement for a driver employed at the beginning of the school year, or must employ an additional driver, a period of sixty days is permitted for the new driver to acquire the first-aid certificate. If after sixty days following the date of first employment of the additional or replacement driver, the first-aid requirement has not been met, the bus operated by the driver will not qualify for reimbursement for that portion of the year that the driver is not qualified, including the sixty-day grace period. (ARM 10.7.111(3))

### ***Drug And Alcohol Testing Of Bus Drivers***

The 1991 Federal Omnibus Transportation Employee Testing Act imposes a number of requirements on employers of safety sensitive employees. A variety of drug and alcohol tests are required -- pre-employment, reasonable suspicion, post-accident, random, return to duty, and follow-up. An employer must do annual random tests of safety sensitive employees--at least 25 percent must be tested for alcohol and 50 percent for drugs. Testing must meet the standards set by the Federal Department of Health and Human Services. Employees must be provided information on alcohol and drug misuse and the testing requirements. Supervisory employees must receive additional training on recognizing substance abuse. The new rules also define what alcohol-related conduct is prohibited while performing safety sensitive functions.

Employers are responsible for the testing programs. (If a district contracts for its transportation the contractor, not the district, may be the employer. This possibility should be discussed with the contractor and the district's legal counsel.) Testing responsibilities can be met using district employees, contracting for services, or joining a consortium.

This is a federal law and it assigns no authority or responsibility to the Office of Public Instruction (OPI) for implementation or compliance.

For more information refer to the "Guide to Drug Testing in Montana" disseminated with this manual.

### ***School Bus Requirements***

Only school buses that pass the Department of Justice's semiannual school bus inspection will receive state and county transportation. The Montana Highway Patrol conducts the inspections using the TR-13 form, which is then forwarded to the superintendent of public instruction. Buses must be inspected before the beginning of the first semester and no later than January 31 for the second semester. (MCA 61-9-502) (ARM 10.7.110)

Districts and contractors are responsible for contacting the highway patrol to schedule inspections.

The Board of Public Education establishes school bus standards upon which the inspections are based. A current copy of the "Minimum Standards for School Buses in Montana" is available upon request from the superintendent of public instruction.

### ***TR-1 Bus Route Forms***

The TR-1 School Bus Route Registration form must be completed by the board of trustees for each school bus route that receives state reimbursement. If any route changes occur during the school year, the district must submit an amended TR-1 form to the county transportation committee for approval. The county transportation committee will then forward the amended TR-1 form to the superintendent of public instruction.

For routes carrying at least one eligible rider, the trustees send two copies of a TR-1 for each route to the county superintendent by October 1. No later than October 15, the county superintendent must send one copy of a TR-1 for each route carrying at least one eligible rider to the superintendent of public instruction for approval.

A school district may record this count using a form TR-2, pupil list, provided by the superintendent of public instruction, or a checklist of the districts own design. This list must be kept in the district office for audit purposes.

### ***Requirements For School Bus Routes***

In order for a school bus route to receive state and county reimbursement, the school bus route must conform to the following regulations.

- The route (consisting of the area served and the miles per day) must be established by the board of trustees, by board resolution.
- The route must be approved by the county transportation committee.
- A district may not extend a bus route to transport pupils from outside its transportation service area unless the district has a written agreement with the district that the county transportation committee has assigned to transport the pupils.
- Written agreements must state the school year for which the agreement applies, and the agreement is only good for that school year. Annual agreements are recommended.
- The county transportation committee may not approve only a portion of a route. The route must be approved or denied in its entirety.
- The vehicle operating on the route must meet minimum standards for school buses adopted by the board of public education. The vehicle operating on the route must be inspected and approved by the Montana highway patrol semiannually.
- The driver of the vehicle must be qualified according to MCA 20-10-103.

State and county reimbursement is not authorized for routes operated outside the term of the regular school year for days in excess of 180 days per school year or for days that the route was not operated.



When the board of trustees changes a route's mileage per day, the trustees must amend the TR-1 bus route form, show the effective date of the change, submit it first to the county transportation committee for approval and then to the Office of Public Instruction. When the claims for payments are submitted, the district will report the number of days the route operated at each mileage amount. The Office of Public Instruction 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 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.

Trustees who object to a route operated by another district can appeal to the county transportation committee. If they agree, the transportation committee must issue a written warning to the district. If the district continues to operate the route in violation, the committee may withdraw their approval of that route. This would cause the route to be ineligible for reimbursement.

When the county transportation committee reviews a request for a new bus route or a change to an existing route, the committee shall consider the following:

- a map of the existing and proposed bus route;
- a description of turnarounds;
- conditions affecting safety;
- the total mileage and change in mileage of the affected bus route;
- the approximate total cost;
- reasons for the proposed bus route change;
- the number of children to be served;
- a copy of the official minutes of the meeting at which the school trustees approved the new bus route or route change; and
- any other information that the county transportation committee considers relevant.

The county transportation committee cannot approve a district route that enters another district unless a written agreement exists that allows entry of the out-of-district bus.

### ***School Bus Reimbursement Rates***

School bus routes that meet the state regulations and are approved by the county transportation committee are eligible for reimbursement from the state and county based on the following rates.

- Nonbus mileage is reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school bus when the location is more than ten miles from the school. Nonbus mileage is reimbursed fifty cents per mile.
- The number of pupils riding the school bus may not exceed the passenger seating positions of the bus. For guidance on school bus seat capacity see the position paper titled "School Bus Seat Capacity" in the position paper section of this manual.

The rate for each bus mile traveled must be determined in accordance with the following schedule:

- \$0.95 for a school bus with a rated capacity of not more than 49 passenger seating positions
- \$1.15 for a school bus with a rated capacity of 50 to 59 passenger seating positions
- \$1.36 for a school bus with a rated capacity of 60 to 69 passenger seating positions
- \$1.57 for a school bus with a rated capacity of 70 to 79 passenger seating positions
- \$1.80 for a school bus with a rated capacity 80 or more passenger seating positions

### ***TIPS and HINTS***

If the route serves more than one legal entity, the total semester reimbursement is split between the legal entities according to the percentages reported on the TR-1. The percentages reported on the TR-1 should be the same as were used to calculate the on-schedule budget for each legal entity.

The method of splitting the cost between school districts that share a school bus route is left to the discretion of the districts. Use a reasonable method applied on a consistent basis. The state and county reimbursement is made as requested on the TR-1 form.

A district must budget enough on-schedule money to cover the amount of reimbursement that is calculated. The state and county pay the lower of the budgeted amount or the claimed amount.

The school transportation reimbursement program does not pay a higher rate for transporting special needs students even though the transportation costs for such students is often greater.

Claims for reimbursement for bus routes are made semiannually on the TR-6 forms. The number of days the bus route was driven and the social security number of the bus driver are reported on the form.

## ***Individual Transportation***

The tendering of a contract to the parent or guardian whereby the district would pay the parent or guardian for individually transporting the pupil or pupils shall fulfill the district's obligation to furnish transportation for an eligible transportee. Individual transportation may include:

- paying the parent or guardian for individually transporting the pupil;
- paying board and room reimbursements;
- providing supervised correspondence study; or
- providing supervised home study.

With sufficient notice, a school district may refuse to approve an individual contract that is submitted to the district after the fourth Monday in June unless the pupil is an eligible transportee who establishes residence in the district after the fourth Monday in June. The state may honor valid individual contracts, which are approved by the district after that date. In no case may the district honor a contract submitted after the last pupil instruction day of the school year at the school of attendance.

Four copies of the contract form are needed: one for the family, one for the district clerk, one for the county superintendent, and one for the superintendent of public instruction.

The board of trustees is prohibited from issuing warrants on the transportation budget in the absence of a contract. State reimbursement is paid only on claims supported by valid contracts.

When making an individual transportation contract with the district, the parent, legal guardian or emancipated minor must sign an affidavit attesting to the place of residence of the student. No person other than the student's parent, legal guardian or an emancipated minor may enter into an individual contract for transportation or receive the transportation reimbursement. A licensed driver in an insured vehicle must provide transportation.

Contracts made between a school district and a parent, legal guardian or emancipated minor is designated as form TR-4. The same contract form is used for both elementary and high school pupils.

The maximum daily reimbursement rate a parent, legal guardian or emancipated minor may receive for a mileage contract is the daily rate he or she would receive under a room and board contract, unless the contract has been approved for isolation.

To be eligible to receive reimbursement for a mileage contract, transportation for the mileage reported on the contract must actually occur. The district may not claim state or county reimbursement or pay a parent, legal guardian or emancipated minor for transportation on days the student does not attend school.

If the contracting party applies for increased individual transportation payments due to isolation, the contract must be completed and signed in advance of the meeting of the county transportation committee at which such applications are approved or disapproved. (The date of this meeting in any county can be obtained from the county superintendent.)

Approval of any increased rates by the county transportation committee precedes budget adoption.

The district clerk transmits each transportation contract to the county superintendent no later than July 1. By July 10, the county superintendent transmits the original copy of each transportation contract to the superintendent of public instruction.

When the district clerk writes warrants for transportation payments to the parent, legal guardian, or the emancipated minor, he or she must be guided by and in accordance with the approved rates established by MCA 20-10-142.

### ***Contracts for Out-of-District Pupils***

A school district may enter into a contract for the provision of individual transportation only if the student being transported is an eligible transportee of the district. When a student attends school outside his or her district of residence under an out-of-district attendance agreement approved by the district of residence, either the district of attendance or the district of residence, but not both, may consider the student an eligible transportee for purposes of contracting to provide transportation reimbursement or to provide bus services.

The distance from the home to the nearest operating school or bus stop will be used to calculate the reimbursement under a pupil transportation contract unless:

- the student is attending school under the protective care of a state agency or has been adjudicated to be a youth in need of intervention or a delinquent youth; or
- the student is required to attend school outside of the district of residence as the result of a placement in foster care or a group home licensed by the state; or
- the student is attending school under an Individual Education Plan (IEP) wherein the district of residence specifies services will be provided by enrolling the pupil in another district.

If the student is attending school under one of these mandatory provisions, the distance from the home to the nearest appropriate school or bus stop will be used to calculate the amount of reimbursement under an individual contract for transportation.

The nearest operating school is the nearest elementary or high school that the student could reasonably attend, offering educational services appropriate for the grade level of the student. Whether the school is in the district of attendance or the district of residence is irrelevant. The nearest bus stop is the nearest bus stop where the student could board a bus to the elementary or high school offering educational services appropriate for the grade level of the student that the student could reasonably attend, regardless of whether the bus stop is provided by the district of attendance or the district of residence.

If an approved out-of-district attendance agreement that includes terms for providing transportation does not exist between the district of residence and the district of attendance, the parent or guardian shall provide transportation at his own expense.

### **Calculating the Daily Rate For Individual Contracts**

The formula to calculate the daily reimbursement rate is:

$$\text{Daily rate} = [(\text{one-way mileage/trip} - 3 \text{ miles/trip}) \times \text{number of trips/day}] \times .25$$

If your school offers \_ day kindergarten, and there is not a school bus available for the mid-day trip, then parents of eligible transportees may be eligible to receive payment for a one-way trip. The one-way daily rate would be calculated as follows.

$$(\text{Distance from home to school (one way)} - 3) * .25$$

The following rules apply when calculating the daily reimbursement rate for a contract.

- Reimbursement is made only for the portion of the trip that a student is in the car (one round-trip per day).
- Mileage should be measured to the tenth of a mile.
- The reimbursement rate beginning July 1, 2001 is \$0.25 per mile.
- The minimum daily reimbursement rate is \$0.25 per day.

### **Sample Calculations**

If the one way mileage from home to school is 10 miles, the daily reimbursement rate is:

$$\text{Daily rate} = [(10 \text{ miles/trip} - 3 \text{ miles/trip}) \times 2 \text{ trips/day}] \times \$0.25/\text{mile} = \$3.50/\text{day}$$

If a parent is transporting a child one direction each day and a bus comes within three miles of the home once per day, the daily reimbursement rate would be:

$$\text{Daily rate} = [(10 \text{ miles/trip} - 3 \text{ miles/trip}) \times 1 \text{ trip/day}] \times \$0.25/\text{mile} = \$1.75/\text{day}$$

The daily rate for an individual transportation contract may not exceed \$9.25/day for the first eligible transportee and \$6.00/day for each additional transportee.

### **Isolation**

When, because of excessive distances, impassable roads, or other special circumstances exist, families may apply to a district to receive an isolation rate. The rate is \$0.375/mile which is equal to 1 1/2 times the standard rate of \$.25/mile.

Before an increased rate because of isolation may be paid to the requesting parent or guardian, the rate must be approved by the district, the county transportation committee and the superintendent of public instruction. Regardless of the action of the trustees, when approval is given by the committee and the superintendent of public instruction, the trustees shall pay the increased rate.

The capping of mileage reimbursement rates at the room and board rate does not apply to isolation contracts. (10.7.116 (5) ARM)

A guide for determining isolation can be found in ARM 10.7.116.

**Shared Contracts**

The reimbursement rate may be split equally between school districts when parents are transporting two or more eligible transportees. The law is specific about when the split should apply. Distance between schools and differences in the starting time of classes may affect whether contracts are shared or not shared.

**Room and Board**

When isolated conditions require an eligible transportee to live away from the family home in order to attend school, the transportee is eligible for the room and board reimbursement. The per diem rate for room and board is \$9.00 for one eligible transportee and \$6.00 for each additional transportee of the same household.

If one transportee is a student in a high school district and another student in the family is in the elementary district, the high school district shall pay the higher rate of \$9.25/day.

**Correspondence**

The reimbursement rate of supervised home study or supervised correspondence study is the cost of the study, provided that the course of instruction is approved by the trustees and supervised by the district.