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SECRETARY OF EDUCATION

BILL RICHARDSON
Governor

RECEIVED

DEC 12 2008

LESC

December 12, 2008

Frances Maestas
Director
Legislative Education Study Committee
325 Don Gaspar Ave., Suite 200
Santa Fe, NM 87501

Re: Senate Joint Memorial 12 - Requesting the Public Education Department to study how school transportation funding for salaries and benefits is being spent.

Dear Ms. Maestas:

As you are aware, SJM 12 requested that a workgroup consisting of the Public Education Department (PED), the Legislative Education Study Committee (LESC) and the Legislative Finance Committee (LFC), in collaboration with public school district administrators and representatives of private school bus contractors, examine the funding of school transportation contracts to ensure that employees of private school bus contractors have full access to the wages and benefits available to the contractor.

A workgroup was not convened primarily because PED was compiling data regarding the benefits of bus contractor employees; dealing with a school bus contractor walk-out in Moriarty; dealing with the transition and transfer of equipment in Las Cruces as a result of a contractor change; and preparing for the special session, which occurred in August and required the PED to formulate estimates for fuel cost shortfalls.

The PED and LESC met in April 2008 to discuss SJM 12 and determine what information to collect from school bus contractors (see Attachment A). It was agreed that current data on employee benefits paid would be of most use in determining recommendations regarding this memorial. However, it was noted that this information would not be available until early September 2008. The submitted contractor benefit data demonstrates that school bus contractors provide employee benefits for health, medical, retirement, life, dental and vision to less than 5% of all contracted employees.

During a school transportation administrator's meeting in November 2008, this issue was addressed by a small workgroup. Its conclusion was that additional resources should not be used to create employee benefits for contracted employees and that there are other future costs that are of a higher priority. Further, it determined that all school transportation issues should be considered by a larger workgroup or legislative committee (see Attachment B).

The latest study on school transportation funding for school transportation operations, fuel, equipment, etc. was completed in 1994 by a legislative-appointed task force. One of the recommendations that I recall was to review this issue at least every 10 years. I believe it would be worthwhile to convene a task force, especially in light of recent issues with equipment losses, where contracts were terminated, and in light of the upcoming impacts as outlined in Attachment B.

If I may be of further assistance, please contact me at 827-6640

Sincerely,



Gilbert A. Perea

Assistant Secretary

Program Support & Student Transportation

Enclosures (2)

cc: Don Moya, Deputy Cabinet Secretary, Finance and Operations
Ruth Williams, Manager, Legislative and Community Relations Bureau, Public
Education Department
Carlos Santiago, Transportation Bureau Chief, PED

Attachment A

Fleet contractors operating two or more school bus routes were requested to provide a detailed report of the employee benefits paid by the contractor.

The definitions below determine the proper category to report any benefits paid for employees.

Retirement Contributions. Employer's share of any state or local employee retirement system paid by the contractor.

Retiree Health. Employer's share of Retiree Health Care contribution.

FICA Payments. Employer's share of Social Security – FICA taxes.

Medicare Payments. Employer's share of Social Security – Medicare contribution.

Health and Medical. Employer's share of health and medical premiums.

Life. Employer's share of life insurance premiums.

Dental. Employer's share of dental insurance premiums.

Vision. Employer's share of vision insurance premiums.

Disability. Employer's share of disability insurance premiums.

Other Insurance. Employer's share of insurance benefits not previously identified.

Unemployment Compensation. Amounts paid by the contractor to provide unemployment compensation for its employees.

Workers Compensation. Amounts paid by the contractor to provide worker's compensation insurance for its employees.

Cafeteria Plan Fees. Payments assessed by insurance agent for administering the cafeteria plan (IRS section 125).

Employee Assistance Programs. Employer's share of employee assistance programs.

Attachment B

School Transportation (Future) Cost Impact

Cost Impact 1

Resulting from: Federal Motor Vehicle Safety Standard (FMVSS) regarding lap & shoulder belts on school buses.

Effective Date: School buses manufactured after October 21, 2011

Potential Increase Cost per School Bus: \$8,500 (\$355 per seat frame)

Replacement cost estimated increase (200 school buses X 24 seat frames per large bus):
\$1,700,000 per year

Background: The new Federal Safety Standard specifies performance requirements for installed lap or lap/shoulder belts at passenger seating positions. The new standard also recognizes a flex-seating system that would not alter current school bus capacity.

The standard applies a mandate to school buses at or below 10,000 Gross Vehicle Weight Rating (GVWR) & a voluntary installation for school buses in excess of 10,000 GVWR.

The National Highway Transportation Safety Administration (NHTSA) believes that the installation of lap & shoulder belts would provide the best occupant protection in school buses and could result in fewer fatalities and injuries resulting from a school bus crash. NHTSA cited its inability to require this standard as a result of the Unfunded Mandate Reform Act.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995).

Potential Liability: States that do not voluntarily install lap & shoulder belts in school buses (a safer available system) could face an increase in claims paid as a result of injury in school buses that were not equipped with lap & shoulder belts after October 21, 2011.

Potential Funding Sources: Federal Highway 402 State and Community Highway Safety Formula and Federal Highway 406 safety belt performance grant funds have been identified by NHTSA.

Attachment B (Continued)

School Transportation (Future) Cost Impact

Cost Impact 2

Resulting from: Federal Motor Vehicle Safety Standard (FMVSS) regarding increased seatback height on all school buses.

Effective Date: School buses manufactured after October 21, 2009

Potential Increase Cost per School Bus: \$0

The Public Education Department modified the school bus construction standards in 2005 and began installation of higher seatbacks (which meet the new Federal Motor Vehicle Safety Standards (FMVSS)) as a result of previous findings from the National Transportation Safety Board.

Background: The new FMVSS require the installation of higher seatbacks in all school buses.

Cost Impact 3

Resulting from: United States Environmental Protection Agency (EPA) - Diesel Emission Standards for 2010.

Effective Date: Diesel engines manufactured after January 1, 2010

Potential Increase Cost per School Bus: Unknown total cost at this time.

Equipment cost estimate: \$7,000 per bus

Operational cost estimate: \$1,050,000 incremental per year for 12-year full implementation.

Diesel exhaust fluid (DEF) current cost is \$12 per gallon. Usage is 1 gallon per 50 gallons of diesel. The annual estimated incremental cost is \$1,050,000 per year for a total cost (12-year) of \$12,600,000 for full implementation of buses equipped with Selective Catalytic Reduction systems (SCR).

The previous EPA compliance costs for 2007 engine manufacturing changes resulted in \$7,500 per bus.

Background: Diesel engine manufactures have come up with two solutions to meet the 2010 EPA emission standards; SCR or exhaust gas recirculation (EGR).

The SCR system will require an additional catalyst, additional tank for DEF, injector system and an instrument panel gauge.

The EGR will require engine modifications.