

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON EDUCATION

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August 19, 2014
Start: 1:25 p.m.
Recess: 3:15 p.m.

HELD AT: City Hall
Committee Room

B E F O R E: Daniel Dromm
Chairperson

COUNCIL MEMBERS:

Vincent J. Gentile
Daniel R. Garodnick
Margaret S. Chin
Stephen T. Levin
Deborah L. Rose
Mark S. Weprin
Jumaane D. Williams
Andy L. King
Inez D. Barron
Chaim M. Deutsch
Mark Levine
Alan N. Maisel
Antonio Reynoso
Mark Treyger
Robert Cornegy
Mathieu Eugene

A P P E A R A N C E S (CONTINUED)

Speaker Melissa Mark-Viverito

Maria Torres-Springer
Small Business Services

Elizabeth Rose
Department of Education

Chris Berner
Representing Commissioner Robert Lindt

Michael Cordiello
Amalgamated Transit Union 1181

Carter Pate
MV Transportation

Earnest Pierre
Reliant School Bus Driver

Arcadio Fret
Amalgamated Transit Union Bus Driver

Kelly D'Coursey
Local 1181 Bus Driver

Kennedy Zomilus
Bus driver

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2 CHAIRPERSON DROMM: Well, because my
3 gavel is not here, I am going to knock us into order,
4 and the reason why we have the furniture the way that
5 it is is because we did not expect to have this in
6 here. We were originally scheduled in the other
7 room, but to accommodate the crowd is why we moved it
8 into the chambers. So I just want to thank
9 everybody. Welcome everybody. Here's the gavel,
10 because I may need that. Thank you. And to say that
11 we're here today to hear the proposed intro calling
12 for a Local Law to establish a program in relation to
13 the employment of school bus drivers, attendants,
14 dispatchers and mechanics by qualified employees.
15 This pre-considered legislation would establish a
16 grant program in relation to the employment of school
17 bus drivers, attendants, dispatchers and mechanics by
18 qualified employers. Bill Section One contains a
19 definitional provision in the first subdivision. This
20 section would allow the Department of Small Business
21 Services, SBS, to establish a program that would
22 provide grants to employers that provide
23 transportation services for children in grades
24 Kindergarten through 12 for the 2014-15 pursuant to
25 request for bids, Number B2321, if such employers

1 hire certain school bus drivers, attendants,
2 dispatchers or mechanics that fall into two
3 categories. First, eligible workers or school bus
4 drivers, attendants, dispatchers and mechanics who
5 one, are residents of New York City; two, were
6 employed by June 30th, 2014 by entities that had a
7 contract expiring June 30th, 2014 with the Department
8 of Education to provide transportation services for
9 children in grades Kindergarten through 12, or had a
10 subcontract with the company that had such a contract
11 with the DOE and are paid an hourly rate in the 2014-
12 15 school year that is less than what they were paid
13 in the 2013-14 school year. The second category of
14 eligible workers are school bus drivers, attendants,
15 dispatchers and mechanics who are residents of New
16 York City, were on or eligible to be on the Master
17 Seniority List as of June 30th, 2014, and are paid a
18 lower hourly rate in the 2014-15 school year than
19 they were paid dating to the placement on Master
20 Seniority lists. Pursuant to the provisions of the
21 bill, the grant that SBS would provide to a qualified
22 employer that hires a worker from either group would
23 make up the difference between the hourly rate the
24 worker was paid in 2013-14 and the hourly rate the
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1 worker is paid in 2014-15 multiplied by the worker's
2 hours in 2014-15, and the difference in cost to
3 maintain employer contributions for employee's health
4 and retirement benefits received in 2013-14. Other
5 components of the grant would include costs
6 associated with payroll taxes and worker's
7 compensation insurance. Pursuant to the bill's
8 provisions, the bill would condition the award of the
9 grant upon the qualified employer providing
10 retirement and health benefits to each 2014 qualified
11 employee from the same health and retirement funds
12 from which such employee received retirement and
13 health benefits during the 2013-14 school year,
14 provided that such employee is represented by the
15 same employee organization during the 2013-14 and
16 2014-15 school years, 39 weeks of employment during
17 the school year to each qualified employee, and a
18 customary work day of eight hours to each qualified
19 employee, to the extent the work day of such employee
20 was eight hours during the 2013-14 school year. The
21 bill also provides that to be eligible for an award
22 of a grant, qualified employers must agree that
23 following the effective date of this local law, they
24 will hire workers from the Master Seniority list in
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1 the order of their seniority. However, this
2 requirement does not apply to hiring by qualified
3 employers that occurs prior to the effective date of
4 this local law. Further, the bill provides that SBS
5 makes monthly installments of the grant only after
6 receiving satisfactory proof from the qualified
7 employer that the qualified employer has paid the
8 required portions of the grant to the qualified
9 employee. The legislation would establish a cap of
10 42 million dollars per grants authorized by this
11 legislation. The bill would authorize SBS to
12 promulgate rules to implement this Local Law. Bill
13 Section Two provides that this bill will take
14 effective immediately and would sunset on December
15 31st, 2015. I just want to say how proud I am today
16 to sit here to Chair this hearing, because I was
17 around in 2013, in January 2013, when I do not
18 believe that this committee at that time was told the
19 whole truth about the employee protection provisions
20 that were provided in the DOE contract, and so today,
21 what we're doing here is again an attempt to clean
22 up, I think, what was not done right and did not
23 treat our city employees the way that they should be
24 treated in a fair and equitable manner.
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[applause]

CHAIRPERSON DROMM: Thank you. I have to ask though, for no applause, but I do appreciate it. And is another example of something that was left behind from the previous Administration that we as a council and as a city are trying to correct. And with that, I want to acknowledge that we have been joined by the Speaker of the Council, Melissa Mark-Viverito. We've been joined by my colleagues. I'm going to start over here, Mark Treyger, Chaim Deutsch, Alan Maisel, Antonio Reynoso, Andy King, Inez Dickens, Inez Barron, excuse me, Margaret Chin, Dan Garodnick, Daneek Miller, the bill's sponsor, and the co-sponsor of the bill, Mathieu Eugene as well and Robert Corney who just came in. Can't miss him, he's the tall guy in the back. Yep, and I want to-- yep, want to say that we're also hearing the Proposed Resolution calling on the New York State Legislature and for the Governor to sign, legislation that would mandate employee safeguards for experienced bus drivers, attendants, dispatchers and mechanics as part of all current and future bus contracts. This is a very important component to the legislation that we're addressing today as well, because it will

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2 require some state action on that level. I believe
3 that we do have opening statement from the bill's
4 sponsor and let me start with Council Member Daneek
5 Miller.

6 COUNCIL MEMBER MILLER: Good afternoon.
7 Thank you, Chairman Dromm for your leadership on this
8 issue. Madam Speaker, thank you so much for allowing
9 us to have this hearing today. Council Member Dromm
10 has just said a mouthful, so I'm not going to be
11 redundant and go over the intent of the legislation,
12 but I just want to say that for those who don't know,
13 as he so eloquently put it, we're trying to make just
14 what was unjust by the past Administration. And so
15 in Civil Service and Labor over the winter we had a
16 hearing in the committee and Labor was heard,
17 parents, students, school boards, employees and
18 members of the union and their organizers who
19 testified as to the damages the EPP removal has done.
20 Students have missed classes. Seniority workers have
21 been disregarded and highly experienced and skill
22 unionized and largely female workforce has been
23 devastated since the EPP's removal, and at that
24 moment, we urged our colleagues to pass the
25 resolution asking on the State to pass and the

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2 Governor to sign resolution guaranteeing the employee
3 protection provision. Because that did not happen,
4 we are here today, and so we again, along with this
5 latest intro, we still stand by the reso and the
6 latest intro which will guarantee that these things
7 will occur. So I just want to again say that these--
8 not having the EPP has had a devastating impact on
9 the workers, the communities that they live in and
10 represent, but most importantly, the parent and our
11 children. Our children need this, and I'm asking the
12 members here to pass this, stand with me in passing
13 this resolution today, and I thank you, Councilman
14 Dromm for your leadership on this issue. Thank you.

15 [applause]

16 CHAIRPERSON DROMM: Thank you, Council
17 Member Miller, and again, please, no applause.
18 Council Member Mathieu Eugene, the co-sponsor, also
19 wanted to make an opening statement.

20 COUNCIL MEMBER EUGENE: Thank you. Thank
21 you very much, Mr. Chair. I'm going to be very, very
22 brief. I just want to commend the Speaker for her
23 leadership and also Council Member Dromm, the Chair,
24 for bringing this very critical and important issue
25 to the hearing to be voted. This is a wonderful

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2 moment, a wonderful day that I've been waiting for,
3 and this is a wonderful moment that I know many of,
4 all of our hardworking drivers, hardworking people
5 and the advocate, we all have been waiting for, we
6 have been fighting to see this moment. Because this
7 was not fair. It was not acceptable that the great
8 City, in the great City of New York that people have
9 been working so hard to protect our children, our
10 student, to drive them safely to school and back
11 home, to see that they have been deprived for what
12 they have worked so hard to own. And I want to
13 commend this Administration, and I want to commend
14 all of you who have been fighting for so long to make
15 sure that this day happened. At the moment, when we
16 are trying to improve the quality of life to increase
17 the minimum wage and to vote for paid sick leave, it
18 is not fair, it is not acceptable that our
19 hardworking drivers can be deprived of the benefit
20 that they have been working so hard to own. They
21 deserve the EPP. They deserve benefits, and I
22 commend all of you who have been working to make this
23 happen. This is a good step. This is a giant step,
24 and we are going to continue to keep the momentum and
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2 to lobby the state of New York to make sure they
3 reinstate EPP. Thank you very much.

4 [applause]

5 CHAIRPERSON DROMM: Okay, thank you. And
6 I will ask for silence in the chambers, please. Now,
7 we'd like to introduce our witnesses who are here to
8 testify, Maria Torres-Springer from Small Business
9 Services, Elizabeth Rose from the Department of
10 Education and Chris Berner representing Commissioner
11 Robert Linn. And Commissioner Springer, would you
12 like to start? Who's going? Okay, yep, alright.
13 We'll start there in the center.

14 CHRIS BERNER: Good afternoon, Speaker
15 Mark-Viverito, Chairman Dromm and members of the
16 Education Committee. My name is Chris Berner, and I
17 am the Chief of Staff in the Mayor's Office of Labor
18 Relations. Regrettably, Commissioner Bob Linn is
19 traveling today. He's returning from a vacation
20 outside of the United States, and therefore, he is
21 not able to testify in person. I'd like to thank--

22 CHAIRPERSON DROMM: [interposing] Okay,
23 just before we go on, I did forget something. I do
24 swear everybody in at the Education Committee
25 hearing, so I'd like to ask you to please raise your

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2 right hand, and do you solemnly swear to tell the
3 truth, the whole truth and nothing but the truth and
4 to answer Council Member questions honestly?

5 CHRIS BERNER: Yes.

6 CHAIRPERSON DROMM: Thank you.

7 CHRIS BERNER: I'd like to thank all of
8 you for the opportunity to testify today on this
9 important legislation that will ensure the stability
10 in the delivery of public school bus services for the
11 upcoming school year and will promote fair wages and
12 benefits for experienced, reliable school bus
13 workers. I understand that you have copies of the
14 bill and a memorandum summarizing key elements of the
15 bill, and I believe some or all of that memorandum
16 was shared in your remarks earlier. So I'd like to
17 focus now on two topics to try to first give an
18 explanation of the key events that give rise to the
19 bill and explain how the bill fits into a long-term
20 strategy to provide reliable and cost-effective
21 school bus services, while ensuring that experienced
22 bus workers who provide such important services can
23 earn decent wages and benefits. This is a one year
24 city grant program capped at 42 million dollars,
25 designed to ensure the uninterrupted delivery of a

1 vital service for city residents, school bus
2 transportation for school kids in the upcoming school
3 year. In 2011, following a decision by the New York
4 State Court of Appeals, known by its caption as L&M
5 Bus Corporation versus the New York City Department
6 of Education, the DOE started a process of putting
7 out to bid school bus contracts for K-12 students,
8 including special education students without
9 longstanding employee protection provisions. These
10 provisions had been in place in the contract for
11 school bus services since 1979, and similar
12 provisions were in place before that. In 2012, the
13 DOE put out to bid about 17 percent of its routes,
14 commencing for the school year September in 2013.
15 Then, in 2013, the DOE put out about 21 percent--put
16 out to bid 21 percent of its routes for the school
17 year commencing in September 2014, and these routes
18 were awarded to 16 companies. In 2014, the DOE put
19 out earlier this year, I should add, the DOE put out
20 to bid around 62 percent, the balance of its routes
21 commencing for the school year starting next
22 September, September 2015 and these bids are still
23 open. Following the release in 2012 of a first round
24 of bids without the employee protection provisions,
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2 the school bus workers represented by local 1181 of
3 the ATU went on strike in January and February of
4 2013. Earlier this year, Mayor de Blasio explained
5 the need for high quality uninterrupted bus service
6 in the following way: "I would have preferred if, as a
7 result of the election, the previous Administration
8 would have suspended its efforts to give us a chance
9 to reset the situation according to the values that I
10 put forward and that were ratified by the people."
11 And just yesterday, in response to a question about
12 this bill, Mayor de Blasio explained, and I quote,
13 "Well, think about what they do. And I speak as a
14 parent as well as a Mayor here. These bus drivers and
15 matrons take care of our children, and in many cases,
16 our special Ed kids who have real challenges. You
17 know my children used to ride the school bus and
18 every parent knows that feeling when you give your
19 child over to a school bus driver and the matron, and
20 you need experienced folks who know what they are
21 doing, and preferably who know the children, the
22 community, know the routes well. And so that action
23 is taken to make sure we have experienced veteran
24 drivers and matrons who know how to keep our kids
25 safe. That's what we're getting back for." This

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2 bill is the initial part of an overall strategy to
3 reset the framework for the upcoming school year to
4 pay better wages and benefits to employees with prior
5 experience in the industry. In doing so, this bill
6 ensures smooth services for the year and gives the
7 city time in the next several months to seek state
8 legislation to solicit school bus contracts that
9 include provisions related to the retention or
10 preference in hiring for experienced workers on a
11 seniority basis and the preservation of wages, health
12 benefits and retirement benefits. This state
13 legislation will address the legal issues raised in
14 the 2011 Court of Appeals decision and will authorize
15 reopening and renegotiating existing bus contracts
16 for the K-12 students. Now that's the context in
17 which this bill is offered, and with your permission
18 I can give a brief summary of how the bill works. At
19 its core, the key elements are straight forward. The
20 bill establishes a grant program for the benefit of
21 certain bus workers. The program is for the upcoming
22 school year, September 2014 through June of '15. The
23 total amount of all the grants paid out is at 42
24 million dollars. The Department of Small Business
25 Services will administer the grant program. To

1 receive the grant, both the company and the worker
2 must be eligible as it's defined in the bill. Now,
3 only 16 companies are eligible. These are the 16
4 companies that have already been awarded new school
5 bus contracts for the upcoming September 2014 school
6 year, which is shortly upon us. The employees of
7 these 16 companies are eligible if they worked for a
8 company that had a contract to provide school bus
9 services that ended on June 30th, essentially ended
10 with the previous year, or they worked for a company
11 that used to provide school bus services and were
12 something in the industry known as the Master
13 Seniority List or were eligible to be on the Master
14 Seniority List. To be eligible, the employees must
15 also demonstrate that they are earning a lower
16 regular rate of pay in the new September 2014 school
17 year than they did when they last worked for a school
18 bus contractor. Employees who are truly new to the
19 industry are not eligible for the grant. Employees
20 who as of the new school year will be earning a
21 higher regular rate of pay are not eligible for the
22 grant. Now, assuming that the employer is one of the
23 16 companies with contracts starting this September,
24 and assuming that the employee meets the eligibility
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1 requirements, then SBS can pay the grant to the
2 company once the satisfies SBS that it has paid the
3 employees and the money is actually passed through to
4 the employee. An employee can receive a grant even if
5 she has already been hired by one of the 16 companies
6 prior to the law's enactment. After this bill is
7 passed into law, to take advantage of the grant
8 program, the companies must hire for the Master
9 Seniority List in order of seniority. In this way,
10 the bill encourages hiring experienced workers, but
11 doesn't disrupt any previous job offers that have
12 been made. The employer must also attest to the fact
13 that it is maintaining an eight hour work day and a
14 39 week work year, which are industry standards.
15 Now, in general terms, the size of the grant for each
16 eligible employee is what the employee earned in
17 wages or benefits when he or she last worked for a
18 bus company with the school bus contract minus what
19 the employee earns in wages and benefits working for
20 one of the 16 eligible country--sorry--companies with
21 contracts for the September 2014 school year. The
22 grant is meant to make up for what the employee lost
23 in terms of compensation in the new upcoming school
24 year, and the grant is ultimately passed through to
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2 the employee and is treated as income and is taxed as
3 such. This part of the grant is paid to the company
4 once it affirms that it has already paid the
5 equivalent in salary and cash compensation to the
6 eligible employee. In terms of retirement and health
7 benefits, the size of the grant is the difference
8 between what the company is actually paying on behalf
9 of the eligible employee and what the company would
10 have paid for the eligible employee, but for the
11 grant program. This portion of the grant is not
12 passed on per say to the employee directly in terms
13 of salary or cash, but is paid to the company once
14 the company confirms to SBS's satisfaction that it
15 has actually paid for the benefits in question. The
16 grant also includes cost that the company pays in the
17 form of additional payroll taxes, associated with the
18 monies that are being passed onto the eligible
19 employee. The grants are paid on a monthly basis in
20 arrears, meaning that the company has to submit
21 paperwork confirming that the money was actually
22 paid, and SBS will then pay the grant out. An
23 eligible company is entitled to receive a grant if it
24 hires only one eligible employee for that employee or
25 several eligible employees or hundreds of eligible

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2 employees. And with the help of DOE and OLR, SBS
3 will establish procedures through an implementation
4 committee of those agencies I just mentioned for
5 confirming and calculating the grant amounts and
6 paying the grants on a monthly basis to the eligible
7 companies. And with that, I think I have done my
8 best to summarize how the bill works, and I'll either
9 take questions or give it over to the commissioner.

10 CHAIRPERSON DROMM: Okay. So now I'd
11 like to ask Speaker Mark-Viverito to ask some
12 questions.

13 SPEAKER MARK-VIVERITO: Thank you, Mr.
14 Chair and Mr. Berner for the testimony. I definitely
15 want to add my sentiments to what I've been expressed
16 by my colleagues in terms of being supportive of this
17 legislation. Obviously, there's a couple of issues
18 that I would like to raise, though, just in terms of
19 questions. One is that there is a sunset to this
20 legislation, right, the end of next year, and it is
21 the hope and the expectation that the State
22 Legislature will act in order to correct what many of
23 us consider a mistake by the Bloomberg Administration
24 in terms of requesting the Governor to veto a
25 legislation that provided for EPP protections.

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2 Understanding that there is a sunset, you know, what
3 is the expectation, right? Not only, I guess, this
4 is a question for you, but obviously there's other
5 players in this game so to speak, you know, to ensure
6 that that does happen. We have our Reso. We're very
7 clear and explicit as to what it is that we would
8 like to see done at the state level, but we have to
9 obviously rely on the actors in Albany to get it
10 done. So, what has been the thought process behind
11 that?

12 CHRIS BERNER: I know that this
13 Administration is fully committed to see the passage
14 of State Legislation that would solve the problem
15 created by the 2011 Court of Appeals decision and is
16 ready to commit whatever resources are required to
17 make sure that legislation gets passed. The State
18 Legislation is part of the long term solution. This
19 grant program is the short term one year solution to
20 give us time to get the State Legislation that we
21 need.

22 SPEAKER MARK-VIVERITO: And I get that,
23 and we're supportive; I'm supportive of it, right?
24 And my colleagues that spoke before are as well. I
25 guess I like to-- I'm not a negative person, I just

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2 like to think of different scenarios and be ready, so
3 to speak. Has there been any thought process if the
4 State refuses to act and we have this legislation
5 which sunset, what's going to happen?

6 CHRIS BERNER: Right now, we're very
7 confident that we will get that--

8 SPEAKER MARK-VIVERITO: [interposing]
9 Okay.

10 CHRIS BERNER: State Legislation.

11 SPEAKER MARK-VIVERITO: Okay. I mean,
12 that's the response? Okay. I appreciate that. The
13 other thing is when you read all of the guidelines as
14 to the grant program and who is eligible and how it
15 would implemented, I mean, the concern that comes to
16 mind is one, this is a voluntary grant program. Is
17 it or is not?

18 CHRIS BERNER: It is voluntary.

19 SPEAKER MARK-VIVERITO: Okay. So it is
20 administratively in reading it may seem somewhat
21 burdensome. What is being done to facilitate and
22 really incentivize and encourage the bus companies to
23 sign up for this grant program and ensure that
24 they're hiring experienced workers? I mean, that's
25 ultimately what we're interested in. I know we

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2 definitely will do what we can to put pressure and
3 make it known to these companies that it is in their
4 best interest to sign up for this grant program, but
5 there's a lot of different guidelines here in terms
6 of how it would be administered, and I want to feel
7 confident that SBS has the ability to fully implement
8 it and make sure that they're giving the proper
9 assistance to the company so that they do sign up for
10 this, and we could speak to that a little bit.

11 MARIA TORRES-SPRINGER: Thank you, Madam
12 Speaker. So SBS is--

13 CHAIRPERSON DROMM: [interposing] Please
14 identify yourself.

15 MARIA TORRES-SPRINGER: Maria Torres-
16 Springer, I'm the Commissioner of the Department of
17 Small Business Services. So SBS will be responsible
18 for the administration of the grant program. We
19 intend to work very closely with our colleagues in
20 the Department of Education as well as OLR to ensure
21 that as we formulate the specific policies associated
22 with the implementation of the program that they are
23 clear and will ensure the full participation of the
24 companies who are eligible. So in doing that, we
25 have previous experience in administering comparable

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2 grant of incentive programs, and we work every day
3 closely with businesses to ensure that we're
4 providing the services and the resources they need to
5 retain a qualified workforce. We intend to do the
6 same here, issue very clear procedures for how it
7 works, ensure that all of the relevant companies are
8 aware of the particular program and then run a
9 process that allows us all to ensure that we are
10 accomplishing the specific goals of the program.

11 SPEAKER MARK-VIVERITO: That's--and
12 obviously that's important because ultimately what we
13 want to do is ensure that everyone is signing up and
14 that workers are being protected, so that's an
15 important aspect of it. The Administration, is--I
16 mean, we're talking about this is starting shortly,
17 right? So are you--have already--has SBS already
18 started delineating the grant program and all the
19 details of how it would, the reporting requirements
20 etcetera?

21 MARIA TORRES-SPRINGER: Yes, we have,
22 we've thought through a number of the details. It
23 will continue to work, though, with our colleagues
24 who are, my colleagues who are here today to ensure

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2 that the program is effective and seamless and
3 efficient as possible.

4 SPEAKER MARK-VIVERITO: That's where--
5 there's other questions I know my colleagues have as
6 well. I just want to say that I appreciate. I know
7 there's a lot of members here that are represented by
8 the union that represents the workers. I want to
9 thank them for their service, and I know that in
10 terms of having experienced workforce is critically
11 important, and it is a shame that this
12 Administration, the prior Administration did not take
13 into account the change in sentiment that the
14 election demonstrated and continued to steamroll
15 ahead with a decision that it was clear was not
16 supported by this Council at the time and that was
17 not supported by the incoming Mayor, and that is
18 really a disservice to our families and to our
19 children. So, in the meantime, I think we have a
20 responsibility to see what measures we can play, but
21 let's be clear, you know, there is a role now that
22 the State Legislature has to play and we, it is
23 incumbent upon all of us with the unions and everyone
24 involved to ensure that our representatives at the
25 State level are doing right by our workers and by our

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2 children, and that's what I hope will happen. Thank
3 you very much.

4 [applause]

5 CHAIRPERSON DROMM: Okay, thank you.

6 Thank you, Madam Speaker. I do--before I allow my
7 colleagues to ask questions, I have a question in
8 terms of the DOE. The DOE will be putting out the
9 money for SBS to distribute. Am I correct in that
10 assumption? Okay, and can I ask you to identify
11 yourself also?

12 ELIZABETH ROSE: Certainly. I'm Elizabeth
13 Rose, Chief of Staff the Division of Operations for
14 the Department of Education. So, the DOE will be
15 temporarily funding the needs of the grant program
16 this fall, and as we get a better sense of what the
17 actual cost of the program, the size of the program
18 will be, we will then consider whether there needs to
19 be a longer term, more permanent approach. But we
20 certainly in our budget have the funding for
21 unforeseen contingencies that we can use on a
22 temporary basis for this.

23 CHAIRPERSON DROMM: And this would come
24 out of a transportation line within the DOE budget?

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2 ELIZABETH ROSE: It will come out of the
3 Office of Pupil Transportation. There is not a
4 specific line.

5 CHAIRPERSON DROMM: And the amount that
6 would be coming out of the budget would be how much?

7 ELIZABETH ROSE: Well, the total program
8 is capped at 42 million, but we will need to assess
9 what the actual demand for the program is in the
10 first few months, and that will give us a--

11 CHAIRPERSON DROMM: [interposing] As you
12 move along?

13 ELIZABETH ROSE: Correct.

14 CHAIRPERSON DROMM: Okay. Okay, so I
15 guess the first question that we have will be from
16 Council Member Robert Cornegy, who is also the Chair
17 of the Small Business Committee in the City Council.

18 COUNCIL MEMBER CORNEGY: Thank you,
19 Chairman Dromm. I want to first start by saying I
20 really appreciate my colleagues, the sponsors of the
21 bill, who continue to set a standard for protection
22 of workers within the workforce and I really
23 appreciate that. And I am going to say in advance,
24 do not mistake my concern for support of the bill,
25 because I do support the bill, but I do have concerns

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2 that I'd like to state. So, although I'm not a
3 member of the Education Committee, I'm participating
4 today as the Chair of the Committee which oversees
5 the Department of Small Business Services, which this
6 legislation sets out as the agency that will
7 administer the grant program it seeks to establish.
8 On that--in that role, I appreciate Council Member
9 Dromm giving me the opportunity to pose a few
10 questions to Commissioner Springer. Commissioner,
11 this bill will require SBS to administer a grant
12 program that potentially totals 42 million over the
13 course of only 15 months. My first question is, do
14 you have any concerns about your department's
15 capacity to carry out this work? Of course, I'm
16 concerned that it not impede the Departments
17 commitment to other initiatives such as the role out
18 of Small Business First, which we had a very healthy
19 discussion about earlier. That's question number
20 one. And do you contemplate that you'll have to add
21 staff to manage this program, and if so, how many and
22 on what timeline?

23 MARIA TORRES-SPRINGER: Thank you,
24 Council Member. I am very confident that we will be
25 able to administer this program effectively. As I

1 mentioned before, it is part of our core mission to
2 work with business owners to ensure that they can
3 retain a qualified workforce. We have run similar
4 program in the past, in particular a program called
5 the energy cost savings program as well as our
6 customized training program. While they're not
7 identical, they are similar in that we have to
8 maintain close oversight and ensure eligibility and
9 do the proper audits when necessary to ensure the
10 integrity of those programs and the volume of those
11 programs over the last several years we have deployed
12 tens of millions of dollars in those programs. So
13 this is a--it's a scale that we are accustomed to. In
14 terms of this specific program and ensuring that we
15 have the capacity, we'll work very closely with
16 colleagues in government to the extent that we need
17 additional resources. We will make sure that we have
18 that and we have them in a timely fashion. As we're
19 scoping the specific demand for the program, we will
20 make that determination, but in any of that we'll
21 make sure that we can run it effectively. And
22 lastly, the other initiatives that the Small Business
23 Services runs, whether it's Small Business First or
24 our continued work to ensure that we're helping bring
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2 relief to Sandy impacted businesses, I can assure
3 that those programs will not suffer because of this.
4 In fact, it's part of a larger mission that we have
5 to ensure that businesses across the city and their
6 work force are taken care of.

7 COUNCIL MEMBER CORNEGY: Thank you.

8 Notoriously, I have not used my three minutes time in
9 the past. Today, that won't be the case. Would SBS
10 deduct an administrative fee from the grant amount as
11 it does from council initiatives that flow through
12 SBS?

13 MARIA TORRES-SPRINGER: That is--that's a
14 possibility, and as we figure out specifically what
15 the administrative costs are we will fine tune
16 exactly how that's going to work.

17 COUNCIL MEMBER CORNEGY: And regarding
18 rule-making of the bill, when would you predict the
19 draft rules will be produced and how long will that
20 public comment period be? Will there be a public
21 comment and how long with the comment period be?

22 CHRIS BERNER: I'll take a stab at that.
23 I actually don't believe this requires rule-making.
24 This is similar to the processes the SBS already has
25 in place for working with small employers. The city

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2 SBS would need to produce a set of guidelines or
3 procedures for the small universe of eligible
4 companies to submit the necessary information so that
5 it can be confirmed, evaluated, if necessary audited
6 by SBS and that checks can be cut and the grants can
7 be delivered.

8 COUNCIL MEMBER CORNEGY: So I'll conclude
9 with that in just saying in closing that I believe
10 administering this program will be challenging for
11 SBS. Our full confidence in Commissioner Torres
12 brings ability to get the job done should this law be
13 enacted, but please do not let us--please let us know
14 if it requires more resources or create capacity
15 problems that you anticipate because this has come up
16 quickly and I'm deeply supportive of projects you're
17 already working on, as you know, and don't want to
18 see these priorities fall by the wayside. Thank you.

19 CHAIRPERSON DROMM: Okay, thank you very
20 much. Council Member Garodnick followed by Council
21 Member Barron.

22 COUNCIL MEMBER GARODNICK: Thank you very
23 much, Mr. Chairman, and I just want to share my
24 colleague's feeling that many of were disturbed about
25 the sudden reduction of pay or loss of jobs in the

1 industry here and I think that we all want to protect
2 employees. My substantive questions relate to how we
3 can both protect worker wages while also allowing for
4 fair competition to bids for school bus contracts.
5 Like for example, whether these workers should be
6 entitled to a prevailing wage in this context, and
7 whether that's something we should be considering
8 here. It's also not clear to me that the Council
9 should necessarily be injecting itself in its way in
10 a collective bargaining agreement. It may set a bad
11 precedent and also a direct allocation of this type
12 might be barred by the State Constitution. So I have
13 a few questions that I wanted to address with you.
14 Mr. Berner, the first is as it relates to the
15 Constitutional question, Article Eight, Section One
16 of the New York State Constitution says, and I'll
17 just paraphrase, that no city shall give money
18 directly to in aid of an individual or private
19 corporation or undertaking. We have an existing RFP
20 in place with contracts that have been awarded and
21 for these 16, how would this proposed law comply with
22 that provision of the State Constitution?
23

24 CHRIS BERNER: Sure. I'm not immediately
25 familiar with the provision you're quoting, but we're

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2 confident that this bill is, does not run a fell
3 [sic] of any procurement law, doesn't run a fell of
4 any labor law preemption issue. It is fundamentally
5 a city program designed to ensure the smooth delivery
6 of an important service for the next school year, and
7 the State Legislation Initiative will address the
8 Constitutional and procurement issues that I think
9 you're alluding to and that the Court of Appeals
10 addressed in the L&M decision.

11 COUNCIL MEMBER GARODNICK: I'm actually,
12 with respect, I'm not sure that it does, but the
13 question for us here as a Council in approving a
14 grant program which would allow for a direct
15 allocation of money to private enterprises, to me,
16 looks like it is barred by the State Constitution,
17 putting aside local procurement rules or preemption
18 issues with state law on a labor context. So I do
19 think that we should ensure that we have clarity as a
20 committee and as a council on that point before we
21 move forward. As to your comments in your testimony,
22 I just wanted to follow up. You just said again to
23 ensure smooth services and uninterrupted delivery was
24 something that you had mentioned in your testimony.
25 What are you referring to when you say that?

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2 CHRIS BERNER: What I'm referring to is
3 our analysis of the effective of the bidding out of
4 the routes in the 2012 bidding out process and the
5 2013 bidding out process. We know that the
6 elimination of the EPP's was the main source of a
7 strike about 18 months ago in January and February of
8 2013, and it is important to the city that as we
9 solve at a state level the problems associated with
10 employee safeguards, that we create the best
11 environment possible for the continued operation of
12 school bus services for this school year.

13 COUNCIL MEMBER GARODNICK: So forgive me,
14 what do you mean by the best environment possible?
15 Is this about safety? Is it about concern that there
16 will be another strike on the horizon? What are you
17 referring to when you say that?

18 CHRIS BERNER: Well, I'm not pre--I'm not
19 going to predict what two private parties are going
20 to do in their collective bargaining, but I do know
21 that the absence of the EPP has been a source of
22 discussion among those private parties and their
23 collective bargaining. The city is unable to address
24 employee safeguards on its own initiative without the
25 state's help. So, in order to essentially give us

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2 the time to solve that problem at a state level, this
3 bill will create opportunities for employers, the 16
4 companies, to take advantage of this grant program if
5 they choose to. They're not required to, if they
6 choose to.

7 COUNCIL MEMBER GARODNICK: The 16
8 companies that will be starting their operations for
9 the school year in the next few weeks, do they have--
10 do you know that they have vacancies to be filled?
11 Do we know that there is an actual opportunity here
12 for them to avail themselves of this grant program
13 that we're talking about here?

14 CHRIS BERNER: Sure, so let me answer
15 that in two ways. The bill defines an eligible
16 employee in two ways. It's an employee who's
17 experienced a loss in pay who either was essentially
18 laid off and was just working for a company whose
19 contract ended in June 30th of this year, or who had
20 been laid off and lost a job at some time in the
21 past. Either employee would be eligible if they're
22 picked up by one of the 16 eligible companies. With
23 respect to your hiring, I think all of the 16
24 companies are well along their way in hiring for the
25 opening of school year, not fully, not 100 percent,

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2 but they're comfortably along their way. So, the
3 companies could take advantage of the hiring they've
4 already done, if the employees fall into one of the
5 two definitions and going forward, if the law is
6 enacted, the companies can take advantage of this
7 bill for the new hiring that they do, but that new
8 hiring would have to be in order of seniority
9 according to the Master Seniority List. So, yes,
10 there's an opportunity for both future and prior
11 hiring actions.

12 COUNCIL MEMBER GARODNICK: Right, but we
13 don't know precisely where things fall at this moment
14 in time as to how many vacancies there are, how many
15 people have been retained for continuation of
16 services that could take advantage of this. We just
17 don't know that. Is that fair?

18 CHRIS BERNER: So, I think, on a two part
19 answer, I think essentially what you're asking is
20 yes, we don't know precisely, but I know the DOE
21 Office of School Transportation tracks on a daily
22 basis how the companies are hiring. So the DOE has a
23 very good sense of how many people hired, but we
24 don't have a sense of whether those employees are
25 actually eligible within the definition of the law.

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2 COUNCIL MEMBER GARODNICK: Okay, just a
3 couple more quick questions and I appreciate the
4 Chairman for his indulging here. So there are three
5 batches of contracts here as you spelled out in your
6 testimony, the ones that started in 2013, the ones
7 that are starting now, and then the ones that will be
8 starting in 2015. It looks like the vast majority of
9 them are starting actually in 2015. So, that if
10 there is a change to state law, there will be the
11 ability to affect the vast majority of these
12 contracts, but in response to the Speaker's question
13 about the likelihood of achieving state law change
14 you expressed a fair amount of confidence that we
15 would be successful in doing that, but if we are not
16 successful here, should we anticipate that the
17 Administration will be coming back to the Council
18 with a request for an additional grant program much
19 like what we are talking about for the 2014
20 contracts?

21 CHRIS BERNER: I think it's too soon to
22 speculate what we will need if in fact a state
23 solution isn't forthcoming, and right now we have
24 every plan to get that state bill.

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2 COUNCIL MEMBER GARODNICK: And how much
3 would it--how much will it cost the city if the--if
4 you will--if we are able to state law change here and
5 the addition of the reintroduction of the EPP's back
6 into place?

7 CHRIS BERNER: I actually, I don't have
8 the data to answer that question, and I think it
9 would be somewhat speculative. What the advantage of
10 restoring the safeguards for employees does is, is it
11 may result in both savings and efficiencies to the
12 city. It's not necessarily a zero sum game, but to
13 answer your specific question, I don't have that
14 information.

15 COUNCIL MEMBER GARODNICK: Okay, well I
16 think that's worth our knowing the answer to since
17 one of the issues here is a resolution asking for the
18 state to reinstate the EPPs, and also I would
19 observe, and this is not specifically a beef with
20 anybody at the witness table, but a program that has
21 42 million dollar price tag six week after we passed
22 the budget appears to me to be something that we
23 probably should have been talking about in the
24 context of our budget negotiations, so I just wanted
25 to make that point here, too. So, Mr. Chairman, I do

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2 appreciate the time. I have more questions, but I
3 don't want to take all the time for this committee.
4 So, thank you.

5 CHAIRPERSON DROMM: I'd like to ask the
6 DOE, is there more concerns to the DOE above and
7 beyond just austerity and saving of dollars? And in
8 terms of providing quality care to students who are
9 transported back and forth, and doesn't that often
10 times cost a little bit more money than just looking
11 at things from a purely budget way of thinking?

12 ELIZABETH ROSE: Mr. Chair, safety of the
13 students has always been and will always be our first
14 and primary concern in providing transportation and
15 in contacting with vendors to provide transportation,
16 and we would never take actions that would knowingly
17 hurt or compromise the safety for our students. All
18 drivers are certified drivers. Attendants need to be
19 certified attendants. All the bus representatives
20 need to be trained. Those things are critically
21 important to us and will continue to be.

22 CHAIRPERSON DROMM: I hear what you're
23 saying. I do believe, though, when you cut driver's
24 salaries basically in half that there's a concern
25 there that you decrease motivation, you deflate the

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2 benefits that they've gained, and I think that also
3 in some ways impacts upon performance, and I am
4 trying to make the point that money is not the only
5 issue that we should be looking at here, that we
6 should definitely be looking at the issue of safety
7 and of experience in terms of the people who are
8 driving our buses, and often times as in other forms
9 of employment and business example you have to often
10 times pay for that experience, and I just like to
11 highlight that at this point as well. So, thank you.

12 [applause]

13 CHAIRPERSON DROMM: Council Member, thank
14 you. We have to say, no applause again, but Council
15 Member Barron?

16 COUNCIL MEMBER BARRON: Thank you, Mr.
17 Chair. Thank you for calling for this hearing on
18 this important matter and our thanks to the sponsors
19 of this bill who are seeking to correct what I see
20 was a grave injustice. I see the actions that were
21 taken by this previous Administration as a threat to
22 what unions have worked so hard to do, which is to
23 protect their workers by established provisions in
24 their contracts and I'm glad that we're taking steps
25 now to correct that. Now, you indicate that there

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2 are 16 companies that this would impact. Have you
3 had any conversation with those companies? Have they
4 been involved? Do they know this is coming and what
5 has been their response?

6 CHRIS BERNER: We have had those
7 conversations. They've been at a very high level and
8 a very general level, but our sense is that the
9 companies are very interested in the opportunity
10 created by this grant program.

11 COUNCIL MEMBER BARRON: So, you have the
12 sense that they would be willing to participate? Of
13 the 16 companies, do you have an idea of how many
14 would be willing to participate in this?

15 CHRIS BERNER: Not for every one of the
16 16, but generally, based upon the feedback that we've
17 received, there's an interest in taking advantage of
18 this grant program.

19 COUNCIL MEMBER BARRON: And for those
20 that haven't expressed an interest, is there any way
21 beyond appealing to their sense of what is just and
22 fair? Is there any other kind of incentive they may
23 feel that it would be an undue burden on their
24 accounting department or whatever department would
25 have to produce those records, so is there any type

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2 of incentive to pull them in to participating in
3 this?

4 CHRIS BERNER: Well, I think there might
5 be three incentives. I don't know whether they're
6 carrots or sticks, but first I know this
7 Administration is ready to use the bully [sic] pulpit
8 so to speak to convince that taking advantage of this
9 grant is the right thing to do and the just thing to
10 do. The grant also is pretty straight forward in its
11 application and I don't think that there are very
12 high barriers to access for participation, and based
13 upon my experience with SBS is that they're very good
14 at making it as easy and straight forward as possible
15 for companies to take advantage of city programs.

16 COUNCIL MEMBER BARRON: Thank you. Well,
17 I again, want to lend my voice to those who have
18 already spoken in favor of this and I look forward to
19 being able to cast my vote in the affirmative. Thank
20 you.

21 CHAIRPERSON DROMM: So I'd like to ask
22 why you chose to do the reimbursement system rather
23 than just a direct payment?

24 CHRIS BERNER: I'm not sure I'm able to
25 answer that question. I know it was advice that we

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2 received from the law department that this was the
3 smartest way to do it, and I know the companies were
4 in the best position in our view to essentially
5 deliver the money. They have pay processes that we
6 can essentially take advantage of, and I know from
7 through the administrative point of view, direct
8 grants to possibly hundreds or thousands of
9 individuals who are not city employees posed a big
10 practical problem, whereas the SBS has the experience
11 in paying companies for doing similar things.

12 MARIA TORRES-SPRINGER: And the one thing
13 I'll add is that the--

14 CHAIRPERSON DROMM: [interposing] Just
15 identify yourself again.

16 MARIA TORRES-SPRINGER: Maria Torres-
17 Springer at SBS. The other advantage of using a
18 reimbursement method is that we are able to then
19 verify because we will require some documentation
20 that in fact the payments that employers are required
21 to workers were in fact paid and not just the wages,
22 but other whether retirement benefits, health
23 benefits, payments, also taxes and unemployment
24 insurance to the extent that they're required to do
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2 that. We're able to see that that actually happened
3 and then provide reimbursement to do that.

4 CHAIRPERSON DROMM: And what will that
5 documentation of payment include? Would it be pay
6 stubs?

7 MARIA TORRES-SPRINGER: So we are right
8 now working on specifically what that documentation
9 will look like, and it is our intent to make sure
10 that it is thorough, but at the same time reasonable
11 given the operational needs of businesses.

12 CHAIRPERSON DROMM: Thank you. Council
13 Member Miller?

14 COUNCIL MEMBER MILLER: Thank you,
15 Council Member Dromm. DOE, I have a question about
16 we talk basically, we're talking about how do we kind
17 of restore savings that were achieved. How is the
18 savings achieved in the 40 or 42 million dollars that
19 the DOE saved on the elimination of the Employee
20 Protection Provision? What is the relationship and
21 what are those numbers?

22 CHRIS BERNER: Councilman Miller, if I
23 can respond to that question with your permission. I
24 don't have the exact figures with me, but it was our
25 analysis the savings that it were achieved in in the

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2 round one and the round two bargaining was largely
3 through reductions in individual workers salary and
4 benefit structures.

5 COUNCIL MEMBER MILLER: So, essentially
6 what we're saying that that savings is basically done
7 on through the compensation wages and/or on the backs
8 of workers.

9 CHRIS BERNER: All is a big term. I don't
10 know if it was all, but--

11 COUNCIL MEMBER MILLER: [interposing]
12 Majority.

13 CHRIS BERNER: a majority was, and
14 certainly to a degree larger than this Administration
15 wants to manage its contracting.

16 COUNCIL MEMBER MILLER: So a very generic
17 question, not just obviously for OLR and DOE and for
18 all agencies moving forward as we engage in
19 procurement process that we would like to see that we
20 consider something as the Chairman said, something
21 other than dollars and cents savings and us awarding
22 contracts as we move forward. Certainly lowest
23 responsible bid does not give the city the bang for
24 the buck and really achieve its responsibility in
25 providing the safe and affordable services to our

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2 citizen. So certainly something that we would like
3 to, as we move forward, be able to address that we're
4 not just looking at dollars and cents. And so I have
5 anything further, thank you.

6 CHAIRPERSON DROMM: Well, thank you,
7 Council Member Miller, and I guess my feeling on it
8 is that cheap is not always the best. I mean, you
9 could take anybody's salary, cut it in half and think
10 that you're going to get a good job out of them, but
11 we actually know from experience that experience does
12 count, and again, I don't think cheapest is always
13 best. So, thank you. Council Member Chin?

14 COUNCIL MEMBER CHIN: Thank you, Chair,
15 and thank you to the sponsor of the bill, Council
16 Member Miller for taking leadership on this. My
17 question is that, I mean, DOE do you save money with
18 the bidding of these so-called contracts? Has DOE,
19 does DOE ever did any audits of the company to
20 determine whether DOE is really getting what they pay
21 for? And also, how big of profit margin do you think
22 that these company ought to be able to make as the
23 middle man to the system?

24 CHRIS BERNER: As--I'm sorry, I'll give
25 that a go. I do know that as part of the bidding

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2 process, the Office of Pupil Transportation takes a
3 very long and hard look at the companies who are
4 bidding for work and have in the past denied, decided
5 not to even consider a bid because they don't think
6 that the company can deliver what it is promising to
7 do, and the company does--sorry, the OPT does reserve
8 the right to sort of take a hard look at the company
9 and make sure that it is honest about what it's
10 saying. With respect to the profit margin, I don't
11 believe the OPT has access to that kind of level of
12 information, but consistent with Councilman Miller's
13 remarks and my response to his question, what we're
14 looking for is a different way to structure our
15 contracts so that we get good services, reliable
16 services, safe services and uninterrupted services.

17 COUNCIL MEMBER CHIN: I mean, those,
18 getting those services are important, but also making
19 sure that we're, you know, that we protect good
20 quality paying jobs. The fact that these company,
21 you know, they got the bid, but then they're hiring
22 people at so much, you know, less than what people
23 were making; something is wrong there. I know that
24 this legislation, we're trying to--

25 [applause]

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2 COUNCIL MEMBER CHIN: And with this
3 legislation and this grant program, I think, you know
4 the Mayor and I think with the City Council we wanted
5 to fix and correct the mistake that was made, but
6 going forward, I think even with future bidding, we
7 really need to take a look at how do we ensure that
8 we get all those quality services that you're talking
9 about, right, good service, safety, but at the same
10 time that we can guarantee good paying jobs. So and
11 I'm glad that you're confident that the State
12 Legislature is going to pass the legislation and
13 we're going to work with you to make sure it happens,
14 but I think going forward with future bidding, we got
15 to really figure out a way, the best way to preserve
16 good quality paying jobs so that we don't have to go
17 down this road again.

18 CHRIS BERNER: We agree and that's why
19 the State Legislation is an important part of this
20 solution, because without that State Legislation--let
21 me put it differently. We need that State
22 Legislation to address those concerns that you've
23 expressed and that we share.

24 COUNCIL MEMBER CHIN: But I think
25 definitely the question that I raise about auditing

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2 to really get down to find out are we really getting
3 the value of the services, because even some company,
4 how do you make sure that they are doing the right
5 thing? So down the road, you know, with bidding of
6 these contracts we also have to put in provision to
7 really keep on checking to make sure that we are
8 getting the value.

9 CHRIS BERNER: Sure, and I will share
10 with you that in my experience of working with the
11 very hardworking employees of OPT, they are
12 extraordinarily vigilant about the level of service
13 that the companies are delivering and they are very
14 responsive to information provided by parents and
15 students, and they follow up on all of the complaints
16 and they watch the companies very, very closely.

17 COUNCIL MEMBER CHIN: Okay. Thank you.
18 Thank--

19 CHAIRPERSON DROMM: Thank you, Council
20 Member Chin, and I share your concern also that often
21 times when we look to have cost savings we assume
22 that, wrongfully I believe, that the best way to do
23 that is by cutting the workforce or cutting back on
24 our workforce, and that's something certainly that
25 I've always been opposed to and something that

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2 motivated me actually to run for the City Council
3 that we don't always look to the worker to be the
4 first area that we cut for cost savings. But with
5 that in mind, had the DOE looked at re-routing buses
6 as a possibility for cost saving?

7 ELIZABETH ROSE: So, routing is something
8 that we focus on very carefully and it's an extremely
9 complicated job. One of the issues that we run up
10 against in re-routing as a solution to reduce the
11 number of buses is that schools typically have very
12 similar start and end times. And so we do try to
13 route more than one school on the same bus route, but
14 to do that we need schools that are in reasonable
15 proximity, but that have different, sufficiently
16 different start times so that we don't have students
17 arriving at one school long before the beginning of
18 the school day or waiting for a very long time after
19 the end of the school day to be picked up. So
20 focusing on routing efficiency is something that we
21 do very carefully. We have also built into the
22 current contracts greater flexibility in our bus
23 units. So we have buses with flexible seating that
24 allow the bus to change its configuration to
25 accommodate the different children's needs and that

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2 has also helped reduce the number of buses that are
3 required and help save money.

4 CHAIRPERSON DROMM: So I'm curious to
5 know also how this grant program may impact future
6 bidding and what that would like. When are future
7 bids due, etcetera? Can you give us an idea of that?

8 ELIZABETH ROSE: So we do have a round of
9 bids for contracts beginning September 2015 out
10 currently. Those bids are currently due in October
11 and we are considering what the potential options are
12 for that round of bids in light of the city's seeking
13 of new state legislation.

14 CHAIRPERSON DROMM: Would the
15 determination of those bids also be dependent upon
16 legislation on a state level being passed?

17 ELIZABETH ROSE: Yes, I believe that
18 would be the case.

19 CHAIRPERSON DROMM: Are there any bus
20 companies that where you have a greater benefit than
21 others by virtue of the action this legislation would
22 enact, would propose?

23 ELIZABETH ROSE: Well, I think the
24 benefit is to works, and to the extent that a bus
25 company is able to hire more experienced workers that

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2 would be a greater benefit. Chris, do you want to
3 add to that?

4 CHAIRPERSON DROMM: There's been some
5 concern expressed by some of my colleagues that this
6 bill set a precedent for other unions who feel that
7 they are due something in the past. How do you react
8 to that, how do you respond to this setting of
9 precedent for other contracts?

10 CHRIS BERNER: We're confident that it
11 doesn't set a precedent because it's based on such an
12 unusual set of circumstances and an unusual
13 conversion of events. There is nothing like the
14 Employee Protection Provision that was the subject of
15 the rebidding. These workers provide a very unique
16 service, transporting kids, and I should emphasize
17 that they're engaged in the care and the transport of
18 our special education students on a very special
19 population that relies on the experience of the
20 workers who know the routes and who know the stops
21 and who know the parents and who know the kids. So
22 I'm confident that it would be difficult for any
23 other situation to match that set of facts.

24 CHAIRPERSON DROMM: Okay. And before I
25 allow Council Member Garodnick to question again, I

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2 just want to--this legislation is going to cover
3 2014, but there are other contract years that are in
4 question as well, I think 2013, obviously 2015 moving
5 forward. What's happening with the other contracts in
6 the other years? Is there anything going on with
7 that?

8 CHRIS BERNER: Well, we talked about the
9 2015 contracts.

10 CHAIRPERSON DROMM: Right.

11 CHRIS BERNER: This bill is aimed at the
12 companies for the 2014 new contracts. With respect
13 to the 2013 contracts, workers adversely affected by
14 that process might still be eligible if they've been
15 rehired by one of the 16 companies.

16 CHAIRPERSON DROMM: Okay, Council Member
17 Garodnick?

18 COUNCIL MEMBER GARODNICK: Thank you
19 again, Mr. Chairman. I wanted to just ask a few more
20 questions about precedent here. Do we know of any
21 other municipality that has a requirement on
22 successor contractors that they retain employees who
23 were laid off when a previous contractor lost a bid,
24 keep them at the same salary and benefit levels, do
25

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2 we know are there--is there precedent for this in
3 over cities?

4 CHRIS BERNER: I'm not familiar with the
5 details, but I would offer a precedent or an analog
6 in this city.

7 COUNCIL MEMBER GARODNICK: Okay.

8 CHRIS BERNER: There is a law in the
9 books, the building service workers displacement law,
10 or something like that, and it imposes requirements
11 on a company that successfully obtained a bid to
12 provide building services or security services. And
13 I don't want to speculate on the details, but I do
14 think there is that bill, although structured to keep
15 is a transaction between two private parties does
16 imposed additional requirements on the successor to
17 offer work to the adversely affected workers of the
18 predecessor.

19 COUNCIL MEMBER GARODNICK: It's the
20 building service workers replacement--

21 CHRIS BERNER: [interposing] I know it
22 as the Building Service Worker's Protection Law.

23 COUNCIL MEMBER GARODNICK: Okay, and
24 that's a city or state law?

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2 CHRIS BERNER: My understanding is that
3 it's a city ordinance.

4 COUNCIL MEMBER GARODNICK: Okay, I'll
5 take a look at that. Also, do you think that there
6 are any limitations on the Council as to what we
7 could do to supplement the incomes of other workers
8 through grant programs here? And we're talking about
9 school bus drivers today, but do you think if there
10 were any limitations on us and our ability to do this
11 in other industries?

12 CHRIS BERNER: I'll give you a two part
13 answer. First part, yes, I do think there are
14 limitations. The second part is I think there are
15 people more qualified than me who could provide a
16 much more detailed answer and that would be the law
17 department, but I do think there are rules that we
18 have to follow in that respect.

19 COUNCIL MEMBER GARODNICK: I agree. I
20 agree. Okay, we will follow up with that. Let me
21 cover two or three last issues. The Court of Appeals
22 and their decision back in 2011, they questioned the
23 legality of the EPPs because of cost inflation. They
24 also suggested that they discourage or prevent new
25 bidders from coming in to try to compete with long

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2 term contract holders because a vendor's bid would
3 have to reflect not only the known cost of paying
4 their own employees, but the unknown cost of paying
5 the former employees or whoever they're competing
6 against. If there were in fact a state law enable
7 EPP's in this context, do you think that it could
8 still be vulnerable to a legal argument that it is
9 anticompetitive and that it does not allow somebody
10 to break in here, because they wouldn't know exactly
11 how much they would have to pay because they don't
12 have access to the information about existing
13 workforce that is in place?

14 CHRIS BERNER: I do not think it would be
15 vulnerable to that challenge. I would be interested
16 in hearing an opposing view, obviously, but I think
17 the state legislation that the city is pursuing is
18 tailored to address the very specific issues raised
19 by the L&M decision. And the L&M decision said, if I
20 recall, is resolving a question of law under state
21 procurement rules, and it didn't say that EPP's were
22 on their face illegal, but that they--the-- we didn't
23 meet a standard, a burden of proof. We didn't meet a
24 strict scrutiny for why they are necessary. So the
25 state legislation would address that and would change

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2 the law to make something like employee safeguards
3 permissible.

4 COUNCIL MEMBER GARODNICK: Okay. The
5 last question for you is, the companies that bid on
6 that last RPF, of the 16 that are relevant--

7 CHRIS BERNER: [interposing] More than
8 16.

9 COUNCIL MEMBER GARODNICK: I'm sorry.
10 Okay, right. The 16 resulting bidders, the
11 successful ones, tell me why this is how I'm thinking
12 about this issue and tell me if this is wrong. The
13 folks who were the successful ones were successful on
14 the basis at least in part that they were the low
15 bidders, because the city has an obligation to accept
16 lowest bids under local law, state law, etcetera.
17 Presumably, these were the winning bids because they
18 were anticipating paying less to their workers. If
19 we authorize a grant program here for those
20 companies, that one on the basis of being the lowest
21 bidders, are we not penalizing the folks who were
22 bidding and intending to keep their senior workforce
23 and their highest paid workers in place?

24 CHRIS BERNER: I don't believe, because
25 fundamentally this is a city program addressing a

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2 city interest in ensuring uninterrupted delivery and
3 smooth services until we have a state solution. It is
4 not a DOE program. It's not a DOE contracting
5 process.

6 COUNCIL MEMBER GARODNICK: Right, but you
7 haven't answered my specific question as why I'm
8 thinking about it, why I'm thinking about it wrong.
9 Because it seems to me that the folks who were the
10 winners were the ones who said, well, I have an
11 opportunity to bid less and pay less to my workers.
12 There were people who were shut out who were willing
13 to pay more and keep their senior employees in place.
14 We are supplementing the low bidders here and leaving
15 the high bidders out in the cold. Are we not?

16 CHRIS BERNER: No, I think ultimately
17 it's a decision of every company or eligible company
18 whether it wants to take advantage, and again, it's a
19 city program. It's not a DOE program, but I
20 understand the point you're making.

21 COUNCIL MEMBER GARODNICK: Okay. Thank
22 you, Mr. Chairman.

23 CHAIRPERSON DROMM: Let me ask also, what
24 is the total value of the contract for the 16
25 companies?

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2 CHRIS BERNER: We may have that
3 information at hand if you can give us a moment.

4 CHAIRPERSON DROMM: Because we need that
5 before we can vote on this.

6 ELIZABETH ROSE: Let me get back to you
7 with that.

8 CHAIRPERSON DROMM: Yeah, and also the
9 percentage for salaries and the total cost of
10 benefits as well. And the names of the 16 bus
11 companies. You'll provide us with that?

12 ELIZABETH ROSE: So we would not have the
13 specific detail on the total, the salaries and
14 benefits and those are individual to each company and
15 they are effectively private agreements between those
16 companies and their unions or workers, but I can get
17 the value of the contracts.

18 CHAIRPERSON DROMM: Sorry, I couldn't
19 hear you. I'm sorry.

20 ELIZABETH ROSE: We actually don't have
21 the specific values of wages and benefits for each of
22 those companies. They are private relationships
23 between the companies and their unions or their
24 workers, but I can get the value of the total
25 contracts.

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CHAIRPERSON DROMM: And the benefits?

ELIZABETH ROSE: Again--

CHAIRPERSON DROMM: [interposing] You don't have that?

ELIZABETH ROSE: We don't necessarily have the specific details of the wages and benefits for any of these companies.

CHAIRPERSON DROMM: Is that information not allowed to be shared with you? Is that something that you can ask for?

CHRIS BERNER: We can certainly ask for it.

CHAIRPERSON DROMM: Because I think that would be beneficial to us and to our understanding of what's involved in this, and I would like to have that information. And we have to do a fiscal impact before we can vote on this, and so having that information will be helpful to us to make an informed decision.

CHRIS BERNER: And we'd be happy to share with you the information that we do have.

CHAIRPERSON DROMM: Okay, thank you. Alright, we've been joined by Council Member Jumaane Williams, who also has questions.

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2 COUNCIL MEMBER WILLIAMS: Thank you, Mr.
3 Chair, and thank you for testifying. I missed--I
4 missed quite a few testimonies, so I'm probably going
5 to repeat some questions. Please feel free to repeat
6 some answer. So I think I'm generally in a supportive
7 mode. I do have a lot of concerns, though. One, I
8 think obviously this is a--to me, this is a unique
9 situation and I think it was particularly egregious
10 what happened, and particularly intentional, and that
11 doesn't always in occur in the proper combination.
12 But I do have some concerns. One, I know you may
13 have answered this, but the 42 million dollars, I'm
14 just concerned as a Council Member that we found that
15 money. So are you saying that there's going to be no
16 cuts to any programs, no cuts to anything and we're
17 still going to be able to have the 42 million
18 dollars?

19 ELIZABETH ROSE: We certainly are not
20 going to disrupt any service to any students. We
21 will continue to provide all of our services to
22 students as they are needed. We will-- we don't know
23 that it will be the full 42 million dollars of cost.
24 That is the maximum possible cost, but it could be
25 less dependent upon how many employees of these 16

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2 companies are eligible and what their wage rates or
3 wage differentials are.

4 COUNCIL MEMBER WILLIAMS: Okay,
5 apparently I have a lot of time. So you could have
6 42 million dollars, but it sounds like that money was
7 just lying there for you to take up, and the Council
8 didn't know anything about it when we passed the
9 budget. So I need to understand where that money is
10 coming from.

11 ELIZABETH ROSE: So, as we said earlier,
12 on a temporary short term basis we have sufficient
13 money to cover through the fall, the first couple of
14 months as we see what the potential size of the
15 ultimate program would be.

16 COUNCIL MEMBER WILLIAMS: Okay, how much-
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18 ELIZABETH ROSE: [interposing] And we'll
19 work with the city.

20 COUNCIL MEMBER WILLIAMS: potential short
21 time money do you have right now?

22 ELIZABETH ROSE: Well, the transportation
23 budget in total is over a billion dollars, so we
24 always have the ability to cover unforeseen
25 circumstances for a short period of time.

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2 COUNCIL MEMBER WILLIAMS: So if the
3 Council, if we recognize some other programs that
4 have shortfalls, we can come to you for the short
5 term money that can equal up to one billion dollars?

6 ELIZABETH ROSE: No, we plan to use our
7 funds to provide our services to students. Thank you.

8 COUNCIL MEMBER WILLIAMS: So what is the
9 difference with this short term, 42 million dollars
10 and other programs we may recognize that need
11 additional funding and would like to tap into that
12 short term money?

13 CHRIS BERNER: If I may, I think the
14 difference here is we're addressing an immediate need
15 on a short time frame. The school year is about to
16 start, and the DOE budget is large enough to
17 facilitate an intra-city transfer, certainly in the
18 first months of this grant program, and once we have
19 a better sense of what the school year cost is going
20 to be, we can figure out a more permanent funding
21 solution.

22 COUNCIL MEMBER WILLIAMS: Just so I'm
23 clear, so then what it sounds like we have this money
24 that's available and pliable to fill gaps, but the
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2 only thing that we think that it should be used for
3 now is the 42 million dollars in this bill.

4 CHRIS BERNER: That's certainly what
5 we're proposing that--that's certainly the funds
6 we're proposing to cover the initial cost for this 42
7 million dollars upwards of 42 million dollar program.

8 COUNCIL MEMBER WILLIAMS: I just want to
9 say for the record, I am very concerned that we
10 passed the budget and it seems that there might be a
11 billing of that that is more pliable than we
12 understood. There are other programs that we might
13 be able to use funding for. So that concerns me a
14 little bit forward and something I need to keep in my
15 head as we pass the budget. I do also want to make
16 sure I state that I am also concerned that when we,
17 and if this passes, we are clear of the uniqueness of
18 the situation, because I'm also concerned of a door
19 being opened that this can happen to everybody. I
20 also want to share some of the sentiments of my
21 colleague Dan Garodnick that there are--we are in
22 essence rewarding some bad actors. There might not
23 be a way to fix that right now, so I understand we
24 have to fix what we can fix, but I just want to make
25 sure I'm on record of just being a little concerned

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2 about what we're doing here and make sure we
3 completely think it through and make it as defensible
4 as possible. Thank you.

5 CHAIRPERSON DROMM: Thank you. Council
6 Member Miller?

7 COUNCIL MEMBER MILLER: I just have one
8 question pertaining to what Council Member, the
9 question that was just asked. And is this funding
10 related in any way to the Labor Reserve?

11 CHRIS BERNER: Not to my knowledge, no.

12 COUNCIL MEMBER MILLER: So this is
13 strictly DOE dollars?

14 CHRIS BERNER: It would be, as I
15 understand, an intra-city transfer coming out of DOE
16 transportation funds.

17 COUNCIL MEMBER MILLER: Okay, thank you.

18 CHAIRPERSON DROMM: Okay, I think we're
19 done for now with this panel. Yes?

20 CHRIS BERNER: There was one bit of
21 information we did find.

22 ELIZABETH ROSE: So, Chair Dromm, you had
23 asked about the total value of the contracts--

24 CHAIRPERSON DROMM: [interposing] Yes.
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2 ELIZABETH ROSE: that were rewarded for
3 September 14, the new contracts in fiscal year '15
4 total 179.1 million dollars, and over a five year
5 period, 933.8 million dollars.

6 CHAIRPERSON DROMM: Okay. Okay, thank
7 you. We appreciate it, and that will be it for this
8 panel. We appreciate you coming in to explain this
9 and thank you very, very much. Now I'd like to ask
10 Michael Cordiello from the ATU 1181 President to come
11 up. Okay, Mr. Cordiello, welcome, and if you'd like
12 to begin.

13 MICHAEL CORDIELLO: Good afternoon,
14 Chairman Dromm, members of the committee, and I'd
15 like to thank Speaker Mark-Viverito for earlier
16 coming to this hearing. I'd like to thank you for
17 holding this important hearing, for this opportunity
18 to testify before you. My name is Michael Cordiello
19 and I am the President of Local 1181 of the
20 Amalgamated Transit Union. I am appearing before you
21 today on behalf of 12,000 men and women of Local 1181
22 to urge you to support the two reconsidered items on
23 today's agenda, a Local Law that would create an
24 employment program to incentivize the rehiring and
25 retention of qualified, experienced and skilled

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2 school bus employees laid off at the end of last
3 school year, the resolution calling upon the Governor
4 and legislature to require that all future school bus
5 transportation contracts include the Employee
6 Protection Provision. At the outset of my testimony
7 I want to express my gratitude the Mayor, Mayor de
8 Blasio, Speaker Mark-Viverito and Council Member
9 Miller for their commitment to our city school
10 children who we in the school bus industry refer to
11 as our most precious cargo, and for their commitment
12 to our city school's bus employees which commitment
13 was critical to the development of the items on
14 today's agenda. Before former Mayor Bloomberg began
15 his assault nearly two years ago on the hardworking
16 and dedicated and experienced men and women who
17 safely transport our city school children for
18 decades, Local 1181 represented some 9,000 members,
19 approximately 75 to 80 percent of the industry who
20 worked in New York City K-12 school bus industry,
21 including special education transportation. As a
22 result of a his actions, we have since lost
23 approximately 3,000 members, almost all whom have
24 worked with students with special needs. Because
25 they have lost their jobs in addition those workers

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2 employers to rehire school bus employees who would
3 work during the 2013-2014 school year but have since
4 lost their jobs, and to prevent a reduction in pay
5 for those employees. While the success of the
6 program ultimately depends on the employer's
7 willingness to hire eligible employees who are laid
8 off after the end of school year, we are confident
9 that this program will not only provide much needed
10 financial relief to people who would otherwise be
11 struggling to make ends meet. We are also confident
12 that this program will signal a reversal of the race
13 to the bottom that was set in motion by the former
14 Mayor Bloomberg. This bill also demonstrates a
15 commitment as a part of the Mayor and Council to
16 working people, a commitment which the Mayor, the
17 Speaker and many Council Members have expressed over
18 and over again, and a commitment which New Yorkers
19 appreciate and care about. We take great comfort in
20 knowing that those are not empty promises as evidence
21 by the legislation under consideration today. While
22 we recognize that the legislative authority of the
23 city to affect change in this area is limited, the
24 proposed Employment Program is worthy and laudable
25 exercise of that authority. We also commend Council

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2 Members Miller and Eugene for the companion
3 resolution that calls up on the Governor and
4 legislation, legislature to reintroduce the EPP into
5 all future busing contracts in conjunction with the
6 employment program. The amendment to the New York
7 State Law referenced in that resolution would promote
8 the retention of hardworking, qualified, experienced
9 and skilled workforce throughout the entire school
10 bus industry. Local 1181 has been calling upon the
11 governor and legislature to enact such legislation
12 for several legislative sessions now. Indeed, as the
13 resolution indicates, the legislature did support the
14 legislation in the past, and it was untimely defeated
15 at the request of Mayor Bloomberg. We thank the
16 Speaker and those Council Members who signed a letter
17 of support earlier this year, asking that the
18 legislator--asking the legislature to pass and the
19 Governor to sign A9499S7233 introduced by O'Donald
20 [sic] and Delan [sp?], which would have made the
21 inclusion of the Employment Protection Provision
22 mandatory in school bus contracts. We look forward
23 to working together on this issue in the next
24 legislative session. I'll now be happy to answer
25 questions you may have.

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2 CHAIRPERSON DROMM: Thank you very much.
3 I guess my question is how confident are you that
4 we're going to be able to take care of this at the
5 state level?

6 MICHAEL CORDIELLO: Well, I believe that
7 we'd have this support of the Assembly and the Senate
8 over the last few years, and as my statement read, it
9 was untimely that Mayor Bloomberg who at one point
10 supported EPPs decided that he didn't support EPPs
11 once we got it to the level of the Governor's office.
12 So I believe working together, we should be able to
13 convince the legislature to carry on what they've
14 already started.

15 CHAIRPERSON DROMM: Okay, thank you. And
16 Council Member Miller?

17 COUNCIL MEMBER MILLER: Good afternoon,
18 Mr. President. Glad to see you again. I just want
19 to digress and talk about one of the questions that
20 was asked to the last panel in terms of achieving
21 savings. And one of the things that was mentioned was
22 routing and I know in my past life a union president
23 in transportation, I was directly involved in the
24 operations and planning which was not limited to
25 route planning, but certainly there were many areas

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2 where you sat down and discussed potential savings
3 through efficiencies and so forth. Have you in fact,
4 sat down with the companies and/or with the DOE to
5 discuss potential savings outside of wage reductions?

6 MICHAEL CORDIELLO: No one has engaged us
7 in that discussion. We'd be willing to participate
8 in any discussion. We do have ideas about or would
9 like to discuss ideas about how we can achieve more
10 efficient service and the use of different, you know,
11 possibly different vehicles, but no one has engaged
12 us in that discussion.

13 COUNCIL MEMBER MILLER: Okay, thank you.
14 And thank you for your efforts and for the record, I
15 concur with what you said about potential legislation
16 in Albany based on my experience and discussions with
17 some of the leadership up there and knowing that it
18 had passed both houses on several occasions. I don't
19 see any reason why it shouldn't do the same and why
20 the Governor should not sign this as we move forward.
21 So, thank you.

22 MICHAEL CORDIELLO: Thank you, Councilman
23 Miller.

24 CHAIRPERSON DROMM: Council Member
25 Eugene?

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2 COUNCIL MEMBER EUGENE: Thank you very
3 much, Mr. Chair and Mr. Cordiello. Let me take the
4 opportunity one more time to commend you and all your
5 members and all my colleagues from government also
6 who will stick together and continue to fight to get
7 to this point. This is a wonderful day, as I said
8 before, and you can count on us, we members of the
9 City Council. We will continue to work together with
10 you and to make sure that the hardworking people,
11 they get back their EPP, as I usually said. But
12 having said that, after passing this legislation and
13 also sending the Reso to Albany, is there any other
14 advice what you could tell us we from the City
15 Council we can do together? Is there any other thing
16 you would like to ask us to do or any detail in short
17 [sic] and are we going to work together to move
18 forward toward the installation of the EPP?

19 MICHAEL CORDIELLO: I mean, I think as
20 things unfold and as we see the response that we get
21 from state legislators, we would then come back to
22 you for any kind of help that we may need. At this
23 juncture I think this first step and we know this is
24 not the cure, this is the band aid, but I think at
25 this first step, we need to get over this hurdle, and

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2 then we certainly will have open doors with City
3 Council and the Mayor's Office to bring forth any
4 ideas we think that would promote legislature in this
5 state and/or any other opportunities we might have to
6 get our agenda done.

7 COUNCIL MEMBER EUGENE: Thank you, sir.
8 Thank you, Mr. Chair.

9 CHAIRPERSON DROMM: Okay, and Mr.
10 President, I was wondering if you might have any
11 comments on Council Member Garodnick's concerns
12 regarding rewarding these 16 low bidders, whereas
13 those who may have may a little bit higher were
14 outbidded on this? It seems to him and maybe to some
15 of the members of the committee as well that we may
16 in fact be rewarding those who did the most harm to
17 some of our workers.

18 MICHAEL CORDIELLO: Well, I think that
19 goes right to the heart of taking the EPP out. Had
20 the EPP been in that bid, people would have been
21 bidding at a fair, on a playing field that's fair for
22 everyone, knowing what labor would cost, they would
23 bid appropriately on how much and how efficient they
24 want to run their business then. And I think that
25 there's some credibility to what he said, but we're

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2 not in that position right now. We're in a different
3 position and I think, you know, to address his
4 question, to do nothing now would be wrong, and there
5 is some credibility to the fact that EPP should have
6 been in and it wouldn't have been an issue.

7 CHAIRPERSON DROMM: Well, I just want to
8 thank you for coming in, and you know, I was a union
9 activist for 25 years as well, and seniority is
10 always been held up as, you know, an obligation that
11 we have to reward workers who have been
12 satisfactorily rated and performed well on their job,
13 and I deeply believe that it's something we should
14 still continue to honor and to abide by, and that's
15 why we're here today to try to fix this terrible
16 situation that we found ourselves in with the
17 previous administration. So, I thank you for you
18 coming in.

19 MICHAEL CORDIELLO: Thank you very much,
20 and thank you very much for all the help that you are
21 lending to myself and my members.

22 CHAIRPERSON DROMM: Thank you.

23 [applause]

24

25

CHAIRPERSON DROMM: Okay, Carter Pote?

Pate, I'm sorry, with MV Transportation. Mr. Pate, if you'd like to begin?

CARTER PATE: Thank you, Mr. Chairman.

Good afternoon, Mr. Chairman and members of the Committee on Education. Thank you for holding this important hearing on the preconsidered bill and resolution. My name is Carter Pate. I am the Chief Executive Officer of MV Transportation. We employ more than 16,000 dedicated transit professionals who provide transportation services in approximately 27 states and Canada. MV first began providing school bus services in New York City in 2011 when we purchased the asset of a bankrupt school bus operator, USA United Fleet Incorporated. MV student transportation subsidiary, Reliant Transportation, assumed the existing bus fleet and four New York City Department of Education contracts at that time. The assets of the bankrupt company were in complete disarray. The company was dark. There were no employees. MV sent a team of employees to New York City who worked 24 hours a day to ensure that the school buses would be running for the 2011-2012 year. Because of the hard work of this time, Reliant

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2 operated more than 500 bus routes with approximately
3 600 vehicles for that school year with approximately
4 three weeks of preparation in order to salvage this--
5 these bus routes. MV will be providing bus services
6 in New York City this school year. MV's first
7 priority is to ensure that school children are
8 transported safely and efficiently to and from school
9 every day, and we consider our employees and the
10 Department of Education our partners and have always
11 worked closely with them to achieve this goal. MV
12 supports the preconsidered bill being heard today,
13 which would provide grants to school bus companies to
14 provide salaries, health and retirement benefits to
15 bus drivers, attendants, dispatchers and mechanics
16 equal to the salaries health and retirement benefits
17 that such employees would have received under
18 contracts with the EPP. We thank the Mayor's Office,
19 The Department of Ed, and local 1181 for working with
20 us on this preconsidered bill. This is a good
21 solution to a difficult problem and will support some
22 stability for next school year. MV also supports
23 the resolution calling upon the State Legislature to
24 enact and the Governor to sign into law legislation
25 that would mandate EPP's in school bus contracts. As

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2 with any employer, we operate better as a company
3 when our employee are happy and paid good wages with
4 good benefits. Although the removal of EPP clearly
5 hurt school bus company employees, most people do not
6 realize that it also hurt the school bus companies
7 because the removal of the EPP required us and the
8 others to assume the liabilities for deficiencies in
9 the labor union's pension fund even after the
10 contracts have long expired. This is because without
11 EPP there is no certainty a successor contractor will
12 step in and assume these obligations. EPP's provide
13 that when a school bus contract expires, the company
14 that wins the new contract assumes the liability for
15 the pensions. MV is committed to working once again
16 with our partners, the city, our employees to support
17 a state law reinstating EPP's. Thank you very much,
18 Mr. Chairman and members of the Education Committee
19 for giving me this opportunity to support this
20 preconsidered bill and resolution.

21 CHAIRPERSON DROMM: Well, thank you very
22 much, Mr. Pate, for coming in. I certainly hope we
23 have more bus company owners like you that will also
24 support this. And I appreciate the point that you
25 made in terms of the difficulties that companies will

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2 have regarding the retirement plan for people if in
3 fact this situation is not corrected, and it's
4 something that we had not heard about previously in
5 the testimony that was given, but I think that you
6 make a good point of why this legislation is so
7 important as well. Any questions? No? Okay. I
8 would like to thank you for coming in and I would
9 like to thank you for your support.

10 CARTER PATE: Thank you, sir.

11 CHAIRPERSON DROMM: Now we're going to
12 hear from some bus drivers themselves, Earnst Pierre
13 [sp?] school bus driver at Reliant, Arcadio Fret
14 [sp?], Jr., ATU 1181 bus driver and Kelly D'Coursey
15 [sp?] Local 1181, a driver as well. If there's
16 anybody else who wanted to give testimony, you'd have
17 to fill out a form that the Sergeant at Arms has,
18 otherwise, this will be our last panel. Okay, and
19 who would like to start? Okay.

20 ARCADIO FRET: Good afternoon, Chairman,
21 City Councilmen. I've been a bus driver for about 10
22 years. I love my job. I love what I do. The
23 situation with the EPP really basically destroyed my
24 livelihood. I'm right now forced to go to another
25 company that's going to pay half my wages, no medical

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2 benefits and no pension. Living in New York City is
3 very tough. I have two children, rent or pay [sic]
4 those to take care of. And basically I'm just urging
5 the City Council to pass this grant. So, you know,
6 help us get back on our feet. It's a difficult
7 situation, you know, so I just want to appreciate you
8 guys and thank you very much for helping us, because
9 we do need your help. It's a tough battle, but with
10 your help we could overcome. Thank you very much.

11 CHAIRPERSON DROMM: Thank you. Next
12 please?

13 KELLY D'COURSEY: Hi, good afternoon. My
14 name is Kelly D'Coursey. I've been a school bus
15 driver for 20 year. I was laid off last year for
16 seven months, and I was able to pick back into a
17 company that still had the EPP. I was lucky enough
18 for that. It's, I think that the children are the
19 ones that are going to suffer the most from all this.
20 Over the summer, I'll just give you a little example,
21 I had a little child on the bus. She was autistic,
22 severely, and her mother used to have to give us a
23 harness. We used to have to harness her in, and she
24 used to cry a lot, scream a lot, bit herself, and
25 it's really heartbreaking when you see this. And she

1
2 told me, the previous bus driver used to threaten to
3 call the police on her child every day if she didn't
4 do something with her. They don't understand the
5 disabilities that these children have. You don't
6 just call the police because a child cries. It's
7 inhuman the way they act, and I'm afraid of what's
8 going to happen for these kids. At the end of the
9 school year, at the end of the summer, the child for
10 the first time looked me in the eye and it was very
11 hard for her to do, and she hugged me before she got
12 off that bus, and I can't even tell you the feeling
13 that that is, to know that I made a difference in a
14 small way, but in a big way to the parent who was so
15 appreciative of it, and she said, "Thank you so much.
16 I hope that we can get you next year." and I mean, I
17 hope I could too, or someone as experienced as I am
18 also. The parents, they trust us. We have their
19 children. It's very hard for them as a parent to give
20 their child to us, and we're transporting them safely
21 and we're doing the right thing, but to have somebody
22 tell you, "Oh, I'm going to call the police on your
23 child because your child is ill." That's--it's not
24 right. And who knows, you know, who knows what can
25 happen then. Thank you.

1
2 CHAIRPERSON DROMM: Thank you very much.
3 Next please?

4 EARNEST PIERRE: Good afternoon. My name
5 is Earnest Pierre and I have been in this industry
6 for the past 14 years and a driver as well. In the
7 last 18 months, we have been suffered the most
8 hardship that anyone in any industry could ever
9 suffer. I have friends, co-workers, even family
10 members in which their livelihood has been
11 distraught. They're not able to pay their bill.
12 They're not able to support their family. Some of
13 them in which they even get evicted from their
14 houses. I, myself, I have two children, one on the
15 way, with a girlfriend, wife, a partner who's been in
16 this industry and been laid off. Without the EPP we
17 do not know what's going to happen. Without the
18 support of this bill we do not know how many lives
19 that's going to be destroyed. Recently, we are about
20 to have 1,200 other members who's going to be added
21 on the Seniority Master List. If the City Council do
22 not urge the companies to hire people from the Master
23 List, it's going to be a disaster again, open [sic]
24 disaster. So I'm plea--I'm begging the City Council,
25 the members and the Mayor to do the right thing by

1 supporting this bill, by passing it so that at least
2 we can see the light at the end. We're doing this for
3 passion. We love what we do. Once those kids get on
4 the bus, they are our children. It's our job to
5 protect them from the time that the parents escorted
6 them into the bus, it's the drivers and the matron
7 who will be sweating tears day and night to protect
8 those children. So, please do what's best for us.
9 Thank you very much.

11 [applause]

12 CHAIRPERSON DROMM: Council Member
13 Eugene?

14 COUNCIL MEMBER EUGENE: To Mr. Pierre and
15 also the other drivers, I just want to commend you
16 for your dedication and your love in helping
17 students, and I know what you--I got an idea of what
18 you went through because I remember in my office so
19 many of bus drivers and matron came to my office and
20 stated they couldn't, you know, pay their bill. They
21 were going to be evicted. They couldn't maintain the
22 family. I know what you went through, and that's the
23 reason I stood with you. That's the reason I will
24 continue to stand with you, because you have done
25 what you are supposed to do, helping the children

1 with dedication and love. You know what you have been
2 doing. You have been doing it for so many years.
3 You didn't deserve to go through that. You didn't
4 deserve to go through that, and you can be ensured
5 that we on the City Council, we are going to do
6 anything in our power to make sure as anyone working
7 hard in the New York City, you will be provided also
8 with the benefit and the support that you need.
9 Because, as I said, we in the City Council we are
10 doing any effort that we can do to make sure we
11 improve the quality of life of the hardworking people
12 in New York City. We voted to increase the minimum
13 wages, and we are making all the effort. As a matter
14 of fact, we've passed legislation for paid sick
15 leave, and we should do the same for you. You also
16 receive respect, equity and justice. And we in this
17 City Council, we are determined to do everything that
18 we can do for you to have your benefit back. Thank
19 you.
20

21 EARNEST PIERRE: Thank you.

22 CHAIRPERSON DROMM: Well, thank you
23 Council Member Eugene, and before I let this panel
24 go, I'd like to say I was a New York City public
25 school teacher for 25 years until I got elected to

1
2 the City Council in 2009, and I actually taught up
3 until two months before coming into the council. So
4 I've only been away from the schools for the last
5 four and a half years or so, and I know as a teacher
6 how important our bus drivers and our matrons are to
7 the educational process, because you pick those kids
8 up first thing in the morning. You set the tone and
9 the mood in the bus for them before they get to
10 school. You pick them up in the afternoon. You take
11 them home safely to their parents. You take us on
12 the school trips. You take us there safely. You
13 accomplish all of those things, and I just want to
14 say how grateful I was personally as a teacher to
15 have competent good bus drivers making sure that our
16 children arrived and left school safely on a daily
17 basis, and I want to say thank you all for coming and
18 giving your testimony. Thank you very much.

19 EARNEST PIERRE: Thank you, Mr. Chair.

20 ARCADIO FRET: Thank you very much.

21 CHAIRPERSON DROMM: We do have one more
22 who would like to speak and his name is Kennedy, and
23 I can hardly read the last name. I think it's Zomilus
24 [sp?] Okay, and would you like to begin?
25

1
2 KENNEDY ZOMILUS: Thank you, Mr.
3 Chairman. Since we was in strat [sic], you was
4 promise. Your promise was you would will be behind
5 us. Until today, we realize it. You're still behind
6 us. My wife been in the, that job for 15 years. I've
7 been on the job for five years, but I've been out of
8 job since February, and many of us been out. I got
9 kids going to college. I got kids now supposed to
10 pay for their school. Until now, I don't know yet how
11 I going to pay. All my bill is behind, and I believe
12 by giving that money--open your eyes on what hands
13 that money going to, because some companies, other
14 people without experience while we still outside? The
15 money that you going to give them, be sure they use
16 that money the proper way. Thank you for your
17 support. Thank you Dr. [sic] Eugene, because I know
18 you fight a lot for us, and all the Council Member,
19 Chairman, we--you are on our heart [sic], because
20 since we was outside, we knows who look for us, and
21 we are New Yorkers. We will stand behind you 1181,
22 we not going to back up. We'll be behind you and
23 support you on everything. Thank you.

24 CHAIRPERSON DROMM: Thank you very much
25 and I'm very honored and touched by that and I

1
2 remember those cold January days standing out on the
3 picket lines fighting for justice for our bus drivers
4 and hopefully this is the first step in the right
5 direction of correcting what was a horrible situation
6 and I thank you very much for coming in. I thank
7 everybody for joining us today and I want to say that
8 this meeting is now adjourned at--let me see--3:15 in
9 the afternoon. Thank you very much everyone.

10 [gavel]

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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date August 23, 2014