

PUBLIC HEARING

before

SENATE TRANSPORTATION AND COMMUNICATIONS COMMITTEE

on

BUS TRANSPORTATION IN NEW JERSEY

Held:
March 19, 1984
Room 114
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Walter Rand, Chairman
Senator S. Thomas Gagliano
Senator James R. Hurley

ALSO PRESENT:

Peter R. Manoogian, Research Assistant
Office of Legislative Services
Aide, Senate Transportation and
Communications Committee

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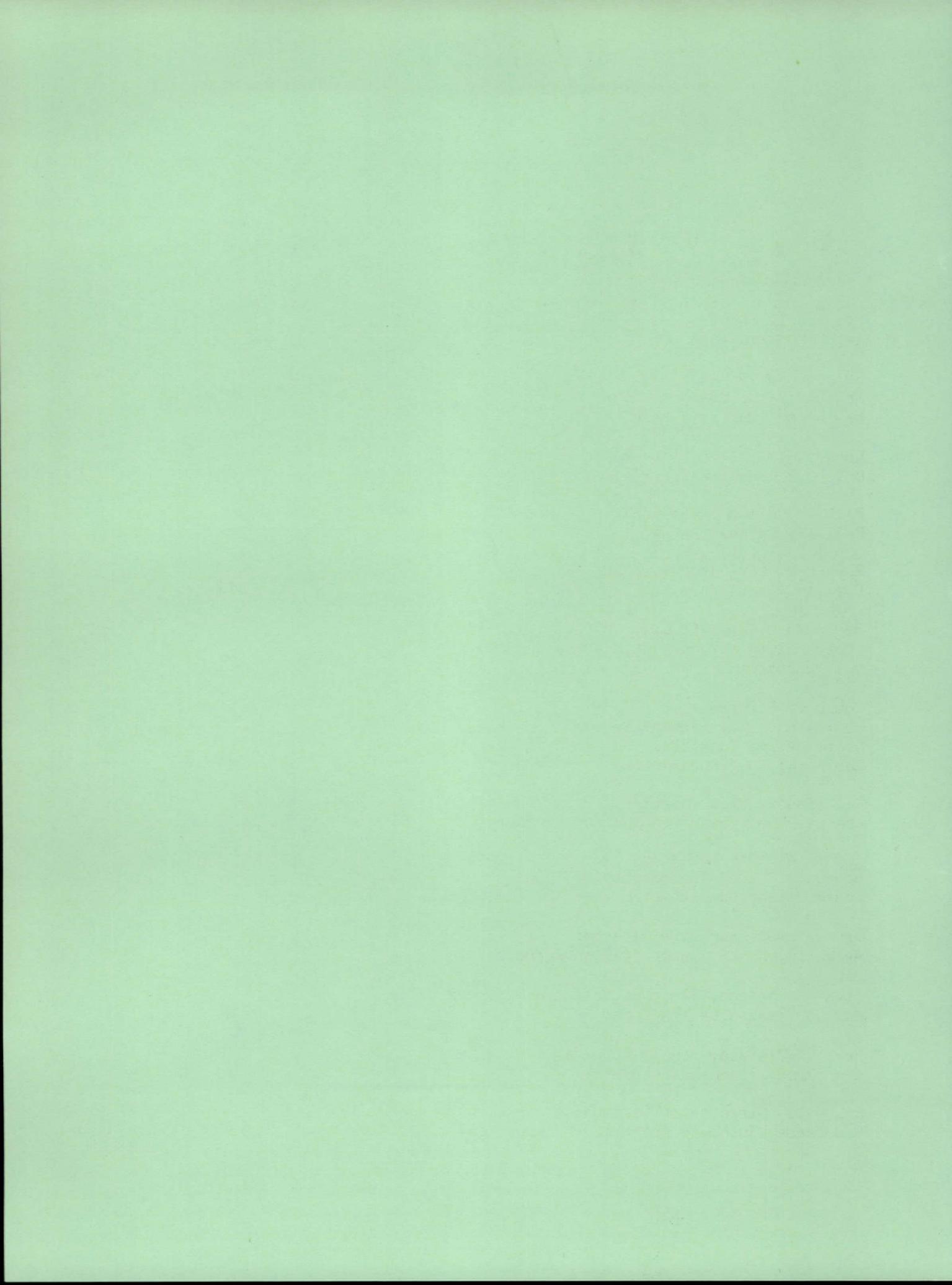


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SENATOR WALTER RAND (Chairman): Good morning, ladies and gentlemen. My name is Senator Walter Rand, and I am Chairman of the Senate Transportation and Communications Committee. I would like to welcome you here this morning.

At this time, I would like to introduce Senator Tom Gagliano, here on my left, who is also a member of this Committee. I think we will be joined a little bit later on by some of our other members.

If any of you have written testimony, or wish to be added to the witness list, please contact Peter Manoogian, our Staff Aide here, after the opening remarks have been concluded.

I hereby call this public hearing to order, for the purpose of hearing testimony concerning bus transportation in New Jersey. The subjects which we would like to consider at this hearing are such matters as: the relation of New Jersey Transit to subsidized and nonsubsidized bus carriers; the role of New Jersey Transit in various areas, such as charter bus services and the accountability of New Jersey Transit for its activities; bus routes; fare determination; implementation of the Senior Citizen and Disabled Resident Transportation Act; transportation problems of those working in the Atlantic City and Route 1 areas; and, the relationship of the Toll Road Authority to bus service.

After the other members of the Committee have concluded any opening remarks they may wish to make, we will be happy to hear the testimony of those scheduled to appear before us today. I want to thank everyone for coming and, certainly, we intend to hear everyone who wishes to testify before this Committee today. Senator Gagliano?

SENATOR GAGLIANO: Thank you very much, Mr. Chairman. I am pleased that we are here today. I think sometimes we take too much time between sessions and, therefore, we do not stay current with what is happening in the State. From time to time, those of us on the Transportation and Communications Committee hear complaints from private carriers and, of course, we are constantly hearing complaints from some of our commuters, and some of the people who use the system, whether it is private or public. I think it is good for us to get together on this issue.

As you know, the bus transportation system has been a problem in the State for many years. New Jersey Transit was created by us to deal with the matter of rationalization of routes and subsidization of the bus systems. In recent years, the scope of New Jersey Transit's bus operations and its relations with the private bus carriers has become somewhat controversial. I guess one of the questions we always have to try to answer is, what is the relationship between private and public carriers, especially with respect to buses? That is the most important.

I am concerned, also, about our bill -- Tom Cowan's and mine -- the Senior Citizen and Disabled Resident Transportation Act, and the implementation of that Act, because the Governor has put \$10 million in our budget for the next fiscal year, and we want to be sure that the money goes to the purposes for which it was intended. It is certainly not intended to be a supplement to any county transportation system. As I said, we are talking about competition between New Jersey Transit and private carriers and, of course, the issue of preferential treatment for commuter buses on toll roads, which is also a resolution that I have in.

These are only some of the issues, and I'm sure Jerry Premo will lead off with the answers to all of them. At any rate, we are here to listen, and we're here to help. If a need for legislation comes out of this, I'm sure the members of the Committee will respond. Thank you very much. I see Senator Jim Hurley is here.

SENATOR RAND: Thank you, Senator Gagliano. We have been joined by Senator Hurley. We would like to introduce him, and have him make some remarks.

SENATOR HURLEY: No, that's fine, Mr. Chairman.

SENATOR RAND: You're just ready to listen to the testimony?

SENATOR HURLEY: Yes.

SENATOR RAND: Okay. This public hearing today is a result of many of the members of the Committee being visited by those from "big bus" and those from "little bus," and some of the bus operators, regarding some of the problems which have occurred throughout the State. We are very happy to have this hearing today at least to clear

the air, and, if we can't clear the air, then, certainly, to address those problems which we will hear about today.

The first witness will be Mr. Jerome Premo, Executive Director of the New Jersey Transit Corporation. Jerry, we're glad to have you, and happy to have you start off the day.

JEROME C. PREMO: Good morning, Mr. Chairman, Senator Gagliano and Senator Hurley. I think it is opportune that we pull back, four years after the creation of New Jersey Transit, and reflect on the extraordinary development which has occurred in these four years. The improvement for the day-to-day bus user, I think, has been quite substantial during this period, whether that rider happens to be on a private bus or a public bus.

The environment in which we are operating, though, has changed substantially, largely through deregulation, which occurred as part of an act of Congress a couple of years ago. Some of the pressure, Mr. Chairman, that you cited in your remarks, relates in part to that deregulated environment under which the ICC is less involved in daily, or regular reviews and activities.

I want to offer these introductory comments to some testimony I would like to go through, and then briefly touch on some charts which, in a way, portray some of the commitment we have at New Jersey Transit to a healthy public/private partnership in public transportation.

I would like to try to put this hearing, or at least NJT's perspective of the issue, into some historical context. Back in 1969, a temporary bus subsidy program was put into place, largely in order to prevent the imminent cessation of service -- essential public service -- by some of our regular route carriers. A more comprehensive master plan was to be developed subsequent to the enactment of that temporary legislation, but that temporary program continued through the 1970's, with often disastrous results.

Between 1969 and a decade later, 1979, larger and larger sums of public money were put into the subsidy program, largely to keep private carriers afloat, but without a clean enough definition of the public requirement or need in passing across the table public dollars

for public service. There were growing problems among private carriers, and they included problems our riders experienced. The lack of service coordination made it difficult for the public to understand or use the system. Obviously, during this period, not only here in New Jersey, but in many other places in the country, we suffered a very sizeable ridership loss.

Inherent in this system was a rising frustration, not only among the carriers, but certainly among our commuters. There was a need to replace older buses in our State, but we did not have an adequate statutory framework within which to make the decisions. The subsidy program which existed at that time was based on the concept of bottom-line funding. It really did not give the State an adequate opportunity to implement priorities available to the State, or inherent in the State's investment in this service; for example, the service coordination between carriers on the private program.

It seems to me that the bus problems that confronted the State were the result of several different factors. Obviously, a decline in public transit nationally was occurring during that period, and we were seeing some decentralization and some problems in our cities in this State which are inherent in public transit. But, some of them reflected serious problems with the State's subsidy program itself. Having said that, many carriers not on the subsidy program were doing well during this time period, and continue to do well.

With this as background, the Legislature, in 1979, acted to dramatically alter the organizational framework for this State's involvement in public transit. By your enactment of the New Jersey Public Transportation Act of 1979, you created New Jersey Transit, and directed us to be in control of the service for which we were paying. Since you created New Jersey Transit, we have moved aggressively, and I think positively, to improve the lot of the public transit user in the State. We acquired, in 1980, in an arrangement which cost no dollars whatsoever to the taxpayers of this State directly, the Maplewood Equipment Company and Transport of New Jersey. We did that after securing from Public Service Electric and Gas a fully-funded annuity so as to protect the unfunded pensions, at that point, of the workers of

the private bus company. Since then, we have assumed operating responsibility for several additional carriers which decided to terminate service, including Lincoln Transit, Trackless Transit, and Somerset.

We have been confronted with an enormous agenda during this very short time period. I am proud to report that we have been successful in achieving many of our immediate objectives, including making an equitable and understandable fare structure for the users, and improving rider information. One need look no further than the Port Authority bus terminal and reflect on the problems and lack of information in years past, contrasted with the upgraded information now, to see the improvement we've made. We have worked hard to rationalize service throughout this State, starting in South Jersey in 1980, and continuing, for example, as recently as our Board Meeting of February, when we authorized route restructurings in Ocean and Monmouth Counties.

We have done a very major job to upgrade our bus fleet. When you created New Jersey Transit, we had the dubious distinction of having the oldest average age of any bus fleet in regular commuter service in America -- over 12 years old. Around the country, people traditionally replace buses at age 12. But, our average age, I underscore, was over 12. It translated into the kind of problems that each of you gentlemen brought to my attention, often on a daily basis. Why? Because the commuters were right, our buses were too old, they were too cold and drafty in the winter, and too hot in the summer. It wasn't just for New Jersey Transit that that condition existed. It existed for private carriers as well.

We attacked that problem, attacked it through the purchase of hundreds of city transit buses, and nearly 1,000 commuter buses. We have succeeded in reducing that average age from 12.3 years, when you created New Jersey Transit, to 6.8 years now. The results are appreciated on a daily basis by New Jersey Transit users, and by the users of private companies. I say it as a fact, and that is why you set us up. It is exactly what we should have been doing.

Now, as we have gone about this, we have tried to keep a couple of factors in mind which are very difficult for us to deal with. We aren't going to compromise quality service to our riders; but, having said that, we need to balance out keeping the public in public transit, the service component on the one hand, and on the other, operating in a businesslike fashion. That is where the rub occurs, because sometimes as we try, for example, in the charter business, to operate in a businesslike fashion so we can make a few dollars to help offset the need for State subsidies or higher fares, we run into problems with both perception and, perhaps, fact, in our dealings with private carriers. What I do know is, the private business management mentality, which we have tried to bring to this operation, has caused us to put our costs under control, and to have about a 3% increase in total budget cost for the fiscal year which begins this coming July 1. With this, assuming positive enactment of the Governor's request for only an \$11 million increase in New Jersey Transit aid for this upcoming year, there will be no fare increase. What we hope to do is increase ridership on NJT, generate additional revenue from that ridership and, with it, reduce the need to either turn to the Legislature, or to our riders, for added revenue.

To go back to our context of a public/private relationship specifically, we have tried to forge a partnership with the private sector and, to a degree, in the eye of the beholder, it can either be successful, questionable, or unsuccessful. But, in any event, we have tried to carry out this program, keeping in mind the needs of the riders of public transit. I have to conclude that one of the reasons we have a number of healthy bus companies in New Jersey today, is because of the favorable climate that we at New Jersey Transit have tried to create -- the favorable set of steps we have taken to provide this climate.

To the extent that public funds are used, either as direct capital support of private enterprise, or as operating subsidies which provide a benefit to private carriers, their financial health is strengthened. You can't, as we have just concluded doing, make 220 brand-new buses available at no cost to the private carriers -- make

220 buses available for regular route service, and not realize that we have been acting in a positive way to aid the financial health of those private carriers. These investments permit the private companies to balance their revenues and costs; reduce the pressure of increasing fares to the riders; offer better service to the riders; increase reliability and efficiency; and, generally provide an environment more conducive to their profitability.

To date, 826 buses have been leased by New Jersey Transit at no cost to private carriers. The public funding for these 826 buses exceeds \$77 million in capital. In addition, NJT's private carrier capital program provides public funding to private carriers from the Federal Urban Mass Transportation Administration, our partners in progress for public transit in New Jersey. Formula grant funds, matched by New Jersey Transit, will provide assistance for such important items as radios, fare boxes, and bus washers. Through 1987, we intend to pledge and commit \$52 million in additional funds for private carriers from this program.

Now, I want to emphasize as a footnote that we assume the availability of non-Federal matching dollars to supplement funds available to us from the Federal Urban Mass Transportation Administration. The Governor's transportation funding proposal would do just that for us.

SENATOR RAND: Is that \$52 million for 1984, 1985, 1986, and 1987?

MR. PREMO: Yes, sir.

SENATOR RAND: That's the four years?

MR. PREMO: Yes.

SENATOR GAGLIANO: Jerry, with respect to the availability of those buses, can the private companies use them for charter if they so desire?

MR. PREMO: They can use them for charter, consistent with the regulations issued by the Urban Mass Transportation Administration. Those regulations preclude the use of buses for charter during peak hours. Just as New Jersey Transit is not allowed to use buses bought with Federal money in the a.m. and p.m., the

private carriers who receive the 826 buses are not allowed to use those buses either.

SENATOR GAGLIANO: Do you mean other than commuter?

MR. PREMO: They can use buses that they have bought with their own money for charter anytime they want, but if you play the game and get a Federally-bought bus, you cannot use them for charter at rush hours.

SENATOR GAGLIANO: Okay.

SENATOR RAND: Let me just return to the \$52 million. How much State money do you need to attract that \$52 million?

MR. PREMO: It's an 80/20 match, so it is about--

SENATOR RAND: (interrupting) So, you need approximately \$10 million or \$11 million?

MR. PREMO: Yes, sir. I am proud that New Jersey Transit has led the nation in helping private bus companies. It may not appear that way to some of the people with whom we do business, but I believe sincerely that that is the case. Our private carrier capital improvement program is unique in the country. It is as a result of intense advocacy by New Jersey Transit that UMTA accepted this proposal. In a nutshell, here is what happened. UMTA said, "We'll increase the pot of capital formula grant money that is available to you by counting the mileage that private carriers run in regular route service -- in commuter service -- in local transit service." So, we worked with the private companies. We made a case before UMTA, and they approved an extra chunk of money, roughly \$10 million or \$11 million a year, in the formula fund that came to New Jersey. That was good news, but unlike some other states, which then immediately pumped that money directly into the public agencies' own capital improvement programs -- which we could have done -- we did the right thing. We set up a private carrier capital improvement program. We have been working with the carriers to set up a continuing capital program, not just for buses, but for the other things I have mentioned.

We have relationships which go beyond the capital side with private carriers; for example, the Student Fare Program, the Senior and Disabled Citizen Reduction Program, our bus card, the Bus Shelter

Program, and the Park and Ride Program. These are some examples of our efforts to do the right thing.

Senator Rand, I would like to pick up on what you just said about the need for matching money, because it is important to us, and it is important to the private carriers as well. We need to be in a position to take advantage of the funding that is available to New Jersey, and to other states, as a result of the enactment of the one-cent Transit Trust Fund, which was included in the five-cent increase in the gas tax passed by the Congress. That program sets aside money that we go after each year in New Jersey. It is part of a broader program that delivers to us, and to other states, formula funds for both capital and operating. We would hate to leave dollars on the table, but the fact of the matter is that during Fiscal Year 1985, we are going to run out of match money. The combination of TRANSPAC and the 1979 bond issue is going to lead us to improvements in our transit system in a positive sense, but because we have committed funds in a timely fashion, they are going to have dried up. Some fill-in is going to be needed.

SENATOR GAGLIANO: How much are we short?

MR. PREMO: We are going to need \$50 million a year on a continuing basis.

SENATOR GAGLIANO: Just for transit?

MR. PREMO: Yes, in order to match transit dollars available to us from Uncle Sam. Now, that is the range of the program which has existed for these past few years.

SENATOR RAND: Are you saying then, Mr. Premo, that we can anticipate a draw-down from 1984 to 1987? If you are talking about \$50 million on a 20% match, are you talking about \$1 billion -- 10% of \$500 million? If we need \$50 million a year on a 20% match, 10% of \$500 million is \$50 million. Are you talking about \$1 billion a year that we're getting in transit?

MR. PREMO: No. Over a four-year period, Senator, we will have a transit capital program that will be close to \$1 billion. During that period we are going to need \$200 million or so to match the \$800 million in Federal money that we can attract to New Jersey. The

\$200 million over a four-year period breaks down to about \$50 million a year.

SENATOR GAGLIANO: Jerry, can you give us a thumbnail sketch of what you are going to spend that on?

MR. PREMO: We are going to spend about half of that money on the railroad, and about half of that money on the bus system.

SENATOR GAGLIANO: There are those of us who have been on the Transportation Committee for quite a while, and that is a lot of money. I would like to have just a thumbnail sketch of where that kind of money would go over this period of time.

MR. PREMO: Roughly half of it would go to the railroad, and half of it would go to the bus system in our State. On the railroad, we have a major job of rebuilding bridges, fixing up track, and redoing signals. We have the extension of electrification on the North Jersey coastline to Long Branch, and some connection between our Boonton line and the Montclair branch is important. We have bridges over the Hackensack and Passaic Rivers that will require massive funding. We have to do something there; I am not sure exactly what it will be. We have a connection between our broader M&E line and the North Jersey coastline that is very important. We have maintenance facility needs, including the full funding of our maintenance shop, for which we expect to break ground very shortly in Kearny.

So, we have an infrastructure renewal program, and very few new projects. This is in somewhat sharp contrast to the State's highway program, which has a number of new highway projects on line. Here we have -- to repeat myself -- some infrastructure rebuilding that is very important. In the bus system, we have a need to avoid the mistake of the past. The mistake of the past was not to buy buses on a continuing basis. We have a bus fleet of around 3,000 here, and we need to buy 200 or 250 buses a year. We really have to do that if we are going to avoid finding ourselves with the average age moving up, and with it, the breakdowns and customer complaints increasing. So, we have to replace 250 or so buses every year.

During this period, we have the need -- particularly in 1987 and 1988 -- to replace the 800 or so buses which the State bought in 1975 or 1976.

SENATOR GAGLIANO: What is it going to cost to do that, Jerry?

MR. PREMO: Well, we are now paying, on orders for our city transit buses, around \$155,000 apiece -- roughly \$155,000 for a commuter or city bus. We can all make our guesses as to inflation. We have negotiated hard, for example, on the add-on to our MCI order, in order to get the 245 added buses at the same cost as the original 455. We have maintenance facilities that need repair, fare boxes and radios, and the like. We can provide for the record -- particularly in light of the hearing nature of this get-together, Senator -- specifics on our capital program over the next few years. It is no doubt an aggressive program, but I would hate to think we have made the progress we've made, be this close to establishing an excellent public transit system, and then start going down into the black hole again by delaying important improvements.

What I would like to do, if I may, is just tick off some specifics as they relate to the private sector we have been involved in. I appreciate your patience, Mr. Chairman and members of the Committee, in allowing me to try to show a full span of activity.

Jim Crawford, Assistant Commissioner of the State's Department of Transportation, will speak later. We have been working with a number of private carriers. We have been on John Sheridan's Public/Private Task Force. As part of that effort, we have tried to work hard on a number of issues. Some of what I am going to say will reflect those deliberations, and then there are some specific initiatives by New Jersey Transit I would like to touch on.

1. Territorial Integrity: Who runs buses where, and when? New Jersey Transit and the private carriers both support the concept of territorial integrity. We are committed to working with private carriers to eliminate unnecessary and destructive competition that will negatively affect both of us.

2. Coordination: We need to expand our efforts to work with private carriers and coordinate our operations so that we can come up with the rational and coordinated unified system the public wants and needs. We need to focus primarily on coordinating our routes and our timetables.

3. Capital Resources: As I have tried to indicate, we are committed to a continuing program of upgrading the State's bus fleet. The capital improvement program for private carriers -- which I have described -- will be funded at roughly \$12 million a year through 1987. We started out in 1983 with a smaller amount, and then it is around \$12 million a year for 1984 through 1987. New Jersey Transit is going to continue to push this program and be an advocate before UMTA, assuming, of course, we have the matching non-Federal funds to take advantage of these UMTA dollars.

4. Procurement: We want to explore all the possibilities of having private carriers add on to our New Jersey Transit procurements. We think the open and competitive way in which we go about our business is a healthy way. Particularly, it is a way in which minority and female-owned businesses have a chance at bat with us. The economy of scale could decrease certain costs to private carriers, and make procurement more feasible.

5. Equal Treatment: New Jersey Transit supports legislative and regulatory policies which render favorable treatment to private carriers who are providing commuter and regular transit service, as this relates to taxes and registration fees.

Along these lines, I would like to use the occasion of this hearing, Mr. Chairman and members of the Committee, to endorse the resolutions Senator Gagliano sponsored, calling for preferential treatment for commuter and transit buses at tollbooths. The resolution sponsored by Senator Rand calls for relief from authority tolls for all carriers providing commuter and transit services. Obviously, as we try hard to control our costs, whatever can be done in the context of authority relationships is a plus for New Jersey Transit.

Finally, but not at all least, New Jersey Transit supports S-131 sponsored by Senator Rand, which would exempt transit and commuter bus operations from payment of State tax on motor fuels. Each of these bills and resolutions represents effective, reasonable measures for promoting public transit in this State.

6. Regulation: This past January, Governor Kean signed into law legislation which will free private carriers from unreasonable

delays which obstruct the implementation of needed fare increases, even in the most routine circumstances. NJT supports this and, obviously, is looking forward to a "no fare increase spring" ourselves, for the first time since we have been established.

We also support the concept of a New Jersey regulatory authority which would replace the ICC's role in overseeing bus transportation which is interstate in nature. It is important to consider this in the context of service from New Jersey into New York, and service from the southern part of our State into Philadelphia. NJT itself is willing to be subject to this New Jersey based interstate regulatory authority, insofar as it substitutes for existing ICC authority.

7. Destructive Competition: As the manager -- for you and for the taxpayers of this State -- of public funding, we think it is important for us to manage the huge public dollars which would be available to us or to private carriers. We maintain the right to deny participation to private carriers in the capital program, if they are engaged in destructive competition.

SENATOR GAGLIANO: How do you determine that, Jerry? Seriously, you know, usually you have a third party -- a court, a judge, a hearing officer, or someone -- who makes a determination that one party or the other has overstepped his bounds. How do we determine in New Jersey what becomes destructive competition, vis-a-vis someone operating against the interest of New Jersey Transit, if you see what I'm saying. I think we put in the statute that we didn't want New Jersey Transit to destructively compete with private carriers. How do we determine this? Who does it? Who is the referee?

MR. PREMO: Right now, it is the New Jersey Transit Board of Directors.

SENATOR GAGLIANO: As far as the private carriers are concerned, is that a situation where maybe they would feel the cards are stacked against them?

MR. PREMO: Well, I'm not sure. I think they can address that issue themselves. I can understand why some might feel that way. We have had one instance since New Jersey Transit came into existence

where someone lodged a complaint against us for operating destructively -- only one instance. The manner in which we operate, I would argue, is as open an operation as exists in any public agency in this State. The hearings are open hearings; the deliberations before our Board of Directors are, I believe, open. The openness of John Sheridan -- and the openness of his predecessors as Chairmen of New Jersey Transit -- is something to be proud of. I feel reasonably comfortable that the process is one that affords everyone a chance at bat.

SENATOR GAGLIANO: I just wondered if you had any ideas that maybe legislation would be appropriate at some time, which would come up with a forum where the private carriers and New Jersey Transit, when there are issues to be resolved, rather than resorting to litigation or going to the New Jersey Transit Board, could go to some group or body similar to your NJICC situation, where these things could be aired and a decision made.

MR. PREMO: What I would like to do, Senator, is ask Jim Crawford and others to address that, because as a direct participant in the process what I say-- I think it would be good to listen to the full range of comments, and then, perhaps, return to that later in the day.

Let me wrap up here. It is clear that we haven't gained the full confidence and acceptance of all private carriers in the State. It is not for lack of significant effort, but as I reflect, both institutionally and personally, on the effort I have made, maybe it wasn't enough. We have been busy with a whole lot of other things, and, I think, doing those other things fairly well. But, as we achieve a degree of stability in public transit in this State, as New Jersey Transit has truly brought its costs under control, taken over the railroad, and upgraded the bus system, and since we're now fixing up our infrastructure, both garages and the rest, we need to continue to work on this. Your support and advice have been instrumental as we have made this progress. I'm proud of this progress, and we are going to work hard to continue to merit your support and trust.

What I would like to do, if I may, is just touch on some boards here which graphically portray some of the progress we've made.

Then I can answer any questions, or try to answer any questions, you might have. (Mr. Premo moves to stand near Committee table to demonstrate with boards.)

This is the first of these boards. What has been going on in the last few years with buses? If we look back to the early 1970's, we invested almost all our money in this State in our railroad program. In the mid-1970's, a whole lot of buses were bought, and a number of these were leased to private carriers. We have had another big increase in New Jersey Transit, and we see an opportunity for more good with another 250 buses over the next handful of years. So, in terms of the bus lease program, this is some information.

The next board -- and this is included as an attachment to the testimony I have offered -- will give you a sense of the number of carriers and the financial relationship which exists here in the State. Depending on your program, there are all sorts of private carriers involved, the most significant of which is the Senior Citizen Reduced Fare Program -- \$1 million a year to 65 carriers. We have our subsidy programs, and we break these down in a couple of ways. This is not during only one year. It is very important that I emphasize that. The bus-leasing dollar amount is the aggregate over time, leading to the 826 buses. But, on an annual basis, we are in the order of magnitude of \$16 million or \$17 million in support -- reduced fares, bus cards, feeder fares, transfers, and the Student Program. That is a quick overview. It adds up to \$100 million, but it is a little bit of apples and oranges. I want to be clear on that.

What is going to happen over the next few years? This is the program 1985 to 1989 (indicating next board). During this period reflecting a need to replace buses when they get old -- which uses common sense, because if you have an old bus, you have to find a way to get rid of it and get a new bus, or a less old bus for people -- New Jersey Transit's bus profile is such that we are going to need around 675 in our bus subsidiary, whereas some 865 would be available to both subsidized and private carriers during this time period. So, both in terms of numbers of buses and of dollars through the end of the decade, the majority of the financial commitment is going to be directed to other than New Jersey Transit bus operations.

Finally, here is an example of some of the activities which, over the next four years or so, will be supported with the \$50 million I touched on. So, this material is available as an attachment to my written statement.

I have just a couple of final remarks, if I may, Mr. Chairman. You asked a couple of other questions. Charter is an important issue, and, occasionally, a passionate one. New Jersey Transit -- like the private carriers which have received buses supported by the Urban Mass Transportation Administration -- can and does participate in charter activities consistent with Federal guidelines. We are not running charter operations at rush hours -- we simply are not, with Federally-aided buses. We have leased 39 buses. We have a long-term lease, a five-year lease, on those 39 buses. We have set up a separate cost center. We did this two and a half years ago, in the throes of a financial crisis, during which everyone at the hundred public hearings I went to on our fare situation, and the Legislature and our Board of Directors said, "Jerry, operate in a businesslike fashion. Use imagination." So, we did. We leased 39 buses at no cost to the taxpayers, and we are out seeking business opportunities so we can offset our deficit. But, those 39 buses are not costing the public anything, because we're paying the cost of leasing the buses out of charter revenues.

What is our charter story over the last few years? It is a small charter operation. Our total aggregate has dropped since we acquired TNJ, over \$8 million in charter and special services a year. In 1984, we are going to be less than \$4 million. We have 39 buses set aside for exclusive charter operations, in a State that has literally 1,500 or 2,000 buses in exclusive charter operations every day. So, we are no big story in charter. If we can pick up a charter on the weekend, consistent with Federal regulations which require us not to undercut privates, we are going to try to do that, because I do not take any joy in coming here and seeking money from you, or going to the riders and trying to sock it to those people. We are trying to balance out. We do not think the scale of our charter operation is out of line at all. In fact, it's a very, very minor operation in this State.

In terms of route rationalization, we have dealt in places throughout the State -- Middlesex, Mercer, Monmouth, Morris and Passaic Counties, Atlantic City, Newark, Elizabeth, and South Jersey. We now have to look at the area from Cumberland and Cape May Counties to Atlantic City. This is an area I have committed to examine this spring. So, it is an aggressive program of trying to rationalize routes.

Finally, we are trying to do this in a climate of positive relationships with our own workers. That is not easy to do. We are in labor negotiations right now. That creates a dilemma at this hearing, since our existing contract expires this Friday. I can say it is our commitment to remain competitive, or to the extent that we are not competitive, to be more competitive in terms of being able to control our costs. But, I hope that competition will not be -- and I am seeking to ensure this -- to the disadvantage of private carriers.

You have been extremely patient with this overview. Thank you for giving us this chance. We want to listen hard today, and learn. I hope we can answer questions that may come up during this hearing. Thank you, Mr. Chairman and Senators.

SENATOR RAND: Thank you very much, Mr. Premo. Senator Hurley, I am going to give you a chance to ask some questions first.

SENATOR HURLEY: Mr. Premo, at what level would you consider your charter service to be a competitive problem?

MR. PREMO: I'm not sure, Senator. I think that 39 buses, in the context of well over a thousand, is very minor. We do not intend to increase our dedicated charter bus fleet.

SENATOR HURLEY: I understand that, but you pointed to a \$4 million figure, and I wonder if there is some way that could be increased without running face-to-face into competition with the private carriers.

MR. PREMO: I'm not sure we are going to succeed in doing that. If we aggressively try to market our charter service, some, including people who will testify later today, will claim that that is unfair. You know, if we can pick up a few dollars on the weekend that will help keep fares down, we are trying to do that. It is a real

judgment call, Senator. We do not see a major expansion at all of our charter service. In fact, if we are not going to be make money on that charter service, we are not going to remain in it.

SENATOR HURLEY: That's it.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: Do you do any charters to Atlantic City?

MR. PREMO: We do some charters to Atlantic City. During 1982, we ran charter and special service buses. As opposed to regular route service, which we had been running, we ran 663 buses to Atlantic City. That is in the context of 300,826 charter buses that private carriers operated to Atlantic City.

SENATOR GAGLIANO: Are there still over 1,000 charter buses a day running into Atlantic City, Jerry?

MR. PREMO: Close to it. For example, the busiest month in 1982 was October, during which time over 31,000 buses poured in. It varies according to month. Maybe Ian Jerome from Atlantic City, who is going to testify later, can update the numbers, but it is just an astonishing number of buses. We're running maybe two buses a day into Atlantic City out of the 1,000 that are charter buses. For example, we're running some buses from Camden and other locations in southern New Jersey, and some from Philadelphia. We have, I believe, 34 buses a day on regular route service which run into Atlantic City.

SENATOR RAND: Are they commuter buses?

MR. PREMO: Yes, they're commuter buses which go to the bus terminal, as opposed to going directly to the casinos.

SENATOR GAGLIANO: Let me ask this. Suppose the New Jersey Transit Board decided at its next meeting that they would like to go into the charter business, say to Atlantic City, fairly heavily on Saturdays and Sundays. Number one, could you make a profit and, number two, how much of a scream would there be from the private carriers where you would be substantially damaging their business?

MR. PREMO: We could make a run for it; we could advertise for it; we could aggressively go after it. What kind of a response would we get? Somewhat less than warm. (laughter) But, I am concerned that we haven't been making enough of an effort. This gets

to the balancing act which goes on every day, the public and public transit issue, and then in the private sector, the business approach. We are going to be trying to serve people. We have had a lot of customers who used to be with TNJ, who were disappointed by our old equipment, and by the fact that we didn't have any charter buses available immediately following the takeover. If there was a decent bus around, I said, "It better be in regular route service, instead of in charter service." We lost a lot of customers during that time period. They were disappointed customers, and they went to other companies. At the same time, more companies were available because of a couple of factors. One was the extraordinary phenomenon of Atlantic City, and the second was the ICC deregulation.

SENATOR GAGLIANO: Jerry, summing it up, because I think New Jersey Transit has done a lot of things -- I think probably compared to the rest of the country, you have done a lot of great things -- what would you say has been a disappointment in regard to what you haven't been able to accomplish? What haven't you done? This reminds me of the story of the school board which was going to build a school. They put everything into the school they could think of, and then one of the board members said, "What did we forget?" If anything, what do you feel uncomfortable about that you haven't been able to accomplish, or that you don't think you will be able to accomplish within a reasonable period of time?

MR. PREMO: If I reflect on four years of work -- for me, it will be four years in June -- probably the biggest disappointment is the delay in opening the M&E. In terms of our capital program--

SENATOR GAGLIANO: (interrupting) How about on the bus side?

MR. PREMO: On the bus side, it is the tone, the very tone of antagonism and suspicion which seems to exist in the minds of a lot of people about how we operate as an agency. I feel very comfortable with what I'm doing, on the one hand treating the private companies fairly, and on the other hand, treating New Jersey Transit bus operations fairly. I know what I do. If we weren't tough from a corporate point of view on our two subsidiaries, we wouldn't be avoiding a fare increase this year. What I feel badly about, is the unbelievable

situation we went through for two and a half years in this agency of having increased fares, knowing the capital improvement program was coming -- which you so strongly continue to support -- but, knowing our public couldn't see it yet.

Disappointment? Cost control -- it took us too long to do as good a job as we're doing. But, I feel pretty good now. I think that over the next two or three years, we are really going to be continuing to deliver on the initiatives we started two or three years ago. More than anything else, Senator, I am concerned about the tone of questioning, and that sounds to me like a pretty good agenda to work on for the next couple of years. That is where this hearing itself fits right in with our shared agenda.

SENATOR GAGLIANO: Okay. The last thing, Jerry, is the implementation of our bill which we passed last year, now that the Governor has called for the funding of \$10 million. Where are we with respect to New Jersey Transit's role in this?

MR. PREMO: We are in terrific shape, Senator. We communicated with all the counties. We will adopt, on Friday, March 23, at our Board meeting, guidelines which will guide the distribution of the \$3 million this year and the \$10 million for next year. We have already held workshops with involved counties. On March 26, 27, and 28, we will hold follow-up conferences in three parts of our State. We are moving and implementing that program. No funds will be rendered unused.

Having said that, we have declared in the guidelines, which have been worked out in concert with our Advisory Committee of older people and handicapped people-- We have reached agreement on the absolute necessity for avoiding the mistakes, or repeating the mistakes of the late 1960's and early 1970's. We cannot throw money at this problem; we have to coordinate specialized services, not only with other specialized services, but with regular route, long distance carriers. I feel very good about this. Your leadership in that program is going to pay dividends to tens of thousands of people daily who are going to benefit when this program starts carrying people fairly soon.

SENATOR GAGLIANO: Jerry, one last point. I would appreciate it -- and I'm sure the Chairman and Senator Hurley would too -- if you would, within the next two to three months, plan on being here to give us another update, which would be prior to the implementation of any of the systems into the next fiscal year. I have heard comments that some of the counties are looking forward to this as a supplement to their transportation moneys, and I don't think that is intended at all. It is intended that we do this right, and coordinate it, and that we definitely have a handle on each county's plan. I would like to see a couple plans, and maybe have them discussed at a hearing sometime in the future.

MR. PREMO: If I may, through you, Mr. Chairman, I think it is important that not only New Jersey Transit be at that hearing, but also our 504 Advisory Committee, John Del Colle, Steve Janick and others, people who have been so instrumental in forging this bill, and who will be working so carefully with us in implementing it.

SENATOR GAGLIANO: Is there anything like this in any other state, Jerry?

MR. PREMO: No. I was just at a meeting last week of the American Public Transit Association. I had an opportunity, Senator, to share the initiative with about 700 people from around the country. What I told those folks was that when they visit Atlantic City, they should feel 7-1/2% less bad about losing money there, because it is going to such a noble cause. (laughter)

SENATOR GAGLIANO: Okay. Thank you very much. Thank you, Mr. Chairman.

SENATOR RAND: Jerry, I have just a few questions. Maybe I ought to get regional for a moment, before I ask any general questions. You spent a tremendous amount of money on electrification; I think somewhere around \$100 million, or better. You have no rail in South Jersey. I happen to believe we ought to have a more comprehensive system of bus routes, but if you are going to draw down \$100 million -- and we will come to that question in a moment -- isn't it time for us to pay a little bit of attention to PATCO, or to the beginning of the rejuvenation of the rail lines in South Jersey --

Senator Hurley, I am addressing this on your behalf also -- both freight and passenger?

MR. PREMO: I can't address the freight issue. I know that Commissioner Sheridan has made some initiatives in the freight area, and perhaps others from the Department could address that. As it relates to investments in the public transit system of southern New Jersey, I feel pretty good about the work which has occurred to date. This includes rejuvenation of an aging bus fleet; the commitment to rebuild the Newton Avenue garage, soon; the construction of a new garage in Turnersville; Park and Ride lots; bus shelters; restructuring of bus service; the Camden Transportation Center as a building; and, subject to a few more hoops, the rail line to Atlantic City will be reinstated.

So, that is an aggressive program in a very short period of time. What we have to do is tailor transit solutions to transit problems. PATCO has had some problems, and that's why some capital money has been made available out of our program from New Jersey Transit to PATCO, for the upgrading of some stations, and for some of the redecking work over the bridge. I think there is a pretty good partnership that has worked so far.

On the matter of rail lines, what we have to do in any kind of a rail investment -- and I would note that the program I cited earlier was largely a reinvestment in our heavy density rail lines -- is keep in mind the fact that in most parts of the State, as in other states, bus transportation can meet the needs of the commuters. Rail is expensive, and there really needs to be a "show cause" as to why we would invest large dollars for each mile of rail, if in fact buses can do the job. That is why we went through such a careful examination on reinstating service to Atlantic City. The conclusion of the parties involved was that it is a good bet, that it is worth trying. We are going to be pursuing it aggressively.

SENATOR RAND: Regarding the STAA program for 1984 to 1988, you're talking about a draw down of \$800 million, against \$200 million. Is the legislation so structured that we have to draw that money from 1984 to 1988, or can we carry any of that money over to 1989 or 1990, and, do we lose any portion of it?

MR. PREMO: The funding comes from two pots of money. First, the formula grant program and, within the formula grant program, is this \$12 million a year for private carriers. The total on an annual basis is in the range of \$100 million to \$110 million, depending on some numbers, negotiations, and the like. But, it's around \$100 million to \$110 million. In addition, there is a discretionary pot of money which is decided upon each year by the Secretary of Transportation, and by the Federal Urban Mass Transportation Administrator. The so-called "Section 3 discretionary funds" are intensely competed for among states like ours, and among New York, Chicago, Los Angeles, Houston and other new-start cities that are trying to build rapid transit; also among other places which have extraordinary bus needs.

We can never really recapture moneys from the discretionary pot that we don't secure each year. No matter how hard you try to catch up, since that is an annual program, if you don't make it, you roll over and you never quite catch up in subsequent years.

In terms of the formula funds, those are available. We have to commit them within a couple of years. Now, obviously, we could stretch this program out a little bit, but we are so close to being in a position to secure these dollars. I think we have had a good partnership with the Feds. I think they feel reasonably comfortable, and are increasingly feeling more comfortable, with how we are implementing our program. What I don't want to do is create an environment that takes the heat off our Federal partners to provide us that \$75 million or so a year if, in fact, we have real needs. The idea of for want of one dollar, of passing up four Federal dollars that could create jobs, put people to work, and get people jobs here in New Jersey, is something that would be discouraging to me.

SENATOR RAND: I have one last question. You said your contract is up Friday. Is that of crisis proportion, or is that just a factual statement that the contract is up Friday?

MR. PREMO: It is a factual statement, Senator.

SENATOR RAND: Okay. Evidently then, some progress is being--

MR. PREMO: We're talking, yes sir.

SENATOR RAND: Jerry, I thank you very, very much for your testimony.

MR. PREMO: Thank you, Mr. Chairman and Senators, for your courtesy.

SENATOR RAND: I'm sure we will have you back. May we have Eleanor Stone, on behalf of the commuters on New Jersey Transit, Line 138.

ELEANOR B. STONE: Thank you, Mr. Chairman and members of the Committee. This statement was prepared by Robert L. Stone, 13 Meadowlark Lane, East Brunswick, New Jersey, on behalf of commuters between southern Middlesex County townships and New York City, who ride on New Jersey Transit, Route 138.

At a public hearing on February 28, 1984, chaired by Mr. Bert Hasbruck of New Jersey Transit, and largely attended by commuters on Route 138, New Jersey Transit presented proposals which would reduce its Route 138 service substantially, including modifications of various services which would eliminate certain areas now served entirely. For instance, one bus from Spotswood, one bus from Englishtown, and one bus from Old Bridge now pass through South River each business day. Service to South River would be eliminated entirely.

Currently, many of the commuters on Route 138 use it because of the high quality professional service it provides, and because it comes directly through their neighborhoods without requiring them to use an automobile to a centrally located Park and Ride facility. These points were voiced by the public at the hearing on February 28.

A further proposed major change in Route 138 service is to temporarily continue service through Milltown, while arranging to have a different nonsubsidized carrier, presumably Suburban Transit, take over the Milltown service. The public was advised that the new carrier would guarantee to continue the service for at least six months. This was very disturbing to Milltown commuters, as a private nonsubsidized carrier could opt to discontinue the service with minimum input from the public.

There is a particular point regarding New Jersey Transit's Route 138 plans which merits legislative attention. In the Executive

Summary New Jersey Transit prepared for its directors, which was distributed at the February 28 meeting, it was stated that the proposals were based on a review of current ridership on each route and present operating costs, as well as long-range impacts on bus operations of continued population growth along the Route 9 Corridor.

New Jersey Transit has taken the position that the cutbacks in Route 138 service are needed because it is not making money on the route. In my view, and in the view other commuters expressed at the February 28 hearing, New Jersey Transit is ignoring its obligations as a subsidized bus line to provide service which would not be profitable to nonsubsidized carriers, and is thus seeking to avoid accountability for its activities. Moreover, by divesting itself of nonprofitable but, nevertheless, important services, New Jersey Transit could be putting itself into a stronger position in which to compete against private nonsubsidized carriers, such as those participating in the United Bus Owners Survival Association, whose services New Jersey Transit is seeking to take over. When this was raised at the hearing and New Jersey Transit personnel were questioned for their reaction to this point, Mr. Hasbruck indicated he did not think it relevant, since most participants in UBOSA are charter and not commuter carriers. However, an area private commuter carrier academy is currently threatened with destructive competition by New Jersey Transit.

It is the feeling of commuters on Route 138 adversely affected by New Jersey Transit's charge to serve the people of New Jersey as a subsidized carrier, that permitting it to improve its financial position by cutting back on needed services as it uses that financial position to destructively compete with other carriers, is a violation of that charge.

Two requests are made of the Committee: (1) Until the question of whether New Jersey Transit is improving its ability to destructively compete with nonsubsidized carriers is resolved, in order to see that New Jersey Transit's charge to serve the public is not violated, New Jersey Transit should be prevented from making the changes it is proposing on Route 138; it is important that this be done quickly, since it is intended by New Jersey Transit to request its

Board of Directors to approve the changes on March 23, 1984; and, (2) Legislation should be enacted which would require that when New Jersey Transit transfers its service to a nonsubsidized carrier for only a short period of time, as is the case with the Milltown service, that in the event the nonsubsidized carrier does not continue the service, New Jersey Transit be required to resume it. Six months is not a long period of time for communities to be built around. This would reduce the ability of New Jersey Transit to divest itself of service to commuters, with little guarantee that the alternative would long continue, as New Jersey Transit places itself in a better position. Thank you.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: I wonder if you can tell us, Ms. Stone, what is the situation with respect to Route 138? How many people use it? Do they fill the bus?

MS. STONE: There are three buses everyday.

SENATOR GAGLIANO: Three buses -- do they fill all three buses?

MS. STONE: They do not fill all three buses, but they fill each bus approximately two-thirds of the time.

SENATOR GAGLIANO: So, it wouldn't make sense to have only two buses?

MS. STONE: It could, possibly; that could be a compromise position.

SENATOR GAGLIANO: Has that been looked at?

MS. STONE: I believe it is being looked at, yes. But, it has not been an alternative offered by New Jersey Transit.

SENATOR GAGLIANO: It hasn't been?

MS. STONE: No. It has been a suggestion by the commuters. You have to also understand that East Brunswick-- I'll just add a little bit of information. It's obvious that I am not a commuter; I work in Trenton, okay? I am not a commuter on this line to New York. But, this community was built around that bus line. Almost every ad in the newspaper said, "Within walking distance of the bus." In addition to that, with the new Mount Laurel decisions which were just approved

by the court, part of the approval was the fact that this bus existed. People would only need one car, and everything else. Transportation existed in the community. So, this is another instance of building with one hand, and maybe taking away with the other.

SENATOR GAGLIANO: Did you say there are three buses now, each way, morning and evening?

MS. STONE: No. There are three buses in the morning, and two in the afternoon.

SENATOR GAGLIANO: So, what you're saying is that the possibility exists to cut down on the number of buses, and fill them?

MS. STONE: Yes, there is that possibility.

SENATOR GAGLIANO: Okay. Thank you.

SENATOR RAND: Did New Jersey Transit threaten to cut out the route entirely?

MS. STONE: No. They threatened to advertise and bring in another provider, with only a six-month guarantee of service.

SENATOR RAND: But, they did not threaten to close the route completely, except for the one through--

MS. STONE: (interrupting) Through South River.

SENATOR RAND: What was that?

MS. STONE: Except for the one through South River, which is a working-class municipality within this community. There are factories, garment factories, and things like that, through that area. It is a working-class bus. Those riders usually ride earlier in the morning than a lot of others.

SENATOR RAND: Thank you very much. Senator Hurley?

SENATOR HURLEY: No, thank you. I have nothing.

SENATOR RAND: Thank you very much.

SENATOR GAGLIANO: Mr. Premo may be able to respond.

MS. STONE: We would like that.

SENATOR RAND: Mr. Premo, would you like to respond? We don't want to put you on a spot. This is not an interlocutory hearing, Senator Gagliano.

SENATOR GAGLIANO: Well, Jerry moved his seat, and I thought he wanted to respond.

SENATOR RAND: Well, I think that would be taking unfair advantage, because this is not a debate here.

SENATOR GAGLIANO: No, really, I just happened to see Mr. Premo get up. He was sitting back there next to Sue Kirk and he moved up. I thought he wanted to respond.

SENATOR RAND: Jerry, if you wish to, you may. If you don't, it is perfectly all right.

MR. PREMO: I'll give you just a quick answer. My reason for moving was partly the ambience of Mr. Hasbruck's company, not that it isn't pleasant to be with you, Susan. We think it makes more sense for Suburban Transit to run these buses; it would tie in with their operations a little bit better than with ours. We think there is some substance to territorial integrity, as well as my saying it on some paper here. I think the public has a good chance to vote, with their decision to ride good quality public transit. I'm confident that if the people get on those buses, Suburban will continue to run the two buses now proposed for operation.

SENATOR RAND: Are there any other questions? (no response)
Thank you, Ms. Stone.

SENATOR GAGLIANO: I guess, Mr. Chairman, the best thing we can do is just ask that they be watched. Ms. Stone, you will not lose service; suburban will take over.

MS. STONE: Part of this was, that if at the end of the six months this is not--

SENATOR GAGLIANO: (interrupting) Yes, we heard you. That's what I'm saying. We'll watch it, and we'll be in touch with Mr. Premo before the six months is up to find out whether or not this is working.

MS. STONE: Thank you.

SENATOR RAND: Thank you very much. Mr. Barnett Rukin, Member of the Board of Directors, New Jersey Motorbus Association. Do you have a copy of your statement, Mr. Rukin?

BARNETT RUKIN: I have no prepared testimony. We're here at the invitation of the Committee on matters we have discussed for the private sector, as represented by the New Jersey Motorbus Association over quite a long period of time.

The number one item on this public hearing agenda is the relation of New Jersey Transit to subsidized and nonsubsidized carriers. Item "a" on destructive competition takes us back to the original statute, where the very minimal protection offered to the private sector in the legislation was concern for the private sector, and prohibition against destructive competition. With all the wonderful things that have been done in four and a half years, we have yet to see, in regulation, a proper method for handling any complaints of destructive competition. Interestingly enough, that has now been turned around to where New Jersey Transit takes the position they are trying to protect themselves from the destructive competition of private carriers. The private carriers have, as yet, not had regulatory protection from the destructive competition of New Jersey Transit.

You have to understand the difficulty I have, and our organization and all the private carriers in the State have, in even discussing the things we see as negatives in our relationship with New Jersey Transit, because the Commissioner of Transportation, as represented by his number one transit person here, Commissioner Crawford, and the Executive Director of New Jersey Transit and his able staff, are also our regulators, and the suppliers of the capital equipment that is supposed to come to benefit the users of the public transportation system in the State, whether the provision of the service is in the public sector or in the private sector. While we can complain about the things that are not done, and we hope that our complaints are objective and constructive, the fact is we are really at grave risk historically, in speaking out.

SENATOR GAGLIANO: Buz, that is why I asked the question about whether or not there should be a third party forum, where you could go, other than to the New Jersey Transit Board as such, when you had a problem.

MR. RUKIN: I appreciate that statement, because the first round of proposed regulations on this matter made it very clear that New Jersey Transit was the judge, jury, and hangman for the privates when they make any complaints. When we in the private sector protested

that, the regulations were pulled and submitted to the Attorney General's office for review, which review took nine months or a year, or whatever the normal process is. In the interim period of time, obviously there were no regulations we could deal with. There have been some instances we have raised in various forms that could be called destructive competition. You are aware of many of them -- the Vince Lombardi Park and Ride situation, where New Jersey Transit made the highest bid, and the highest bidder would win the award for service. Obviously, the source of revenue for that bid came from the public Treasury.

The Fair Fare Program, interestingly enough, lowered certain prices, but only in areas where there was competition from private carriers. There were programs for free fares during Christmas, and programs to take people back on New Year's Eve.

SENATOR GAGLIANO: You can't disagree with that, can you?

MR. RUKIN: I don't disagree with it. I think the programs are terrific. But, there is a transportation system in this State which provides service to all the residents of the State, and 40% of the interstate commuters are carried on buses owned and operated by the private sector -- not owned necessarily -- but operated by private sector companies. If those programs are good, and we think some of them are very good, we think they should be broad-based and extend equitably to all users of the public transportation system. We do not think this is a public transportation system for the users of New Jersey Transit buses or trains. As a matter of fact, we have a bill prepared -- I don't believe it has a number or a sponsor yet -- and the statement relates to this specifically. It reads, "New Jersey Transit Corporation, which operates the State's commuter railroads and a major portion of the State's commuter bus service, has introduced a number of imaginative reduced fare programs designed to encourage commuters to utilize public transportation. Many of these programs, however, apply only to the subsidized New Jersey Transit operations, or to private companies also under public subsidy. Some 40% of the interstate bus commuters in New Jersey are served by taxpaying unsubsidized carriers. A number of key cities and surrounding communities are also served by

unsubsidized intrastate carriers. The thousands of New Jerseyites who are dependent on these lines obtain few or no benefits from most of the New Jersey Transit promotional programs."

This bill would require New Jersey Transit to include the users of unsubsidized bus companies in the promotional programs to the maximum extent feasible. A pattern for such inclusion has been well-established by the Senior Citizens' Discount Fare Program, which applies to unsubsidized lines, as well as to New Jersey Transit and the other tax-assisted companies.

There are rumors about the Morristown line that when the electrification is completed, it will open with a very substantial cut in fares, to attract people back to the line. The impact on the private sector of these kinds of things is grave. While the charts are interesting, that \$50 million that will be forthcoming to the privates over the next four years, will actually be going backward one. The fact, in a billion dollar program over that same period of time, \$500 million goes to commuter rail, which carries about -- I don't know -- 30% of the people; \$450 million goes to New Jersey Transit bus operations; and, \$50 million goes to the private sector. That money is generated by the miles the private sector's buses run in these essential services that UMTA agrees to. Without New Jersey Transit fighting the battle with UMTA for us, we would have a very difficult time getting those funds.

SENATOR RAND: Buzzy, I think that figure is around \$200 million. We're talking fifty some million each year. You took it out of context for one year, as against four years.

MR. RUKIN: (Mr. Rukin confers with Mr. Premo at this point.) But, the bus program is \$53 million in total -- I'm sorry, the capital program.

MR. PREMO: Exclusive of rolling stock--

MR. RUKIN: The capital program -- the \$52 million we talked about before -- which is capital other than rolling stock, is the total over the five-year period. It is four years going forward, one year going backward. The total for the "privates" in that, which is non-rolling stock, is \$50 million. Mr. Premo has indicated to me that

the rolling stock number is an additional number, and we will see as time goes on how much that will be.

SENATOR GAGLIANO: So will all of us; none of us know that.

MR. RUKIN: Right. One of the key things in what we call destructive competition, besides things like Vince Lombardi, half-fare programs, free-fare programs, and so forth, is, of course, the overwhelming benefit of State resources, capital and operating, to the railroads. They carry a very small portion of the total number of people who are carried. They carry no more, and probably less, people than the private buses carry, and they get an enormous amount of capital assistance, and an enormous amount of operating assistance.

The real problem here is, if there is going to be a change in climate, and it will be a change-- We are probably as responsible for an unpleasant tone as anyone perhaps, because we keep raising the issues.

SENATOR GAGLIANO: (interrupting) Not you, Buz.

MR. RUKIN: I'll take the blame, if it belongs here. The private carriers have become more outspoken as to what the rights of their riders are, and how they should be taken care of, because we are fighting for our survival. As Frank Gallagher has said to you often, "Private bus carriers are an endangered species in New Jersey." We're probably entitled to environmental protection, or something of that sort.

The New Jersey Transit allocation of buses, while we can talk about it factually-- I think Mr. Premo said that 220 buses have gone to the private sector. That is about 20% of the buses that have been delivered. The Bus Association objected to the initial allocation plan in concept, because the plan rewards a historical lack of capital commitment by those people who operated the bus line. The Association has said that even though a number of its members have been granted a very, very significant number of buses, and have had their fleets replaced, the concept of buying buses only for those who have allowed their fleets to age is one that recommends to a manager, or to an owner, that they should not make a capital investment in buses, that these things that help the riders stay with the system are really not

useful. One ought to sit on one's hands, do nothing, and then if it gets bad enough, the State will come in and bail one out. We do not think that is a reasonable goal. We came out with that publicly in TRANSPAC. That was in 1979 or 1980, I guess, and we have stayed with that position since. We don't know what the future plans are for the allocation of buses, so we can't really comment on that aspect.

With regard to New Jersey Transit providing charter bus service, I think you have asked the question of the right people. New Jersey Transit has to answer that for themselves. From our perspective, we think New Jersey Transit, on a fully-allocated basis, probably loses money running their charters, and it probably does not, on a committed basis, make sense for them to be in the charter business. The UMTA regulations are the ones we have adopted. It has been that way for so long with the use of the buses that came from Federal allocations, that we have given up fighting that one because of any greater restrictions, although conceptually our group, if we were polled, would probably suggest that if they were never used for charter, that would be okay as well.

On accountability for activities, we think that New Jersey Transit's commitment, or the State of New Jersey's commitment through New Jersey Transit, to rail, has never been properly raised in a public forum. It has never been addressed properly. We talk about numbers, \$50 million for the private sector. The electrification of the M&E alone is over \$500 million, to our knowledge. It depends on who you talk to as to what that will be. The capital aspects of that, the payback provisions of that, if there are any, are just astounding. It couldn't make any economic sense. I shouldn't say that, but it would be hard for me to be convinced that they could ever make any economic sense out of it.

In terms of the support we get from New Jersey Transit, we have been working with the Public/Private Study Commission. It was supposed to have results in October; it is now March, and we aren't there yet. There has been some consensus, which was brought out earlier. Some of the other things that we talk about though, have not been resolved, and we do not know where they are going to lead us. We

are continuing to work and to put our best efforts forward in that area.

Other than those situations which report on the factual involvement of the private sector that we represent, which is the majority of the regular-route local and commuter-transit carriers in the State, that is all I have to say. I am certainly available to talk to you about any questions you may have of us, including where we're going, and where we've been.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: Yes. Buz, I have one question. For example, when New Jersey Transit said they would give free bus service on New Year's Eve -- whatever it was, between 6 p.m. and 6 a.m. -- I know there were complaints by private carriers who said that this was an unfair thing for New Jersey Transit to do. Rather than take that approach, what about -- would the private carriers be able to come up with something which would also indicate their concern in the matter? Maybe if the fare was supposed to be \$1.50 a ride, they could do it for fifty cents or something. Then there could be some serious talk in terms of a subsidy during that period. What I'm saying is, just because New Jersey Transit came up with a promotion, I don't think the private carriers should immediately say, "Don't do that, because we can't." It seems to me that we ought to get together on this issue. For example, I have suggested to New Jersey Transit that they give rail commuters, in areas where rail is available, a one-month free pass, if people can prove -- we would have to set up the guidelines -- they moved into an area for the first time and would like to try the railroad. I have suggested we give them a free pass, let's say, for the month of April. They would apply for it in March, and they would be able to commute for one month free.

Now, the response, I presume, from the private carriers would be, "You shouldn't do that, because we can't afford it." But, I'm trying to look at the big picture. I'm trying to get more people into public transit. If you just say, "No, don't do it because I can't afford it this month," we'll never do it.

MR. RUKIN: I hope we are not being portrayed as the nay-sayers in this whole process. My complaint with New Jersey Transit is not to turn around imaginative and clever promotional programs. I would adopt what you're saying totally. However, I would add one thing to it. There is no free lunch. If the railroad provides free service, and there is a cost for providing that service, that cost is being made up by your subsidy to New Jersey Transit rail. All of us in the private sector would be happy to join in any one of those programs, as long as we have that revenue loss made up to us. No problem whatsoever. We'd love it.

SENATOR GAGLIANO: Revenue loss? Does that include profit for those that are profitable? What I'm saying is, isn't there some middle ground?

MR. RUKIN: Oh, yes. We would participate in a promotional program. I don't think there is any question about it.

SENATOR GAGLIANO: You would? Okay. So, that is on the record. You and your people would cooperate in a promotional program, even though you might not get a hundred cents back on a dollar. You might get some portion of it.

MR. RUKIN: Yes, but it would have to be realistic for us because we know that we do not have the luxury of being deficit financed. So, the company, ultimately, in order to buy its buses, rebuild its garages, keep the air conditioners running, have nice terminals, and all the things we all want, because really in truth -- although it has been bandied around that it is not true -- our goals are the same. We cannot get people to ride our services if we do not give complete, high-quality services. They won't stay with us. There are too many alternatives out there, including feet, bicycles, automobiles, competitive trains, and competitive bus service. They are not going to do it. So, we have to give that kind of quality. To give that kind of quality, we have to have a bottom line. We think we give that quality. We think our total costs are lower than our publicly-subsidized competitors, and that we can participate in the same kinds of programs at a total lower cost, and make some money with them. We think we run more efficiently and, in some cases, it is because we have less constraints.

SENATOR GAGLIANO: I have just one last question. Are you suggesting, therefore, that when New Jersey Transit is considering any promotions, whatever they might be, that they bring your organization into it so you can approach this on a statewide basis, both public and private?

MR. RUKIN: That would be fine. Organization is not necessarily key, but it is the providers of those same kinds of services who would qualify.

SENATOR GAGLIANO: Obviously, we can't have every bus company at the meeting. But, representatives of your companies could meet with New Jersey Transit prior to a promotional becoming effective, so that both sides could be heard on this issue, and on whether or not it should go forward.

MR. RUKIN: Right. One of the problems there, of course, and one of the things we have harped on since prior to the public corporation law, is that we have a real problem when our regulator, policy-maker, and competitive operator are all rolled up into the same management team. That is a real problem.

SENATOR GAGLIANO: Thank you.

SENATOR RAND: Buz, just a couple of questions. Aren't your labor costs substantially lower than New Jersey Transit's? I mean, when we are talking about the destructive competition situation, aren't you in a better competitive situation with labor costs than New Jersey Transit is?

MR. RUKIN: Right.

SENATOR RAND: They were burdened -- I don't want to use the word "burdened" in a demeaning manner, but they were given a charge and they had to accept certain costs. So, you certainly do not have to absorb the costs that they have to absorb.

MR. RUKIN: To the extent that my company has been in business for 63 years, we have also been burdened by the accumulation, over 63 years, of operating practices, benefit packages, working conditions, and wages. We have to deal with them in a particular way, because we have a responsibility to our stockholders in order for us to stay in business.

SENATOR RAND: I agree, and I would say that if the entire public bus service had been at its peak of efficiency, we would not have had to create New Jersey Transit. That is a question open to argument, and I won't open it up now. But, the point is, we did create New Jersey Transit. It was a creation of the Legislature, and I don't suppose there is any way we are going to tear it apart. We are going best possible transportation. That doesn't say that we can't do certain things for you, in the sense of what we are trying to do now to ease the motor fuels tax for interstate commuter buses, which we think is correct. There are things we can do for you, and there are things we can do for New Jersey Transit.

What I'm saying is, there are no unanswerable questions, and no unanswerable problems. That is why we are having this hearing here today. Senator Hurley, do you have anything else?

SENATOR HURLEY: Nothing further. Thank you, Buz.

SENATOR RAND: Thank you very much, Buz. Mr. Ronald Faillace, President of the United Bus Owners Survival Association. Good morning, Mr. Faillace.

RONALD R. FAILLACE: Good morning, Senators. My name is Ronald R. Faillace, and I would like to thank you for allowing us the opportunity to address this Committee. I am the Vice President of Saddle River Tours, a private bus company, and President of the United Bus Operators Survival Association, or UBOSA. Appearing with me are Mr. Robert Lovito and Mr. Paul Goldman, who are members of the Board of Directors of UBOSA.

The Association is a voluntary nonprofit corporation comprised of nearly 200 members, including bus owners, parts suppliers, insurers, and garage owners. We are all profit-making competitive businesses. We have banded together because, while we are able to compete with each other, we have found that it is impossible for us to compete with State-subsidized transportation. We are here because we believe our livelihood is endangered.

In particular, I will address myself to the problem of destructive competition the private bus industry faces in regard to State-subsidized charter operations. Mr. Lovito will speak to you

about the current practices of destructive competition in line operations with State-subsidized carriers, and the effects of New Jersey Transit's freedom from financial accountability. Mr. Goldman will speak to you about our proposed solutions to these problems.

This morning we would like to talk to you about a subject that is of much concern to UBOSA -- the use of Federal and State taxpayers' moneys by subsidized carriers to run charter service in competition with private carriers. UBOSA supports competition in the bus industry. What UBOSA does object to is destructive competition against private carriers by subsidized carriers. This concern over destructive competition did not just begin recently. In 1979, at the Committee hearings before passage of the legislation creating New Jersey Transit, the following statement appeared on the record: "In order to make the salad more palatable to everyone, maybe we should try to crank in something which would be protective of those companies that are operating profitably and would like to remain so. We should do something about the moneymakers, that is, to protect them to allow them to keep making money." Senator Gagliano, when you uttered those words, did you intend to create a monopoly in State transportation for New Jersey Transit?

SENATOR GAGLIANO: I think obviously the answer would be no.

MR. FAILLACE: Yes, I would agree with that.

SENATOR GAGLIANO: I didn't know they were my words, by the way. I remember saying something like that.

SENATOR RAND: You never know when your words are going to come back to haunt you.

SENATOR GAGLIANO: Yes, right. Well, actually I was a prophet.

MR. FAILLACE: Indeed you were.

SENATOR RAND: Is that "ph" or "it?"

SENATOR GAGLIANO: Neither.

MR. FAILLACE: Charter service is the bread and butter of the private bus industry. Money made from charter operations is used to fund less profitable operations which are run as a service to commuters. However, private industry charter operations are in danger

from destructive competition from subsidized carriers. Now, what is destructive competition?

Destructive competition occurs when one carrier is able to provide service at artificially low prices because of its subsidizing. No operator can afford to lose money for long without going bankrupt, unless it is being subsidized by taxpayers' dollars. The subsidized carrier can afford to lose money. All that carrier has to do is go back to the Legislature and ask for more money.

Who stands to gain by destructive competition? In the short term, it would seem that the commuter would benefit, because of the artificially low fare. However, that fare is low at the expense of taxpayers' dollars, which are being used to subsidize the operations. In addition, the State is being deprived of tax revenue due to the loss of the private operator. These are not the only repercussions of subsidized charter service. The use of subsidized buses on charter means that they are not available for regular line service in mass transportation, which was their intended use. It also means that the life of those buses has been diminished by the additional wear and tear which charter service engenders. The loss to the taxpaying and commuting public is obvious. Among the many examples of abuses by subsidized carriers with regard to charters, is the sighting of subsidized buses in Florida, South Carolina, Pennsylvania, and Washington, D.C. To illustrate, I have here a picture of a New Jersey Transit bus at a well-known tourist attraction in South Carolina. It happens to be south of the border. (Mr. Faillace holds up picture taken from a newspaper.) Here is a picture of the bus, with its insignia on it, and what not.

SENATOR GAGLIANO: Are you challenging the \$4 million a year that Mr. Premo has said is their income, or don't you know?

MR. FAILLACE: I'm challenging the use of buses, and I don't think you can distinguish a fleet of 39 buses supposedly paying for itself, from any other buses in the New Jersey Transit fleet, for the simple reason that Federal and State money is being used to maintain those buses. When Mr. Premo refers to this fleet of buses being used for charter service, he forgets to tell you that the garages and all of

the related services that go into that -- the indirect costs -- are not computed when he figures the overhead on that, much the same way as he reports other figures to the Legislature, for example.

SENATOR RAND: Just one moment, it's 49 buses, not 39, but that is not the point. Do you mean to tell me that 49 buses out of 1,500 -- and I'm going back to 1979, when there were approximately 100 charter buses into Atlantic City a day, and today there are 1,000 -- 350,000 trips annually into Atlantic City alone -- does that have such a great influence on the entire charter system? I mean, let me get down to destructive competition. Do you mean to tell me that the 49 buses-- If I really thought that the 49 buses created such a tremendous hardship on the charter bus industry of this State, I would be the first one to move that we withdraw those 49 buses. But, knowing Atlantic City as I know it, and knowing the problems they have with the tremendous charter bus trips into Atlantic City, 350,000 a year, are you telling me that these 49 buses are destructive competition?

MR. FAILLACE: First of all, Senator, it is not just the 49 buses.

SENATOR RAND: Let's stick to the 49 buses, out of 1,500. I have heard the other comments, but let me get to the 49 buses out of the 1,500, and the 350,000 trips just into Atlantic City.

MR. FAILLACE: First off, the number of buses--

SENATOR RAND: (interrupting) Are they hurting you in the sense that you can't get all the charter bus operations?

MR. FAILLACE: Oh, absolutely.

SENATOR RAND: Tell me in what way.

MR. FAILLACE: We have actual sightings, and we are prepared to show you-- I don't think this is the forum to do it, but we would be glad to show you in our briefs.

SENATOR RAND: And, they underbid you?

MR. FAILLACE: We have sightings of New Jersey Transit buses that are being used at peak hours, where they should be used for transporting commuters. Okay? We have sightings; we have documentation. We also have sightings of New Jersey Transit buses that are obviously on cross-country trips. Now, those buses that are being

used -- whether it is 49 buses or whether it is one bus -- can be used for commuter operations, because Mr. Premo says he is interested in building a strong commuter transportation system in the State of New Jersey. I don't see where the commuters in this State are being served when a bus is in South Carolina.

SENATOR GAGLIANO: Are you saying that at some point, if a bus went to South Carolina or Florida, it had to miss its morning run?

MR. FAILLACE: That is correct. Now, what Mr. Premo is going to say to you is that that bus is one of those 49 buses that are supposedly not subsidized. I maintain that every bus, everything in New Jersey Transit, is subsidized in one shape or form. I mean, let's face it.

SENATOR GAGLIANO: I think the Committee agrees with that.

MR. FAILLACE: Okay, fine; then we don't have to belabor that point. The important thing here is that for him to state that 49 buses are moneymakers, is totally ridiculous. We will get to that, in terms of accountability, later on in our statement.

SENATOR GAGLIANO: Excuse me, Mr. Chairman. I guess I started this by saying, "Are you challenging the issue of whether or not New Jersey Transit brings in \$4 million a year from these charter operations?" I cannot remember the total budget for New Jersey Transit, but isn't it a half a billion?

SENATOR RAND: It's \$450 million.

SENATOR GAGLIANO: It's close to a half a billion dollars and, if they are doing \$4 million a year in charter operations, number one, it is not a heavy number for them to try to live on and, number two, based on what the Chairman is talking about with respect to Atlantic City trips, it doesn't sound that substantial that it would hurt the private carriers. I mean, we want to strike a balance here too. Obviously, you quoted me from 1979, and I was concerned then. But, I can't see the seriousness of a \$4 million gross operation in any one year. I can't -- at this point.

MR. FAILLACE: There are two very important points I would like to make. First, we are hung up on the New Jersey Transit idea, and I'm not just saying New Jersey Transit. I'm saying all subsidized buses, whether they be private operators, or New Jersey Transit. Okay?

SENATOR GAGLIANO: I see what you mean.

MR. FAILLACE: So, anytime a bus that is being subsidized, supposedly for the purpose of commuter operations, is being used for any charter service over and above -- in other words, not being used for commuter service -- then it is not in the best interest of the public to utilize that bus, because you are reducing the useful life of the bus, number one, and number two, they have the unfair advantage, whether it be New Jersey Transit or a private operator, of being able to charge less.

SENATOR GAGLIANO: (interrupting) Okay. I understand it better now. Thank you.

MR. FAILLACE: I would also like to point out that in terms of charter service, New Jersey Transit -- and we'll get into this a little later on about accountability-- One of our problems is that we feel accountability is not there, that there is no individual accountability for individual lines and charter operations. The figures are not sufficiently detailed so we can actually say they are doing \$4 million a year. I rather doubt those figures myself. I think, through my own experience in dealing with New Jersey Transit, that a lot of figures and statements they have come out with in the past, where they claim profitability on one route or another, have been completely erroneous and have been proven through court tests and through fact-finding--

SENATOR RAND: (interrupting) Let me clear the record, Mr. Faillace. We happen to believe that when New Jersey Transit appears before the Joint Appropriations Committee -- we accept that not only at their face value are they honest figures, but we have our own Legislative Services analyze them. I want to clear the record on that.

MR. FAILLACE: Okay.

SENATOR RAND: The figures they gave us, based on their budget presentations, and the analysis that our fiscal people gave us, lead us to believe they were true. We do not believe that any arm of government intentionally comes in and lies to us about their figures.

MR. FAILLACE: I don't believe they're lying, sir. That is not what I'm saying. Let me correct that point. What I'm saying is, the individual accountability as to a particular line operation--

SENATOR RAND: That's a different story.

MR. FAILLACE: (continuing) When New Jersey Transit comes out and says, "We're making money on a particular operation," there are no figures. We have court testimony to back this up, even from Mr. Premo. There are no figures to indicate what the profit and loss are on a segmented line or operation. They are all lumped together, and when they come in and talk about their budget, they talk about a total package lumped together. There is no way of segregating it.

So far, complaints concerning destructive competition have fallen on deaf ears, insofar as the subsidized carrier, New Jersey Transit, is concerned. Indeed, New Jersey Transit has been extremely arrogant in its behavior toward the private sector, to say the least. New Jersey Transit's views toward private operators can best be found in its internal memorandums.

In her view of a report entitled "Options for New Jersey Transit Policy Towards Independent Bus Operations," Laurie Lewis of New Jersey Transit wrote: "I would only add one element to this report -- the myth of private enterprise. Many of these independents have virtually no investment in their companies. We own the buses; the carriers lease or share garages; they own no maintenance equipment, etc. Their only contribution to the company is management. The obvious question is whether the public is served by the quality of the management." This is from a New Jersey Transit memo dated June, 1983. Senators, this statement is ridiculous. The members of UBOSA own buses, garages, and maintenance equipment. We are committed to our businesses and our livelihood. And, since all of our companies are profitable, who is New Jersey Transit to question the quality of our management?

The report to which Ms. Lewis referred contained statements such as: "In most instances, the independent operators would not continue to exist today without the capital assistance and other aid which the State has provided. The State has, since 1976, been the supplier of almost all new buses put into transit service by private operators." Again, ridiculous. No one at this table, and few of our members, are subsidized. We buy our own buses at \$160,000 each, not

\$1.00 a year like New Jersey Transit. Nor do we owe our existence to New Jersey Transit, as do some subsidized carriers of which Ms. Lewis speaks.

Senators, she would have you lump us all together. But, we are small business people struggling to survive on our own.

Continuing, in that section of the report which sets forth policy options for New Jersey Transit, we find the following option number three:

"Complete Takeover: New Jersey Transit would cease any capital or operating assistance to the independents, letting as many as possible fail and taking over their routes; any which didn't fail would be purchased through negotiations or taken through eminent domain."

Gentlemen, this is a plan for total State takeover. Is this your plan, or is this Mr. Premo's plan?

In another internal memo, from John Wilkins to George Heinle, the writer sets out these conclusions: "The Bus Card Program in the long term gives us a competitive edge over the independent carriers. If the independent carriers are not brought into the Program, it is quite likely that some of these carriers, particularly those which are weak and poorly managed, may go out of business. Appropriate actions should be taken to minimize competition and reduce the number of buses committed to the affected services."

Senators, New Jersey Transit means to run us out of business.

Mr. Wilkins, the following month, made these recommendations in a follow-up memo: "Complete a determination of the number of buses which could be withdrawn from service if competition did not exist between New Jersey Transit and the independent carriers."

Wilkins then continues: "Develop options to reduce the number of independent bus operators: (A) Negotiate with the various carriers to purchase their certificates; and, (B), For those carriers not wishing to be purchased, we could offer to place them all on one or two routes."

SENATOR GAGLIANO: How did you get those memos?

MR. FAILLACE: We have documentation we can provide to the Committee here. We have this, and many more memos which have come from New Jersey Transit, and they are very damaging.

SENATOR GAGLIANO: Did they supply them to you?

MR. FAILLACE: Some of these were supplied through legal action. We had court orders to obtain these memos. I would say that most of them were obtained in that manner. We would be very happy to provide these to you, Senator.

SENATOR RAND: Senator Gagliano, how come you didn't share these with us?

SENATOR GAGLIANO: I didn't know they existed. I don't even know Mr. Wilkins.

SENATOR RAND: I'm only kidding.

SENATOR GAGLIANO: No, seriously, that kind of language kind of shocks me. Frankly, I don't appreciate it. I don't know how you got the information. I think sometimes these bureaucrats tend to enjoy making memorandums and throwing them around, but I don't think the Legislature ever intended that these kinds of memos should be promulgated. At least that is my recollection, Mr. Chairman. I mean, we are taking them out of context to a certain extent, but I still don't like the language.

MR. FAILLACE: Well, we would be very happy to provide you with these memorandums, so you could review them in the proper context. Believe me, these memorandums--

SENATOR RAND: (interrupting) If they are a matter of public record, I'm sure New Jersey Transit will provide us with them.

MR. FAILLACE: I'm sure they will.

SENATOR RAND: We'll try to find out.

MR. FAILLACE: That's fine. These excerpts from internal New Jersey Transit memos prove beyond a doubt the monopolistic attitude of New Jersey Transit. Each one of these memos suggests a plan for complete takeover of private enterprise. Indeed, New Jersey Transit spent a great deal of taxpayers' dollars to have a consulting firm called System Design Concepts, Inc. analyze the costs and benefits of a takeover by New Jersey Transit of independent carriers. Note, also, the November, 1982, memo, which begins with the following paragraph:

"Rationalization, the equitable reallocation of services among the current providers, has often been suggested as a means of

introducing a more economical basis for providing the services to the public. Unfortunately, in this case, such an approach is not suitable due to the large number of unrelated suppliers -- owners. Consequently, this review will examine the potential benefits to the State of New Jersey if its chosen instrument, New Jersey Transit, were to provide all the local public bus services in the following areas: Hudson, Essex, Passaic, Atlantic, and Mercer Counties."

SENATOR GAGLIANO: Wait a minute. Was this written by someone who was employed by New Jersey Transit -- I don't know the name -- Mr. Wilkins or whomever? Or, was it written by a consultant who was just blowing off, trying to justify the expenditure of money?

MR. FAILLACE: Well, as I just stated, this was a study that was done by--

SENATOR GAGLIANO: System Design Concepts?

MR. FAILLACE: System Design Concepts.

SENATOR GAGLIANO: So, System Design Concepts could have said anything, right?

MR. FAILLACE: Well, this is a memo now -- "Note, also, the November, 1982, memo." So, this is also a New Jersey Transit memo I am referring to. Okay? These are all New Jersey Transit memos we're talking about.

SENATOR GAGLIANO: Proceed.

MR. FAILLACE: Thus, according to its own written statements, New Jersey Transit does not intend -- and has never intended -- to cooperate with independent bus operators. New Jersey Transit wants the whole pie, and if that entails driving competitors out of business, its own words prove that it is more than willing to do so. The question is -- why? We, the private carriers acknowledge that New Jersey needs New Jersey Transit. We are willing to work with New Jersey Transit for the betterment of the commuting public. Why is New Jersey Transit determined to eliminate us?

That, in a word, is the problem that UBOSA faces. At this point, if there are any questions, I would be very happy to answer them. Otherwise, I will pass the podium on to Mr. Robert Lovito. Is there anything?

SENATOR GAGLIANO: No, I have no other questions. I do think we ought to follow up on this sometime.

SENATOR RAND: I understand that Mr. Lovito and Mr. Goldman both have long statements. Before we do that, we have spend 35 minutes now, and there are lots of other people who wish to testify. I didn't realize that all three of you gentlemen were together as a group.

MR. FAILLACE: We're not. The only reason I had the other members share the podium, was for the simple reason that in case there were any--

SENATOR RAND: (interrupting) One is a stockholder in your group?

MR. FAILLACE: Excuse me?

SENATOR RAND: One is a member of the Board of Directors, is that right?

MR. FAILLACE: Yes, but the point is we have specific recommendations and specific instances we want to get into, which are very important.

SENATOR RAND: I understand, but I'm giving your group over one hour of time, at the expense of people who have come from all over. I gave you 35 minutes now.

MR. FAILLACE: Senator, respectfully, we have some very--

SENATOR RAND: (interrupting) Yes, I'm going to hear them. I'm going to hear them, but I'm not going to hear them now. I will give them an opportunity, but I am going to hear a few other people who have been here all morning. I can't give you an hour and a half of time. It is not fair to the other folks.

MR. FAILLACE: We were interrupted -- properly so -- with some questions. I think that Mr. Lovito's statement will take about 10 minutes, and I think Mr. Goldman's will take about 10 minutes.

SENATOR RAND: If you want to speak now, I will give you a total -- both of you -- of 20 minutes. I can't do any better than that.

MR. FAILLACE: Fine, we'll do the best we can.

SENATOR RAND: I did not realize you were all together; otherwise, I would have instructed the aide not to schedule all of you to speak at the same time. Who wants to go first?

PAUL A. GOLDMAN: I'll go first. Senator Rand, members of the Committee, I would correct my notes by saying good afternoon, rather than good morning. I am Paul Goldman, President of Paul Arnold Associates, Inc. of Livingston, New Jersey.

I am not a bus operator, but I have been intimately involved with the motor coach industry during my entire business career, dating from July 1, 1953, when I was initially employed by Markel Service, Inc. of Richmond, Virginia. Markel, as most bus operators throughout the country know, was the nation's pioneer insurance, claims, and loss prevention or safety firm specializing in the needs of the motor coach industry. I spent almost 18 years with Markel in many capacities before starting my own firm in 1971.

My years with Markel took me all over the United States and introduced me to a full spectrum of all aspects of problems of both the motor coach and transit industries. As a matter of fact, I had the pleasure of appearing frequently as a speaker on insurance and safety before the New Jersey Motor Bus Association, when a fellow panelist, then a member of the Public Utilities Commission, was former Governor Brendan Byrne.

I've also qualified as an expert at both judicial and administrative hearings throughout the country during these years.

I give you these introductory comments simply by way of establishing my own credentials and qualifications in appearing before you this afternoon, so as not to appear the least bit presumptuous.

I would like to address the Committee on several proposed solutions to the problems highlighted by my colleagues.

Let me refer, first of all, to the problems created by the absence of specific financial reporting standards. We propose that the current reporting standards be revised, and that New Jersey Transit be required to provide statements containing bottom-line budget projections, and that it be required periodically to report the actual results of individual route operations.

It is our contention that reporting in a more particularized manner will enable both public and private carriers to compare their services, operating costs, and operating revenues with greater specificity. The allocation of public moneys can, therefore, be made more efficiently, perhaps eliminating the excessive use of public funds in areas more efficiently serviced by private carriers. This would have the effect of permitting tax dollars to be concentrated in those areas not effectively serviced by private carriers. Standard reporting procedures would also guard against situations such as were in our testimony today -- as Mr. Lovito would have referred to them -- regarding public funds pledged in a contract bid that exceeded the nearest private bid by approximately two-thirds.

Route flooding would also be impossible -- or at the very least easily noted -- if route operations and revenues were more strictly reported.

Subsidized buses would no longer be sent en masse onto a single route, without that route's accounting reports reflecting the losses that might be felt immediately by unsubsidized carriers which would be adversely affected by such flooding.

We also propose the creation of a Legislative Oversight Committee, preferably within the confines of the present Transportation and Communications Committee structure, to oversee the operation of New Jersey Transit, specifically, and the statewide functioning of an efficient transportation system generally. We would like to see the establishment of watchdog responsibility which would make certain that taxpayers' money was not frivolously directed or otherwise misused by New Jersey Transit.

We have seen the creation of an empire with taxpayer money since New Jersey Transit came into existence in 1979, but there is no taxpayer accountability. We propose an amendment to the enabling legislation requiring an independent audit of New Jersey Transit's books and records. Governor Kean answers to the public; to whom does Jerry Premo answer?

Contrary to New Jersey Transit's representations to this Committee that it is phasing out its charter operations, as we heard

this morning, in reality New Jersey Transit has aggressively instituted new incentive programs for its employees to increase its charter sales.

We would propose a ban on charter operations using subsidized buses. Charter operations by subsidized carriers do not in any way serve the mass transportation needs of our State. Charter operation needs can and would be served more efficiently by the private sector. Such a step would eliminate the dilution of both human resources and equipment, and would enhance the ability of New Jersey Transit to provide additional mass transit services to the public in areas which are not now being adequately served.

Next, we propose several amendments to New Jersey Transit's enabling legislation. The Public Transportation Act of 1979 is basically flawed because it is founded on an inherent conflict of interest. This results from the Commissioner of Transportation serving as Chairman of the Board of New Jersey Transit and, at the same time, through the Department of Transportation, regulating all competing bus companies. It is an unheard of situation. Coincidentally, the Department of Transportation has no regulatory authority over New Jersey Transit; this power reposes entirely in its own Board.

The simplest solution would be to divorce the Commissioner of Transportation from the Board of New Jersey Transit, and subject that publicly-owned corporation to the same regulations that private companies are subject to.

If the Legislature determines that the Commissioner's continued service on the New Jersey Transit Board is essential, then an alternative solution is available. Jurisdiction over the privately-operated companies should be transferred from the Department of Transportation to the Board of Public Utilities, where it reposed for many decades.

The Public Transportation Act of 1979 should also be amended to subject New Jersey Transit to Board of Public Utilities' regulations with respect to the granting, modification, or transfer of intrastate routes, and to permit the Board of Public Utilities to hear and decide upon complaints of destructive competition.

We would like to see inserted in the Act, a statement of policy that public transportation is to be furnished by private enterprise whenever feasible, and directing New Jersey Transit to encourage and assist private enterprise in the furtherance of this policy.

We ask the Committee here today, was the intent of New Jersey Transit's enabling legislation to create a monopolistic transportation system in New Jersey while eliminating the private sector bus operator, or, was it to create, for now and for the future, a viable and efficient mass transit system for New Jersey that would be accountable to the public and you -- our elected officials?

We believe it was the latter.

Finally, we propose a legislative requirement that capital equipment and facilities which are in any way subsidized by Federal or State funds be equitably distributed among New Jersey Transit and private companies. The Board of Public Utilities should be given the power to adjudicate any complaint of inequitable distribution.

As you can see from your copies of my statement, I was going to conclude now. I am moved, however, to refer to the oft-heard and much-abused expression "silent majority," which is more genuinely translatable to a "vocal minority." The voice of the silent majority, in this instance, is in reality found in a silent, somewhat buried document called, The Department of Transportation Mass Transit Strategic Issues and Alternatives, a report prepared by the Governor's Management and Improvement Plan, dated September, 1983. I will not presume on the time, Mr. Chairman, to highlight it, but I think it is significant, and it should be evaluated.

Similarly, I would also refer you, on the same subject, to a study completed by the Department of Transportation, executed by the University of Southern California, entitled, Commuter and Express Bus Service in the SCAG Region -- referring to the area from which Mr. Premo came. This points out very quickly what the report found. While the transit authorities tended to dominate the downtown business, the private carrier was responsible for most of the non-central business district express routes. The study concluded that the private operator

has significant inherent advantages over the public transit operators in this type of service. It points out further that the report was examined by a myriad of "privatization" possibilities, and each scenario impacted ridership, service, and cost.

In summation, Los Angeles County Transportation Commissioner, Wendell Cox, dismissed the possibility of labor problems, indicating there is no evidence that 13(c) has interfered with an authority's ability to "privatize." It is being done in Norfolk, Virginia. Several policy recommendations were made. Included among them were to encourage the area transit agencies to examine this option, and reduce the barriers within their jurisdictions to facilitate the private operator.

In conclusion, I thank you, members of the Committee, for your attention to our proposals. We ask for your most serious consideration. We feel we represent the good interest of all parties, particularly the taxpaying public, in our plea for accountability, fiscal responsibility, and a legislatively-directed and enforced acknowledgment by New Jersey Transit that we, the private bus operators of this State, have the right to exist, and to do business in a fair, equitable, and competitive climate. Thank you.

SENATOR RAND: Thank you very much, Mr. Goldman. Mr. Lovito?

ROBERT W. LOVITO: No, I am going to pass. You have a copy of my testimony. You may use my 10 minutes for Mr. Premo, or someone else.

SENATOR RAND: Okay; thank you very much. Is there anything you wish to add, Senator Gagliano?

SENATOR GAGLIANO: No, thank you.

SENATOR RAND: Senator Hurley?

SENATOR HURLEY: No, Mr. Chairman.

SENATOR RAND: Gentlemen, thank you very much. Mr. Benjamin Bendit, representing various independent bus operations. Good afternoon.

BENJAMIN L. BENDIT: Good afternoon, Senator Rand, Senator Gagliano, and Senator Hurley. I have been here before you many times, from the very inception of the New Jersey Transit bill.

I am not a bus operator, although I have been involved in the bus industry all my life, as the son of someone who chose not to go into the bus business, but rather into the law business. Many of the things that I would have addressed myself to today have already been said, and I am not going to burden you by saying them over again. I think once said is enough. However, I should like to indicate to you some of the problems which have existed, from a firsthand knowledge of litigation in which I have been involved.

First of all, I would like to answer Senator Hurley's question. Senator Hurley, you asked about the charter operations of New Jersey Transit, vis-a-vis the independent operators. Most of the charter operators receive no subsidies, either operational or capital. They are people who have been in the bus business for 10 or 15 years, and who have maybe five or six buses, or 10 buses; there are a host of them. There are more now because of the deregulation of ICC. A new bus costs \$165,000 now. By the time they finish paying finances on it, it is almost \$300,000 over a period of five or six years. They can't compete with a corporation subsidized by the State of New Jersey, which gets a \$155,000 bus for nothing. A lot of these men drive the buses themselves. If you allow New Jersey Transit to become heavily involved in the charter business, you are going to drive these people -- whose lives literally depend upon driving themselves, running these bus companies, and paying for the buses -- out of business.

Now, Senator, you asked about the \$4 million. Four million dollars is nothing, because from the standpoint of the marketplace, we can compete more efficiently, and give the people better service than any public body. You have dealt with public bodies. You know that by their very nature they are inefficient. I won't say they are incompetent, but they just can't do the same things the private sector can, because in this country-- The profit motive has made this a successful country. Mr. Premo has the mentality of a bureaucrat. Now, he does an excellent job for that mentality, but I say this to you. Private industry can do a better job, because they are not burdened with what you people are burdened with all the time -- bureaucracy. The general feeling of most people-- Most politicians when they run

for government say, "I want to get the government off your back." Well, we really want to get New Jersey Transit off our backs. We'll compete with them; we'll compete with them in the marketplace, but don't give them handouts.

SENATOR RAND: Mr. Bendit, you're a rational man, and I ask you again -- I want you to show me the bottom line of how 49 buses, with a \$4 million operation, are destructively putting out of business charter bus operators in this vast State, where in Atlantic City alone we have opened up 350,000 charter bus trips. That is all I'm asking for.

MR. BENDIT: I'll answer your question.

SENATOR RAND: If you would give me that bottom line--

MR. BENDIT: I'll give it to you right now.

SENATOR RAND: Fine.

MR. BENDIT: Limit it to 49, and I'll accept it.

SENATOR RAND: That's a legitimate answer. But, again, let me come back and ask you -- I would like to see bottom-line figures where the operation of 49 buses and the \$4 million operation are hurting someone in the charter bus business, or putting someone out of business.

MR. BENDIT: I'll give you a better answer. Do you know who it is hurting? It is hurting the public, because I will tell you this. Those 49 buses are probably getting money from State funds, because New Jersey Transit, in operating the charter business, is probably still operating at a loss. If it could be broken down, I'm sure you would be the first one--

SENATOR RAND: (interrupting) That's only guesswork. I did accept seriously the gentleman before you who said that those buses should have been in operation during peak hours, and they were not. That, to me, is a serious charge.

MR. BENDIT: I don't know about that.

SENATOR RAND: But, when you make a guesstimate, which is what you're doing, and you tell me-- I want to hear figures. If you tell me -- and I've been in business -- that that part of the operation is putting some of our independent charter bus people out of business,

that there isn't enough room for New Jersey Transit to be in the charter bus business, then I can accept that and I am willing to listen. But, when you tell me about the other generalized charges, it makes it difficult for me.

MR. BENDIT: May I tell you, Senator Rand, I think your question is a legitimate one. But, I think you are asking the wrong person. The burden is on New Jersey Transit to show you that if they go into the charter business, they will have to ask for less money from you next year. I will tell you this, without figures, you and I would be sadly disappointed -- well, not sadly disappointed -- but we would be surprised if New Jersey Transit, after being in the charter business, came to you next year and said, "Senator Rand, we don't need the \$50 million." You're asking the wrong person the question. However, I will tell you this from my experience. New Jersey Transit cannot operate a charter business as profitably, and serve the public as well, as private industry. The fact of the matter is, we are serving the public. They have the buses available, and they're only doing \$4 million worth of business.

Now, one more thing, Senator. I think you've seen the television commercial where the little old lady says, "Where's the beef?" I understand Wendy's has profited considerably by, "Where's the beef?" We certainly feel that the mass transit industry should be advertised. But, we don't only want them to serve Wendy's; we want them to serve the entire New Jersey transportation industry. It is unfair for them to say, "Ride New Jersey Transit buses." It is unfair to you, as Senators who are appropriating moneys for the entire State, to say, "Only buy New Jersey Transit hamburgers. Don't buy Buz Rukin's or Frank Gallagher's hamburgers," or a variety of other hamburgers. That's not fair; that's not equitable. And, I'll tell you what's not equitable either. I sat in this committee room last year, when New Jersey Transit had a shortfall of \$20 million. They were very aggressive, and they got the \$20 million. There were independent bus companies which also had shortfalls. New Jersey Transit instituted legal action against five or six of them for reimbursement of their shortfalls, and they collected. Some of them are out of business. The

New Jersey Bus Company is out of business; Manhattan is out of business; and, Lincoln is out of business. New Jersey Transit is still in business, because they came to you for the \$20 million. Now, that is aggressive, certainly, but to whose benefit -- the public's or New Jersey Transit's?

Last year, Senator Gallagher -- or this very year -- was involved with the New York Keansburg Bus Company. Let me tell you what has happened. I don't know whether you are familiar with what occurred, but New Jersey Transit, in its equal and equitable relationship with private industry, said to New York Keansburg's riders, "We're not giving you new buses. Do you know why? We do not like the destructive competition from New York Keansburg."

Now, Senator Gagliano said, "When we passed this destructive competition, it was addressed to New Jersey Transit." But, New Jersey Transit, as Mr. Rukin very properly set forth, has turned it around and said, "They are competing with us destructively." That wasn't the purpose of your legislation. You wanted to protect -- and you are here today because you want to protect -- what you feel is the most important aspect of our economy, private industry. But, what they did was, they said, "We're not giving you 20 buses."

Senator Gagliano was very active in finally getting the 20 buses. Now, let me tell you what has happened on that route. New Jersey Transit, through negotiations, and with the help of Senator Gagliano, and the other Senator who wasn't reelected, worked out something where New York Keansburg would be able to operate to Wall Street, and New Jersey Transit to the upper New York Lincoln Tunnel.

SENATOR GAGLIANO: Let me clear the record on that. That was not done to help me. In fact, it was an embarrassment to me with my constituents.

MR. BENDIT: Absolutely.

SENATOR GAGLIANO: Okay?

MR. BENDIT: But, you helped to work it out, which is important.

SENATOR GAGLIANO: I did not; I was not at any of the meetings.

MR. BENDIT: Well, they said you did.

SENATOR GAGLIANO: Well, all right. I was not at any of the meetings; I found out about it in the newspapers.

MR. BENDIT: In any event -- many things are found out in the newspapers -- let me tell you what has happened with New York Keansburg. They started with eight buses. They are now operating on that same route where New Jersey Transit was operating, for many years unsuccessfully, 20 buses with a 43-passenger load. They have increased the passengers. They got more people on the buses. Now, when a situation like that exists, New Jersey Transit should get off, and do you want to know why? It saves money. Private industry knows how to get people on the buses, because they have, in fact, done it. This is what you have to protect. Your job is to see to it that-- You know your job; I don't have to tell you. But, when you give a lawyer a forum, sometimes he runs it overboard. Your job -- and I think you know this, as I said before -- is to see that the public is perhaps protected from having the government on its back, in terms of taxes. It is a very difficult thing to do, but there is one way to do it. That is to let private industry have the greatest amount of impact on the transit industry when it can do a better job.

SENATOR RAND: We tried that in 1975 and 1976.

MR. BENDIT: You did the right thing by forming New Jersey Transit. There was a need for it, but not need enough to put private industry out.

SENATOR RAND: I agree with that. We tried to strike a balance.

MR. BENDIT: That is correct. Let me talk to you about striking a balance. You know, sometimes I represent a one-man bus operation. As lawyers, you know something, you really do not make money on a guy who owns one bus. Every time I make an application for these bus companies to improve service, New Jersey, in its equality, contests it. Fortunately, each time I am able to succeed, either through negotiation or settlement, or through a decision, because each time the facts indicate that private industry can do the job, can do it better, and can do it cheaper.

Let me just go back one step to New York Keansburg. They charge \$15.00 a week less than your subsidized carrier, from Lakewood to New York City.

SENATOR RAND: That is because their labor costs are cheaper also.

MR. BENDIT: That is because they can operate better.

SENATOR RAND: I understand; I understand that.

MR. BENDIT: Senator Rand, I have always contended that when the private sector is dealing with labor, it can do a better job. Do you know why? Because the money is coming out of its own pocket. When it comes out of the public's pocket, they really do not have the clout. You are afraid to allow them to go on strike, because you are afraid of what the public is going to tell you. And, that's reasonable. You owe a debt to the public. The private sector can deal better with labor; it can deal better with advertising; it can deal better at every level. That is why this country is so successful. There is only one thing I want to say, because I could go on forever. Someone asks, "Why is America better?" There is only one way to answer that. There are still more people coming into America, than are leaving America, so it must be better. It is a very simple thing. I will say this vis-a-vis the public sector. There are more people who would rather ride a private bus than ride New Jersey Transit. What is the bottom line? They are losing money, and the private sector can make money.

Senators, what's best for the public is when private industry serves the public. That has made this country successful. I ask you to please consider that when Mr. Premo comes up here with all those charts -- can you imagine what the public is paying for those charts? (laughter)

It is always a pleasure to appear before you.

SENATOR GAGLIANO: Before you leave--

MR. BENDIT: Don't be as aggressive toward me as I have been toward you.

SENATOR GAGLIANO: I'm not going to be aggressive; I am just going to ask you a question.

MR. BENDIT: I may not like the question.

SENATOR GAGLIANO: I know. I was here in 1978 -- January, 1978 -- at our first Transportation Committee meeting, and we were pleading with people to carry riders in this State. We didn't have anyone to carry them. My question is -- I hate to do this to you -- where were you when we needed you? We had to create New Jersey Transit to make some semblance of order out of absolute chaos.

MR. BENDIT: That is a good question.

SENATOR GAGLIANO: I know it's a good question.

MR. BENDIT: It's a good question. If I were the President of Public Service Coordinated Transport, you wouldn't need New Jersey Transit.

SENATOR GAGLIANO: In all fairness, I did not see a parade -- and we asked Buz at the time, and other people -- of people coming up here to say, "We'll pick up the slack; we'll pick up those people who are freezing on Route 9. We'll take care of that; don't worry." There wasn't one carrier who came up and said that.

SENATOR RAND: Nor did I see anyone come into Camden County, or Camden City, offering to carry people. Not one private bus carrier came into the City of Camden to offer to take its people. But, we got it from New Jersey Transit.

MR. BENDIT: Now, wait a second.

SENATOR RAND: We got them to put on lines.

MR. BENDIT: I agree you got it from New Jersey Transit. How much are you paying for it? You're paying too much for it. If you went to Buz Rukin, he could do whatever they're doing, and do it more efficiently.

SENATOR RAND: But, the point is, nobody offered to do it, and nobody did it.

MR. BENDIT: Because you created an agency. You had to do it.

SENATOR GAGLIANO: No, we had no agency at the time; we had COA, which we didn't even know.

MR. BENDIT: I agree with you; I don't disagree that you had to create such an agency. There is a need for New Jersey Transit; however, what I'm saying is, there is a need for private industry.

SENATOR GAGLIANO: Senator Hurley calls this "The fourth of July speech," by the way. (laughter)

MR. BENDIT: Senator Hurley, what county do you live in? I'll move there.

SENATOR HURLEY: We live in Cumberland County, and it's pretty hard to find a bus.

MR. BENDIT: Well, I live in Warren County; I'll pick you up the next time I come.

SENATOR RAND: It's pretty hard to find any means of communication down there, isn't that right? (no response)

SENATOR GAGLIANO: We appreciate your being here. You made one other comment with respect to the operation of buses on Route 9 -- New York Keansburg, Route 9 to downtown. You said that has been expanded substantially.

MR. BENDIT: Yes, to 20 buses, I understand. That is what they tell me.

SENATOR GAGLIANO: You also said that New Jersey Transit had been doing it for years.

MR. BENDIT: They had the route.

SENATOR GAGLIANO: I picked that up. They hadn't been doing it for a year. They hadn't been. I don't think it was a year -- maybe a little over a year-- My experts here can tell me.

MR. BENDIT: Then why did they fight so vigorously to keep New York Keansburg off?

SENATOR GAGLIANO: That is a different issue; I don't know. I'm just saying--

MR. BENDIT: They must have felt it was important to them; they were in court.

SENATOR GAGLIANO: No, no. The only thing I wanted to do was correct that New Jersey Transit had been operating there for years. They had been operating for a while, and they gave up to you what I believe was a perfectly lucrative situation. They gave away the wrong thing, but that is beside the point. Just so we all understand--

MR. BENDIT: (interrupting) What you're saying is exactly what I have been saying, "They don't know how to operate a bus company." (laughter)

SENATOR GAGLIANO: Since that is my district, I am somewhat familiar with it. I found out after the fact what happened.

MR. BENDIT: May I just make one more comment? Mr. Premo referred to coordinating schedules. We have one bus company in Newark which would like to coordinate with them. We have written letters, but apparently they are someplace at the bottom of the pile. Would you be good enough to ask them to reply to my letter sometime?

SENATOR GAGLIANO: What is the company you represent?

MR. BENDIT: The company is 25 Springfield Avenue. All we want to do is work with them, and coordinate our schedules with them.

SENATOR GAGLIANO: That is the name of it -- 25 Springfield Avenue?

MR. BENDIT: Yes, it's four individual buses.

SENATOR GAGLIANO: It's on the record. Mr. Premo may respond.

MR. BENDIT: I'm sure I will get a letter.

SENATOR RAND: Thank you, Mr. Bendit.

MR. BENDIT: It's always a pleasure.

SENATOR RAND: Mr. Louis O'Brien, Monmouth County Transportation Coordinating Committee. Good afternoon, Mr. O'Brien.

LOUIS J. O'BRIEN, JR.: Good afternoon, Senator. Several years ago, I was against the bill setting up New Jersey Transit Corporation because I was afraid there would be a shortage of operating funds.

There has been a shortage of operating funds, and the result has been some rather large fare increases, especially for long distance commuters. This has resulted in many commuters turning to car pools and van pools.

In order to perform the job they were charged with, New Jersey Transit has hired many competent people in their headquarters. There will be a continuing need for operating subsidies to fund this headquarters, but there is still no source of stable funds for operations.

Without the formation of New Jersey Transit, however, there probably would have been a collapse of mass transit in New Jersey. They successfully took over Transport of New Jersey and several other bus lines, and they also took over ConRail passenger operations.

Although there are many Jersey Cruiser buses on the road, there are also some older buses still being used in commuter operations. There is also a restriction, in that buses purchased with Port Authority funds cannot be used south of Lakewood. There is an hourly departure from New York to Atlantic City via Route 9. The Jersey Cruisers cannot be used on a route such as this, nor on any routes in South Jersey. This particular route serves as a commuter route bringing workers from Ocean County to work in Atlantic City. The Governor's Trust Fund proposal, if adopted, should provide a source of capital funds for New Jersey Transit.

Reasonable fares, convenient routes and schedules, and good equipment are the ingredients of a successful mass transit system. Reasonable fares, as I just mentioned, will constantly depend on State funding, and a stable source for this funding should be established.

Convenient routes and schedules have kept New Jersey Transit's headquarters staff busy. This is a good sign. Delays en route, however, hurt schedules and cause commuters to seek alternate transportation.

The Turnpike Authority has a bus toll lane at Exit 16 in the morning, and they have opened an extra tollbooth at 16 South in the evening. However, buses heading north from the Tunnel onto the Turnpike back up some evenings, causing delays on all traffic coming from the Tunnel. At Exit 11, last Wednesday night, it took our bus six minutes to get through the toll plaza; and last Thursday night, it took eight and a half minutes. I might add that Friday night it was like a Friday night during the summer. We were backed onto the main roadway, and it took 13 minutes to get through the toll plaza. At the Raritan toll plaza on the Parkway, heavy rush hour bus traffic warrants some improvements to speed the flow of buses; however, the New Jersey Highway Authority has done nothing significant.

Working through New Jersey Transit's Route 9 Commuter Advisory Board, the Central New Jersey Transportation Board has suggested improvements to these Authorities. We now ask that this Committee renew its support of mass transit by supporting the two resolutions introduced by Senator Gagliano.

New Jersey Transit proved it could work with private bus companies when it recently worked out an agreement on bus allocation and route structure with a company serving Monmouth County. Unfortunately, there was no commuter input on the agreement, and some Route 9 commuters are still upset at the final terms of that agreement.

Atlantic City has created a proliferation of both interstate and intrastate bus routes. These bus routes have been receiving automatic approval, and perhaps the time has come to examine the situation. New Jersey Transit runs at least one bus an hour down Route 9 to Atlantic City. Other bus companies, using better equipment, make regular pickups at the same stops New Jersey Transit uses, or a short distance from the New Jersey Transit routes. New Jersey subsidizes New Jersey Transit, then approves routes which take passengers from New Jersey Transit. I'm sure the same situation has developed in other areas with other bus companies. Counties such as Monmouth receive financial assistance to publish transportation guides. How can the counties keep track of these regular routes to Atlantic City which are constantly being approved?

I don't think there is destructive competition in New Jersey -- yet. However, established routes, whether they be New Jersey Transit's or a private carrier's, should be protected as long as they are being operated satisfactorily. Route approvals need better input from the public, and this Committee should ensure that that is done.

New Jersey Transit has proved itself. The New Jersey Legislature has proved in the past that it supports mass transit, and I ask that this Committee continue leading the Legislature in this support.

I might add a couple of comments. I know Senator Gagliano was quite interested in the Senior Citizen and Disabled Resident Transportation Act. Unfortunately, it is a little too early to comment on that. In Monmouth County, we have scheduled a meeting of a task force tomorrow night, to see how we can implement this there. Mr. Rukin mentioned being an endangered species. I doubt very seriously if Mr. Rukin, Mr. Faillace, or Mr. Lovito would allow any of their bus companies to become an endangered species. They use these charter

operations to offset their passenger service and to keep their fares in line. I don't see any reason -- if my fare can be kept low by a charter operation -- why New Jersey Transit shouldn't be allowed charter operations. Thank you.

SENATOR RAND: Thank you very much, Mr. O'Brien. There are two things I wanted to tell you. You bring up a very interesting point about the buses that can't go 75 miles south of the Port Authority. In the original legislation, there was \$119 million provided for the same type of buses in South Jersey. We are going to be asking New Jersey Transit for an accounting of that \$119 million -- which was in the 1979 bond issue, and in the enabling legislation of 1980, I believe it was -- how it was used, and where those buses are. So, we can assure you that the same treatment is going to South Jersey as went to North Jersey. I can assure you that Senator Gagliano's resolutions will be passed at the next formal meeting of the Committee. I want to tell you that the Authorities were there, and they are beginning to take some corrective action. Still and all, with all their input -- and we are very appreciative of their input -- we are going to release Senator Gagliano's resolutions.

SENATOR GAGLIANO: I thought we were going to release them today.

SENATOR RAND: Can we release them today?

DR. MANOOGIAN: There is no formal meeting scheduled; there is just a public hearing scheduled.

SENATOR GAGLIANO: I asked that this be on the agenda, remember?

DR. MANOOGIAN: I understand, yes.

SENATOR RAND: We will see if we can sign them in. Senator Gagliano?

SENATOR GAGLIANO: I appreciate Lou O'Brien being here. Lou has been a constant source of support of transit for many, many years. He is a Freehold Borough resident, and a former Councilman. I think, Lou, that you're right. The problems of the Turnpike and the Parkway are now going to get worse and worse, as you said, as we get toward summer. Something has to be done, so I asked the Chairman and the

Committee Aide if we could consider my resolutions today. Then, of course, we won't be in session for awhile, but I think we are still getting the message across to the Parkway and the Turnpike that this is extremely important to us, and that they have to do something to help get those buses through there more quickly. Thank you.

MR. O'BRIEN: Thank you.

SENATOR RAND: Thank you very much, Mr. O'Brien.

SENATOR GAGLIANO: When you mentioned South Jersey, you struck a cord on each side of me.

SENATOR RAND: Did Mr. Bendit leave?

FROM AUDIENCE: Yes, he did leave.

SENATOR RAND: Well, since his remarks about sending Mr. Premo a letter and not receiving a response are on the record, I would like to say for the record that the letter was received on December 5, 1983, and Mr. Premo responded with a two-page letter on December 16, 1983. We are not here to refute charges, but I think it ought to be made part of the record.

SENATOR GAGLIANO: Well, Mr. Bendit was a little loose with his fourth of July speech. I noticed that, and I think others did also, but I corrected him.

SENATOR RAND: Well, if we see some glaring errors, Senator Gagliano, at least let's make them part of the record, although we are not having a debate here, nor are we refuting any testimony.

May we have Mr. Jack Sadow, Vice Chairman of the Central New Jersey Transportation Board. Good afternoon.

JACK SADOW: Good afternoon, Mr. Chairman and distinguished members of the Committee. I am here today to testify for Senate Joint Resolutions 9 and 10 and, at the risk of being repetitious, I would like to enter into the record some of the comments which I made at the last meeting.

First, these resolutions benefit everyone. They do not cost the taxpayers anything; they do not cost the State anything. More important than the cost -- or just as important as the cost -- for an individual who is a commuter or traveler using the Parkway, the Turnpike, and the major highway arteries is, if that individual has a

choice of either taking a bus or using his own vehicle, and if there is preferential treatment shown to the mass transit system and this State is attempting to work that system effectively, if that individual chooses to use mass transit, with its preferential treatment, he now reduces the total number of vehicles going through that major artery. This now benefits those individuals who have absolutely no choice but must use their cars. So, it benefits commuters, travelers, and anyone using either mass transit or their own personal vehicles.

The Central New Jersey Transportation Board considers these Resolutions, both 9 and 10, bipartisan resolutions. Our Central New Jersey Transportation Board, with its eight-member municipalities, which include Old Bridge, Manalapan, Marlboro, Freehold Borough, Freehold Township, Howell, Jackson, and Lakewood, has endorsed the resolutions.

The Route 9 Commuter Advisory Committee has endorsed the resolutions. The Monmouth County Transportation Coordinating Committee, by formal resolution, has endorsed the resolutions. Both Middlesex and Ocean Counties' Transportation Committees have supported the resolutions. You have heard from the New Jersey Transit Corporation, and I know the Commissioner himself has endorsed the resolutions.

At the last meeting, there was a statement provided by the New Jersey Highway Authority's Operations Manager, which was read into the minutes. It indicated that buses were 1% of the total amount of vehicles going through, as a specific example, the Raritan toll plaza. This was not justified to provide preferential treatment. The point made at that meeting was that 1% of the total number of vehicles moving through that tollbooth during rush hour, accounts for the movement of over 6,000 commuters. It has been extremely difficult over these eight years to try to emphasize, and to have both the Turnpike and the Parkway accept, in concept, their obligations and responsibilities to the movement of people, not just to counting vehicles. It is a habit they have always had. They always report everything by vehicle count, not the number of people they are attempting to move in our transportation system.

For eight years now, we have repeatedly requested both the Highway Authority and the Parkway to show preferential treatment and support the mass transit system. We have not been successful. Again, at the last meeting, they brought up a specific situation at the Raritan toll plaza, where the capacity ratio is now 99%. Going back a year, two, three, five years ago, we urged that they show preferential treatment. It could have been done at that point; it was not. Gentlemen, members of the Committee, at this point, if you have already reached 99% of your capacity through tollgates -- we do not have the time or the luxury to wait for them to build additional tollgates to move that traffic. It would appear that an approach would be to get more people to use mass transit and reduce the number of vehicles -- the total number of vehicles -- which have to go through. That, to me, sounds like the proper, or one major solution.

The purpose of the joint resolutions, the basic reason they were requested, was to have both the Highway Authority and the Parkway accept what we think are their responsibilities and their obligations to the State's mass transportation effort. Going into Monmouth, Ocean, and Middlesex Counties, if we approach a gridlock condition -- 99% -- if vehicles do not move, then the growth and the development of this part of the State is in danger. That is a major north-south artery. It is absolutely necessary for the Authorities to realize this, and to become part of the mass transit family, and accept their responsibilities to help move large numbers of people between two specific points as quickly as possible, without always providing statistical information which gives us vehicle count.

The resolutions do not direct any specific procedures. They are extremely general. We look forward to the professional staffs of both Authorities, with their expertise, to systematically develop the preferential treatment. No one is telling them to go out and provide preferential treatment for two hours on the first Monday morning, but they can certainly start on a Tuesday for five or ten minutes, evaluate it, and continue to improve the program. They should publicize the program so people will know that if they are on a bus, they may be able to save as much as 20 minutes to 45 minutes round trip that day.

Again, repeating, it does not tell them how to do it; it gives them complete freedom to use their professional expertise to develop the program themselves. All we are looking for is that they both acknowledge and accept that they have an obligation, and that they have a responsibility to move large numbers of people quickly. For eight years, they have refused to accept their commitment to dedication and preferential movement of mass transit vehicles.

Thank you, Mr. Chairman and members of the Committee.

SENATOR RAND: Thank you very much, Mr. Sadow. Your comments struck a responsive cord at the last Committee meeting, and I'm sure-- Again, let me repeat, Senator Gagliano's resolutions will be released by Committee.

MR. SADOW: Fine. May I just say very briefly, sir-- Last week when reading the New York Times, I picked up a page and looked at it. It sure as heck looked like the approaches to the Lincoln Tunnel. I started to read it and it said, "Bumper to bumper rush hour traffic in Houston, Texas." The article here (Mr. Sadow holds up newspaper clipping) compares Houston and Dallas. Throughout the article, there are many features about one being committed to a mass transit system, and the other letting it just happen. One of the items here, and I'm quoting, says, "Now the direction is, how can we best utilize existing transportation corridors?" As soon as I read that I said, "My God, the two major Authorities in the State have still not become part of the mass transportation system." At the very end of the article, the Chairman of the Dallas Area Rapid Transit Campaign said, "There is a strong emotion here. It is not just going to happen to us." Unfortunately, for eight years it hasn't happened. We are going to make it happen.

Gentlemen, I appreciate your comments concerning the resolutions coming up, and we look to the Committee to make it happen for the benefit of the mass transit system in the State, and for the taxpayers of the State of New Jersey.

SENATOR RAND: Thank you very much, Mr. Sadow.

SENATOR GAGLIANO: Thank you, Jack.

SENATOR RAND: Judge Labrecque. Good afternoon, Judge. It's nice to see you.

THEODORE J. LABRECQUE: Mr. Chairman and Senators, it is a delight to be here. I'm just glad that you're not tired of hearing from me.

My name is Theodore J. Labrecque. I reside in Little Silver. Upon my retirement from the New Jersey Superior Court in 1973, the Chairman of our Planning Board and the Director of our Board of Freeholders informed me that I had volunteered to serve on the Transportation Committee. I have been a volunteer ever since. I have done it because I have been interested in transportation for the greater part of my career. I was associated with Triangle Bus Company, one of Monmouth County's first bus companies, during the time that I was attending law school. For those of you who do not remember the Triangle Bus Company, I can only say that today's bus Route 4 of Borough Buses was our first route. It is still being subsidized, and is still running very nicely, thank you. So, we think we started something good.

Subsequent to my admission to the bar, I represented clients before the New Jersey Public Utilities Commission, and later, when the Motor Carrier Act was passed, before the Interstate Commerce Commission. I have also worked with bus and rail carriers in planning and setting up substitute bus service where traffic was insufficient to permit the maintenance of rail service.

Before my appointment to the New Jersey Superior Court, I served for 14 years on the Division of Tax Appeals. During this time, I had the benefit of a ringside seat on the problems of New Jersey's bus and rail carriers. From that point, it was easy to see that the erosion of passenger traffic on both rail and bus lines was not primarily due to poor service, but was due to what we now concede and realize was a love affair between New Jersey residents and the automobile. This explanation of the trend gave us little, if any, concern at the time, because we thought we were facing no more than a harmless national phenomenon which would go away eventually. We waited for it to go away, but it didn't. When the fuel shortage of 10 years ago suddenly came on, we found out what had happened to our transportation system.

Since that time, we have been frantically trying to reverse the trend and bring our system back on line. To prevent the further erosion of service, the bus and rail subsidy systems were devised and enacted. I am not going to describe them; you gentlemen know that in the case of essential services, companies which were serious about continuing service were allocated buses. If this didn't do the trick, they could get a money subsidy to back it up.

Unbiased observers are generally in agreement that the bus subsidy law has accomplished its purpose, and has been doing it all along. Without it, many lines would have been closed down 10 years ago. Some of the most reliable private operators in the State have participated in the program and have since continued to furnish adequate and satisfactory service to the public. Without the program, counties such as my own County of Monmouth, would not only have lost most of their local bus service, but their highways would have been turned into a traffic shambles as a result of the excess traffic.

The subsidy program was not an insidious plot to put private companies out of business. It was an effort to extend a helping hand to those companies which had previously been rendering good service and refused to be satisfied to deliver anything but the best. In each case, the operating carrier was encouraged to continue service under a subsidy. If a carrier was unwilling or unable to carry on, DOT, through its then Commuter Operating Agency, sought to find a substitute carrier. Sometimes it was successful, and sometimes not.

By the time New Jersey Transit was set up by the Legislature, the situation had deteriorated even further. Service by Transport of New Jersey, by far our largest carrier, was on the verge of collapse in many communities. New Jersey Transit was left with no alternative but to take over that operation. In a number of other instances after the TNJ takeover, New Jersey Transit had to assume more obligations. In a number of cases, independent subsidized carriers gave notice that they proposed to suspend service, leaving New Jersey Transit to try to continue service. In my own county, Lincoln Transit, a long-established subsidized carrier, thus gave up the ghost. In the Raritan Valley Corridor, Somerset Bus Company -- owned by our friend

Mr. Knoll, whom we all respect -- one of the pioneer bus lines in the State, suspended operations. The fact that New Jersey Transit was able to pick up the pieces and continue to give service, was a great tribute to the legislation which set it up in the first place. New Jersey Transit has not only met the challenge posed by the deterioration of private bus service, but it has responded to demands for increased and new services in many instances.

As was readily apparent at the time, the passage of the law creating New Jersey Transit was the direct result of the failure of privately-furnished mass transportation in the State. From 1969 onward, bus service in New Jersey was carried on, in many instances, by ancient and dirty equipment. Service had become infrequent on many lines, and due to the decreasing ridership which resulted, private operators were often forced -- most of the time against their will -- to abandon routes or to continually increase fares. It had been in response to the imminent cessation of services in a number of instances that the Legislature enacted Chapter 134 of the Laws of 1969, the bus subsidy law. But even this far-reaching step did not do the trick. In spite of the public investment in capital and operating assistance during the 10-year period which followed, the private bus system of the State was unable to increase ridership, stabilize fares, or substantially improve service. By 1979, the privately-operated bus system showed a decrease in ridership at a time when ridership nationally had increased by 11%. Also, at the same time, financial assistance in the form of a subsidy which began at a half a million dollars in 1970, had risen to \$49.9 million in 1978. Service was decreasing steadily and New Jersey's privately-operated bus fleet, which had previously been one of the best, was, by 1979, one of the oldest in the nation.

New Jersey's answer -- the only proper answer at the time -- was the enactment of the Public Transportation Act of 1979 setting up New Jersey Transit. Of course, the emergency which hastened this action was the threatened demise of Transport of New Jersey. It had been unable to stabilize fares, maintain service, or recapitalize its fleet. It became inevitable, in that case at least, that the largest

private carrier in the State should pass into the public sector. Lest we feel that this represents some failure on the part of New Jersey, it is to be recalled that similar occurrences were taking place in almost every major American city at the same time.

That New Jersey Transit has made significant progress since then, and has thus reflected credit upon the Legislature which created it, is readily observable to anyone familiar with current transportation trends. The bus fleet has been renewed, and today 88% of the buses operating in the State are owned by the public. Again, in my own County of Monmouth, service on the Route 9 Corridor, which formerly threatened to ignite a local revolution there -- as Senator Gagliano knows -- has been revitalized to the extent that the recent restructuring of routes on that Corridor received almost unanimous support from users. Restructuring of routes to eliminate gaps and prevent overlapping has taken place in many areas of the State, and better connections between bus carriers and rail carriers have been worked out. In addition, bus shelters have been placed in strategic locations and the reliability and quality of bus service has definitely increased during the past three years. Ridership, in many instances, has been stabilized and, in some cases, is actually beginning to increase. This result is especially encouraging in light of the economic decline, the fare increases which had to be put into effect, and the recent drastic reductions in operating assistance from the Federal government. Unquestionably, everyone admits that the quality of the bus ride has been tremendously improved. The public has seen this and is glad. Subsidized carriers, as well as New Jersey Transit, deserve credit for this improvement.

The reasons for the success of New Jersey Transit to date are not hard to find, gentlemen. Although some private bus carriers have grumbled at times, the basic fact remains that the legislative plan embodied in the 1979 statute has worked. It has worked because it is a good plan, and has been carried out under the leadership of Commissioners of Transportation who refuse to be satisfied with anything but the best. The fact that four of the members of the New Jersey Transit Board are not connected with State government, but must

be appointed by the Governor with the advice and consent of the Senate, has done much to inspire public confidence in the Agency. The creation of the two Advisory Committees representing North and South Jersey is also recognized as having contributed significantly to the success of the program. Through this device, New Jersey Transit has not been required to depend solely upon input from its paid staff. Members of the Advisory Boards are appointed from all parts of the State. Their familiarity with the State's transportation problems and their ready availability to listen to service complaints have been of great help. They were in a better position than most to verify that the allocation of capital resources, such as new buses, by New Jersey Transit to private carriers, was carried out in a fair and rational manner. While New Jersey Transit was, until recently, without the discretionary authority to deny buses to a private carrier which practiced destructive competition, or operated non-essential services, this situation has been corrected and the taxpayers of New Jersey are now assured that private carriers awarded State-owned equipment will not use it to compete unfairly against New Jersey Transit, or each other. In this way, the fiscal integrity of New Jersey Transit's bus operations and those of the subsidized carriers is assured.

Gentlemen, we have reached a stage where existing private bus carriers appear to be doing quite well too. In my own County of Monmouth, while we are unable to secure volunteers to assure service on a local bus line which is about to be terminated -- and I am not complaining about this today -- the buses operating over the Garden State Parkway to Atlantic City each day seem to outnumber even the stars. I'm surprised that lawyers represent these bus lines. It seems to me that if those lawyers were smart, they would go into the bus business, because it doesn't seem to take very much. I received a letter the other day with reference to one of the applications for service, and it said that the principal office of the company was Post Office Box B, in a post office which I won't mention. But, in any event, everybody seems to be getting in on the act. We must remember, however, that many of New Jersey Transit's operating and charter rights, derived from Transport of New Jersey, are upwards of 40 years old, and some even predate the passage of the Motor Carrier Act itself.

New Jersey Transit has continued, and should continue, to carry out its commitment to upgrade the overall State bus fleet. This will promote economy and decrease costs to private carriers in the long run. New Jersey Transit should continue to promote its own services and, where appropriate, general transportation services. The ideal would be for New Jersey Transit and the private carriers to join together in funding a general promotional program for the State. Regular route services, regardless of the operator, insofar as they apply to taxes, registration fees, and operating assistance, should be treated equally. Subsidy payments should be limited to those carriers which operate essential services and require financial assistance to maintain such services. Finally, New Jersey Transit, which represents the taxpayers of the State, should never be deprived of the right to deny State-owned buses to private carriers which compete destructively with it. This protection is due the taxpayers of the State, and they should not be deprived of it.

In summary, it is my considered opinion that the passage of the New Jersey Public Transportation Act of 1979 creating New Jersey Transit, was a wise and timely piece of legislation, which has served the State well. The checks and balances built into the legislation by those responsible for its enactment have ensured fairness to the State, to the traveling public, to the private carriers, and to the taxpayers. New Jersey Transit's accountability is assured by the fact that a majority of its Board is independent, and its business is conducted in public and always subject to the Sunshine law. We are not dealing with Jerry Premo; he is not New Jersey Transit. New Jersey Transit is composed of its Board. We meet once a month, at least, up in Newark, or wherever they sit, and we can bring our problems out there. Matters coming before the Board are subject to scrutiny by the two independent Advisory Committees on behalf of the public, and finally, the actions of the Board are without force until its minutes are approved by the Governor of the State.

Its track record in the courts has been good. The law has worked out well indeed. I urge that we do not tinker with it at this time.

SENATOR RAND: Judge, thank you very much for your testimony. It is always a delight to hear from you, and we appreciate your being here today.

We will take a recess now, and will meet in exactly 35 minutes, at a quarter to two. This hearing is adjourned until that time.

(RECESS)

AFTER RECESS

SENATOR RAND: May we have Mr. Ian Jerome, Executive Director of the Atlantic County Transportation Authority. Good afternoon.

IAN JEROME: Good afternoon, Mr. Chairman. I would like to restrict my comments today to the area of the ACTA Bus Management Program. The Atlantic County Transportation Authority has a program to regulate the flow and movement of buses, primarily casino-destined buses in Atlantic County. There are some other areas I think are germane to the agenda today, but most of those I will defer to Assistant Commissioner Crawford and his comments on the progress of the task force.

When ACTA was created four years ago, we identified the influx of casino buses as the major area requiring management. As a result, we placed that as our first and highest priority. To give you an indication of the magnitude of that market as it currently exists, in 1983, Atlantic City received approximately 26.5 million visitors, ranking it as the primary recreational destination in the United States. The composition of that visitor traffic was as follows:

Approximately 54% arrived by automobile. It is interesting to compare that to the pre-gambling 1977 figures, where approximately 92% of the people coming to Atlantic City came by automobile. There has been a dramatic percentage reduction in the portion of visitor traffic that uses automobiles.

Forty-four percent of the visitors arrived by bus, predominantly private carriers, as has been mentioned several times today. That is a mixture of line buses and charter buses, there being

more line than charter. The remaining portion of visitor traffic, about 2%, is the recent addition of those being carried by aviation. This is a relatively rapid growth area on a percentage-wise basis, although not on a total visitor basis.

In 1977, approximately 7,000 buses came to Atlantic City; in 1983, we had somewhere around 350,000 buses, with nine casinos. We are on the verge of opening a tenth casino later this spring, and there are several additional casinos to follow. So, in summary, the market for buses is very aggressive. It does not seem to have reached an equilibrium point, and we expect that as additional casinos develop, it will continue to increase, as it has done.

Those 350,000 buses average about 1,000 buses a day. On peak days, that number will be in the area of 1,300 to 1,400 buses. That is comprised of over 500 different carriers, so we have a great diversity in the market. The economic health of Atlantic City, therefore, as we have known it over the last five or six years, is critically dependent upon the bus industry and, without what has been described as a revolution in the private bus industry to Atlantic City, I think the ability to bring visitors, and the ability to have an aggressive economy with all the benefits for additional spin-off programs, would have been much less.

However, we have problems. I will briefly state those, although this Committee is very familiar with the problems, as you dealt with them very closely last year. There are problems with congestion. The number of buses on a daily basis is equivalent to about half the total New Jersey Transit fleet flowing through the streets of Atlantic City, which is a small town -- a barrier island town -- of 38,000 people. Half of the New Jersey Transit fleet flows through those streets four times a day, in to unload, out to park, back in to load, and out again -- four trips. So, you have, in total, twice the New Jersey Transit fleet on an average daily basis negotiating the narrow streets of Atlantic City. Congestion has been a severe problem, and one that has had a very severe affect upon local residential areas to the point where, in the summer of 1982, there were several cases of civil disturbance. The Commissioner of the Department of

Transportation was brought in to arbitrate some of those issues, and the City attempted to close streets to bus traffic and ban bus movements in certain portions of the town. It was at that time, with the Commissioner's assistance, that we attempted to take a more comprehensive approach and develop a casino Bus Management Program which would address all streets and all areas of the county.

In addition to that, there have been problems with bus parking, proliferation of small surface lots, and the use of accessory parking facilities at diners and motels throughout the county, which generated severe traffic and safety problems in those areas.

Now, the solutions. In 1982, ACTA developed and instituted a voluntary Bus Management Program with the casinos, which was funded by the casinos. In large part, that was successful, but the conclusion was that there was a need for wider regulation to control the movement of buses throughout the county, where the jurisdiction of the casinos ended. Approximately a year ago, this Senate Committee held a hearing in Atlantic City on the issue of casino buses. As a result of that hearing and the comments received, legislation was drafted which was passed in July of last year. In August, ACTA initiated, under emergency powers, the ACTA Bus Management Program. Essentially that Program establishes designated routes buses must travel on. It establishes and requires various casinos to participate, and to intercept programs where the buses are staged before handling at the casino site. Staging is dependent upon available casino capacity. That has been very successful in reducing the impact on city streets. It has also involved the regulation of eligible bus parking sites, and we have been able to work with communities within the county to eliminate some of the problematic parking areas.

Included in the Bus Management Program is a schedule of fines. There is a fee attached to buses entering Atlantic City of one dollar a bus. This money goes toward the cost of running the Program. As a result of this Bus Management Program, which has been in effect, as I say, since August of last year, I think we have seen a marked improvement in the on-street handling of buses. As a result, I think we have had essentially fewer complaints this year, with dramatically

more buses than we had in 1982, when there were numerous complaints bordering on civil disorder.

I think in summary, dealing with the Program, I would like to report it as a success. It is enforced by the municipalities. The city police departments in Atlantic County have been extremely cooperative in ensuring enforcement. Primary among those municipalities has been Atlantic City, where there has been a very strong cooperative effort which has resulted in, I would say, substantial compliance by the bus companies of the adopted regulations.

I think this Bus Management Program, working as it does jointly with the private sector operators and New Jersey Transit as a carrier to Atlantic City, is an example that I would hold forward as a success story, where public regulation and private enterprise can be brought together. We feel it is a necessary regulatory program, and one that assures the continued vitality of the bus industry in Atlantic City. In effect, we have been able to add to the capacity of that town to handle buses, and I think that is to everyone's benefit. It meets our objective of encouraging mass transportation; it encourages a wider market area for bus carriers; and, it ensures that the casinos are able to do business in a more efficient way, with high volumes of people, than they were doing two years ago.

In summary, I think this is an example of how to work with private carriers. Currently, we have a proposal underway with ACBOA to enter into a cooperative effort to establish permanent sites for casino bus parking, where ACTA may, in effect, transfer our operation in bus parking to the bus owners. That is a story I would like to report on further; hopefully it will be a success story.

In addition to that, ACTA is directly involved in a number of other areas in the county with New Jersey Transit and the New Jersey Department of Transportation dealing with rail development, commuter stations, service, rationalization on the Atlantic City Transportation Company, and negotiations regarding Atlantic City airports.

That concludes my presentation. I would be glad to answer any questions you may have.

SENATOR RAND: Thank you very much, Mr. Jerome. Senator Gagliano?

SENATOR GAGLIANO: We can't take a lot of time now; we could spend the day talking about the Atlantic City Transportation Company. Are you satisfied that the system is working, based on last year's legislation?

MR. JEROME: I think it has been extremely successful. We're getting the revenue we had anticipated, and I think the Program has been accepted by all parties.

SENATOR GAGLIANO: In your opinion, have the negotiations which have taken place between New Jersey Transit and the private carriers been reasonable? Do you have any complaints that New Jersey Transit is overbearing, or anything like that?

MR. JEROME: Speaking purely from our experience in Atlantic County, we have had nothing but support from New Jersey Transit in participating in the Program and paying the fee. I think that resolves some of the problems the private carriers saw in the beginning. So, I would say that from our perspective, the members of New Jersey Transit who have been involved with us have been very cooperative.

SENATOR GAGLIANO: Thank you.

SENATOR RAND: I have two questions, Mr. Jerome. Number one, has there been a reduction in parking lots for buses in Atlantic City proper?

MR. JEROME: Yes, there has, Senator. The City of Absecon is a good example, where there were somewhere in the area of about 16 or 17 small lots attached to motels and similar land uses. Today, there are -- as I understand it -- no bus parking facilities in the City of Absecon. There has been some attrition in the Atlantic City lots because of properties going to higher and better use. A number of them will go to higher and better use in the next year -- two major lots -- and I think the proliferation of small lots throughout the county has become a thing of the past.

SENATOR RAND: Which is what we anticipated in Atlantic City itself.

MR. JEROME: That is correct.

SENATOR RAND: The second question is, is there a point down the road -- and I saw one of the projections for about 50 million

visitors by 1990-- Is there a projection as to when we will reach a saturation point on how many buses we are going to allow into Atlantic City?

MR. JEROME: We have not projected that point, Senator; however, I think in the future there may be a need to look at distributing peak bus traffic a little bit more efficiently than currently happens. The numbers I described -- 1,300 and 1,400 buses a day -- go along with substantial arrival and departure peaks, the majority occurring within a two-hour period on both arrivals and departures. We would be looking, I think, if we reached that level of bus activity, at encouraging buses to arrive and depart outside the peak hours. We are currently in negotiation with ACBOA and their representatives about how effectively and legally that might happen, with various incentives and devices to encourage the spreading of bus arrivals and departures. With that spreading, I think we can accommodate the traffic in the foreseeable future. But, clearly there are peak-hour capacity constraints on the highways into and through Atlantic City.

SENATOR RAND: Thank you very much, Mr. Jerome. May we have Mr. Irvin McFarland, State Legislative Director, United Transportation Union. Good afternoon, Mr. McFarland.

IRVIN McFARLAND: Good afternoon, Senators. My name is Irvin McFarland. I am the State Legislative Director of the United Transportation Union, with offices located at 375 West State Street, Trenton, New Jersey. The membership of our organization consists of enginemen, conductors, trainmen, bus drivers, mechanics, and ticket agent personnel employed by Amtrak, ConRail, and New Jersey Transit Corporation.

My remarks will be directed to Senate Bill No. 3137, enacted July 17, 1979, which was an Act creating a public corporation within the Department of Transportation to be known as the "New Jersey Public Transportation Act of 1979," by which authority created New Jersey Transit Corporation.

The United Transportation Union was supportive of this legislation after the inclusion of labor-protective conditions for

employees who are adversely affected by the acquisition by purchase, condemnation, lease, gift, or otherwise by New Jersey Transit Corporation for providing public transportation services.

Former Commissioner Louis J. Gambaccini, New Jersey Department of Transportation, testified before the Senate Transportation and Communications Committee on Senate Bill No. 3137 on March 28, 1979, stating, and I quote: "The key element of the public transit corporation is the authority to acquire a private carrier when it is in the best interest of the public, and either operate the service directly or through contracts with private professional transit managers."

During the questioning of Commissioner Gambaccini by members of the Senate Committee, a question was asked concerning whether or not S-3137 would create an uncontrollable giant with the power and authority to squeeze the independent bus operators out of business.

Commissioner Gambaccini responded to the question by stating it was his position that he would encourage private enterprise and, if necessary, continue to offer subsidy to operators who were providing an efficient and effective service, and he would not use S-3137 to force operators out of business.

However, this was not the case with Lincoln Transit Company and Lincoln Terminal Company of Lakewood and Atlantic City, New Jersey.

The management of Lincoln Transit Company met with the local representatives of the United Transportation Union on February 21, 1983, advising them at the close of business on February 25, 1983 Lincoln Transit Company was going to file for bankruptcy and terminate all services.

The reasons given for declaring bankruptcy were that they had exhausted their cash flow, and were not eligible for monthly subsidy payments until March, 1983.

It is only fair to give you some background information concerning the operation of Lincoln Transit.

Lincoln Transit was paid a subsidy by New Jersey Transit for the months of June, July, August, and September, 1982, when in fact, the records revealed they were making a profit due to the summer

increase in ridership; therefore, New Jersey Transit withheld the subsidy payments for the months of November and December, 1982, and January and February, 1983, at a time when Lincoln Transit was losing money.

Lincoln Transit and New Jersey Transit operated joint service on the Route 9 Corridor, and neither operator was supposed to have a competitive edge; however, commencing in the fall of 1982, New Jersey Transit began to operate brand-new MCI buses on the Route 9 Corridor, while Lincoln Transit continued to operate very old buses.

I spoke to the officials of New Jersey Transit regarding the delivery of new MCI buses to Lincoln Transit, and was informed they would receive 23 buses before Christmas, 1982; obviously, they were never delivered.

Lincoln Transit folded on the evening of February 25, 1983, and on the morning of February 26, 1983, New Jersey Transit hired 23 of our members to drive those brand-new MCI buses -- which were promised to Lincoln Transit -- from Ferry Street, Newark, to Lakewood for service on the Route 9 Corridor, Monday, February 28, 1983.

Approximately 73 former Lincoln Transit drivers were given employment as new employees of New Jersey Transit, while the remaining 109 employees were declared unemployed.

The 73 former Lincoln Transit drivers were denied their wage rates, vacations, seniority, health and welfare benefits, life insurance, and pension benefits; while employees of two other bankrupt carriers, namely Somerset Bus Company and Trackless Transit, Inc., which were taken over by New Jersey Transit, were rehired with seniority and all previous fringe benefits.

I regard this as a double standard of treatment, which must be corrected by legislation.

Lincoln Transit is not an isolated case. Manhattan Transit Company declared bankruptcy in the fall of 1982, and their employees were not offered full employment opportunities by New Jersey Transit. They were hired in a similar manner to the method used in the Lincoln Transit bankruptcy, on a pick and choose basis, not necessarily by former seniority order, but as new employees with no benefits.

In conclusion, I respectfully urge the members of the New Jersey Senate Transportation and Communications Committee to introduce legislation amending S-3137 to include a standard of protection when a company declares bankruptcy and the routes and/or units of work are acquired by New Jersey Transit.

Furthermore, the employees of bankrupt carriers must be offered the same employment opportunities as were afforded to the employees of Somerset Bus Company and Trackless Transit, Inc.

Thank you for this opportunity to appear before your Committee.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: Irvin, I'm sure you wouldn't have testified to it if it wasn't so, but are you clear on that? Were there two separate arrangements with respect to the takeovers of, for example, Somerset and Lincoln Transit? Are you clear on that?

MR. McFARLAND: I am only clear on Lincoln Transit. The information on Somerset is what I could gain from the newspaper, etc.

SENATOR GAGLIANO: From what you got out of it, are you saying you feel legislation is needed to make sure there is an even-handed approach?

MR. McFARLAND: Yes.

SENATOR GAGLIANO: Somerset was taken over before -- quite a bit before -- Lincoln was, wasn't it?

MR. McFARLAND: Yes.

SENATOR GAGLIANO: Could it be that after taking over Somerset, they realized they had made some mistakes, or that they should have done it differently?

MR. McFARLAND: I really can't answer that, Senator, but I can tell you the facts I have about Lincoln Transit in great depth. I happened to accompany our attorney, Robert Fagella, when he went over to take a deposition from Fred VanLoy. Fred VanLoy was the General Manager of Lincoln Transit. Through cross-examination, while getting this deposition from the man, we asked him why he just threw up his hands. He said that because of the four months' withdrawal of the subsidy payments, there was a crunch on his cash flow. We asked him,

"Did you apply for an emergency application of subsidy money?" He said, "Yes, I did." But, he was denied.

SENATOR RAND: Let me interrupt for a minute, Irvin. If he got paid for four months when he made a profit, why didn't he keep that money as a reserve? I mean, I am just trying to weigh-- Usually in business, if you have a profit picture, then you hold a reserve. Do you mean he got money above and beyond what he made in June, July, August, and September, due to the summer increase in ridership? I take it this is a yearly occurrence. If that be the case, why didn't he put a reserve away for those months that were off-peak?

MR. McFARLAND: I think to answer that, we would have to talk about the dollars and cents involved. The subsidy program, as he expressed it to us -- he was getting some \$90,000 a month, which isn't a great deal of money.

SENATOR RAND: That's \$360,000 we're talking about.

MR. McFARLAND: Yes, and that was withdrawn from him. The other factor involved, Senator, was that he had an old fleet of buses, and he was constantly trying to repair them.

SENATOR RAND: I accept that, but I am trying to zero in on two factors. The first factor-- What you're saying is, he went bankrupt because he did not get additional subsidies after he was paid subsidies for a four-month profit picture -- for those particular four months?

MR. McFARLAND: Right.

SENATOR RAND: Why didn't he hold that in reserve?

MR. McFARLAND: Well, because of the nature of the business. He was using the money as fast as he made it to try to keep the plant together. See, it wasn't a question-- He got the subsidy of \$90,000. You're saying that if he had put it in the bank and saved it up for the bleak times--

SENATOR RAND: (interrupting) Well, if he made a profit during the four months -- June, July, August, and September, let's take that four-month period -- if he made a profit, there is no reason to go into another reserve fund. Normally, under good business practices, you would use that reserve fund to offset those months that you didn't

make any money. Now, what he did then, evidently, was take those four months when he was making a profit, and utilize the money at that time. See, I have no quarrel -- I may have a quarrel with New Jersey Transit when they were supposed to fulfill a contract of supplying buses, and I will come to that in a minute. But, I'm trying to dispel in my mind, once and for all, whether or not New Jersey Transit did the right thing. If they overpaid them on one hand, they had no right to pay them on the other hand. Why didn't that company, if there were any fiscal people, utilize that money for the off-peak months? They got over and above a profit picture. I can't quite get that through my head.

MR. McFARLAND: Well, neither could we after we cross-examined him, to be very honest with you. We were supposed to get the buses in December, 1982, and we didn't get them. Then New Jersey Transit sent him a contract for the 23 buses on January 10. We asked him, "Why didn't you sign the contract right away, if you were in such dire need of the buses?" He said, "Well, we had a meeting sometime between January 1 and January 10." Apparently the Board of Directors was in such a chaotic position they said, "Let the company go." He didn't come out directly and say that, but that is what he intended.

SENATOR GAGLIANO: Mr. Chairman, it was a lot more complicated than that. I'm sure Irvin is right that New Jersey Transit did not pay him, but I think that whatever profit he had was illusory, and not a profit that you could set aside and say, "We are going to keep this for the winter months." I think probably Mr. Sadow and Mr. O'Brien could explain it even better. It was not well-operated as a company; it was having difficulties for years, not just then. So, even though technically they may have made a profit for a few months, they were in very bad shape for a long period of time.

SENATOR RAND: Then, it's not fair to put the blame on New Jersey Transit.

SENATOR GAGLIANO: I didn't say that.

SENATOR RAND: Well, that is what I'm trying to clear up for the record. It is not fair to say that New Jersey Transit was the

cause of them going bankrupt. The other problem is a separate issue -- the employment of people. Again, as I say, we are not having any debates here, nor are we having anyone answer any of this, but I just wanted to clear that up in my own mind. It is being cleared up right now, by your telling me the company evidently had a longstanding problem.

MR. McFARLAND: Well, to be perfectly honest again, had they received the subsidy money, and the 23 buses, I don't know how long the company could have lasted anyway.

SENATOR RAND: But, they didn't deserve the subsidy money.

MR. McFARLAND: Well, even if they had gotten an emergency subsidy--

SENATOR RAND: Oh, okay.

MR. McFARLAND: (continuing) to keep them running for a couple more months, because as Senator Gagliano said -- and he is very familiar with that territory -- the buses were very, very old, and there was a constant need for repairs. As a matter of fact, after New Jersey Transit took them over, or took the routes over, they didn't even take any of the equipment it was so bad. They just left it there.

SENATOR RAND: But, Senator Gagliano, they were offered the new buses -- is that correct?

SENATOR GAGLIANO: I presume so.

SENATOR RAND: From what I understand.

MR. McFARLAND: They were offered them, I believe, on January 10, 1983. The contract came for them to sign, and Mr. Van Loy, for one reason or another, decided the cash flow was so poor that he wouldn't even attempt to sign the agreement.

SENATOR GAGLIANO: I think the owner of the company even had someone go after him personally for the money. He chased him in his yard, and there was a problem there with the police. There was a police problem where there was an attempted kidnapping or something, as I recall.

MR. McFARLAND: That's right; it was a parts company.

SENATOR GAGLIANO: So, it was much more serious than just the loss of--

SENATOR RAND: (interrupting) The hiring of employees represents a very, very important question. We will be in touch with New Jersey Transit to find out exactly what happened.

MR. McFARLAND: May I make another statement?

SENATOR RAND: Surely.

MR. McFARLAND: I think the problem with S-3137 is that it is very loose with regard to acquisitions and leases. In a case like this, New Jersey Transit told us, "We are not acquiring the company; the company went out of business." And, this was true, but it certainly could have been acquired. As a matter of fact, they did take the Lincoln Terminal in Lakewood; they did acquire that. They did not give those employees an opportunity for employment. They just let them go. I think that is part of the law, as I read S-3137.

So, what I'm saying through this presentation is, there should be some type of legislation to interpret-- Whether it be units of work, or whatever it might be, if a human being is there and he is going to lose his job, some consideration should be given.

SENATOR RAND: I don't support the Supreme Court decision that when a company goes bankrupt all the wages, benefits, and pensions are lost. In fact, I think we just memorialized Congress to do something about that. Am I right, Senator Gagliano? (no response) So, I can understand your point, Irvin. Thank you very much.

MR. McFARLAND: I appreciate that. Thank you.

SENATOR RAND: Mr. James Lynch, Local 824, Amalgamated Transit Union.

JAMES LYNCH: May I waive my time, Senator?

SENATOR RAND: Yes, sir. Messrs. William F. Smith and John Simonse from the New Jersey Highway Authority are next on the witness list, but they have made their presentations by a written statements, which we will enter into the record. May we have Mr. Bob Dale, Director of Operations, New Jersey Turnpike Authority, and Mr. Herbert Olarsch, Senior Attorney, New Jersey Turnpike Authority?

HERBERT OLARSCH: Senator, I am Herbert Olarsch, Senior Attorney, New Jersey Turnpike Authority. I think the main emphasis of our presentation concerns Senate Joint Resolutions 9 and 10, and Bob Dale,

Director of Operations, who has previously testified, will continue his testimony.

Senator, I would like to briefly discuss Senate Resolution 4 regarding the legal situation. The Turnpike Authority and the New Jersey Highway Authority have joined together regarding the legal problems involved -- or should I say the legal obstacles concerning the problem of free transit. I think it is spelled out in my memo of January 27, which I have already filed with you specifically. The bond covenants and resolutions -- and I should say the legislation -- speak for themselves. I don't think I could eloquently dwell on the problems we are facing better than what is in the memorandum filed by the Highway Authority and the Turnpike Authority.

SENATOR RAND: Are you telling us we have a legal problem with the covenant on the bond?

MR. OLARSCH: Oh, yes.

SENATOR RAND: I can understand that.

MR. OLARSCH: Of course, it has been pointed out that the Turnpike Authority has already done something as far as commuter buses are concerned, because they have not raised their tolls since the institution of the toll program in 1952. The last toll increases, as the Senator is aware, were in 1975 and 1980. There were no increases for commuter buses. I just wanted to highlight that fact but, of course, it is already filed in the report.

SENATOR RAND: New Jersey regains some of the profit from the Turnpike automatically under the legislation, is that correct?

MR. OLARSCH: Under the 1964 legislation, in the event there are any surplus moneys as defined in the legislation, which are not necessary for its bond indentures or for operating, they revert to the Treasury of the State of New Jersey.

SENATOR RAND: Have we ever gotten that type of money before, or is this the first year?

MR. OLARSCH: I think this is the first year, specifically, that it has met this requirement.

SENATOR RAND: Is there a limitation on the amount of money the State can get?

MR. OLARSCH: No, sir, whatever the surplus is.

SENATOR RAND: If it's \$20 million, we could get \$20 million?

MR. OLARSCH: Yes, sir.

SENATOR RAND: Can you tell me what the surplus was for 1983?

MR. OLARSCH: I do not know the definitive figures right now. I know there was a surplus, and I think the Authority is in the process of notifying the State, in accordance with the provisions of the statute.

SENATOR GAGLIANO: Would this be basically the same money that the Governor would anticipate as part of his program?

MR. OLARSCH: No, I think it's less. I do not know the specific amount, but I think it's--

SENATOR GAGLIANO: (interrupting) Less than what the Governor anticipated in the program?

MR. OLARSCH: Yes, sir. It was a surplus.

SENATOR GAGLIANO: Thank you.

MR. OLARSCH: It is a question of all the other problems that have evolved throughout the years, beginning in 1973 with the energy crisis. I think it is a period of after 10 years that there is a surplus.

SENATOR RAND: I was going to ask you some questions about this further on. If it doesn't reach the amount requested-- I guess some of these questions really apply to the stable funding bill.

MR. OLARSCH: That is being--

SENATOR RAND: Yes, and I certainly wouldn't want to--

MR. OLARSCH: We're talking about the existing statute now.

SENATOR RAND: Right, okay. I was going to ask you, what do you do if you don't have that much to match on the contract, and you want to see--

SENATOR GAGLIANO: (interrupting) The Chairman has said he would pay it. (laughter)

SENATOR RAND: Well, how do you do that, by raising tolls or what?

MR. OLARSCH: You'll find out next month.

SENATOR RAND: Anyway, we won't get into that. We will certainly give you an opportunity to respond. We have noted your

concerns about the legal problems of Senate Resolution 4. Do you have any problems with Senator Gagliano's Resolutions 9 and 10?

MR. OLARSCH: I am going to have Mr. Dale address that situation. Mr. Dale spoke to you on February 24, and he wants to continue.

SENATOR RAND: We advise you it is not mandated that you do it; it was purely a request, is that right?

SENATOR GAGLIANO: That's right. What you do is not mandated, but we would like you to do something.

MR. OLARSCH: (interrupting) I know the Senators recognize the statutory responsibility of the Authority to expedite traffic as best it can. The question of the operation of the road is left to the "experts" of the Authority, statutorily. I think it is incumbent upon the Authority to state its position regarding some of the assertions concerning the question of expediting traffic, particularly the preference concerning the buses. Mr. Dale would like to address the situation, because we think it is very important.

BOB DALE: Good afternoon, Senators. Just by way of a recap of my testimony of last month, I would like to reiterate some of our concerns. First of all, I described to you at that time some of the involvement the New Jersey Turnpike Authority has had with the Department of Transportation and with the Port Authority of New York and New Jersey in expediting traffic through the Lincoln Tunnel, through the operation of the exclusive bus lane on the Interstate 495 Corridor. I referred also, at that time, to the popular left lane restriction which buses take advantage of to use the left lanes of the northbound and southbound auto roadways, in order to continue their travel on the Turnpike. They are not restricted from that left lane of the northbound outer or southbound outer roadways.

I also described for you the Commuter Discount Program, and the toll increases which we had on the Turnpike since the Turnpike began operation in November, 1951. There were two toll increases, one in 1975, and then one in 1980. However, in spite of the increases, there were no increases for commuter buses. Our aim in instituting that discount plan was to financially help these commuter buses to serve commuters to and from employment centers.

In addition to our work with the Port Authority and the Department of Transportation on the exclusive bus lane, the Turnpike Authority has an exclusive bus toll lane at Interchange 16E. We operate during the morning rush period, and we experience about 400 bus transactions between seven a.m. and nine a.m.

With that effort, there are approximately three State Police officers who are dedicated to keeping that lane reserved for buses, as well as to assisting the Port Authority in enhancing the traffic flow into the exclusive bus lane.

In 1983, we added another toll lane at Interchange 16E by removing it from service at Interchange 18E, the adjacent toll plaza. So, at this time we have nine exit toll lanes. We have also solicited our chief engineer to undertake a study this year, to determine whether or not we can add an additional lane or two at Interchange 16E for exit traffic.

I spoke about Interchange 11. An exclusive bus operation at Interchange 11 would be counterproductive, in that there are not enough buses to warrant an exclusive bus lane during the evening rush hours. There are approximately 90 buses that use that facility during the evening rush period of five p.m. to six p.m. However, we are widening Interchange 11. We are adding four toll lanes. We are making other modifications to the approaches of the exit plaza, and we anticipate that that will substantially enhance the traffic flow at that facility.

The remainder of my presentation last month was about left lane restrictions, and how buses take advantage of the restrictions to operate almost as an exclusive bus lane.

Since last month, we had an opportunity to review some of the statistics at Interchanges 11 and 16, as well as operations on the Turnpike. We found that by using predetermined occupancy figures for buses, vans, and trucks -- and cars for that matter -- at Interchange 11, we had a total passenger count -- passenger count, not car count -- of about 11,670 during the evening rush hour. Of that figure, approximately 34% are people who are on buses. Sixty-two percent are persons who are in cars and vans, and the remainder are in trucks.

During a typical weekday period in 1983, approximately 4,400 vehicles exited at Interchange 11 between five p.m. and six p.m., and only 90, or about 2%, were buses. With 14 exit toll lanes, Interchange 11 is operating at a level of service which exceeds capacity. We recognize that the volume/capacity ratio is about 1.05 during that peak p.m. period. Because of that, the Authority is adding these four additional lanes. We expect that work to begin this summer, and it will become more intense this fall.

With those improvements, the volume/capacity ratio will shrink from 1.05 to 0.87. If an exclusive bus lane were to be implemented at Interchange 11 during the p.m. peak period, the volume/capacity ratio would increase -- not decrease -- from 1.05 to 1.1. That would result in daily occurrences of congestion extending for at least another mile. During the summer months, especially on Fridays, a bus toll lane would create congestion extending all the way to the Turnpike's main line for extended periods, creating unsafe conditions for other motorists on the Turnpike's main line.

Out of the total 18,000 vehicle occupants exiting Interchange 16E during the a.m. peak period between seven-thirty a.m. and eight-thirty a.m., about 71% are on buses. The remaining 27% are in vans and cars. At that interchange, Interchange 16E, approximately 2,700 vehicles exit between seven-thirty a.m. and eight-thirty a.m. That volume includes approximately 300 commuter buses destined to the Interstate 495 exclusive bus lane. The other 2,400 vehicles are handled by eight toll lanes, which are currently operated at volume/capacity just exceeding one. The Authority's Operations Department recognized this problem, and has requested in its 1984 capital budget request that every consideration be given to widening Interchange 16E. During the morning peak period, traffic congestion on the plaza is common. The conversion of an additional exit toll lane to an exclusive bus toll lane will increase the volume/capacity from 1.0 to 1.14.

Under these conditions, traffic will congest for approximately 6,000 feet on the Turnpike's northbound eastern alignment. It should be clearly noted that when this congestion

occurs, buses will find themselves further back in the traffic stream. At Interchange 16E, one must keep in mind that the congestion which we experience on the plaza is due primarily to the congestion outside the plaza. If we were to put in another toll lane for buses only, presently there is no place for them to go outside Interchange 16E. The exclusive bus lane through the Interstate 495 Corridor is congested, sometimes back to and through our toll plazas.

Another effort which the Authority has been participating in in order to support mass transit, is the Park and Ride facilities. We have two. The East Brunswick Park and Ride facility contains about 600 car-parking spaces, serving about 700 bus riders. During typical weekdays, approximately 93 buses stop at that facility to take on passengers. Most of those buses have already picked up riders at various locations throughout the rest of the State, and they use the Park and Ride facility as their final stop before continuing on to New York City.

On the other hand, the Vince Lombardi service area contains approximately 1,012 car-parking spaces at that Park/Ride. That serves about 1,300 bus riders on 30 buses. At that particular facility, the buses make only one stop. Riders pick up the buses at that facility, and take them directly to New York City.

During the 17-year period between 1967 and 1983, bus volume on the Turnpike increased by 23%. This constitutes an annual increase of 1.4%. On the other hand, during the same period, passenger vehicle traffic increased by 109%. That is an average annual increase of 6.4%. It should be noted that commuter buses comprise about 32-1/2% of all buses traveling on the Turnpike.

Since the opening of the Turnpike in November, 1951, there have been only two toll increases. Commuter bus tolls were exempt from these increases, and non-commuter buses received only a 15% increase. That can be compared to the toll increase of approximately 40% for other vehicles. Nevertheless, despite a small bus toll increase which affected only 67% of all buses -- no commuter buses, but all buses -- the amount of bus volume actually decreased by 2.1%. The number of passenger vehicles, however, increased by 22%.

During 1983, approximately 310,000 buses used the exclusive bus lane going to New York City, as compared with 206,000 in 1971. During this 12-year period, bus travel on the exclusive bus lane increased by 50%, which amounts to a 4.2% average annual increase. This Authority, the New Jersey Turnpike Authority, is cooperating with the Port Authority of New York and New Jersey, and the New Jersey Highway Authority, the New York State Thruway Authority, and the Triboro Bridge and Tunnel Authority, in order to develop solutions to the congestion which results from vehicles attempting to cross the Hudson River into New York City. While studies are just now underway, it is expected that the conclusions to those studies can be drawn within one year. At a very recent meeting we had with the Port Authority and those other agencies, we discussed the impact of the exclusive bus lane operation at the Lincoln Tunnel on the movement of people into the City. It is the Port Authority's estimate, comparing before and after studies, that the number of persons who got out of their cars and got into buses, is only 4% to 5% of the total number of trips going into New York City.

Thank you.

SENATOR RAND: Thank you very much, Mr. Dale. Senator Gagliano?

SENATOR GAGLIANO: You know, Mr. Dale, your testimony -- although I realize you have particular problems with my resolutions -- would indicate to me that you are practically at a crisis right now. The addition of one or two lanes, or three lanes even, is not really addressing the problem. When you tell us you have the possibility of a 6,000 foot wait at one point, that is over a mile backup. The Turnpike has very serious problems in the areas of Interchange 11 and Interchange -- what is it, 16?

MR. DALE: It is 16E.

SENATOR GAGLIANO: Although we talked about this years ago, it hasn't really been done. I believe you really have to have a Park and Ride system further away from the city, and substantially larger than you have provided, because I think those numbers you testified to are just going to mean, in a couple of years as development continues

in southern and central New Jersey, that you are really going to be in a crisis position, especially, as you know, when there is a minor accident, or when there is ice or snow on the ground, where the delays are tremendous.

So, although I understand your position with respect to my resolutions, you have much more serious problems. I just don't know if the Turnpike Authority is addressing them rapidly enough, or if you are taking into account the fact that you just have to try to get these cars away from those crucial points.

MR. DALE: Senator, if I may, the figures which I described to you -- the mile backup at Interchange 11, and the 6,000 foot backup at Interchange 16E -- are projected if we start to convert one of the existing toll lanes to an exclusive bus toll lane.

SENATOR GAGLIANO: Yes, but do you see what I'm saying? You are at a critical point in whatever the curve is.

MR. DALE: I understand what you're saying.

SENATOR GAGLIANO: You are already there. If you can take away one tollbooth and cause a 6,000-foot delay, over a mile delay in terms of cars trying to get through there -- vehicles trying to get through there -- you are already in a very substantially difficult position. I don't know what the answer is, but my immediate reaction is to park and ride away from the city, away from New York, further into the interior of the State, with a serious enough approach that you would have parking for a very substantial number of cars, to get them, or to entice them, to park their cars someplace, say in Middlesex County, or Mercer County, or someplace -- wherever. Then have them come in by bus, or even rail, if that is available to you.

At any rate, we are not really asking you to do anything particular. We're looking for relief so that people will be able to take advantage of mass transit and feel comfortable about it. We appreciate your testimony, but as I say, I don't know where you're going with it. I think you're headed for trouble.

MR. DALE: Well I believe, Senator, that the work we're doing at Interchange 11 this summer and this fall is going to address that problem. The volume/capacity ratio figures which I cited to you are going to reduce it from 1.05 to 0.87 at Interchange 11.

SENATOR GAGLIANO: My point is, it is going to go right back up again in a couple of years, at the rate we're going with vehicle traffic, the explosive expansion of development in New York City, and the jobs that are being provided in New York City and northern New Jersey. I guess what I'm saying is, the approaches of two, or three, or four more tollbooths are not going to make a substantial difference. That is the way I see it.

SENATOR RAND: Does relief cost money?

MR. DALE: Does relief cost money?

SENATOR RAND: Yes. In other words, if you have to do something to relieve that congestion, does it cost money?

MR. DALE: Surely it cost money.

SENATOR RAND: I'm going to be asking you that question further on down the line, in an attempt to translate how much money you need, and how much money you can give the State. Thank you very much.

MR. DALE: Thank you.

SENATOR RAND: Mr. Hugh Butler, Lincoln Transit Employees.

HUGH BUTLER: Gentlemen, Mr. McFarland covered most of what I wanted to talk about, so I'll pass.

SENATOR RAND: Thank you very much.

MR. BUTLER: Thank you for holding this hearing.

SENATOR RAND: Susan Kampfer, Lincoln Terminal Employees.

Good afternoon.

SUSAN KAMPFER: Good afternoon, Senator. Mr. Chairman, on February 22, I attended a union meeting of the United Transportation Union, Local 1782, in Lakewood, New Jersey, at which time I was informed that Lincoln Transit Company was filing for bankruptcy, and that service would be discontinued as of February 26.

Our union representative informed all of us to file applications with New Jersey Transit, as they were continuing the service. On February 23, 1983, I filed an application with New Jersey Transit in Maplewood, New Jersey. On February 25, 1983, I received a furlough notice from the Lincoln Terminal Company. On February 26, 1983, I went to the Lakewood Terminal where I previously worked, and found that New Jersey Transit had brought in employees from the New York Port Authority to do my job while I was on furlough.

On February 28, 1983, I went to Maplewood, New Jersey, to reapply for my job. I was told by New Jersey Transit personnel that the Lincoln Terminal Company was in the process of being purchased by New Jersey Transit, and they were not hiring at that time. During March, 1983, I wrote a letter to New Jersey Transit regarding possible employment. I drove to Maplewood, New Jersey, upon receipt of my return receipt card and spoke to Mr. Fitzgerald in Personnel. He told me that New Jersey Transit had to hire minorities first. Several days later, I discovered that New Jersey Transit did purchase Lincoln Terminal Company in Lakewood.

With all the commotion around, I decided to research the laws to see if there was anything to protect the interests of the Lincoln Terminal employees. Lincoln Terminal Company was an active transportation company, which never filed for bankruptcy. There were eight employees affected by the purchase, and we have yet to see where New Jersey Transit has abided by the laws established to protect employees in the event of a purchase -- as examples, S-3137, and the Federal Law of 1964, the Urban Mass Transportation Act.

On Sunday, March 18, 1984, I watched Mr. Jerome Premo on Channel 9 during an interview with Susan DeSantis. I got a knot in my stomach when he stated New Jersey Transit was not an employment agency, but that all of the employees from Lincoln would be given preference. Mr. Premo, your statement was false. New Jersey Transit never gave the Lincoln Terminal employees the opportunity for employment. Several people were hired to provide the services which Lincoln Terminal employees formerly provided, but not one of the eight Lincoln Terminal people was acknowledged. These jobs were all filled by outsiders.

It is clear that New Jersey Transit did, in fact, purchase the only active transportation facility Lincoln Terminal Company owned. We ask you now, as we have asked many times before, what happened to the laws established to protect the employees? When and how will New Jersey Transit live up to its obligations to the employees of Lincoln Terminal Company, who have served the public for up to 30 years? Is there really justice for all? That is all I have to say.

SENATOR RAND: Senator Gagliano?

SENATOR GAGLIANO: I have no questions. We will ask New Jersey Transit to respond, but not today. How many people -- give me that again now -- were working for the Lincoln Terminal Company?

MS. KAMPFER: Eight.

SENATOR GAGLIANO: How many of them were picked up by New Jersey Transit?

MS. KAMPFER: Zero.

SENATOR GAGLIANO: None?

MS. KAMPFER: Zero.

SENATOR GAGLIANO: Is that still in operation now under New Jersey Transit?

MS. KAMPFER: New Jersey Transit purchased the Lincoln Terminal Company in Lakewood, New Jersey.

SENATOR GAGLIANO: That was mainly the terminal, the building?

MS. KAMPFER: The building and the properties.

SENATOR GAGLIANO: How many people did they replace those eight people with?

MS. KAMPFER: We did several different jobs as ticket agents for Lincoln. I guess they divided the jobs, or put them in different categories. From what I could see, there were a minimum of five positions filled.

SENATOR GAGLIANO: In other words, what was eight -- and you did various things -- is now five?

MS. KAMPFER: Yes, from what I can see they did. You know, I don't know if they still have people doing baggage in Lakewood or not. I don't know.

SENATOR GAGLIANO: Did any of those people come from Lincoln Transit?

MS. KAMPFER: No, sir.

SENATOR GAGLIANO: So, they came from someplace other than the two Lincoln companies?

MS. KAMPFER: Yes, sir.

SENATOR RAND: Can you give us the names of the eight people?

MS. KAMPFER: Yes, sir.

SENATOR RAND: Not today, but can you give us those names?

MS. KAMPFER: Yes, sir.

SENATOR RAND: Do they live in the area?

MS. KAMPFER: The majority of them live in Ocean County. I believe there is one in Atlantic City.

SENATOR RAND: Are they employed now, or are they out of work?

MS. KAMPFER: I believe four have been hired, and there are four who are still out of work.

SENATOR RAND: Will you submit that information to us through our aide here, Peter Manoogian?

MS. KAMPFER: Yes, I will.

SENATOR RAND: We would appreciate that. Thank you very much.

MS. KAMPFER: Thank you for your time.

SENATOR RAND: James Colby from Bridgeton, New Jersey.

JAMES COLBY: Good afternoon, Senators. I live in the Bridgeton/Millville/Vineland area. I work in Atlantic City. I saw an article which appeared in the Vineland Times Journal, with a suggestion that the Senator from my area, Senator Hurley, had on asking New Jersey Transit to undertake a study to provide transportation systems between these three areas and Atlantic City. I am asking that these studies be moved up, since there is severe unemployment amounting to 16.4% of the residents in the three-city area. This is the highest in the State; the highest in the nation. Eight hundred of those people went to Atlantic City to get jobs at various casinos. Trump was one of them; the Tropicana was another; and, the Golden Nugget. My question is, how are these people going to get to their jobs in Atlantic City, other than getting into a car and traveling across Route 40 to Atlantic City, which is an inadequate road? There is no other way. Ride Share is not available in either Salem County or Cumberland County, where people get together to rent a van or to purchase a van under the DOT systems, or otherwise.

I talked to Mr. Worshnik in Cumberland County, and was informed they do not participate in the plan that ACTA -- Atlantic County Transportation Authority -- is undertaking to establish in

Atlantic County. I would like to find out why? Salem and Cumberland Counties cannot develop, if they do not want to have a bus system between those three points and Atlantic City. Why can't the Ride Share system be established in that area?

My notes are all disconnected, so you will have to forgive me. I did not prepare to appear before you, as I guess maybe I should have. I wrote a letter to Mr. Premo, asking him about creating a bus service between the Vineland area and Atlantic City, but I did not get a response. He may not have gotten the letter, so I am not going to question that point.

SENATOR RAND: When did you send the letter, sir?

MR. COLBY: I sent the letter in September, 1983. Then I found out in the Vineland Times Journal that Mr. Premo, New Jersey Transit's Executive Director, called Mr. Hurley's request for the study an "excellent idea." I addressed the same question to Senator Hurley that I addressed to Mr. Premo, and received no response.

SENATOR RAND: Do you mean that Senator Hurley didn't send you a response either?

MR. COLBY: Yes, sir.

SENATOR RAND: Knowing Senator Hurley and Mr. Premo, I would suggest that the letters got lost.

MR. COLBY: Okay, granted that may have been the case. I am not contesting the points that the letters were received, were unanswered, or were not responded to. My question is, sir, with the high unemployment in that area, why is this, and why has it taken so long? Apparently, I am the only person from the southern part of the State, outside of Senator Hurley--

SENATOR RAND: I'm here for you.

MR. COLBY: Well, you're in the middle corridor, sir.

SENATOR RAND: No, we're still in the south, even though you don't recognize that.

MR. COLBY: There are three other counties--

SENATOR RAND: I'm still part of the deep, deep south, and I understand your problems very well. I want you to know that. I am in complete sympathy with you.

SENATOR GAGLIANO: I'll vouch for that, because every time an issue comes up, he says, "What will we do about South Jersey?" and he means South Jersey in its entirety, not just the Camden area.

MR. COLBY: You know, there are people who live in the western part of the southern portion of the State who are forced, by the routing of the corridor study, to go into Camden to transfer to Atlantic City. This becomes a burden if they want to go down to visit. Trailways used to service this area, but no more. Trailways pulled out of Vineland. Greyhound does not stop; they go up 295 and down the Atlantic City Expressway.

SENATOR RAND: Mr. Colby, how many people are you talking about who work in that triangle?

MR. COLBY: Let me put it to you this way. At the beginning of last year -- June, 1983 -- I circulated a petition through five casinos in Atlantic City. That petition garnered over 500 signatures to create a Park and Ride at the interchange of the Atlantic City Expressway and Route 54, south of Hammonton and north of Buena Vista. I have those signatures on petitions in my possession; I still have them. After this became known to both the Department of Transportation and the Atlantic City Expressway Authority, I received a call from ACX -- "Back off; don't pursue it. Leave the ball park alone." I then received a call from someone in Trenton, located out here on Parkside Avenue, or somewhere over here in this area, which said, "Back off; don't pursue the effort of creating a Park and Ride facility there. We are endeavoring to do something else."

Now I find out that they have taken an old dilapidated restaurant up on the White Horse Pike, across from the State Police Barracks, and turned it into a Park and Ride facility. But, that is not for express service; that is for local service. You would park your car there, and be forced to ride for another hour and a half to Atlantic City, rather than be able to park at a Park and Ride at the Atlantic City Expressway, with the buses coming in, picking up, dropping off, and shooting right into Atlantic City, or Philadelphia. It would serve a two-way corridor.

SENATOR RAND: Mr. Colby, what you're looking for -- and I don't know the answer, so I'm not going to try to give you an answer -- is some means of transportation from that triangle to Atlantic City and back. Is that correct?

MR. COLBY: That's right -- and beyond that, sir.

SENATOR RAND: Pardon me?

MR. COLBY: And beyond that, even to the western side of the county, over into the Pennsville/Salem area. In other words--

SENATOR RAND: (interrupting) Let's handle one problem at a time. You're interested in the Millville/Bridgeton/Vineland area, is that correct?

MR. COLBY: Yes, but there are people who live west of me who work in Atlantic City.

SENATOR RAND: Let them speak for themselves. We're going to talk about the 500 people you're telling us about. Would you send us a memo with regard to this? Send it to Peter Manoogian, and we'll receive it. I can assure you we'll pursue it; we'll get you an answer. Whether the answer is van pooling or a bus service, we'll get you an answer, if you have 500, 600, or 800 people, as you just said a moment ago, who need transportation from that particular triangle.

MR. COLBY: Do you want the petitions?

SENATOR GAGLIANO: Sure.

SENATOR RAND: Yes, we'll be very happy to take copies of the petitions, with a memo from you, and maybe copies of the letters you sent Senator Hurley and Mr. Premo.

MR. COLBY: Well, it's a large stack, so really, you know--

SENATOR RAND: There is no problem with that. We will handle all the documents you can give us. This Committee will pursue it, and will find out some of the answers for you.

MR. COLBY: All right but, again, I would like to point out there is no expansion perceived or anticipated -- at least that I can determine from the newspapers -- where New Jersey Transit is considerate of the riding public in the southern portion of the State. They are more inclined-- I'm sure you've been around as long as I have, and even when I went to school, Public Service Coordinated

Transit was more interested in cutting service than in expanding service.

SENATOR RAND: We do not have too much down there; I'll agree with you. But, we do have rowboats on the Delaware. (laughter)

MR. COLBY: When I was going to school the prospect was, I was forced at times to ride all the way to Pitman to catch the trippers which were running up. Then, they cut the trippers out, which forced me to go all the way into Mount Ephraim, and then they cut the old 168 line down.

SENATOR RAND: You're just an old country boy. That's what we both are.

MR. COLBY: Really, we're being forced to use our cars, where there is a viable alternative, but they are no longer providing it.

SENATOR RAND: Mr. Colby, you have a good point, and this Committee will look into it.

SENATOR GAGLIANO: Mr. Chairman?

SENATOR RAND: Yes, Senator Gagliano.

MR. COLBY: I also have another comment.

SENATOR GAGLIANO: Wait a minute, please. From the point where you propose a Park and Ride at the Atlantic City Expressway, what is the mileage to the Atlantic City border?

MR. COLBY: It's right in the middle of the State, right between the two points, Philadelphia and Atlantic City. I think it's a 37.2 mile marker. It is less than 35 miles from there to Philadelphia.

SENATOR GAGLIANO: But, there is through bus service -- or is there?

MR. COLBY: There is half-hour service on the Atlantic City Expressway between there and Philadelphia.

SENATOR GAGLIANO: What you're saying is, if they could be convinced to pull off and make some stops--

MR. COLBY: (interrupting) Let's say, I'm hoping they can be convinced.

SENATOR GAGLIANO: (continuing) during the course of the day to take care of the people who commute--

MR. COLBY: They now go to Winslow Crossing, which is not advertised.

SENATOR GAGLIANO: Winslow Junction?

MR. COLBY: No, Winslow Crossing Park and Ride in Avondale; a private contractor built the Park and Ride.

SENATOR GAGLIANO: Okay, thank you.

SENATOR RAND: Did the private bus company in Bridgeton go out of business?

MR. COLBY: Excuse me?

SENATOR RAND: There was a private bus company in Bridgeton, if I recall.

MR. COLBY: Garden State still operates between New York and Bridgeton.

SENATOR RAND: But they operate nothing between Atlantic City and Bridgeton?

MR. COLBY: No. The other thing I would like to point out to the Committee is that the Greyhound Corporation runs between Atlantic City and New York. They have a 21-trip package for \$50.00, which is devastating to New Jersey Transit's operation between those two points. They are also planning to institute the same program between Philadelphia and Atlantic City. That amounts to a \$2.00 one-way trip. The people who come down on these buses get a package from the casino. They return to Philadelphia, or in this case, New York, get on another bus and come down and get another package; return to New York, get on another bus -- this can be done three times in one day.

SENATOR RAND: Do you mean there is destructive competition against New Jersey Transit?

MR. COLBY: You better believe it.

SENATOR RAND: Thank you very much, Mr. Colby.

MR. COLBY: Okay. I don't think in this case, in South Jersey, that New Jersey Transit is aggressive enough on charter service. They should be more aggressive.

SENATOR RAND: Okay, thank you.

SENATOR GAGLIANO: Thank you.

SENATOR RAND: You heard that, Senator Gagliano.

SENATOR GAGLIANO: If Premo didn't hear anything else, he heard that. (laughter)

SENATOR RAND: Mr. James LeFante from the Hudson County Independent Bus Owners Association.

FROM AUDIENCE: He's not here.

SENATOR RAND: Mr. Donald E. Somers, President of Yellow Cab. All your constituents are here, Senator Gagliano.

SENATOR GAGLIANO: Not all of them, but several.

DONALD E. SOMERS: Good afternoon, gentlemen.

SENATOR RAND: Good afternoon, Mr. Somers.

MR. SOMERS: Thank you very much for this opportunity. There is some good news. During the morning session, all of my notes were thoroughly destroyed by prior speakers, so I scribbled a few things out while I was having lunch. I took the opportunity to read my astrology and it said, "You'll be at the right place; you'll strike a cord of universal appeal; the assignment and the project will be completed; the burden will be removed; the green light will flash for progress; and, you'll gain access to secret information." So, I think we're doing all right. (laughter)

SENATOR RAND: You've done well right now.

MR. SOMERS: Just give me two more minutes. My concerns are the elderly and handicapped service, and the competition from New Jersey Transit. We operate wheelchair buses and vans in private service, with fixed routes, demand responsive, and are under contract to several agencies, companies, the County of Monmouth, the Board of Education, and several other local school boards.

Our taxicab company originated a taxi discount for senior citizens in Monmouth County almost 10 years ago. We do these things without any tax money or subsidy, nor do we want any. My company absorbs the 20% senior citizen discount. We pay for all the administration and all the sales, plus the printing.

Recently, New Jersey Transit had the opportunity as the administrator of UMTA 16B2 funds, to deliver 75 vehicles, including station wagons, vans, and small buses, to agencies which had applied for them around the State. All of the vehicles delivered in Monmouth County displaced a private provider who was providing service to the agencies. I was the primary provider. My protests to New Jersey

Transit fell on deaf ears. They said, "Take it up with UMTA, because it is Federal money." So, I did.

I personally went to Arthur Teel's office when he was the administrator, because he gave me permission to do that directly rather than go through all the chains. I spoke to him; I spoke to his attorney, who at the time was Kent Woodman. They said, "Well, since the money has already gone out, you are going to have to take it up with the State. They make the decisions."

I went back to New Jersey Transit, up in Newark, and they said, "No, we are going to do it this way." My legal recourse, of course, was in the Federal District Court, which at the time was about a two-year wait. I was not willing to go through that sort of thing.

Right now, those vehicles are providing service at about \$6.00 a ride, which I was providing for \$1.25 a ride, not to mention the higher flexibility of the system we had. One of the vehicles provided has not moved, though, since it was delivered almost two years ago -- it hasn't moved. That, by the way, is a vehicle that the county officials, the administrating officials, the UMTA officials, and the New Jersey Transit officials certified in writing was not available to the people in Monmouth County. I have the twin to that vehicle; we buy vehicles at the same place.

SENATOR GAGLIANO: What is it?

MR. SOMERS: It is a 24-passenger standard bus. It is sitting up on Shrewsbury Avenue, right across from McDonalds, in the parking lot.

If New Jersey Transit is really concerned about private transportation providers, they have the opportunity to demonstrate it every time a small community -- like Little Silver or Oceanport -- loses bus service because of low ridership. It never made sense to me to run a fixed route with nobody on it, with a great big bus. That route could be maintained, if the route is called for by a small ridership, by using a small van, or a small bus. Use that vehicle to feed into the larger route system. This would cover all bets. It would provide needed service at a very cost-effective level, and many private companies, such as mine and others, could contract for this service.

The bill, as I read it -- that is the elderly and handicapped portion -- provides protection for private providers of elderly and handicapped services. However, the UMTA bill says just about the same thing in the 16B2 fundings, and no one is acknowledging those protections. If the bill went further, and operated a coupon or a user side-subsidy system, and allowed the customer to choose the carrier, it would be even better, because then competing carriers could provide for the ridership.

SENATOR GAGLIANO: Well, Don, we are not precluded from doing that under the bill.

MR. SOMERS: That is correct, you're not. I'm urging that you do. To allow New Jersey Transit to operate the system with this new infusion of funds is, based on my firsthand experience, exactly what is meant by having the "fox guard the chicken coop." You must aggressively require New Jersey Transit -- and the counties if you are getting into this E&H system -- to provide a cost-effective service that is -- as everyone has been fond of saying -- "More bang for the buck," or, "More ride for the money." Better yet, package the program on a local or county basis, and put the package to bid. Of course, let everyone bid on a purely apples to apples basis.

I have no problem with, and thoroughly enjoy, competition, but it is impossible to compete with someone who is getting vehicles and other kinds of equipment as freebies. Thank you very much.

SENATOR RAND: Senator Gagliano, your bill provides for user--

SENATOR GAGLIANO: (interrupting) Yes, I think we could have a voucher system. I think, Don, that is something that will be addressed. But, as you know, each county is supposed to come up with a plan. The plans are supposed to be processed through New Jersey Transit so we will have someone to check what the counties are doing. Then, the plans would be implemented. I see Jerry is raising his hand; I don't know whether he wants--

MR. PREMO: In the 16B2 Program, the law requires that there is a follow-up on all the vehicles. It requires the agency -- in this case, New Jersey Transit for the entire State -- to provide ridership

figures, and to see to it that the vehicles they have asked for, and which have been given out are, in fact, being properly used. I submit to you -- and I haven't followed through, I'll confess -- that if the vehicle has been sitting for almost two years, I would hardly call that efficient. I hardly call that a vehicle which was needed in the first place.

SENATOR GAGLIANO: I agree with that. We are trying to avoid that kind of thing happening again. We are also trying to avoid the idea that if someone gets a vehicle, it's theirs. Then for the organization across the street, which might have the same charitable goals, it's, "Sorry, we only take people who have to get from here to the mall. We don't take people to the doctor's office," or, "We're the Red Cross; we only do certain things. You're the Salvation Army; we won't do it for you." We're trying to avoid that.

Maybe Jerry can respond to this later, but it would seem that somewhere along the line there ought to be a committee, or a group of people who could be called in who are experts in many areas of transportation, to give their input with respect to these regulations before any of them become effective.

MR. SOMERS: That's why I'm here. Thank you.

SENATOR GAGLIANO: I might also give a plug for Don Somers. He has a company called "Rent-a-Wreck," and when I needed a used car for a week, I rented one from him for \$8.00 a day.

MR. SOMERS: I never got paid for that, by the way.

SENATOR GAGLIANO: You did so.

SENATOR RAND: Do you want to read this, Peter?

DR. MANOOGIAN: Mr. Premo has provided us with a copy of the proposed March regulations, which provide for the development and provision of additional or expanded accessible feeder transportation services to accessible fixed route transportation services, where such services are available, and accessible local transit service to senior citizens and the disabled, which may include, but not be limited to door-to-door service, fixed route service, local fare subsidy, and user side-subsidy, which may include but not be limited to private-ride or taxi-fare subsidy, and to coordinate the activities of the various

participants in this program and providing the services to be rendered at the county level, and between counties.

SENATOR RAND: So, it's very clear that regulations are promulgated with your--

MR. SOMERS: Right.

SENATOR GAGLIANO: It is intended anyhow. We'll have to follow up on that.

SENATOR RAND: Is there anyone else we have not called upon who is on the list?

ASST. COMMISSIONER CRAWFORD: Yes.

SENATOR RAND: Jim, I certainly did not forget you. I just wanted to make sure that you are the wrap-up -- the clean-up hitter. Is there anyone else? Mr. Tilley?

MR. TILLEY: Not today.

SENATOR RAND: Not today. I'll be seeing more of you later on, is that it?

MR. TILLEY: You will be.

SENATOR RAND: Okay. All right, now to wind it up, we'll call on James Crawford, Assistant Commissioner of the Department of Transportation. Jim, you've been waiting patiently.

JAMES A. CRAWFORD: I've been learning a lot. Senator, I have not come today with any formal testimony. I think I would like to use this time, with your permission, to try to go through some of the issues which have come up today, and perhaps talk about the Public/Private Task Force that Commissioner Sheridan set in place just about a year ago.

Before I do that though, I think the fact that this hearing is being held today in New Jersey speaks well for the health of the bus industry within New Jersey. Last fall, I had the occasion to testify in the Congress, and at that point in time most of the representatives from the various states were appearing to testify against the problems that had been experienced under bus deregulation. One of the problems they faced was the drying up of the private bus sector. In fact, in many cases, there is no private bus sector when it comes to providing regular route commuter or transit service. So, the fact that we are

here today discussing how to better coordinate the activities of a public provider and private carriers speaks well for all of us.

I think in order to understand, perhaps, some of the issues that have come up today, we have to realize that New Jersey has three distinct types of service which are offered within the bus industry. Actually, there is probably a fourth, which I will get into in a minute. First, there is the regular route transit or commuter bus. That is the bus that operates within a city, or the bus that operates between a suburban community and a major central business district -- the buses to Newark or New York City, or the buses to Philadelphia. The second is the traditional charter service, or those services where a single organization contracts for a bus to provide a specific service. These services are normally on a one-time basis, and are not repetitive; nor do they work on a daily schedule. The third type of service that has been traditional in New Jersey, and is included in our various regulations, involves what are called "special services." These services usually involve a package deal, whereby the person buying the bus ticket also buys either access to, or something associated with, whatever the destination of the trip involves. These, again, are not normally scheduled services which occur on a daily basis, although they may occur at certain times of each week, or in certain weeks of the year -- such things as trips to the annual flower show, for example, whereby in purchasing the bus ticket, you are also purchasing the ticket for access to the show. These trips have traditionally fallen into the category of special service.

In New Jersey, we also have a fourth category, a category recognized in Congress when they went through the bus deregulation service, but which is not formally recognized at this time in the State. That would be a regular route service that is in the nature of special. This is basically the category that most of the Atlantic City service would involve. These are buses that run on a fixed schedule, whereby people have the belief, from advertisements, that if they show up at a certain location everyday at a certain time, the bus will be there. It will pick them up, and it will take them to their destination. The difference between that bus going to Atlantic City

and the bus going out of Newark, or going out of any other location to Atlantic City and headed for the bus terminal, is the fact that these buses normally have a package associated with a specific casino's program, so as to attract ridership. The packages frequently end up in a zero cost to the rider program, or a minimal cost to the rider program, so that the riders are enticed to go to a specific casino.

At the present time, this service is treated exactly the same as regular commuter and transit service. That is perhaps one of the reasons some of these issues have come up.

In the area of bus service, we're dealing with a traditional public utility. Bus companies have, from the beginning, applied for franchises that authorize them to run certain services. These franchises might be for charter service, or they might be for a specific group. The franchises on regular routes traditionally would include such things as the schedule of service and even the fare structure to be charged.

What we are seeing today, however, is the result of a hybrid that has been caused by the Federal Deregulation Program. We have many buses in New Jersey which run 95% to 98% of their trip totally within New Jersey, but cross the river -- either the Delaware or the Hudson -- and end their trip in a central city in another state. Under Federal regulations, these buses are interstate trips. They are deregulated as a result of the Interstate Commerce Commission's interpretation of the Federal Bus Deregulation Program. Thereby any provider of bus service can come in and initiate bus service without filing before the State Department of Transportation, or New Jersey Transit, to operate that service. They get their certificate from the Interstate Commerce Commission, and basically that certificate is based on whether they are ready, willing, and able, rather than whether it is a true public convenience and necessity.

The reason for this is that the ICC looks at all interstate travel as basically intercity travel and, certainly, in a trip which goes from Philadelphia to New York, or even for that matter a trip that goes from Camden to New York, they are not being used for commuters' purposes day in and day out. The people who use these are, in fact,

running on something that is open to the free market system under the Bus Deregulation Program. The same is not true, though, for the person who boards the bus in Freehold and is trying to get into New York City everyday, where the market is much tighter, and where the requirements to provide reasonable fares impose certain limitations on the operators in terms of being able to operate effectively.

The Task Force that was formed by Commissioner Sheridan has been meeting for a little over a year. As was pointed out in earlier testimony, we were supposed to have our report finished in October. I assure you, Senators, it is not for lack of work that that report has not been completed. We have identified a series of goals I think everyone has generally agreed upon. These include: ensuring the accessibility of the transportation disadvantaged to the provision of essential transportation services; providing an alternative to automobile use, where high social and financial costs for such use exist; promoting the use of public transportation systems and encouraging operator responsiveness to changing markets; enhancing service attractiveness by striving for reliable, clean, comfortable and courteous operations; maintaining reasonable user fares to avoid reduced demand deriving from financial difficulties; ensuring fair and equitable allocation of resources and user costs; using perspective public transportation services to foster efficient land-use development in newly developing areas of the State; minimizing the financial cost both to the user and to the taxpayer of providing public transportation services; and, ensuring maximum user convenience in the delivery of services.

These are the goals that everyone could agree on. Implementing these goals is a lot more difficult. Coming up with specific recommendations on how to implement them has been an area of considerable discussion, but I believe that in the near future we will, in fact, have some specific recommendations to bring before you. In every one of these cases, however, we have focused only upon commuter and transit operations. We have not been discussing the question of charter service; we have not been discussing the question of Atlantic City service. We have been looking at the question, for example, of

competition, both direct and indirect. That involves not only the cases where buses are running on parallel roadways, such as in Hudson County. From a historical perspective, there are a lot of reasons why that happened. But, the movement to a more coordinated system is not an easy one.

We also have indirect competition. This has been alluded to by several speakers today, and is perhaps a much more difficult issue to address.

The second issue we feel we have to resolve is the question of coordination, because in order to provide a truly efficient system, both the public and private carriers must work together to ensure that people can move freely about the State, and at the same time ensure that we are not tripping over ourselves in trying to provide an efficient system.

We also recognize that interstate deregulation is something that has caused problems for New Jersey. We have recommended, and I believe it is generally supported, that the Congress be asked to change the ICC regulations as they pertain to the Philadelphia and New York markets. These two markets are basically commercial zones, and we believe there are ample precedents in past regulatory and deregulatory legislation that would ensure that these markets be properly considered when authorizing new franchises.

The fourth issue is territorial integrity, and this gets to one of the points that Ms. Stone raised this morning. If we are going to try to have a coordinated system of public transportation, there are going to have to be adjustments to the current service standards and, also, adjustments to the current service providers. In some cases, New Jersey Transit will have to withdraw from corridors; in other cases, a private operator may withdraw from corridors. But, when New Jersey Transit withdraws, the private operators who are picking it up, such as the case of Suburban in the situation previously described, will only agree for a fixed period of time to operate it. Certainly, all service in New Jersey needs a set of service standards and criteria, against which we can measure their productivity. That is one of the things we feel is most important to be both identified and developed, and applied to all operators, so we know, and can assure people that if they are

going to be riding a vehicle that is regulated by the State, they are going to be riding one that is, in fact, providing the service that is expected.

Finally, there is the question of operator determination in those situations where new service is required, or is to be developed. Senators, your action earlier -- I guess actually in the last session -- created a zone of rate determination to be applied for private operators as one step toward removing some of the more burdensome regulations that are really unnecessary in today's climate. On behalf of Commissioner Sheridan, I recently signed the administrative regulations to implement that. I believe this is an important first step, one we are late in making. It is an important step, because for years we have tried to base all the actions of the operators on the assumption that they were using the return on investment as the sole criteria for their profitability. Today, the question of return on investment is much more clouded, as public vehicles and other equipment enter into the equation and, at the same time, the whole concept of return is questionable in those areas where you have a number of operations from a single operator, each of which is contributing to the overall financial picture of the operation.

So, we believe it is unnecessary for an operator to apply to the Department of Transportation just before he goes to get a loan for normal routine business activities. This is the next step to follow up on -- the zone of rate freedom we will be recommending. Hopefully, it will be enacted shortly.

Other steps will also be necessary as we move to bring all private carriers into a more equal condition with New Jersey Transit, in terms of those normal day-to-day business practices which can offer economical and operational savings throughout their programs.

I have rambled probably a little longer than I had expected, Senator, and I will be happy to try to answer any questions.

SENATOR RAND: Thank you very much, Mr. Crawford. Senator Gagliano, do you have any questions you would like to ask?

SENATOR GAGLIANO: That was a very learned discourse, Jim. I am going to have to think about it.

SENATOR RAND: Thank you very much. Is there anyone we have not heard, or anyone who wishes to appear before this Committee? (no response) I think we have gone through all the people whose names were on our list. If we have omitted anyone, just raise your hand. If not, let me thank everyone for attending this hearing today.

Let me conclude by saying we have had some very interesting problems brought to light. If they need legislative action, I'm sure the members of this Committee will pay attention. The problems which were brought forth which we can answer, or which we can answer by obtaining information from New Jersey Transit, will be followed up on.

We express our very deep thanks to everyone who has appeared before us today to offer testimony. This hearing is adjourned.

(HEARING CONCLUDED)



NJ TRANSIT PROGRAMS

PRIVATE CARRIER PARTICIPATION
FY 1984

<u>ANNUAL OPERATING PROGRAMS</u>	<u>CARRIERS</u>	<u>\$ THOUSANDS</u>
Service Contracts	1	\$ 1,500
Subsidy Contracts*	9	11,000
Reduced Fare Program	65	1,000
Bus Card Program	10	500
Feeder Fare Program	5	80
Transfers	15	1,100
Student Fare Programs	15	200
Subtotal		<u>\$ 15,380</u>

<u>AGGREGATE YEAR-TO-DATE CAPITAL PROGRAMS</u>	<u>CARRIERS</u>	<u>\$ THOUSANDS</u>
Bus Leasing	52	\$ 77,000
Capital Improvements	38	4,700
Park and Ride Construction	5	2,000
Bus Shelters	24	400
Subtotal		<u>\$ 84,100</u>

TOTAL \$ 100 million

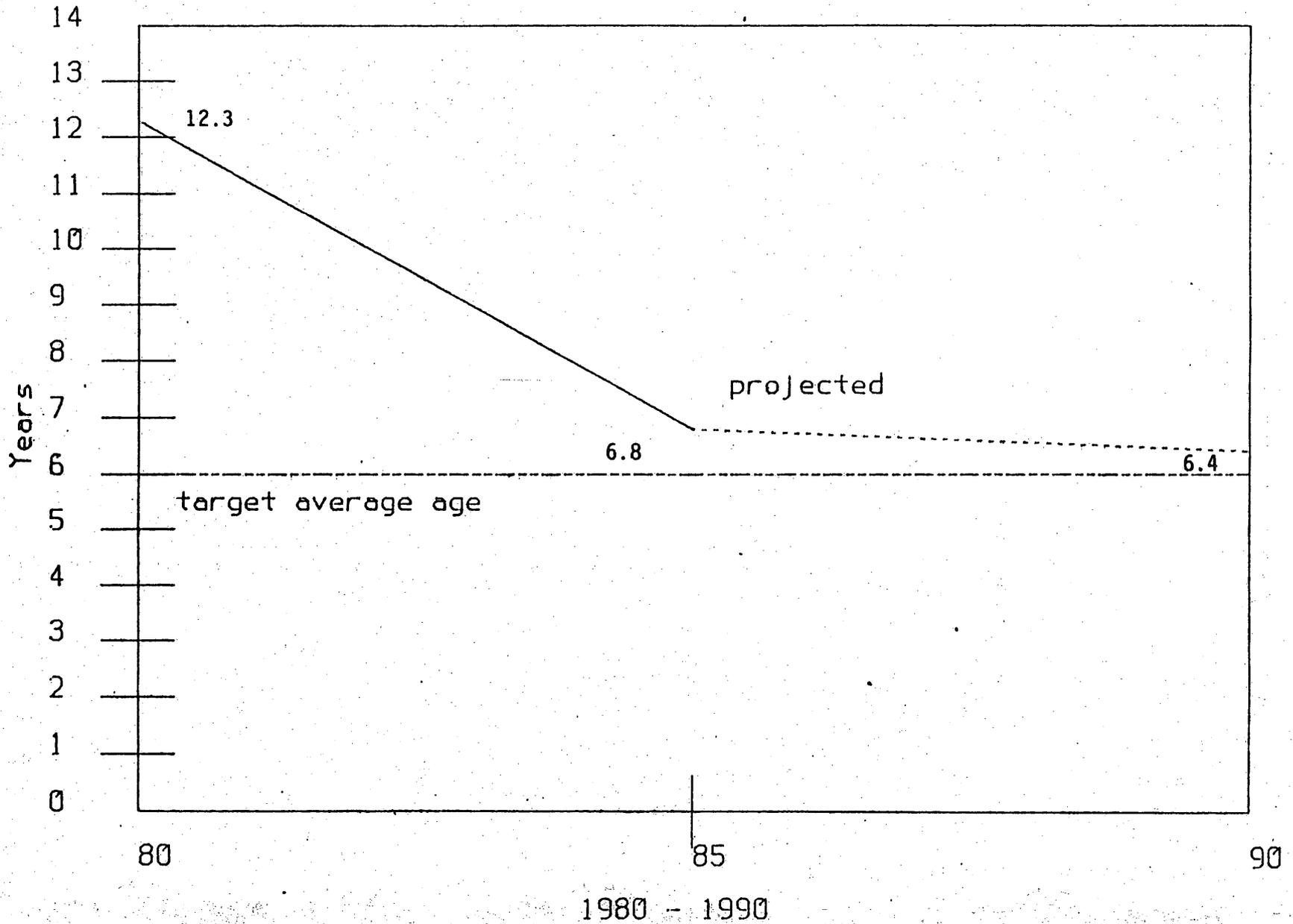
* Includes Mercer Metro

BUS LEASING PROGRAM

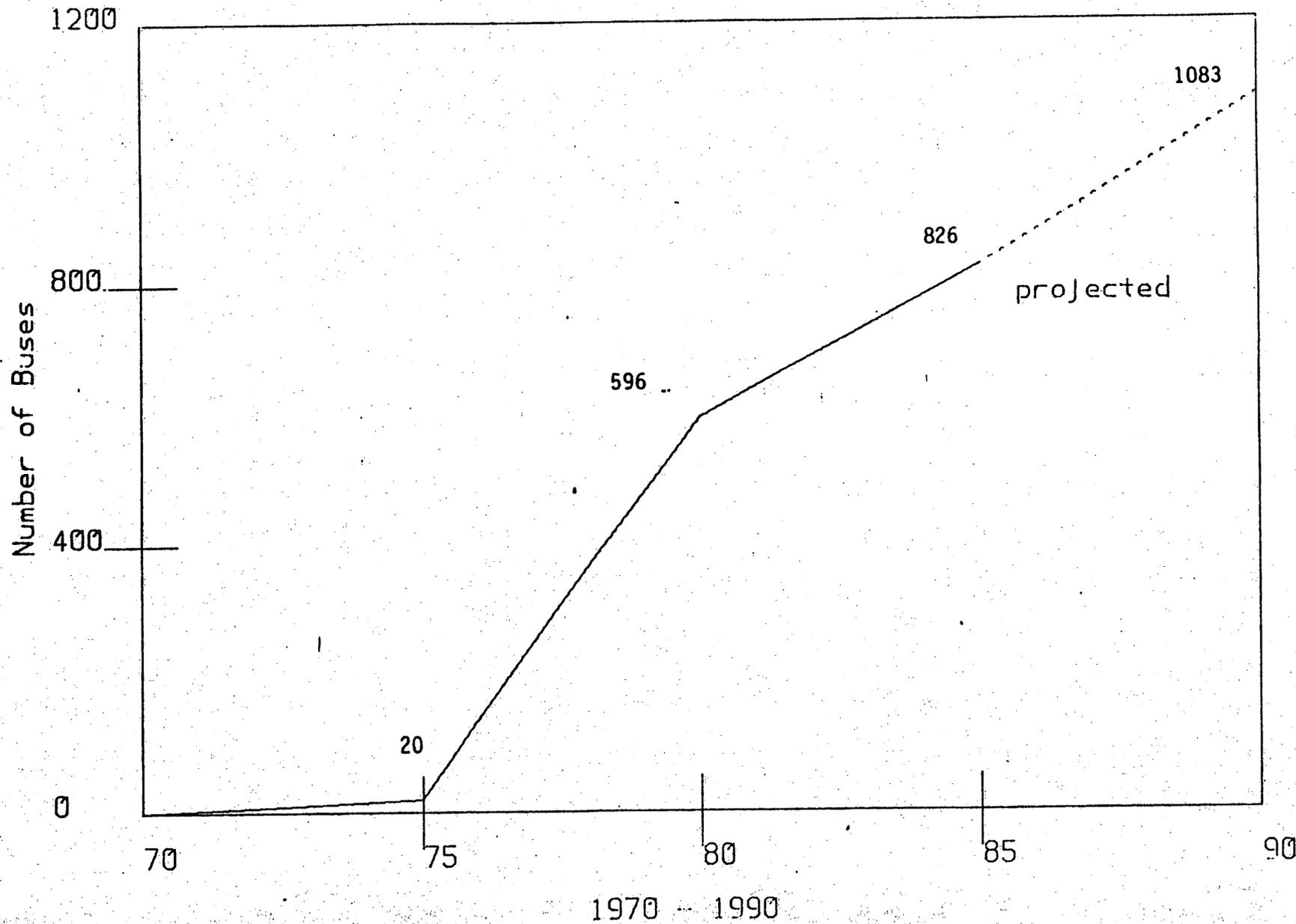
Through FY 1984

	<u>BUSES</u>	<u>\$ million</u>
1976 Transit & Commuter Buses	356	20.5
1983 Transit Buses	65	10.3
1983 Commuter Buses	220	34.8
Rehabilitated Buses	<u>185</u>	<u>11.4</u>
	826 buses	\$77 million

PROFILE OF STATE FLEET-AVERAGE AGE



BUS LEASE PROGRAM



BUS LEASING PROGRAM PROJECTIONS

(FY 1985-1989)

	<u>BUSES</u>	<u>%</u>	<u>VALUE</u>
Subsidized Carriers	265	17 %	\$ 53 million
Private Carriers	<u>599</u>	<u>39 %</u>	<u>\$121 million</u>
	864	56 %	\$174 million
NJT Bus	674	44 %	\$135 million

PRIVATE CARRIER CAPITAL IMPROVEMENT PROGRAM

Examples of Investments

- o Service Vehicles
- o Ticket Machines
- o Battery Chargers
- o Bus Washers
- o Two-way Radios
- o Farebox Equipment

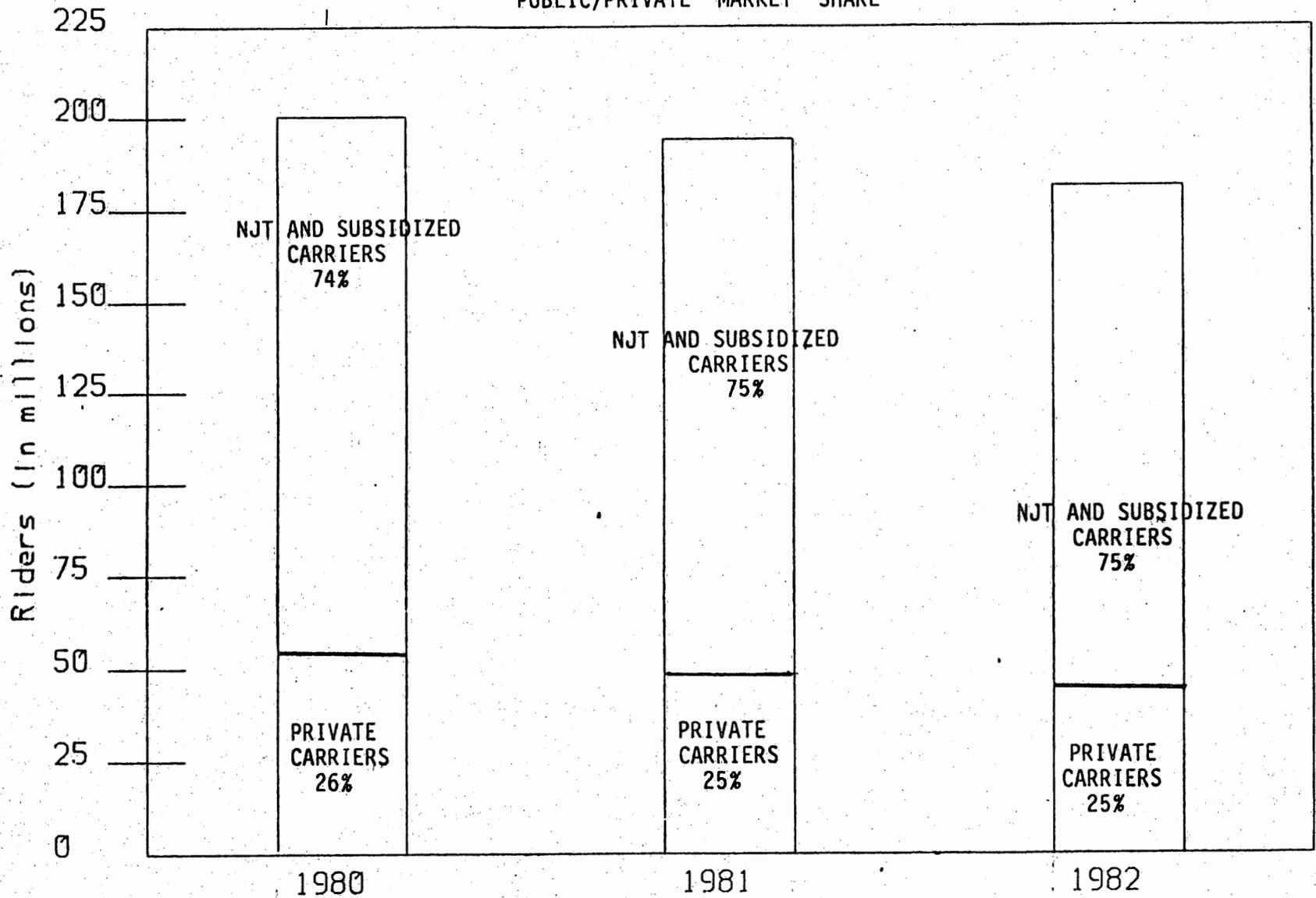
Aggregate \$ Investments (FY 83-87)

52.3 million

PRIVATE CARRIER CAPITAL IMPROVEMENT PROGRAM

	\$ millions
FY'83	4.7
FY'84	11.9
FY'85	11.9
FY'86	11.9
FY'87	<u>11.9</u>
Total	\$ 52.3 million

REGULAR ROUTE RIDERSHIP
PUBLIC/PRIVATE MARKET SHARE



8x



119 GRAHAM LANE, LODI, N.J. 07644
(201) 777-1900

March 23, 1984

Honorable Walter Rand, Chairman
New Jersey Senate Transportation
and Communication Committee
CN042.
State House
Trenton, NJ 08625

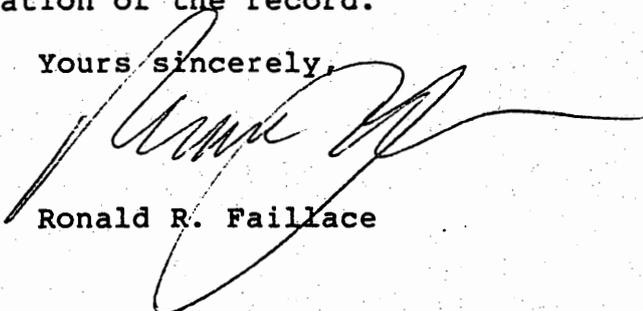
**RE: SUPPLEMENTAL DOCUMENTS IN SUPPORT OF TESTIMONY OF
UNITED BUS OPERATORS SURVIVAL ASSOCIATION BEFORE
THE SENATE TRANSPORTATION AND COMMUNICATIONS COM-
MITTEE MARCH 19, 1984.**

Dear Senator Rand:

In accordance with your agreement to hold the record of the March 19, 1984, hearing open for seven days, enclosed please find documents to supplement the testimony given before the Senate Transportation and Communications Committee by the United Bus Operators Survival Association.

I should very much like to thank you and the members of your committee for allowing us to present our testimony, and for allowing this supplementation of the record.

Yours sincerely,



Ronald R. Faillace

RRF/gdg
Enclosures

CC: Honorable Thomas F. Cowan
Honorable Francis J. McManimon
Honorable Thomas Gagliano
Honorable James R. Hurley
Mr. Peter Manoogian

SUPPLEMENTARY DOCUMENTS IN SUPPORT
OF THE TESTIMONY OF THE UNITED BUS OPERATORS
SURVIVAL ASSOCIATION BEFORE THE SENATE TRANSPORTATION
AND COMMUNICATIONS COMMITTEE, MARCH 19, 1984.

At the Public Hearing concerning bus transportation, held before the Senate Transportation and Communications Committee on March 19, 1984, Ronald R. Faillace, President of the United Bus Operators Survival Association, quoted from several internal memoranda which had been prepared by N. J. Transit employees. Complete copies of these memoranda, which had been obtained from N. J. Transit under court order are attached hereto as exhibits A through E. Examination of these documents clearly indicates that N. J. Transit has failed to fulfill the purpose for which the agency was created. Indeed, as the below highlighted excerpts will indicate, N. J. Transit has consistently operated under a policy which is directly opposed to the "encourag(ing) to the maximum extent feasible the participation of private enterprise and the avoid(ance) of destructive competition" See N.J.S.A. 27:25-2(d).

Beginning with a memo dated July 22, 1980, a member of the N. J. Transit Corporation set the tone for the posture taken by N. J. Transit toward private transit carriers by labelling such carriers in handwritten notations as "Indians," (p. 1, 7, 11) and as "black sheep" (p. 9). At another point in the Wilkins memo, this individual noted that N. J. Transit should take "appropriate action to minimize competition with private carriers or else find a way to drive them out" (p. 10).

Continuing in August of 1982, Mr. Wilkins commented in an Executive Summary on ways in which N. J. Transit could develop options to reduce the number of independent operators operating in the Newark area. Specifically, Mr. Wilkins suggested that N. J. Transit attempt to reduce "direct competition on all N. J. Transit routes." He was particularly pleased that the N. J. Transit "bus

card" program offered N. J. Transit a competitive advantage over the private carriers in reaching this goal. Indeed, he noted that the state subsidies which finance the bus card program, which are not shared with the independent carriers, force a revenue loss upon the independent carriers who honor the state card. These losses, in turn, as suggested by Mr. Wilkins, necessitated negotiation with only those carriers "whose long term survival is anticipated." Conducting a public agency along such lines cannot serve the public interest; nor can it be contended that such operation will encourage private enterprise in participating in the transportation field as required by the expressed legislative intent. Finally, in the July, 1982, memo, Mr. Wilkins notes that private enterprise is wasting N. J. Transit resources by "undercutting profits." If the conduct of N. J. Transit's operations and the employment of public funds by that agency are to be measured only through a determination of the extent of profit and loss, one must question whether N. J. Transit is indeed serving "the needs of the transit dependents." See N.J.S.A. 27:25-2(a).

In a memo dated November 11, 1982, Mr. Wilkins continued to develop his scenario of a state monopoly on transportation when he presented a review of operations in Hudson, Essex, Passaic, Atlantic and Mercer counties, which review was based on the premise that N. J. Transit, contrary to its legislatively granted powers, completely squeeze out private carriers and operate a monopoly of all local bus services.

Mr. Wilkins, however, was not the only member of N. J. Transit who directed his efforts at the elimination of all private carriers from the transportation field. In a memo dated March 16, 1983, George Heinle disclosed that N. J. Transit had in the past and sought again to retain the services of Systems Design Concepts, Inc., in the preparation of a complete analysis of the costs and benefits to be obtained from a takeover by N. J. Transit of the entire system of private transportation industry.

Finally, Laurie B. Lewis, in memo dated May 10, 1983, in her review of the report prepared by Systems Design wished to add her thoughts on "the myth of private enterprise," claiming that "independents (private carriers) have virtually no investment in their companies." Clearly Ms. Lewis does not adequately comprehend the nature and extent of the investments made by many independent operators, and her comments are yet another showing that N. J. Transit has determined that it is not subject to the legislation which calls for the maximum participation of private enterprise in the Transportation field. See N.J.S.A. 27:25-2(d)

Testimony was also given with respect to the charter bus operations conducted by N. J. Transit. While the New Jersey Legislature in N.J.S.A 27:25-6(6) allows New Jersey Transit to engage in charter bus operations, New Jersey Transit has used this authority in ways not sanctioned by the enabling legislation. Specifically, N. J. Transit has read its authorization to run charters as a means of eliminating private competition. In addition, N. J. Transit has maintained a policy that is in direct contravention of federal rules and regulations on charters. Such actions, could have repercussions in the Urban Mass Transportation Administration that may eventually lead to a termination of federal funds to New Jersey Transit. This, in turn will mean the loss of a great deal of federal funding, the replacement of which will have to come out of the pockets of New Jersey taxpayers.

The federal statute that deals with charter bus transport and the dispersal of federal funds is 49 U.S.C.S. 1602, a part of the Urban Mass Transportation Act. 49 U.S.C.S. 1601 et seq.

Subsection 1602(f) of the act provides:

No federal financial assistance under this Act (49 U.S.C.S. Section 1601 et seq.) may be provided for the purchase or operation of buses unless the applicant or any public body receiving such assistance for the purchase or operation of buses, or any publicly owned operator receiving such

assistance, shall as a condition of such assistance enter into an agreement with the Secretary that such public body, will not engage in charter bus operations outside the urban area within which it provides regularly scheduled mass transportation service, except as provided in the agreement authorized by this subsection. Such agreement shall provide for fair and equitable arrangements, appropriate in the judgment of the Secretary, to assure that the financial assistance granted under this Act (49 U.S.C.S. Section 1601 et seq.) will not enable public bodies and publicly and privately owned operators for public bodies to foreclose private operators from the intercity charter bus industry where such private operators are willing and able to provide such service.

Under the above subsection, federal funds may not be used for the purpose of providing destructive competition by public bodies to the detriment of private charter bus operators. It is well settled that such conditions when placed upon receipt of federal funds are legitimate and that "Congress, of course, has the right to condition the grant of federal moneys upon fulfillment by the state of federal requirements. Connecticut State Department of Public Welfare v. Department of Health, Education and Welfare, 448 F.2d 209 (2d Cir. 1971). In the case at hand, N. J. Transit has used federal money to run its charter buses on routes which private enterprise is willing and able to serve. N. J. Transit, by doing so, and by running charter service on such an extremely broad scale has shown that it is bent on a course of action intentionally designed to put pressure on private operators and eventually force them out of business. This is in violation of the express requirements of the above statute.

49 U.S.C.S. 1602(f) also provides the authority for enforcement of that subsection:

In addition to any other remedies specified in the agreement, the Secretary shall have the authority to bar a grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment where he determines that there has been a continuing pattern of violations of the terms of agreement. Upon receiving a complaint regarding an alleged violation, the Secretary shall investigate and shall determine whether

a violation has occurred. Upon determination that a violation has occurred, he shall take appropriate action to correct the violation under the terms and conditions of the agreement.

The above is more than a simple pronouncement of enforcement power, it is designed specifically to protect private operators who have been harmed by the misuse of federal funds. The above also gives to the Secretary of Transportation the obligation to enforce the subsection. As stated by the court in Local Division 1285 v. Jackson Transit Authority, 650 F.2d 1379, 1387, (6th Cir. 1957), "the Secretary of Transportation does have several specific enforcement obligations under the (Urban Mass Transportation) Act. Section 3(f), 49 U.S.C.S. 1602(f), for example, explicitly requires him to supervise and enforce protective arrangements which ensure that federal grants will not be used to force private charter bus operators out of the competitive market."

In addition to the limitations on the use of federal monies, federal regulations also limit the use of charter services by recipients of grants under the Urban Mass Transportation Act. These regulations prohibit recipients of grants from operating anything but incidental charter services.

49 C.F.R. 60411 says that:

- (a) No grantee or operator of mass transportation equipment shall engage in charter bus operations using buses, facilities, or equipment funded under the Acts except on an incidental basis in strict compliance with the Opinion of the Comptroller General of the United States, B-160204, December 7, 1966, in Appendix A of this part.
- (b) Any of the following uses of mass transportation buses in charter bus operations will be presumed not to be incidental:

- (1) Weekday charters which occur during peak morning and evening rush hours;
- (2) Weekday charters which require buses to travel more than fifty miles beyond the grantee's urban area; or
- (3) Weekday charters which require the use of a particular bus for more than a total of six hours in any one day.

49 C.F.R. 604.3 defines "incidental" as "charter bus operations which do not interfere with regularly scheduled service to the public" (as defined in the opinion of the Comptroller General of the United States, B-160204 December 7, 1966). The Opinion of the Comptroller General, located in the appendix to federal regulations on charter bus operations, provides that, "the Urban Mass Transportation Act of 1964 does not authorize grants to assist in the purchase of buses or other equipment for any service other than urban mass transportation service." 49 CFR 506. The Opinion then goes on to say that Section 9(d) of the Urban Mass Transportation Act specifically excludes charter service from the definition of mass transportation.

The Opinion states, however, that, "We do not consider that there is a violation of either the spirit or the letter of the Act as a result of (such) incidental use of buses in charter service." 49 C.F.R. 506. Incidental service is spoken of as the use of buses which are regularly used for weekday rush hours but which are idle at other times. The Opinion takes great pains to define 'incidental' by stating, "We are of the opinion that any lawful use of project equipment which does not detract from or interfere with the urban mass transportation for which the equipment is needed would be deemed an incidental use of such equipment, and that such use of project equipment is entirely permissible under our legislation. What uses are in fact incidental, under the test, can be determined only on a case by case basis" Second, the Opinion quotes from Security National Insurance Co. v. Secuoyah Marina, 246 F.2d 830, (10th Cir.

1957), which defines 'incidental' as "that which appertains to something else which is primary." 49 C.F.R. 507. Thus charter operations by a recipient may only be done as a sideline to regular mass transportation operations, and may not be conducted during any time in which the "charter bus" could be employed for urban mass transportation, or commuter operations.

Furthermore, federal funds may not be used for the sole purpose of providing charter service. As the Opinion states, "As indicated above it is clear that under the act in question grants may not legally be made to purchase buses to be used "exclusively" in the operation of charter bus service." 49 C.F.R. 508. And as indicated in the Opinion and regulations, charter service may only be conducted on a restricted basis by the recipient.

In addition all agreements between UMTA and the grantee of funds must contain the following two provisions:

The grantee, or any operator of project equipment agrees that it will not establish any charter rate which is designed to foreclose competition by private bus operators.

The grantee agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any use of project facilities and equipment in charter service will be incidental and shall not interfere with the use of such facilities and equipment in mass transportation service to the public. 49 C.F.R. 604.13.

As the above statutes and regulations show, the federal government has made it quite clear that federal funds should only be used for charter services in certain very limited situations and each situation must be looked at in the light of two criteria:

1. Whether private enterprise would be foreclosed by the proposed charter service, and
2. Whether such service is incidental to and will not interfere with the regular mass transportation service to the public.

As the following discussion points out, N. J. Transit has completely ignored the above criteria in its charter service. Specific instances of N. J. Transit buses seen on charter service are listed in the following chart:

N. J. TRANSIT BUSES SEEN ON CHARTER

<u>DATE</u>	<u>WHERE SEEN</u>	<u>N. J. TRANSIT BUS NOS.</u>	<u>TIME</u>
6/16/83	N.J. Rte. 17W - Eastbound Exit 119 " "	NJT 6902 (MC9) NJT 6905 (MC9)	3:15 PM "
7/10/83	NYS Thruway Milepost 684 (All 3 had Charter Signs) " "	NJT 6937 NJT 6935 NJT 6923	9:45 AM " "
7/2	No. East Rest Stop, MD. (All 3 Had Charter Signs) " "	PA 6676 PA 6677 PA 6678	11:10 AM " "
7/1	Constitution Ave., MD.	PA 6354	1:30 PM
7/2	Southbound Manhattan Bridge " " "	PA 6580 PA 6581	7:45 AM "
7/16	Troy Ave. Atlantic Ave., Bklyn	NJT 6196	7:00 PM
7/16	Eastern Pkwy./Utica Ave., Bklyn (unloading)	NJT 6203	7:30 PM
8/29	Hershey Pk., PA. " "	NJT 6904 NJT 6913	5:30 PM "
8/16	Disneyworld, FL	NJT 6901	5:45 PM
8/20-21	Washington, DC	NJT 6823	
8/11	Bklyn/Queens Expressway	NJT 6676	9:30 AM
8/28	Doylestown, PA " "	NJT 6216 NJT 6915	
8/27	Washington, DC - 64 TNJ Buses in JFK Parking Lot, Sample Nos. 6109, 6235, 6261, 6323, 6580, 6905, 6912.		

Clearly, the above chart indicates that contrary to the testimony of Mr. Premo at the hearing, N. J. Transit buses "dedicated to charter service" far exceed 49 in number. These buses are used in competition with private carriers, and during rush hours in both the morning and evening peak commuting times. Not only is the extent of such operation violative of the federal regulations traced above, but it is doubtful that such operations can be labeled "incidental to regular mass transportation services" since several of the listed charters were sighted during the peak commuting hours. Additionally, such extensive operations interfere with and may foreclose private operations in the charter industry, again, in violation of the federal regulations.

Finally, operation of charter services outside the New Jersey urban areas may constitute further violation of federal regulations. Specifically, 49 C.F.R. 604.1(b) provides:

By the terms of section 3(f) of the Urban Mass Transportation Act of 1964, as amended, which is made applicable to bus purchases, no Federal financial assistance may be provided for the purchase or operation of buses unless the grantee enters into an agreement with the Secretary of Transportation that the grantee, or any operator of mass transportation equipment for that grantee, will not engage in charter bus operations outside the urban area within which it provides regularly scheduled mass transportation service, except as permitted under that agreement.

A last point on the operation by N. J. Transit of charter operations which constitute violations of the federal regulations outlined earlier may be found from examination of Exhibit F. This flyer outlines an internal promotional program designed by N. J. Transit to increase and further expand charter operations. Additional charter service by N. J. Transit will move N. J. Transit further and further away from providing only incidental charter operations. The unchecked entry by N. J. Transit into the charter

field will move some private carriers closer to default, or at least will mean that private carriers will be foreclosed from operating those charter services provided by N. J. Transit. Both of these situations will result in a termination of federal assistance to public transportation, requiring either an increased burden on New Jersey taxpayers to make up the loss, or a cutback in public transportation service. In either case, N. J. Transit by its actions will harm, rather than serve the public interest.

Testimony was also offered by UBOSA Director Robert Lovito with respect to the lack of accountability of N. J. Transit, on both the financial and operating levels. As noted below, this lack of accountability may have an adverse impact upon the receipt by New Jersey of federal transportation assistance.

As defined by 49 U.S.C. 1602(f), N. J. Transit is a "designated recipient of federal assistance, by which it is to receive for its own use and to distribute to other public and private transportation service operators for their use, various federal grants and loans, and equipment purchased or refurbished with federal assistance. As a designated recipient, N. J. Transit may be barred from receiving further federal assistance when the Urban Mass Transportation Administration has determined that there is a pattern of violations of 49 U.S.C. 1602(f) which result in the foreclosure of private operators from intercity charter bus operations.

Specifically, Section 1604(b)(1) allows the designated recipient to receive and dispense funds, however, Section 1604(b)(2) requires that this be done in a ". . . fair and equitable manner." New Jersey Transit has not been fair and equitable in receiving and dispensing these funds:

1. N. J. Transit has interfered with the attempts of many private operators to profitably run unsubsidized regular route service. Instead, N. J. Transit runs route service with federal subsidies at up to three (3) times the cost. For example, N. J.

Transit acquired Somerset Bus Company and its routes with federal funds, despite a private operator's offer to buy the bankrupt Somerset and run its routes unsubsidized.

2. In September, 1982, New York-Keansburg-Long Branch Bus Company, a major private carrier between the Jersey shore and New York City, received a letter from a representative of 150 commuters asking the company to provide direct bus service from the Route 9 Corridor in Monmouth and Middlesex Counties into the Wall Street area of Manhattan. The writer, Ms. Alice Filomeno, informed New York-Keansburg that she had solicited N. J. Transit and Lincoln Transit which served the Route 9 Corridor and both had declined to offer such service.

As a result, in November New York-Keansburg filed a petition with the Interstate Commerce Commission for authority to operate along Route 9 from Freehold to the Wall Street area with service to intermediate points. N. J. Transit and Lincoln Transit--which was in financial difficulty and subsequently ceased operation--both objected. Nevertheless, the ICC ruled in favor of New York-Keansburg on January 21, with the service to begin on January 24, 1983. However, on January 17, N. J. Transit, reversing its earlier position, instituted direct service to Wall Street along the Route 9 Corridor. It was able to do so because it had existing but unused ICC authority.

In February, when Lincoln Transit plunged into bankruptcy, New York-Keansburg applied to the ICC and was granted further operating authority in the Route 9 Corridor from Lakewood to the Port Authority Bus Terminal.

New York-Keansburg felt that it could operate profitably and provide better service than the subsidized Lincoln Transit and was confident that it could prosper in a competitive situation with N.J. Transit. Apparently, N. J. Transit did not have similar confidence in its ability.

N. J. Transit virtually flooded the Route 9 Corridor with buses, running its vehicles in front of and behind the private carrier's buses on every departure. N. J. Transit has attempted to hinder New York-Keansburg operations at ramps leading to important park-ride areas. For example, at Gordon Corner in Monmouth County, N.J. Transit buses were parked along the shoulder of the road so it would be difficult for riders to see New York-Keansburg buses. At Ernstown Road, some 8 to 10 N. J. Transit buses have been placed in lines although only 3 or 4 are to be used to carry passengers at the particular departure time; this plays havoc with the New York-Keansburg schedule and a complaint has been filed with the ICC.

3. One of N. J. Transit's earliest innovations was the establishment of a monthly "flash pass" program whereby a rider pays a monthly charge--currently \$28--and need pay no fare in the first travel zone. On the surface, this seems like a fine public service. In operation, however, it has suffered from sloppy enforcement and policies which threaten the very existence of those few independent operators which have been allowed to participate.

N. J. Transit sells the passes which are used on its own buses and the three independent lines. The independents are reimbursed on the basis of a survey for which they paid but whose findings they were not allowed to examine. As a result, independents on the 24 West Orange line, for example, are being reimbursed for 27,000 riders per month. The operators estimate conservatively that they now carry 36,000 flash card passengers. The reimbursement covers some 25% of the riders while the operators calculate that the flash card holders constitute some 40% of their passengers.

N. J. Transit also uses its leverage of controlling distribution by taking over private routes in return for UMTA buses.

4. Private operators also face the problem that they are not given "Interposer" status to challenge N. J. Transit's regular route Certificates of Authority, while N. J. Transit can challenge theirs.

The detrimental effect accruing to federal assistance is that N. J. Transit receives all regular route lines which it decides to run on by using UMTA buses with the resultant wear and tear on those buses. This unfairly competes with private operators who cannot interpose on N. J. Transit's Certificates of Authority.

As the above shows, N. J. Transit has consistently misapplied federal funds in furtherance of its own goals at the expense of private enterprise.

In summation, it has used buses acquired with UMTA funds and operated in N. J. Transit's name to flood private competitors' routes with the intent of drawing riders from those competitors. Also, there is a pattern of N. J. Transit distributing the buses to those private competitors which it favors, thus selectively supporting through a distribution scheme those private operators it is not currently driving out of the industry. By flooding certain company's routes and then not dispensing buses to them, N. J. Transit has successfully driven out of business 40% of the private operators since N. J. Transit's commencement of services in 1979.

Additional testimony concerning the anticompetitive nature of some N. J. Transit operations was also offered at the March 19 hearing. As was noted during the committee hearing, the development of anticompetitive practices was a problem which the Legislature had hoped to avoid when the New Jersey Transportation Act was originally enacted. Section 2 of that act forbade the use of such destructive practices by N. J. Transit, and required the development of a transportation system that fostered commerce, was efficient and effective, one which encouraged the maximum participation of private enterprise and avoided destructive competition. See N.J.S.A. 27:25.

Specific anti-competitive practices include:

1. The action taken by N. J. Transit at the May 10, 1983, N.J. Transit Board meeting at which a resolution was passed withholding new buses purchased with taxpayer money and designed for distribution to all carriers, public and private, from companies which have the temerity to compete with N. J. Transit. While this policy has been directed against New York-Keansburg, the threat to every other private carrier is frighteningly realistic; they would be forced to burden their passengers with much higher fares needed to cover new bus investment while competing N. J. Transit fares are kept low because of its control over the publicly purchased buses. Soon, the private companies may face bankruptcy.

2. In January, 1983, Manhattan Transit announced its bankruptcy, another of the many private firms to do so.

Several bus companies filed with the ICC for operating rights on Manhattan's routes, including the Vince Lombardi Park-Ride Service from a lot owned by the New Jersey Turnpike Authority. The ICC granted authority to all applicants.

Shortly thereafter, the New Jersey Turnpike Authority transferred Manhattan's contract to N. J. Transit, but assured the private companies that the grant was only until June 30, 1983, and would be opened to bidding.

Subsequently, the Turnpike solicited bids which were opened May 11. A per rider surcharge to be paid to the Turnpike was to be increased under any bid. The winning bid was to be based on the highest rental proposed by a responsible bidder. Manhattan Transit had been paying \$1,950 per month.

Four bids were received:

New York-Keansburg	\$2,605/month
Hudson Transit Lines (Short Line)	\$5,745.60/month
Saddle River Tours	\$6,350/month
N. J. Transit	\$10,500/month

To private bus operators, the N. J. Transit bid (67% over the next highest bidder) was incredible since N. J. Transit has the highest operating costs of the four competitors. We understand that Turnpike officials were equally astonished at the windfall. In retrospect, it is easy to see why N. J. Transit can bid \$10,500 per month or even \$50,000 or \$100,000. It needs merely to return to the Legislature for increased appropriations to cover next year's certain operating deficit.

Later the press reported that there was another aspect of the high bid: N. J. Transit, which can raise its fares at will, plans a substantial fare increase for the users of the Vince Lombardi Park-Ride service.

3. The Manhattan Company bankruptcy also shows another sign of the anti-competitive stance which N. J. Transit traditionally takes. For instance, on two similar commuter routes which N. J. Transit took over upon Manhattan's bankruptcy, they increased by 400% the number of runs on the routes on which they had competition from the private operator Caravan Coach, and cut service 90% on the routes on which they did not have competition.

4. Leisure Line, a private carrier headquartered in Bergen County and operating an important bus service to Atlantic City, in 1982 petitioned the ICC to add service from Hawthorne in Passaic County and Fair Lawn in Bergen to its commuter run into New York City. These communities have been served by Maplewood Equipment Company, a N.J. Transit subsidiary.

Shortly thereafter, Leisure Line was informed by N. J. Transit that its right to use a platform in the Atlantic City bus terminal would not be renewed after its expiration on July 16, 1982. The terminal is owned by the City of Atlantic City but is leased to N. J. Transit. Although no written reason was given, conversations with N. J. Transit officials indicated to Leisure Line that its rights would be renewed if it withdrew its petition for the added commuter service.

Leisure Line refused to succumb to such pressure and is presently operating outside of the Atlantic City terminal.

In concluding testimony offered by UBOSA Director Paul Goldman, solutions to the above noted problems were offered. It is suggested that these solutions will guard against continued abuses which threaten the federal assistance currently received and the implementation of the below noted programs will help insure that the purposes for which N. J. Transit was created are achieved.

Reporting standards should be revised and N. J. Transit should be required to provide financial statements containing bottom line budget projections. Revision of the reporting standards along such lines will prevent intentional or accidental overbidding for public contracts and will also guard against future undisclosed fare increases when such bids are submitted. Furthermore, bottom line budget projections will enable comparison between public and private operations with greater specificity. These comparisons will thus enable both private and public operators to coordinate operations, develop a more efficient transportation system, and concentrate tax dollars in those areas not effectively serviced by private carriers.

Revised accounting standards should also require periodic reports on the actual results of specific line or route operations. Such reports would allow more accurate comparisons of operations, and would also prevent the flooding of particular routes as a means to reduce public -private competition.

A second proposal called for the creation of a legislative oversight committee to insure that the state subsidies annually appropriated to N. J. Transit are used for the development of an efficient transit system, and not the creation of a state funded monopoly. Such a committee would be able to prevent the use of N. J. Transit monies or equipment in squeezing out private enterprise, and such a committee would also be able to prevent the N. J. Transit Board

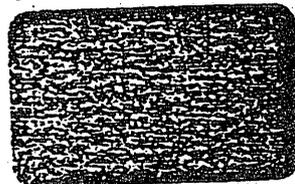
of Directors from operating under, or developing, policies designed to achieve the same goals.

Finally, it is proposed that control over N. J. Transit be separated from the Department of Transportation. As outlined in the testimony given by Paul Goldman, the current legislative framework places authority for the day to day operations of N. J. Transit with the Department of Transportation, and it also places jurisdiction over disputes between N. J. Transit and private carriers with the same agency. The framework does not provide private carriers with an independent forum in which to present their disputes.

Indeed, the Department of Transportation operates under a significant conflict of interest in that the Department must also determine applications for route authority between private carriers and N. J. Transit, the agency over which the Department has control. Placing authority for the resolution of disputes with the Board of Public Utilities will provide an independent forum in which to settle conflict, and it will also provide a regulatory body to determine route applications which is unconnected to either N. J. Transit or the Department of Transportation.

EXHIBIT A

1566
NJ TRANSIT



August 30, 1982

1
P62
6/29

TO: George Heinle

FROM: John Wilkins

John Wilkins (JH)

RE: Private Independent Bus Operations in Newark

Executive Summary

Recommendations

The following recommendations are made with regard to private independent bus operations in Newark:

- 1) Continue the status quo with the operators of Routes 6, 31 and 44.
- 2) Complete a determination of the number of buses which could be withdrawn from service if competition did not exist between NJ TRANSIT Bus Operations and the independent carriers.
- 3) Based on the findings of 2 above, develop options to reduce the number of independent bus operators. The options will be along the following lines:
 - a. Negotiate with the various carriers to purchase their certificate. Payment would be based on daily revenues to be paid for an agreed upon length of time. The negotiations could be conducted with all carriers or only those whose long-term survival is anticipated.
 - b. For those carriers not wishing to be purchased, we could offer to place them all on one or two routes. In this situation, we should require that the independents form an operating company similar to the action taken by South Orange Avenue IBOA when they assumed all operation on that route. This step should insure reliable service and the operation of the entire route. Candidate routes could be Route 25 Springfield Avenue or Route 24 Orange-Newark-Elizabeth.

- c. Offer to coordinate services on a given route with the independent operators. This action may necessitate giving the independents broader operating authority than they now enjoy. For example, if we chose to coordinate with Route 12 Elizabeth-Newark, it may be necessary to give them authority to operate all the way from Elizabethport to Orange. Since the independent operators fall under the jurisdiction of NJDOT Regulatory; such actions will require their approval. In this instance, the portion of Route 12 between downtown Newark and Penn Station and downtown Elizabeth and the Elmora section would be abandoned.

Background

There are ten routes operated by 22 different independent operators in the Newark area*. Of the 10, 7 operate in competition with NJTBO routes. (#16, 38, 12, 18 & 25) The remaining 3 routes (31, 6, 44) do not operate in competition with NJTBO. Of the 7 competitive routes, 2 (#24 West Orange/Elizabeth and #30 First Street) run coordinated schedules with NJT Bus.

Those routes which provide direct competition and are not coordinated with NJT Bus generally operate so as to compete with us over the most productive parts of our routes, thereby undercutting our profits. This emphasis on certain segments of the routes often means that the entire route is not covered and schedule adherence is often poor.

Currently, we enjoy a slight edge over the independents, in terms of fares, as a result of the bus card. The current price of the card results in fares comparable to those of the independents when the card is used slightly more than one trip per day. Also, some of the independents do honor our card even though we do not share revenues with them. Therefore, they suffer a revenue loss.

The edge afforded by the bus card will be reduced, however, with subsequent fare increases.

*Although there are 22 independent operations, many share common ownership.

Issues

There are several courses of action which can govern our future relationships with the independents. They are:

Option

Advantage/Disadvantage

Status Quo

In some cases, valuable NJT Bus resources are wasted. In others, where there is no competition, status quo is beneficial.

Coordination

NJT Bus may be able to reduce platform hours and costs. However, based on our experience this coordination will never be realized and service will deteriorate.

Purchase

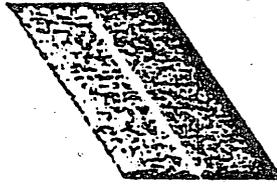
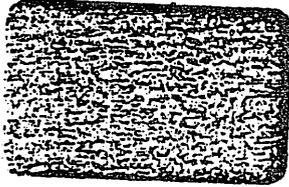
Revenue increase or decrease depending upon current relationship with independent.

Reassignment of Certificates

Significant cost savings to NJT Bus. However, service on independent operated routes could suffer.

EXHIBIT B

TRANSIT



Jim
See below.

Rich
please

Review
By 8-6

July 22, 1982

P-63
6/24/82

File
Bus Oper
Files

TO: George Heinle

FROM: John Wilkins

RE: Private Independent Bus Operations in Newark

Attached please find a paper dealing with independent bus operations in the City of Newark. In view of the current administration's view with regard to private bus operators in the State, I think it is highly imperative that we look at our relationships with the carriers in Newark and take whatever actions may be appropriate to forestall any comments that we may be competing unfairly with these operators. The paper discusses several possible actions which we could pursue with regard to these operators. I believe it is imperative that we should have a consensus as to what our future relationship should be with these carriers.

As you are no doubt aware, we have informally talked with the Springfield Avenue IBOA. It is their desire to coordinate service with us as soon as possible. I felt that such action was inappropriate until such time as we completely reviewed the position we wish to take in regard to these carriers. I believe we should reach consensus soon so that whatever course of action is deemed proper can be implemented with our year-end pick.

cc: Ben Feigenbaum
✓ Jim Hughes
George Dietz

Jim - 8/6

I agree with GW on most points but have the following comments:

1) Any negotiation should be done by NTT Bus personnel, perhaps someone from Finance, we must be adamant about keeping downtown out of this as they can really foul it up.

2) If we hand over the #24 or #25 to the Indians we must be prepared for **RECEIVED**

3) A lot of internal opposition here @ NTT Bus - the people here are still growing about being forced to give up the #31 and 4) the Indians will cut service to portions of the route now lightly used, i.e., Maplewood service on the #25 and E-part on the #24. We may be put in position of taking slack **SERVICE DEVELOPMENT**

5) Some cost/benefit analysis should be done to determine what profits, if any, we can be losing by giving up these lines or opposed to savings to be realized from getting the Indians off other routes.

PRIVATE INDEPENDENT BUS OPERATIONS IN NEWARK

INTRODUCTION

Independent bus operations in the greater Newark area originally commenced with the advent of automotive vehicles that would carry in excess of five to six people. A great number of entrepreneurs entered into business in the pre-1920 era. There were no Statewide restrictions that prohibited entry into this business although numerous localities did require municipal consents prior to commencing operation.

In 1923 the Public Utilities Commission was given the power to control entry into this business effectively freezing growth in the independent bus industry. In the subsequent years, our predecessor corporation, Public Service Coordinated Transport, embarked on a program of purchasing as many competing bus operators as possible in the Newark service area. What remains today is the vestige of what was once a large independent bus operation.

The operation by independents has remained relatively unchanged in recent years. The last major change involved a decision by New Jersey Department of Transportation to remove Transport of New Jersey from all operation on Route 31 South Orange Avenue and to turn over all responsibility for this route to the South Orange Avenue IBOA.

CURRENT INVENTORY OF PRIVATE BUS OPERATIONS IN THE NEWARK AREA

At the present time the routes are operated by independent bus operators and are shown in Table 1.

TABLE 1

	<u>Number of Buses</u>	<u>Competitive with. NJTBus Routes</u>	<u>Common Ownership</u>
Route 16 Clinton Avenue Clinton Avenue Bus Company	2	13/14	A

	<u>Number of Buses</u>	<u>Competitive with NJTBus Routes</u>	<u>Common Ownership</u>
Route 12 Newark/Elizabeth			
Leo Transit Corporation	2	24	B
Eva Gershkowitz, Inc.	1		C
Central Jersey Bus Company	1		
Route 24 West Orange/Elizabeth			
E. Vanderhoof & Sons	2	24(a)	
Wohlgemuth Bus Company, Inc.	2		A
Martucci Bus Company	2		
Route 18 North Newark			
Irving Transit Company	1	13/24	C
Van Buren Bus Company	1		C
John A. Policastro	1		C
M. A. B. Corporation	1		C
Timothy J. Ryan	1		
Patsy Palangio	1		
Route 25 Springfield Avenue			
Browel Bus Company, Inc.	1	25	D
484 Corporation	1		A/D/E
Lincoln Bus Company	1		A
Elmas Bus Company, Inc.	1		E
Route 31 South Orange Avenue			
South Orange Avenue Independent Bus Operators Association (Comprised of 13 individual bus companies)		NC	
Route 38 Kearny			
Will Morris	1	39/40	
Route 6 Irvington/Elizabeth			
Elizabeth-Union-Hillside- Irvington Line, Inc.	3	NC	
Route 44 Edgar Road			
Beviano Chartered Service		NC	
Route 30 First Street			
Elizabeth Transit Corporation	2	30(a)	B

Footnote (a) indicates that these carriers coordinate schedules with NJTBus. The common ownership is as follows:

- A. Robert White (also owns 2 buses on the South Orange Avenue IBOA)
- B. Leo Transit
- C. Amiano
- D. Sanford Weiss
- E. Frank Tedesco

EXISTING CONDITIONS

At the present time our relationship to these various operators assumes several postures:

I. Competitive

Operations of the Routes 16, 38, 12, 18 and 25 by independents results in direct head-to-head competition with NJTBus services. In each of these cases, the independent bus owner has instructed his drivers to operate immediately ahead of one of our trips to capture as much revenue as possible.

The previous section indicates which of our routes the various independent operators compete with. In most cases, the independents are competing with us on the most lucrative portion of our route and do not fully operate their authorized route in order to maximize their ability to compete with us and capture our revenue. For example, the Route 25 IBOA's have rights to operate from Penn Station to 43rd Street in Irvington. During the greater part of the day, this route operates only from Penn Station to Springfield Avenue and Stuyvesant. The operator then short-turns his vehicle at this point so as to maximize his exposure to the busiest part of this route.

Route 18 operators have rights to operate from the Newark city line on Broadway to the foot of Broad Street in the vicinity of Miller Street. Quite often many of their vehicles will short-turn in the vicinity of Lincoln Park. The Route 12 operators have rights to run from the Elmora section of Elizabeth to Penn Station, Newark. It is common practice, though, for these operators to short-turn at Rector Street in Newark and to frequently miss trips to the Elmora section of Elizabeth. Route 16 has rights to operate from Penn Station, Newark to 40th Street in Irvington. Typically, the

operations of this route are confined to operating between Penn Station, Newark and the Irvington Bus Terminal. Route 38 normally operates between its prescribed terminals but off-route operation has been observed.

The institution of the monthly bus card has resulted in giving NJ TRANSIT Bus Operations a competitive edge with regards to the independents. The current price of the card results in comparable fares when usage is at a level of slightly greater than one round trip per day. Any usage above this level results in lower fares on our bus service. At the present time, some of the independent carriers do honor the bus card while others do not. Since we do not share bus card revenue with the independents, the net result is that these carriers are suffering a revenue loss. It is difficult at this time to say whether this loss is significant. Our fare increase will mitigate to some extent the competitive edge we now enjoy with these carriers.

2. Coordination

The six buses operated by E. Vanderhoof & Sons, Wohlgemuth Bus Company, Inc. and Martucci Bus Company have been coordinated for many years on Route 24. When our predecessor company, Public Service Coordinated Transport, merged its Route 24 Newark-West Orange and Route 11 Newark-Elizabeth, the independent operators also obtained the right to operate over the combined route from West Orange to Newark, Elizabeth and Elizabethport.

Figure 1 is a schedule of the coordinated service operated by NJTBus and the three independent bus companies. As the schedule indicates, the independent operators are presently provided with trains that operate approximately 16 hours per bus. During the evening hours, the independents are providing the bulk of the service on this route.

NJTBus also coordinates services with the Elizabeth Transit Corporation on

Route 30. This coordination involves two buses whose duty cycle approximates 16 hours. At nights, the independent provides all service on this route.

Recent observations of Route 24 operations tend to indicate that the independent operators perform as well as we do in maintaining schedules. Some reports have been received that the independent carriers, during the evening hours, do not operate all of their prescribed trips to Elizabethport. At this point in time, they are providing all service to that location and all NJTBus buses are short-turned at the Newark city line. This situation is presently being reviewed.

Recent observations have not been made on Route 30 so a definitive statement cannot be made as to whether the independent is operating his prescribed schedule. Previous observations have confirmed the fact, though, that the independent does not always operate that portion of the route which is on the east side of U. S. Routes 1 & 9. The primary reason for not operating over this portion of the route are the long delays involved in crossing this major highway.

3. Non-Competitive

Several of the independent operators operate distinct routes which are not competitive with any NJTBus operations. Route 6, for example, operates between Elizabeth and Irvington via Union and Hillside. The route is moderately patronized and appears to turn a profit for its owner. In the event the existing operator chose to no longer operate the route, it would be worthy of inclusion in our route network.

Route 44 Edgar Road operates from Winfield Park to Linden and Elizabeth and provides little or no competition with any of our routes. The sole exception to this statement may be the service that Route 44 provides to Elizabeth General Hospital on Grand Avenue in Elizabeth. If the current operator chose to cease operations on this route, it would be worthy of

inclusion in our route system. This route was purchased from PSCT in 1956.

Route 31 South Orange Avenue is not competitive with the single exception of that portion of their route which operates on Market Street between Penn Station and the Essex County Courthouse. The ridership on this route, especially between Downtown Newark and Dover Street, is extremely heavy. That portion of the line which continues from Dover Street to South Orange Village is moderately used but the branches from South Orange to Maplewood via Prospect or Valley Streets see light to moderate usage.

FUTURE RELATIONSHIP WITH THE INDEPENDENT CARRIERS

There are several courses of action which can govern our future relationships with these operators. These courses of action are:

1. Status Quo

We could continue to maintain our existing posture with these carriers. The principal drawback of this approach is that NJTBus is wasting valuable resources in the resulting head-to-head competition on many of the routes, particularly those mentioned in Item 1 in the previous section. On the other hand, the status quo may be the best posture with regards to those routes where competition is nonexistent or, at best, minimal.

2. Coordination

The present competitive situation results in some degree of excess capacity being provided when one considers the total resources presently employed by both NJTBus and the independent carriers. In any coordination agreement it is quite likely that the independents will want to maximize the exposure of their vehicles. Preliminary conversations with some of the operators have indicated that they may be willing to take some 12 hour equipment blocks as opposed to 16 hour blocks but they would not be in a position of wanting to accept tripper operation.

One of the likely results of coordination is that it will allow NJTBus to reduce its platform hours and cost of operations. Revenues should be little affected and may even increase slightly since our vehicles would now have their own time slot and would not be proceeded immediately by an independent coach.

Reducing Ind. blocks will cut evening hours Does this mean NJT will have pick it up

Coordination would work quite effectively on Route 25 where the carrier could operate between Downtown and 43rd Street. In the case of Clinton Avenue, the independent operator is only utilizing a portion of Route 13. To effectively coordinate service in this instance, it might be more practical to allow the operator to run his two buses between Big Tree Garage and Irvington Terminal. Coordination with Routes 12 and 18 is more difficult since neither route is identical to a NJTBus route.

app. w/ Clinton Ave. in lower to the I bet. let them drop Elmora.

Coordination can also pose problems for the reasons cited below:

- a. Some of the independent carriers do not appear to have the competency required to operate a reliable coordinated service. This statement is particularly true of the Amiano group of buses which operate on both Routes 13 and 12.
- b. Differing Fares: The two coordinated services we presently participate in do have fare differentials between the independents and NJTBus. Coordination with Route 12 would result in four different fare structures since the existing Route 12 operation does not have consistent fares between its member carriers.
- c. If we were ever to purchase one of the independent carriers who was a participant in a coordinated service, we would also have to incur the costs of placing one of our own buses in the slot previously used by that carrier. This statement is made on the assumption that the route is properly scheduled to accommodate available demand.

3. Purchase

Purchase of an independent carrier may be accomplished by offering to pay him the equivalent of his daily receipts less costs for a negotiated period of time. In those situations where we are not presently coordinating services and would not add equipment back on a one-to-one basis, we would obtain additional revenue without an increase in cost. In those instances where we are presently operating a coordinated service, we may be required to replace the independent carrier with one of our own buses. In this situation we would incur additional operating costs and there would be no income to offset the purchase price.

June?
No Fare?

As part of the process of negotiating the payment, the independent carrier would have to verify his costs and daily receipts over a period of time. As an example of the revenues generated by these operators, the Springfield Avenue buses average in the vicinity of \$425 per day, per bus for a total of \$1,700. This amount is slightly less on weekends. On Route 16, we are looking at approximately \$350 per day, per bus or \$700 a day total. Again, the amount may be slightly lower on weekends.

4. Reassignment of Independent Certificates to One or Two Routes

To minimize the amount of competition we could offer to exchange certificates with the independent carriers to place them on only one or two routes in the Newark area. For example, we could offer Clinton Avenue Bus the opportunity to transfer their two buses from Route 16 to Route 25. We could also make the offer to Route 12 and 18 operators to move their certificates to Route 24.

The implications of such an action are as follows:

- a. If all carriers agreed, approximately 12 certificates would be moved. This would allow NJTBus to remove approximately seven to nine buses from service and would allow us to save

approximately from 105 to 135 platform hours resulting in an annual savings varying from approximately \$690,000 to \$895,000.

- b. The result of these transfers would be to effectively turn over the bulk of the operation of these two routes to the independent carriers. Our presence on Route 25 would be largely peak hour. On Route 24, it would be peak hour plus some level of base service. The reliability of service on these routes, particularly on Route 24, would degenerate through the inability of the Amiano group of buses to operate a coordinated headway. This operator would not operate a coordinated headway and would very soon determine which part of the route generated the largest revenues and would concentrate on that section of the route. Since this is a very key transit route in the Newark area, we would be placed in a position of having to add back additional service to properly service all portions of the route and to assure reliability of service. As a condition of transferring independent certificates to these routes, we would have to insist that they form a central operating company, similar to the action taken by the South Orange IBOA, to insure that all service is operated reliably and that buses operate between established terminal points.

*← If Amiano refused to operate we would have to add back the 15%
operator once he's where would be such an operator left abandoned his original route*

CONCLUSIONS

The following conclusions can be draw from the current situations:

1. The total resources committed by NJT Bus Operations and the independent carriers with whom we compete are in excess of the number currently needed to accommodate our passenger demand. Steps should be taken to minimize the amount of resources wasted due to this competition.

2. The bus card program in the long term gives us a competitive edge over the independent carriers. If the independent carriers are not brought into the program it is quite likely that some of these carriers, particularly those which are weak and poorly managed, may go out of business. Certain carriers (Routes 24 and 25) will enter in July.
3. Appropriate actions should be taken to minimize competition and reduce the number of buses committed to the affected services.
4. Certain carriers do not compete with NJTBus except on a marginal basis and do not result in the application of surplus resources. These routes include the 31 South Orange Avenue, the 6 E-U-H-I Route and the 44 Beviano.

Handwritten note:
See also...

RECOMMENDATIONS

The following recommendations are made with regards to private independent bus operations in Newark:

1. Continue the status quo with the operators of Routes 6, 31 and 44.
2. Complete a determination of the number of buses which could be withdrawn from service if competition did not exist between NJ TRANSIT Bus Operations and the independent carriers.
3. Based on the findings of ² A above, develop options to reduce the number of independent bus operators. The options will be along the following lines:
 - a. Negotiate with the various carriers to purchase their certificate. Payment would be based on daily revenues to be

paid for an agreed upon length of time. The negotiations could be conducted with all carriers or only those whose long-term survival is anticipated.

*Who would negotiate? ASP...
has would like to bail...
as would Phil...
Newark*

b. For those carriers not wishing to be purchased, we could offer to place them all on one or two routes. In this situation, we should require that the independents form an operating company similar to the action taken by South Orange Avenue IBOA when they assumed all operation on that route. This step should insure reliable service and the operation of the entire route. Candidate routes could be Route 25 Springfield Avenue or Route 24 Orange-Newark-Elizabeth.

~~Be prepared to take this route back to from...
to be prepared to take this route back to from...~~

c. Offer to coordinate services on a given route with the independent operators. This action may necessitate giving the independents broader operating authority than they now enjoy. For example, if we chose to coordinate with Route 12 Elizabeth-Newark, it may be necessary to give them authority to operate all the way from Elizabethport to Orange. Since the independent operators fall under the jurisdiction of NJDOT Regulatory, such actions will require their approval. In this instance, the portion of Route 12 between downtown Newark and Penn Station and downtown Elizabeth and the Elmora section would be abandoned.

~~Should the benefits we would...
in giving up one of our best routes...
involved.~~

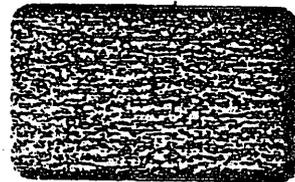
EXHIBIT C

NJ TRANSIT

Date March 16, 1983

To George Heinle

From John Wilkins



Bert has asked us to write a justification for this sole source.

P-61
6/29

3/25/83

Second set of originals to mail for Heinle's signature
OK. Rec'd



March 16, 1983

TO: Bert Hasbrouck
FROM: George W. Heinle *GA*
RE: Justification of Sole Source Contract with
Sydec Relating to Options for NJ TRANSIT's
Policy Towards Independent Bus Operations

RECEIVED
MAR 30 1983
DIRECTOR OF
OPERATIONS

The project involves analyzing the factors affecting NJ TRANSIT's relationships with independent bus operators in Newark and Hudson County and developing policy options which might save NJ TRANSIT money and assure better service to riders.

Mr. Arlee Reno, Vice President of System Design Concepts, Inc. (Sydec) is uniquely qualified to perform this work for NJ TRANSIT because of detailed knowledge about NJ TRANSIT and the independents' services, conflicts, viewpoints, areas of competition and cooperation and history. In 1976-1977, Mr. Reno analyzed specific cases of service competition and coordination between TNJ and the independent in Newark and Hudson County. One of these was South Orange Avenue for which a negotiated settlement was later reached. Other cases included Springfield IBOA, Lafayette and Greenville, and Montgomery and Westside where some competition still exists between NJ TRANSIT Bus Operations and the independents.

Sydec, under Mr. Reno's direction, has also previously analyzed the costs and benefits of a takeover by NJ TRANSIT of independent carriers, with estimates prepared in 1976-1977, and updated estimates prepared in 1979. The firm is, thus, uniquely and quickly able to prepare reasonable estimates of the consequences of such a course of actions. Sydec has become intimately familiar with NJ TRANSIT Bus Operations' cost structure in specific detail as a result of analyzing other potential takeovers by NJ TRANSIT Bus Operations.

Sydec has also prepared detailed analyses of NJ TRANSIT and NJ TRANSIT Bus Operations organizational structure and support staff necessary to carry out various functions in cooperation with other carriers and is, thereby, uniquely qualified to assess the administrative demands and costs to NJ TRANSIT of different policies towards the independents and of alternative programs to provide support for them or monitor their performance.

Sydec is also thoroughly familiar with all the relevant data sources, including PUC reports, NJ TRANSIT statistics, previous planning studies and inventories throughout history (from the Wilbur Smith studies to the CRW studies). Sydec's assistance in the design and creation of NJ TRANSIT was also based upon an understanding of the issues which are important in determining transportation policy in New Jersey.

The experience of Sydec with the operators, services and options involving relationships between NJ TRANSIT and the independents thus makes them uniquely capable to assess the impacts of alternative policies from the points of view of the riders, the State and the independent operators without any initial inventory, data gathering stage or preliminary analysis. Sydec is in a position to undertake the present task at a substantial saving to NJ TRANSIT. Sydec's work would be managed by A. T. Reno.

Att.

cc: Ben Feigenbaum
John Wilkins ✓
Jim Hughes
Laurie Lewis

**DRAFT OUTLINE
OPTIONS FOR NJ TRANSIT POLICY
TOWARDS INDEPENDENT BUS OPERATIONS**

I. Description of Existing Conditions

A. Newark

- NJ TRANSIT as majority service provider
- Description of independent services
- Areas of service overlap
- Current NJ TRANSIT assistance to independents
- Relationships among independents
- Summary of scope and trends in independent services, including magnitude, fares, service quality
- NJ TRANSIT system benefits

B. Hudson County

- NJ TRANSIT as minority service provider
- Description of independent services near NJ TRANSIT routes
- Current NJ TRANSIT assistance to independents
- Relationships among independents
- Summary of scope and trends in independent services, industry magnitude, fares, service quality
- Areas of service overlap
- NJ TRANSIT system benefits

C. Route

- Overview of current situation
- Policy implementation

II. Identification of Major Issues

A. Definition of the Overall Problem

B. Problem Areas and Issues

- Service quality and coordination
- Costs of NJ TRANSIT vs. independents
- Fare differentials and passes
- Condition of leased vehicles
- Competitive postures and actions (both independents and NJ TRANSIT)

- III. Evaluation of Policy Options from Points of View of Riders, NJ TRANSIT and Independents
 - A. Route Reorganization
 - B. Encourage Expansion
 - C. Limited Takeover
 - D. Additional Assistance - Impact on Capital Program
 - E. Status Quo
- IV. Suggested Timetable for Policy Choice and Implementation
 - A. Process for Choosing Policy
 - B. Timetable
 - C. Costs and Other Requirements for Implementation of Selected Policy

SYSTEM DESIGN CONCEPTS, INC.

ONE FARRAGUT SQUARE SOUTH • WASHINGTON, D. C. 20006 • (202) 393-5910

March 10, 1983

Mr. John Wilkins
NJ TRANSIT Bus Operations
180 Boyden Avenue
Maplewood, New Jersey 07040

Dear John:

Attached are a few paragraphs which explain why Sydec is uniquely qualified and should be considered as the sole source to perform an analysis of NJ Transit's relationship to the independents.

Sincerely,



Arlee T. Reno
Vice President

ATR/lcm
Attachments

RECEIVED

MAR 14 1983

DIRECTOR OF
OPERATIONAL PLANNING

From: G. M. HENNE

Subject

Justification ^{of} for Sole Source ~~CONTRACT WITH STATE. REPEAT 1701~~

~~NJ 700 REVISIONS~~
~~GOVERNOR FOR NJ TRANSIT POLICY TOWARDS INDEPENDENTS ON CASINO BUS.~~

The project involves analyzing the factors affecting New Jersey Transit's relationships with independent bus operators in Newark and Hudson County, and developing policy options which might save New Jersey Transit money and assure better service to riders.

MR. ARLORE RENO, CHIEF PROCUREMENT OFFICER, SYDEC DESIGN CONSULTANTS INC. (STATE)

Sydec is uniquely qualified to perform this work for NJ Transit because of detailed knowledge about NJ Transit and the independents services, conflicts, viewpoints, areas of competition and cooperation, and history. In 1976-1977, ^{MR. RENO} Sydec analyzed specific cases of service competition and coordination between TNJ and the independents in Newark and Hudson County. One of these was South Orange Avenue, for which a negotiated settlement was later reached. Other cases included Springfield IBOA, Lafayette and Greenville, and Montgomery and Westside, where some competition still exists between NJ Transit Bus Operations and the independents.

UNDER THE REO D. HENNE

Sydec has also previously analyzed the costs and benefits of a takeover by NJ Transit of independent ~~(as well as other)~~ carriers, with estimates prepared in 1976-1977, and updated estimates prepared in 1979. The firm is thus uniquely and quickly able to prepare reasonable estimates of the consequences of such a course of actions. Sydec has become intimately familiar with NJ Transit Bus Operations' cost structure in specific detail as a result of analyzing other potential takeovers by NJ Transit Bus Operations.

Sydec has also prepared detailed analyses of NJ Transit and NJ Transit Bus Operations organizational structure and support staff necessary to carry out various functions in cooperation with other carriers, and is thereby uniquely qualified to assess the administrative demands and costs to NJ Transit of different policies towards the independents and of alternative programs to provide support for them or monitor their performance.

Sydec is also thoroughly familiar with all the relevant data sources, including PUC reports, NJ Transit statistics, previous planning studies and inventories throughout history (from the Wilbur Smith studies to the CRW studies). Sydec's assistance in the design and creation of NJ Transit was also based upon an understanding of the issues which are important in determining transportation policy in New Jersey.

The experience of Sydec with the operators, services, and options involving relationships between NJ Transit and the independents thus makes them uniquely capable to assess the impacts of alternative policies from the points of view of the riders, the State, and the independent operators, without any initial inventory, data gathering stage, or preliminary analysis, ^{SYDEC IS IN A POSITION TO MAKE THIS THE BASIS OF THE} and thus at a substantial saving to NJ Transit.

Sydec's work would be managed by A.T. Reno, ~~who also has managed all their previous projects related to these issues.~~

SYSTEM DESIGN CONCEPTS, INC.
ONE FARRAGUT SQUARE SOUTH • WASHINGTON, D. C. 20006 • (202) 393-5910

March 8, 1983

Mr. John Wilkins
NJ TRANSIT Bus Operations
180 Boyden Avenue
Maplewood, New Jersey 07040

Dear John:

Attached is a draft outline of a policy paper with regard to independent bus operations in Newark and Jersey City. Please let me know if you think any other items should be covered.

Sincerely,



Arlee T. Reno
Vice President

Enclosure

cc: Laurie Lewis

RECEIVED

MAR 9 - 1983

DIRECTOR OF
OPERATIONAL PLANNING

CONTACT Gen.
" HUDSON JUSTIFICATION

DRAFT OUTLINE
OPTIONS FOR NJ TRANSIT POLICY
TOWARD INDEPENDENT BUS OPERATIONS

cc JH
REVIEW

A. Reno - March 1983

cc BF

I. Description of Existing Conditions

JH

A. Newark

LL

- NJ Transit as majority service provider
- Description of independent services
- Areas of service overlap
- Current NJ Transit assistance to independents
- Relationships among independents
- Summary of scope and trends in independent services, including magnitude, fares, service quality

- NJ TRANSIT SERVICES

B. Hudson County

- NJ Transit as minority service provider
- Description of independent services near NJ Transit routes
- Current NJ Transit assistance to independents
- Relationships among independents
- Summary of scope and trends in independent services, industry magnitude, fares, service quality

- AREAS OF SERVICE OVERLAP
- NJ TRANSIT SERVICES

II. Identification of Major Issues

C. ROUTES

A. Definition of The Overall Problem

- OVERVIEW OF CURRENT SITUATION

B. Problem Areas and Issues

- POLICY IMPLICATIONS

- Service quality and coordination
- Costs of NJ Transit vs. independents
- Fare differentials and passes
- Condition of leased vehicles
- Competitive postures and actions (both independents and NJ Transit)

III. Evaluation of Policy Options From Points of View of Riders, NJ Transit, and Independents

A. Route Reorganization

B. Encourage Expansion

C. Limited Takeover

D. Additional Assistance - IMPACT ON CAPITAL PROGRAM

E. Status Quo

THU - Dec 11/83 WEEK

IV. Suggested Timetable for Policy Choice and Implementation

A. Process for Choosing Policy

B. Timetable

C. Costs and Other Requirements for Implementation of Selected Policy

EXHIBIT D


N TRANSIT

P-64

File

6/29

Independent
Bus Companies

Date

11/16/82

To

J. Hughes

The attached (3 amended through 5 amended) supplements the material submitted on 11-12-82. It includes the impact of service reduction based on passenger use per hour.

Michael S. Friedman
105 TROY DRIVE
SPRINGFIELD, N. J. 07081

A CURSORY REVIEW OF THE IMPACTS RELATED
TO THE CONSOLIDATION OF SELECTED LOCAL
INDEPENDENT BUS OPERATIONS WITH NJ TRANSIT BUS

Background

For many years various privately owned and operated bus companies have been furnishing bus services in the urbanized areas of New Jersey. In some cases these private entrepreneurs operate completely apart from NJTB. However, a large number of them compete either partially or totally with our publicly owned services. As this practice continues it gives cause for concern over the increasingly scarce transportation dollars whether it be in taxes, furnishing funds for buses and expenses or in the passenger fare payments. One remedy to this could be rationalization.

Rationalization, the equitable re-allocation of services among the current providers, has been often suggested as the means of introducing a more economical basis for providing the services to the public. This can be a practical solution in some instances. Unfortunately, in this case such an approach is not suitable due to the large number of unrelated suppliers (owners). Consequently this review will examine the potential benefits to the State of New Jersey if its chosen instrument, NJ TRANSIT BUS were to provide all the local public bus services in the following areas.

Hudson County
Essex County
Passaic County
Atlantic County
Mercer County

Area of Interest

Briefly the extent of NJTB's current operating involvement in each of these areas and its level of facility availability is as follows:

Hudson County

Presently we operate eight (8) local lines from (2) garages located within Hudson County. These garages also house other non-local lines. The re-allocation of these lines to other locations, could possibly occur if these Hudson County garages were needed for new local services.

During FY83 it is estimated that we will operate about 1,940,000 miles on our own local lines. This represents about 1/3 of the mileage the independents presently operate. It is highly unlikely that our current facilities could accommodate all of the services involved without extensive modification of our line assignments.

Essex (including Union) County

Current bus operations provided in the Greater Newark area by NJTB includes 23 lines from 4 garage locations. Again, other non-local lines operate from some of these locations and could be reassigned elsewhere. More importantly, here in Essex County exists various instances of excess capacity on directly competing service. Thus it is anticipated that the savings in "Men and Machines" would be attractive. NJTB is projecting that its local lines in Essex-Union area will operate about 9.9 million miles in FY83 and the entire independent fleet will run about 2.5 million miles.

Passaic County

NJTB presently operates one garage in Passaic County that serves its local operations. The other facility, dedicated to commuter operations is nearby and possibly could be utilized for some reassignment of units. Our local bus operations should be just over 2 million miles during FY83. The independents, all subsidized should provide about 1.1 million miles of service.

Atlantic County

Atlantic County is served by Atlantic City Transportation Co. (ACTC) and NJTB. We have a limited facility in Atlantic City from where we operate local service south to Cape May serving the "on shore" and "off shore" communities. Naturally, our long distance operations to New York and Philadelphia represents the bulk of our operations in the area. Additionally, we have another facility in Wildwood which could relieve some potential maintenance overload. We have not segregated our miles in this area by class of service therefore no comparison in this regard could be made.

The acquisition and consolidation of ACTC has been examined in detail, and that data can be made available for further discussion.

Mercer County

NJTB does not maintain any facility in Mercer Co. but does operate one line into Trenton. Here as in the case of Atlantic City a more extensive study has been made and is available for review. In addition, recently imposed mandates upon Mercer Metro has reduced its miles by about 20% of its FY80.

IMPACT OF SERVICE CHANGE

Table (A) "Selected Local Bus Operations Data" was compiled from data supplied by Tri State Regional Planning Commission. It reflects information furnished by the independent operators in their annual report to the NJDOT Office of Regulatory Affairs for CY80. While no assurance can be made here as to the accuracy, it is relative among the various operators. When taken in its gross form it should meet the needs of this cursory review.

From Table (A) the estimate of total miles is 15,257,000. It is suspected that various localized conditions of duplication in services exist. It is estimated that such duplicate operations may be reconcilable in reduced operations totalling 10% of the current services. Likewise such reductions could trigger passenger reductions resulting in revenue losses of possibly 1-2% across the entire body of service being eliminated. If, therefore, we consider operating an additional 13,767,000 miles of urban transit service within the various urbanized areas as noted above, the cost of providing this service should follow our current cost levels very closely.

Our recently completed "Line Revenue and Expense Summary Report for July 1982" as supplied by our Controller's Department revealed fully allocated costs for 51 transit lines as follows:

(Line Statistics Analysis pg. 4)

<u>Expenses</u>	<u>Miles</u>	<u>Hours</u>	<u>Expense/mile</u>	<u>Expense/hour</u>
\$4,803,229	1,352,265	129,968	\$3.552	\$36.96

(Note: Our 51 transit lines will probably accumulate 14.7 million miles during FY83 - this is about 7% greater than the independents may run.)

If we accept this fully allocated cost per mile for transit operations as applicable due to the large body of service being considered which would engender considerable overhead expense, then we may consider that \$3.552 times (13,767,000 miles) could produce annual costs of \$48,900,384 or say \$49,000,000. Potential revenues may be estimated based upon the CY80 revenues reported by the operators; updated by our operating experience and FY83 projections. The time-related change between TNJ's revenue per hour and revenue per mile from CY80 to its FY83 projection is a factor of 1.28269.

Thus, if the Independent Bus Operations' revenue for CY80, \$35,812,000 (Table A) is increased by 1.28269 and reduced by the potential revenue drop of 1.5% it results in a possible revenue level in FY83 of \$45,246,659 - say \$45,000,000.

NJTB Service Reductions

If we adopt a rationale that discontinues route according to the following:

- Local routes with less than 20 passengers per hour
- Suburban routes with less than 10 passengers per hour
- Long Distance routes with less than 6 passengers per hour

Then the following routes by virtue of the passengers carried and hours operated between January 1, 1982 and September 30, 1982 would be candidates for discontinuance.

<u>Northern Division</u>	<u>Passengers per hour</u>
<u>Essex-Union-(Local)</u>	
8 Morris Avenue	15
40 Kearny-Newark	17
<u>Middlesex-Union-PABT (Suburban)</u>	
333 Plainfield-Carteret-NY	8
<u>Allentown-PABT (Long distance)</u>	
150 Allentown-NY	5

Passengers per hour

Passaic (Local)

14 Paterson-Haledon	14
21 Paterson-Wayne	13
22 Paterson-Wyckoff	14
42 Paterson-North Haledon	13
82 Paterson-Greystone	4
92/B-15 Paterson-Paramus-Allendale-Ramsey	11

Bergen (Local)

B Lines	14
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Miscellaneous

129 Paterson-Atlantic City	2
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Southern Division

Commuter Lines (Suburban)

10 Camden-Fort Monmouth	8
-------------------------	---

Seashore (Long distance)

125 Philadelphia-Beach Haven	4
------------------------------	---

Feeder Lines (Local)

B Echelon Mall-Camden	16
H Bellmawr-Camden	9
I Cape May-Ocean City-Lindenwold	6
K Lindenwold-Haddonfield	11
L-M-O Erial-Berlin-Lindenwold	17
Q Lindenwold-Glassboro	8
R Deptford Mall-Cherry Hill	15
U Lindenwold-Camden Co. College	14
V Moorestown-Camden	17
Z Deptford Mall-National Park	7

It is estimated that the reductions in total expenses and total revenues for FY83 attributable to these lines would be as follows:

	(000's)	
	<u>Expense</u>	<u>Revenue</u>
Northern Division	\$8,523	\$3,113
Southern Division	<u>5,117</u>	<u>1,689</u>
Total	\$13,640	\$4,802

It must be noted that these expenses are based upon the full expense allocation and only with a detailed examination would it be possible to define the avoidable costs associated with a reduction such as this, likewise the revenues being considered lost could be retained in many instances with a careful re-alignment of the lines remaining or being considered for acquisition.

Thus if we consider these three conditions - our present budget, the suggested reductions and suggested acquisition the financial situation could change possibly as follows:

	<u>Expense</u>	<u>Revenue</u>	<u>Deficit</u>	<u>Oper. Ratio</u>
FY83 Budget	\$168,016	\$114,446	(\$53,570)	0.68
reductions in NJTBO	(13,640)	(4,802)	8,838	
Acquisitions to NJTBO	<u>49,000</u>	<u>45,000</u>	<u>(4,000)</u>	
Results	\$203,376	\$154,644	(\$48,732)	0.76

Resources required

To accomplish these revisions in service, the following changes would occur:

	<u>NJTBO Service Reduction</u>	<u>Addition of the Acquired Service</u>	<u>Potential Demand</u>
Hours	321,600	1,323,166	1,001,566
Miles	5,283,516	13,767,000	8,483,484
Peak Period Buses	90	375	285
Bus Operators	165	650	485
Maintenance Dept. Personnel	50	190	140
Operating Dept. Personnel	15	50	35
Administ. & Claims Employees	20	50	30

While the buses saved in the Southern Division and buses reclaimed from the Independents will be available and certain manpower may also be available, the need for one maintenance facility in Hudson County appears to remain the most significant shortage. The Passaic co. facility demand may be mitigated entirely by the reassignment of various lines between the existing facilities.

EXHIBIT E

TRANSIT MEMO

TO: John Wilkins
FROM: Laurie B. Lewis *Lewis*
DATE: ~~May 10, 1985~~
SUBJECT: Arlee Reno Report

Arlee Reno's draft report on Independent Bus Operators is an excellent overview of the situation and the issues, and presents a thoughtful array of the options open to us. I would only add one element to his report -- ~~the myth of private enterprises.~~ Many of these independents have virtually no investment in their companies. We own the buses, the carriers lease or share garages, they own no maintenance equipment, etc. Their only contribution to the company is management. ~~The obvious question is whether the public is served by the quality of that management.~~

mc

cc: A. R. Hasbrouck, III
G. W. Heinle
B. Feigenbaum
E. Butler
D. McDaid
F. Stephens
J. Hughes



Amg

JUN 22 1983

#570

June 22, 1983

To: Ben Feigenbaum
Laurie Lewis ✓

From: John Wilkins ✓

Re: Independent Bus Operators

Attached for your review please find revised copy of Arlee Reno's draft entitled "Options for NJ TRANSIT Policy Towards Independent Bus Operators". If you will recall, this paper addresses only the independent question in ~~Clark and Bergen County~~. Please review this draft and provide me with any ~~comments you may have~~ as soon as possible. I believe it would be prudent to plan a briefing for George Heinle and Jerry Premo as soon as possible. Arlee spends a good deal of his time in New York City and it is generally possible to obtain his presence in relatively short notice.

You will notice that at the end of the paper Arlee has included suggested exhibits for use and presentation. Would you also provide me with your thoughts on what materials should be provided for presentation and I will have them produced in the print shop.

If you have any questions, please let me know.

JW:mg

Attachment

cc: J. Hughes

DRAFT

OPTIONS FOR NEW JERSEY TRANSIT POLICY
TOWARD INDEPENDENT BUS OPERATORS

Arlee T. Reno

SYDEC

June 6, 1983

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I. 'EXISTING CONDITIONS

There are some instances in which independent bus operations and NJ TRANSIT's bus operations in Newark and in Hudson County continue to affect one another. All of these areas have a very long history, dating back to decades past when Public Service or later TNJ was a private company and the respective independent companies were owned by different individuals than own them today.

In the recent past, a great deal has been accomplished to improve the relationships between the State's bus operations and the independent's bus operations. Among these improvements have been the provision of substantial assistance to the independent carriers by providing them with buses, the inclusion of independents into the transfer program, and the inclusion of independents, where appropriate, into the bus pass program. In most instances the independent operators would not continue to exist today without the capital assistance and other aid which the State has provided.

Many of the independent operations serve particular market areas which are not now in conflict with bus operations provided by NJ TRANSIT and no issues arise over any operational matters. However, the State has a strong interest in assuring that such carriers provide adequate maintenance to State-owned vehicles, that they provide on time service to the public, and that their routes are coordinated with other transit services to the degree necessary to provide the greatest convenience to the public. The extent to which each of the independent operators achieves these goals varies based upon the individual company or association, with some providing better maintenance than others, and some taking more actions than others to coordinate their services with other bus or rail services.

A great deal of rhetoric in the past has been devoted to whether either of the terms "private" or "public" respectively implies more management efficiency, cost-effectiveness, service quality, or even moral superiority.

~~This rhetoric has clouded the reality of the generally cooperative relationship~~
~~between private operations and public agencies.~~ The state has since 1976 been the supplier of almost all new buses put into transit service by private operators. The recent new bus purchase and rehabilitation program points out the dominant role of public funds in supplying transit buses, whether utilized by private operators or by NJ Transit.

The reliance of New Jersey's private bus service providers on public financing is underscored by recent requests that NJ Transit provide ~~public~~
~~capital assistance~~, such as specific maintenance equipment or entire garages to be used by the private companies or associations of companies. The lack of private capital investment in public transit reinforces the need to develop ~~opportunities and positive relationships~~. The goal should be to ~~recognize both public and private managers as resources~~, and to use those resources efficiently in coordination with revenues and capital facilities to provide the desired quality of service to the transit user.

Outside of the charter business, there is very little purely "private" enterprise in the classical sense of the term, whereby private capital is invested in transit at a risk, in the hopes of generating a return on the investment. ~~Most private assets have now been fully depreciated.~~ The only private financing now occurring in transit is not from private operator entrepreneurs but from ~~large companies buying tax depreciation benefits from public transit~~
~~operators.~~ Private operators now basically ~~provide management services~~

Newark and Hudson County

The relationship between NJ TRANSIT's Bus Operations and independent bus operations is fundamentally different in Newark than in Hudson County. In the Newark area, NJ TRANSIT bus operations provides the vast majority of bus service, and schedules and coordinates these services as an integrated system. The independents operate a very small portion of bus service. Based upon the number of buses in operation, most of the Newark independent buses are no longer in direct operational conflict with NJ Transit bus services. However, a significant number of independent routes which each use a small number of buses do conflict with NJ Transit services.

In Hudson County, NJ TRANSIT is not the dominant service provider, but does provide well patronized services which contribute significantly to maximizing the productivity of NJ TRANSIT capital facilities and personnel. Newark and Hudson County are discussed separately because of the different circumstances in the two areas.

Newark

In the Newark area, independent bus operators provide services on ten routes, with a total peak hour bus requirement of 58 buses. Three independent routes have no competition with NJ TRANSIT routes - South Orange Avenue, with 22 peak buses; Route 6 with 3 buses; and Route 44 with 6 buses; for a total of 31 of the 58 peak buses. These are shown in Table 1.

In addition to these routes on which there is no competition between NJ TRANSIT and independent operations, there are two routes on which the independents and NJ TRANSIT operate coordinated schedules. These operations are shown in Table 2.

TABLE 1

INDEPENDENT NEWARK ROUTES - NO COMPETITION

<u>Route and Operator</u>	<u>Number of Buses</u>
Route 6 Irvington/Elizabeth Elizabeth-Union-Hillside- Irvington Line, Inc.	3
Route 31 South Orange Avenue South Orange Avenue Independent Bus Operators Association (13 individual bus companies)	22
Route 44 Edgar Road Beviano Chartered Service	6
Total Non-Competitive	<u>31</u>

TABLE 2

INDEPENDENT NEWARK ROUTES -COORDINATED WITH NJ TRANSIT

<u>Route and Operator</u>	<u>Number of Buses</u>
Route 24 West Orange/Elizabeth E. Vanderhoof and Sons Wohlgemuth Bus Co., Inc. Martucci Bus Co.	2 2 <u>2</u>
Total	6
Route 30 First Street Elizabeth Transit Corp.	2
Total Coordinated	<u>8</u>

The above carriers have coordinated schedules with NJ TRANSIT Bus Operations. In each case, NJT provides a majority of service and prepares the schedules. In general, the independents are allowed to operate their buses continuously (16 hours per day), and NJ TRANSIT provides for the additional service needed in the peak. This amounts to an implicit operating subsidy for the independents, since they are allowed to achieve all day productivity while NJT uses some of its equipment and personnel only during peak hours.

As shown in Table 3, there are five routes on which independent operators can be said to be operating in competition with NJT. These instances involve a total of only 17 buses. In all of these cases, the independents operate continuously throughout the day with all 17 buses, leaving NJT to provide the additional services necessary during peak hours. In addition, these independents usually turn back their buses so as to operate only along the most lucrative portions of the route, and attempt to pull out directly in front of NJT buses so as to maximize their revenues. This action by these independents results in inferior service to the public in comparison to operating coordinated schedules.

The nature of the competition is slightly different for each of these routes. The 12 Route competes with a segment of NJT Route 24 along Newark Avenue, Frelinghuysen, and Broad Street, which also puts them in competition with the independent 24 services which are coordinated with NJT. Only 4 buses operate on the 12 Route during the peak, with 17 on NJT's 24 Route and 6 on the independents' 24 Route.

The 18 Route North Newark on which 6 buses are operated competes directly with the NJT 13 along the inner portion of the NJT 13 Route, a short segment of which is also served by the NJT 24 Route and the independent 24 Route.

TABLE 3

INDEPENDENT NEWARK ROUTES - COMPETITIVE WITH NJ TRANSIT

<u>Route and Operator</u>	<u>Number of Buses</u>
Route 12 Newark/Elizabeth	
Leo Transit Corp.	2
Eva Gershkowitz, Inc.	1
Central Jersey Bus Co.	1
Total	<u>4</u>
Route 16 Clinton Avenue	
Clinton Avenue Bus Co.	2
Route 18 North Newark	
Irving Transit Co.	1
Van Buren Bus Co.	1
John A. Policastro	1
M.A.B. Corp.	1
Timothy J. Ryan	1
Patsy Palangio	1
Total	<u>6</u>
Route 25 Springfield Avenue	
Browel Bus Co.	1
484 Corp.	1
Lincoln Bus Co.	1
Ellmas Bus Co.	1
Total	<u>4</u>
Route 38 Kearny	
Will Morris	1
Total Competitive	<u>17</u>

The 16 Route operated by the Clinton Avenue Bus Co. provides service with two buses over virtually the same route as NJT's 13 and 14 Routes, with the area of competition along Clinton Avenue and Broad Street between Irvington and downtown Newark. NJT's 13 Route uses 26 peak buses and the 14 Route 10 peak buses, so the 16 Route provides a very small portion of services.

The independent 25 Springfield Avenue Route operates over a portion of NJT's 25 Route, with 4 peak buses compared to 14 operated by NJT.

The 38 operates one bus over a route which has only minor deviations from the NJT 39 and 40, which operate a total of 14 peak buses.

Among these various companies and routes which compete or cooperate with NJ Transit in Newark, there are several owners who each control more than one of these specific independent companies. In some instances they control other companies as well, which are not at issue here. Beviano controls Beviano Chartered which operates Route 44 Edgar Road (not in competition) and Central Jersey on Route 12 Newark-Elizabeth (competitive). Leo controls the Route 30 First Street Elizabeth Transit (coordinated with NJT) and Leo Transit on Route 12 Newark-Elizabeth (competitive). White controls Wohlgemuth on Route 24 West Orange Elizabeth (coordinated with NJT), the Route 16 Clinton Avenue Bus (competitive), Lincoln Bus Company on Route 25 Springfield Avenue (with Revere, and competitive), and shares 484 corporation on Springfield Avenue (competitive) with Tedesco, Weiss, and Revere. The Amiano group includes Eva Gershkowitz Inc. on Route 12 Newark Elizabeth, and Route 18 North Newark companies including Irving Transit, Van Buren, John A. Policastro, and M.A.B. Corp (all competitive).

Since all of the independents attempt to maximize their revenues, the reported revenue per bus and per mile for those who cooperate or compete with NJT is important to compare. Table 4 shows approximate bus revenue per bus and per

TABLE 4

REVENUES REPORTED
ON INDEPENDENT NEWARK ROUTES

<u>Route and Operator</u>	<u>Buses</u>	<u>Reported Miles</u>	<u>Reported Revenue</u>	<u>Revenue Per Bus</u>	<u>Revenue Per Mile</u>
Route 12 Newark-Elizabeth					
Leo Transit Corp	2	NR	\$121,000	\$61,000	NR
Eva Gershkowitz	1	51,000	62,000	62,000	\$1.22
Central Jersey	1	49,000	83,000	83,000	\$1.69
Route 16 Clinton Avenue					
Clinton Avenue Bus	2	165,000	\$232,000	\$116,000	\$1.41
Route 18 North Newark					
Irving Transit	1	61,000	\$64,000	\$64,000	\$1.05
Van Buren	1	60,000	62,000	62,000	\$1.03
John A. Policastro	1	60,000	63,000	63,000	\$1.05
M.A.B. Corp	1	60,000	62,000	62,000	\$1.03
Timothy J. Ryan	1	58,000	83,000	83,000	\$1.43
Patsy Palangio	1	38,000	76,000	76,000	\$2.00
Route 25 Springfield Ave.					
Browell	1	42,000	\$126,000	\$126,000	\$3.00
484 Corporation	1	66,000	\$146,000	\$146,000	\$2.21
Lincoln Bus	1	75,000	\$137,000	\$137,000	\$1.83
Ellmas	1	67,000	\$137,000	\$137,000	\$2.04
Route 38 Will Morris	1	49,000	\$74,000	\$74,000	\$1.51
Route 24 West Orange Elizabeth					
E. Vanderhoof and Sons	2	140,000	\$278,000	\$139,000	\$1.99
Martucci	2	129,000	287,000	\$144,000	\$2.22
Wohlgemuth	2	118,000	271,000	\$136,000	\$2.30
Route 30 First Street					
Elizabeth Transit Corp	2	NR	\$124,000	\$62,000	NR

mile for the independents on Routes 12, 16, 18, 25, and 38 who compete with NJT, and for the independents on Routes 24 and 30 which coordinate with NJT. The reported revenue is taken from the 1981 and 1982 reports by the carriers to the Office of Regulatory Affairs, and the accuracy of the information reported is entirely at the discretion of the owners. All figures are for 1981 except for the Route 25 companies.

Based upon the information provided by the independent operators, it appears that there is a fairly wide range of route productivity in terms of either revenue per bus or revenue per mile. Both the Route 24, on which the independents coordinate with NJT, and Route 25, on which they compete, are equivalent in terms of revenue productivity on either a per mile or per bus basis. In addition, the revenue productivity of routes 24 and 25 is much higher than that of the other routes listed.

The reported revenue productivity for the companies owned by the Amiano group is consistently around \$62,000 per bus, as is that of the Leo group. In addition, the Amiano and Leo companies report lower revenue productivity per bus and per mile than do the other bus companies on the same routes.

In general then, the operations of the independents in Newark which are competitive with NJT Bus Operations:

- comprise a very small percentage of peak hour services along each route
- operate their few buses all day, without making any contribution to providing for the added peak hour service requirements
- serve only the inner portion of the route on which they compete (even if their rights extend further)
- sometimes share common ownership with independent companies which cooperate with NJT

- cover a vast range in terms of reported revenue generated per bus or per mile of operation.

Hudson County

In Hudson County, independent operators provide a much more significant proportion of service than they provide in the Newark area. In addition, in the few instances in which there is a competitive situation, it occurs because a large independent association and NJT are each operating over a single major arterial for a portion of their respective routes which do not overlap at either end.

Two routes in Hudson County are the principal areas in which NJT operations and independent operations overlap. The two associations of independent operators who provide services along a portion of a major route which is also served by NJT are:

- Lafayette and Greenville Bus Owners Association which has 18 companies owned by a total of 10 separate groups.
- Montgomery and West Side Bus Owners Association, which has approximately 13 companies, predominantly owned by the Antinoro and Checcia group.

Lafayette and Greenville Bus Owners Association (LGBOA) and NJ TRANSIT's Route 14 both operate on Ocean Avenue in Jersey City with overlapping service for approximately 2.5 miles. Each service originates in different areas south of the area of competition. LGBOA also operates entirely within Jersey City, while NJT Route 14 extends from lower Bayonne through uptown Bayonne, Greenville and Lafayette.

The LGBOA provides more local service than the NJT Route 14 and has historically carried more passengers per bus along Ocean Avenue. The NJT Route 14 primarily provides express trips during rush hours on the New Jersey Turnpike

instead of using Ocean Avenue for all trips. NJT's service along Ocean Avenue is at approximately a 30 minute frequency, whereas the LGBOA provides about a 5 minute frequency at peak hour and about a 10 to 12 minute frequency during midday.

The LGBOA operates 21 buses typically 25,000 miles per bus per year, with revenue between \$72,000 and \$76,000 per bus or about \$3.00 per mile in 1982 for most of the companies. Currently, the members collectively operate 9 buses owned by NJ Transit.

NJ Transit follows the practice of running all of the Route 14 buses open door along a short portion of Route 14 when the buses are being put into or taken out of peak hour services. This results in NJT providing a relatively high level of service along the area of competition in the direction opposite to the peak commuter flow during both the late morning (towards Bayonne from 8:12 am to 9:42 am) and in the early afternoon (towards Jersey City from 2:48 pm to 5:13 pm). The alternative for NJT would be to operate closed door or over the New Jersey Turnpike for these trips, which would of course reduce total revenue service to the area. The NJT Route 14 schedule is attached as an appendix.

The Montgomery and West Side Avenue Bus Owners Association (MWSBOA) and NJ TRANSIT's Route 9 both operate on the same portions of West Side Avenue and Montgomery Street for a total distance of approximately 2.5 miles. The routes both connect to Exchange Place but only the NJT route goes to Journal Square. The Montgomery and West Side Association schedules 14 peak buses and NJ TRANSIT about 16.

NJ TRANSIT's Route 9 is one of the superior bus routes in the entire NJ TRANSIT system. Some historical passenger count data showed Route 9 vehicles carrying heavier passenger loads than MWSBOA buses. Both routes have historically

generated a very high number of passengers per mile. NJT Route 9 also operates at night (until 12:50 am) whereas MWSBOA does not provide service after 8:30 pm. In addition, unlike many other independents, MWSBOA provides about half as much service during midday periods as during the peak.

The Montgomery and West Side Bus Owners Association operates typically 20,000 miles per bus per year, reflective of both the low speeds of operation and the service profile. During 1982, the companies reported an average annual revenue per bus of \$57,000 to \$60,000, the lowest of any of the routes on which some competition occurs. This is an increase of only \$12,000 to \$15,000 per bus from the levels of revenue reported by MWSBOA members in 1975, so revenue growth for these carriers has been well below inflation levels. (Lafayette and Greenville has had similarly low reported revenue growth, but starting from an annual average revenue of \$64,000 per bus in 1975.)

The competitive nature of the services along West Side Avenue is fairly unique in that both operators provide about the same level of service and the routes can be considered to be relatively productive for each despite the common service area along West Side Avenue.

Thus, in Hudson County, NJ TRANSIT is either a minority operator or an equal operator on two routes which are affected by independent operations. In both instances, the nature of competition is along a short portion of NJT and independent routes which originate and terminate in different areas. This is an entirely different situation than exists in the Newark area in which the competitive independents generally serve a small portion of a route, all of which is served by NJT.

Principal conclusions that can be reached about the effects in Hudson County of independent bus operations and NJT operations on each other include:

- NJT is not the dominant service provider
- The area of competition is along a short segment of a major arterial, and the routes in competition along that segment originate and terminate in different areas.

Hudson-Bergen

An additional competitive situation occurs on an independent route which traverses both Hudson and Bergen Counties. The Number 22 Bus Line, which is principally a charter company, operates a route between Hoboken and Fort Lee which is in competition with NJ Transit's 44, 22, and 19/26 routes, basically along Bergenline Avenue and Bergenline/New York Avenue. The Number 22 Bus Line terminates at Hudson and 13th St. in Hoboken, as does the NJT 22 Route whereas Route 44 goes to Journal Square and Route 19/26 goes to the Erie-Lackawanna Station.

The Number 22 Bus Line is owned by Tedesco (New York, Keansburg & Long Branch, Academy, etc.) with participation by Antinoro (owner of many Hudson County companies.) In 1982, the Number 22 Bus Company operated 126,060 miles of regular route service and 1,479,590 miles of charter, school, and special services, indicating that the major focus of this company is not on regular route transit. The transit route revenue reported in 1982 was \$186,788, indicating a revenue per mile of \$1.48. As in the Newark cases, NJT provides the majority of services on the overall route, with 4 peak buses on the 19/26 route and approximately 14 peak buses on the 44 route.

II. IDENTIFICATION OF MAJOR ISSUES

There are several major policy issues which are raised by the interactions of NJ Transit and independent bus operations in Newark and Hudson County. These major policy issues include:

- Assuring **service quality** and service **coordination** for public transit users in both Newark and Hudson County **at the lowest possible cost**
- Improving the equity and **understandability of the fare structure** including the transfer program and the bus pass program
- **Maintaining the fleet of publicly owned buses** to adequate standards, giving particular concern to the capabilities of very small operators to maintain vehicles which are becoming much more complex
- Realistically assessing the **costs** that would be incurred by particular independents or NJT **to provide specific services**
- **Establishing a dialogue** based upon the desirability of reaching **mutually beneficial agreements**, rather than attempting to take something away from the other party.

The overall issue is the need to improve the level of discussion and negotiation, beyond the rhetoric pitting public against private, and to give full attention to **reaching new agreements which serve the interests of the public, the independents, and NJ Transit.**

III. , EVALUATION OF POLICY OPTIONS

Based upon the analysis of existing conditions and issues, six major policy options are identified as potential approaches to resolve the overlaps in service and coordination problems between NJ Transit and the independents. Each of the six policy options is evaluated from the perspectives of the State, the riding public and the independent operators. The six major options are:

1. Route Reorganization - an attempt would be made to group the independents in Newark onto one or more routes which NJ Transit would remove itself from; the independents would give up existing routes and combine into one or more associations. In Jersey City, this option would be accomplished by NJT getting off Route 14, taking over the routes of MWSBOA, and combining MWSBOA into LGBOA.
2. Expansion of Independent Services - as with South Orange Avenue, NJ Transit would remove itself from specific routes and let the independents expand their services to the level they decide to operate on the entire route.
3. Complete Takeover - NJ Transit would cease any capital or operating assistance to the independents, letting as many as possible fail and taking over their routes; any which didn't fail would be purchased through negotiations or taken through eminent domain (the latter requiring the approval of the Legislature.)

4. Selective Takeover - NJ Transit would take over those routes where adequate service was not being provided by the particular independents or where significant adverse effects of independent operations on NJT were being experienced. A suboption would be to allow selected independents to take over the routes or operations of other independents.
5. Additional Assistance - NJT would seek to provide added assistance in terms of either capital equipment, direct operating aid, or in direct operating aid, so as to strengthen the capabilities of the independents to provide better service.
6. Status Quo - NJT would continue to deal with the individual operators as specific problems arose, but would allow all current service overlaps to continue unless the carriers voluntarily ceased operations. Then, either NJT would take over for the failed carrier or allow another operator to take over.

Clearly, combinations of these policies are possible, and a different policy might be adopted in different parts of the state, due to the differing circumstances in those jurisdictions. In addition, a general policy might be pursued with regard to most independents, such as route reorganization or additional assistance, but specific low quality operators might be replaced.

Route Reorganization

Under this option, the DOT and NJT would attempt to get all of the Newark independents who operate in competition with NJT onto a non-competitive route or routes. This would require either trading or purchase of operating rights or the granting of additional rights on the route (or routes) that the independents would operate.

DOT and NJT would require that the independents form a single route association for each route they would operate, and that the new association operate in accord with published schedules. Because all of the Newark independents now operate day long blocks of service, they would prefer a route which allowed them to operate nearly equal peak and base services. Obviously, the independents would also require a route which would provide them each with at least as much revenue as they now generate from their current operations. Some of the independents report having less than half the yearly revenues per bus or per mile than other independents. The lower revenue independents might be willing to operate during just a portion of the day if they could achieve as much revenue as they currently do.

Table 5 shows the number of buses operated at peak hour along routes where some competition currently exists. Since the independents who are competitive have a total of only 17 buses, it is clear that the possible candidates for a single independents' route would be the 24 or the 25. The independents could also potentially operate both the 30 and the 38,39,40 routes. The competitive area served the 13,14,16 and 18 requires too many buses to turn over to the independents. If the independents take over any entire routes, they would of course trade in their other existing routes.

TABLE 5

BUSES NEEDED TO OPERATE ROUTES ON WHICH COMPETITION NOW OCCURS

<u>Route</u>	<u>Buses</u>
<u>Combined 12 and 24</u>	
NJT Route 24	17 buses
Ind. Route 24	6 buses
Ind. Route 12	<u>4</u> buses
Totals	27 buses
<u>Springfield Avenue 25</u>	
NJT Route 25	14 buses
Ind. Route 25	<u>4</u> buses
Totals	18 buses
<u>Combined 13, 14, 16, and 18</u>	
NJT Route 13	26 buses
NJT Route 14	10 buses
Ind. Route 16	2 buses
Ind. Route 18	<u>6</u> buses
Totals	44 buses
<u>Combined 38, 39 and 40</u>	
NJT Route 39 and 40	14 buses
Ind. Route 38	<u>1</u> bus
Totals	15 buses
<u>Route 30</u>	
NJT Route 30	3 buses
Ind. Route 30	<u>2</u> buses
Totals	5 buses

The route 24 and 25 independents have the highest revenue productivity of the competitive or cooperative routes operated by the Newark independents. The revenue per peak bus on either the NJT Route 24 or Route 25 is higher than the revenue per peak bus now being achieved on the other Newark routes by independents who compete with NJT bus operations.

If NJ Transit is interested in pursuing route reorganization in Newark, specific revenue vs. cost impacts on NJT and the independents should be prepared using the latest fare structures, revenue data, and line item costs for services on the 13,14,24,25,39,40 and their independent counterparts. On some NJT routes, it is unlikely that service would have to be increased if the independent competitive carrier were off the route. This is probably the case for the combined Routes 13 and 14, for the combined Routes 39 and 40, and for Route 25. NJT would gain approximately the revenues shown in Table 4 if the specific independent routes were taken over. Route reorganization in Newark could have substantial benefits to all parties - NJ Transit, the independents, and the public, if the total costs of service on the reorganized routes becomes less than with the existing situation.

Route reorganization in Hudson County would involve proposing a major trade wherein NJT and the MWSBOA would exchange the NJT 14 Route in Hudson County for the Montgomery and West Side route. MWSBOA could then be integrated with the LGBOA, if the two associations desired. There is currently some common ownership among the two associations.

The number of buses, revenues, service profiles and miles of operation for the MWSBOA and NJT Route 14 have been historically very comparable. As with Newark, an in-depth assessment of likely future costs, ridership, and revenues should be made if NJT has interest in pursuing such a negotiation.

Route reorganization in Hudson County could also have significant benefits to all parties, but would involve substantial negotiations among the members of the independent associations.

Expansion of Independent Services

Under this option, NJT would remove itself from specific routes and let the independents operate the level of service they decided to provide. Based upon previous experience with the South Orange Avenue Line, this option is likely to result in a lower overall level of bus service to the areas served. In addition, as the description of existing conditions indicates, the Newark independents provide such a minority of service on the routes on which they compete that this option is not viable in Newark.

When TNJ was removed from the South Orange Avenue 31 Line, and the South Orange Avenue IBOA took over all services, the IBOA went from an 11 bus operation which provided the same peak vs. off peak services to a 22 bus operation at peak hour with 14 buses used during middays and on Saturdays. The South Orange IBOA now provides 671,000 miles of service on the 31 Route each year, as compared to 409,000 annual miles of IBOA service and 715,000 annual miles of TNJ service prior to the removal of TNJ from the 31 Route. Thus, IBOA operations increased by 64% per year in terms of miles of service and doubled in terms of peak bus requirements. Overall miles of service on the 31 Route are down by 55%. One additional company called Meadowlands Transit Co. is now in the SOAIBOA; otherwise the twelve member companies are the same as before they took over TNJ's portion of the route.

Complete Takeover

- Under this option, NJT would cease further capital assistance to the independents, cancel leases of equipment, and thus seek to remove as many as possible from the competitive routes at no cost. Those still able to operate would be purchased or taken through exercising eminent domain. ~~Since the~~

~~carriers have few assets, and do not generate profits, according to their~~

~~annual reports, the fair market value of most of the companies will be very~~

~~low.~~

NJ Transit would determine for each route whether there was a need to replace the service which the independents now supply, based upon an analysis of ridership loads and headways.

~~Complete takeover would provide a portion of the checks and balances~~

~~which now tend to moderate the NUI union's wage and benefit demands. Complete~~
takeover also would not differentiate among those carriers providing a portion of ~~needed services at a lower cost than they could be provided by NJT~~ and those carriers who simply skim the cream by operating just ahead of NJT trips.

Complete takeover does unambiguously eliminate competition and allows the overall bus system to be revised so as to ~~distribute service consistently on the~~
~~basis of passenger needs~~ on the respective routes.

Selective Takeover

Under this policy option, NJ Transit would establish specific criteria for determining which independent operators should be taken over either by cancelling their leases or through purchase. Criteria for deciding upon takeover could include:

- condition of the state owned equipment leased to the operator, as determined by a standardized program of inspections
- service quality, as determined by on-time performance, maintenance of headways, inspections of the cleanliness of vehicles, and passenger complaints
- carrier operating practices, such as willingness to coordinate schedules and headways with NJT vs. pulling out just in front of NJT trips
- a comparison of the net impact of the carrier's operation on total costs for the competitive route.

There are several options for NJT and DOT if a carrier is taken over. First, it may be feasible to operate the route with the existing level of NJT service, and the independents' ridership and the resulting revenue would accrue to NJT at no additional cost. Second, NJT could add a bus or buses to the route, and the resulting costs would offset the revenue gained. Third, another selected independent could replace the service lost, under the conditions that they meet the criteria and that the net cost would be lower than if NJT replaced the service.

Selective takeover has the advantage of determining future decisions about individual operators on criteria of service quality and cost. However, in the past the State has found it very difficult to take any action (even short of takeover) against specific private carriers, ~~because of political reactions and charges of unfairness~~

Additional Assistance

Under this option, NJT would seek to strengthen the independent operators, including those operating competitively, by providing them with additional capital assistance and either direct or indirect operating assistance. The bus rehabilitation program, under which NJT will provide additional buses to those independent carriers operating the oldest vehicles, is the principal means for providing capital assistance. The rehabilitated buses are likely to be vehicles with which the independents are already familiar, and which are not overly complex.

Indirect operating aid could be extended through the bus pass program, or through NJ Transit assuming responsibility for some regular maintenance or servicing in conjunction with periodic inspections. Direct operating aid is available through the subsidy program.

In return for any significant increases in assistance, NJ Transit could require all the Newark independents to run on coordinated schedules with NJT. Penalties for cutting in just ahead of NJT buses could be assessed as reductions in the payments otherwise due under the pass program or E & H program.

The provision of more assistance may improve some aspects of service quality if coordinated schedules can be agreed upon and maintained. The Newark independents could revert quickly to a competitive posture if not closely monitored. For Hudson County, the benefits of additional assistance would be to moderately strengthen the independent associations and thus their ability to provide service. However, the additional assistance would not change the perception of competition between NJT and Lafayette and Greenville or Montgomery and West Side.

Status Quo

Under the status quo, NJT and the independents would continue the historical pattern of services and maintain the programs relating NJT and the independents at their current levels. The status quo continues the same relationship between costs and service quality as occurs today. Under the status quo, service quality as perceived by the public will continue to suffer in the competitive market areas due to the actions of the independents who try to operate their trips directly in front of NJT trips in order to maximize their revenues. This guarantees the public that service will be much less convenient and that they will experience longer waiting times, boarding times, and crowdedness than if coordinated and regular headways were maintained.

A second service quality issue is created by the differing abilities of the various independents to provide a reasonable service profile or to meet their established headways, if they have published schedules. Performance varies widely across routes and companies.

Summary

Exhibits 1 and 2 summarize an initial qualitative comparison of the policy options in Newark and Hudson County, respectively. The options are evaluated against likely net costs (to NJT, the independents and the public), ease of implementation (political and administrative), impact on service conflicts, and impacts on service quality and quantity.

EXHIBIT 1

SUMMARY OF ESTIMATED
IMPACTS OF ALTERNATIVE
POLICIES TOWARDS COMPETITION
BETWEEN NJT AND INDEPENDENTS

NEWARK

	<u>Route Reorganization</u>	<u>Expansion of Independent Services</u>	<u>Complete Takeover</u>	<u>Selective Takeover</u>	<u>Additional Assistance</u>	<u>Status Quo</u>
Likely Net Costs to						
NJT	No change	Modest decrease	Large increase	Modest increase	Modest increase	No change
Independents	Modest decrease	Modest decrease	(Eliminated)	Modest increase	Modest decrease	No change
Riders (Fares)	No change	Modest decrease	Modest increase	Modest increase	Modest increase	No change
Ease of Implementation						
Political	Difficult	Easy	Difficult	Difficult	Easy	Easy
Administrative	Difficult	Not feasible	Difficult	Difficult	Easy	Easy
Impact on Service Conflicts						
	Eliminated	None	Eliminated	Modest decrease	Modest decrease	None
Impact on Service Quality and Quantity						
	Modest increase	Large decrease	Modest increase	Modest increase	Modest increase	None

EXHIBIT 2

SUMMARY OF ESTIMATED
IMPACTS OF ALTERNATIVE
POLICIES TOWARDS COMPETITION
BETWEEN NJT AND INDEPENDENTS

HUDSON COUNTY

	<u>Route Reorganization</u>	<u>Expansion of Independent Services</u>	<u>Complete Takeover</u>	<u>Selective Takeover</u>	<u>Additional Assistance</u>	<u>Status Quo</u>
Likely Net Costs to						
NJT	Modest increase	Large decrease	Large increase	Modest increase	Modest increase	No change
Independents	Modest decrease	Modest decrease	(Eliminated)	Modest increase	Modest decrease	No change
Riders (Fares)	No change	Modest decrease	Modest increase	Modest increase	Modest increase	No change
Ease of Implementation						
Political	Very difficult	Easy	Very difficult	Very difficult	Easy	Easy
Administrative	Very difficult	Very difficult	Difficult	Difficult	Easy	Easy
Impact on						
Service Conflicts	Eliminated	Eliminated	Eliminated	Modest decrease	Modest decrease	None
Impact of						
Service Quality and Quantity	Modest increase	Large decrease	Modest increase	Modest increase	Modest increase	None

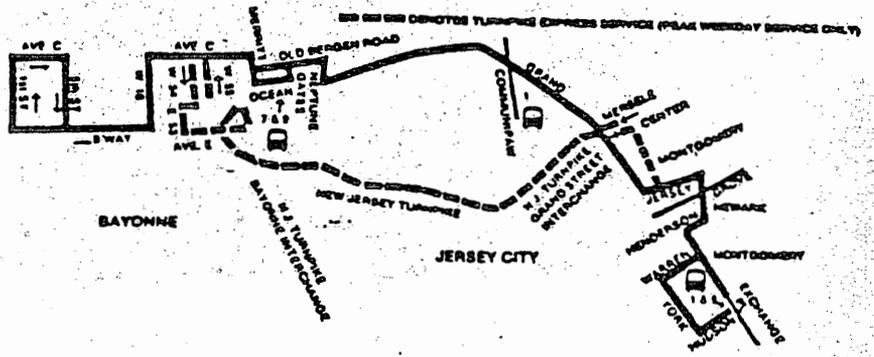
IV. SUGGESTED TIMETABLE FOR POLICY CHOICE AND IMPLEMENTATION

An important initial step was taken in the recent appointment of a commission to study the relationships between the independent operators and New Jersey Transit. A principal goal of that group should be to establish a positive dialogue between the parties, so that the range of options under discussion can include options that may be mutually beneficial although difficult to negotiate.

Options which may be mutually beneficial include those described as route reorganization or additional assistance, and any combination of these two in which NJT and the independents could provide more effective service to the public while reducing areas of conflict and increasing the ability of each operator to use its resources productively. The group can ultimately be successful if it can establish that its deliberations will move beyond rhetoric concerning whether public or private operators supply better service, control costs better, or are more morally righteous.

The suggested timetable for policy choice and implementation includes:

- June - decide on options worthy of further consideration
- July, Aug. - qualitative and quantitative estimates of the impacts of particular options on the public, NJ Transit, and independent operators
- September - ? - reach agreement on policy and on actions by each party necessary to implement policy.



To Jersey City

Weekdays

including the following Holidays
 Good Friday
 Columbus Day
 Veteran's Day
 Election Day

BAYONNE B'way & 1st St	JERSEY CITY Grand St	JERSEY CITY Exchange Place Terminal
A.M.	A.M.	A.M.
5:30	5:47	5:58
6:00	6:17	6:28
6:30	6:51	7:03
7:00	7:21	7:33
7:30	7:51	8:03
8:00	8:21	8:33
8:30	8:51	9:03
9:00	9:21	9:33
9:30	9:51	10:03
10:00	10:21	10:33
10:30	10:51	11:03
11:00	11:21	11:33
11:30	11:51	12:03
P.M.	P.M.	P.M.
12:00	12:21	12:33
12:30	12:51	1:03
1:00	1:21	1:33
1:30	1:51	2:03
2:00	2:21	2:33
H2 2:36	2:48	3:00
2:36	2:51	3:03
H2 3:06	3:18	3:30
3:00	3:21	3:33
H3 3:31	3:43	3:55
3:30	3:51	4:03
4:00	4:21	4:33
H4 4:26	4:38	4:50
4:30	4:51	5:03
H5 5:01	5:13	5:25
5:00	5:21	5:33
5:35	5:56	6:08
5:47	6:06	-
5:50	6:09	-
H 5:57	6:18	-
6:15	6:34	6:45
6:15	6:34	-
6:17	6:36	-
6:25	6:44	-
6:35	6:54	-
H 6:52	7:11	-
7:00	7:19	7:30
7:05	7:24	-
7:11	7:30	-
7:45	8:04	8:15
8:30	8:49	9:00
9:15	9:34	9:45
10:00	10:19	10:30
10:45	11:04	11:15
-	A.M.	A.M.
11:30	11:49	12:00
A.M.	A.M.	-
12:11	12:30	-
12:56	1:15	-

Weekday Only Express Service
 Leaving B'way & 1st St

BAYONNE B'way & 1st St	BAYONNE Avenue C & 1st St	JERSEY CITY Montgomery St & Jersey Ave	JERSEY CITY Grand Street	JERSEY CITY Exchange Place Terminal
A.M.	A.M.	A.M.	A.M.	A.M.
6:20	6:38	6:50	6:54	6:58
6:35	6:53	7:05	7:09	7:13
6:50	7:08	7:20	7:24	7:28
7:05	7:23	7:35	7:39	7:43
H 7:11	7:29	7:41	7:45	7:49
7:17	7:35	7:47	7:51	7:55
H 7:23	7:41	7:53	7:57	8:01
7:29	7:47	7:59	8:03	8:07
H 7:34	7:52	8:04	8:08	8:12
7:39	7:57	8:09	8:13	8:17
H7 7:44	8:02	8:14	8:18	8:22
7:50	8:08	8:20	8:24	8:28
H 7:57	8:15	8:27	8:31	8:35
8:05	8:23	8:35	8:39	8:43
8:15	8:33	8:45	8:49	8:53
8:35	8:53	9:05	9:09	9:13
H8 8:55	9:13	9:25	9:29	9:33
P.M.	P.M.	P.M.	P.M.	P.M.
H 3:50	4:08	4:20	4:24	4:28
H 4:10	4:28	4:40	4:44	4:48
4:30	4:48	5:00	5:04	5:08
H 4:50	5:08	5:20	5:24	5:28
H 5:20	5:38	5:50	5:54	5:58
5:45	6:03	6:15	6:19	6:23

H - Will not operate on Good Friday, Columbus Day, Election Day & Veterans' Day.

Saturdays

including the following Holidays
 Lincoln's Birthday
 Washington's Birthday

BAYONNE B'way & 1st St	JERSEY CITY Grand St	JERSEY CITY Exchange Place Terminal
A.M.	A.M.	A.M.
5:30	5:48	5:59
6:00	6:18	6:29
6:30	6:48	6:59
7:00	7:18	7:29
7:30	7:48	7:59
8:00	8:18	8:29
8:30	8:48	8:59
9:00	9:20	9:33
9:30	9:50	10:03
10:00	10:20	10:33
10:30	10:50	11:03
11:00	11:20	11:33
-	P.M.	P.M.
11:30	11:50	12:03
P.M.	P.M.	-
12:00	12:20	12:33
12:30	12:50	1:03
1:00	1:20	1:33
1:30	1:50	2:03
2:00	2:20	2:33
2:30	2:50	3:03
3:00	3:20	3:33
3:30	3:50	4:03
4:00	4:20	4:33
4:30	4:50	5:03
5:00	5:20	5:33
5:30	5:50	6:03
5:45	6:05	-
6:15	6:34	6:45
7:00	7:19	7:30
7:10	7:29	-
7:40	7:59	-
8:30	8:49	9:00
10:00	10:19	10:30
11:25	11:44	-

Sundays

including the following Holidays
 New Year's Day
 Memorial Day
 Independence Day
 Labor Day
 Thanksgiving Day

BAYONNE B'way & 1st St	JERSEY CITY Grand St	JERSEY CITY Exchange Place Terminal
A.M.	A.M.	A.M.
7:45	8:02	8:13
9:15	9:32	9:43
10:45	11:02	11:13
P.M.	P.M.	P.M.
12:15	12:32	12:43
1:45	2:02	2:13
3:15	3:32	3:43
4:45	5:02	5:13
6:15	6:32	6:43
7:40	7:57	-

Transit Information
 (6 a.m. to Midnight Daily)

Telephone Numbers for Bus, Train & Fare Information
 New Jersey only (800) 772-2222
 Out of State (201) 762-5100
 *Hearing Impaired (800) 772-2287

(N.J. Only with Teleprinter Monday thru Friday 8:00 a.m. to 5:00 p.m.)

How to use this schedule

1. Select day of week desired.

NJ TRANSIT Customer Services

If you have a compliment or complaint regarding our service or employees, please call Customer Services Monday thru Friday 8:00 a.m. to 5:00 p.m.
 -- In New Jersey . . . (800) 772-3606
 Out of State (201) 761-8612



PEAK BUSES IN SERVICE ON COORDINATED AND
COMPETITIVE ROUTES

<u>Area and Route(s)</u>	<u>NJ Transit</u>	<u>Independents</u>	<u>Totals</u>
<u>Newark</u>			
Routes 24/12	17	10	27
Route 30	4	2	6
Route 25	14	4	18
Routes 13/14/16/18	36	8	44
Routes 38/39/40	<u>14</u>	<u>1</u>	<u>15</u>
Newark Totals	85	25	110
 <u>Hudson County</u>			
Route 9/MWSBOA	16	14	30
Route 14/LGBOA	14 ^{1/}	21	35
 <u>Hudson-Bergen</u>			
Routes 22/19/26/44			

^{1/} Peak buses in peak direction only; other NJT buses serve a short portion of the reverse flow as they go to and from other assignments. Eleven of the fourteen NJT buses operate on the Turnpike as express buses.

POTENTIAL CRITERIA FOR DETERMINING ROLES OF
INDEPENDENT OPERATORS

Service Quality

Ability to Maintain Headway

Vehicle Condition

Passenger Comfort (Crowding, Heating, Air-Conditioning)

Maintenance Quality

Inspection Record

Facility Conditions

Costs

Carrier Operating Costs

Fare Levels

Impact on Subsidy Requirements

Passenger Convenience

Service Coordination

Fare and Transfer Coordination

EXHIBIT F

Frank

(P)



NJT BUS ANNOUNCES EMPLOYEE CHARTER & SPECIAL SERVICE INCENTIVE PROGRAM

"Everyone can be a CHAMPION"...

Beginning March 1, 1984, all employees of NJTBus*, are eligible to participate in a new Incentive Program for our Charter and Special Service Operation. The Program includes two promotional periods which run every six months: March 1, 1984 through August 31, 1984 and September 1, 1984 through February 28, 1985.

How can you become a Champion?

Bring in Charter or Special Service business!

Once you bring in your first Charter or Special Service order, you will receive a NJTBus LCD Quartz pen watch and NJ Transit Charter and Special Service tee shirt.

But don't stop there---

If you bring in business in the amount of \$1000 or more within the promotional period, you will receive tickets for two for a one (1) day bus trip to Atlantic City. This includes round-trip bus transportation and the current casino bonus (eg. meal ticket and/or cash bonus).

Keep moving in the right direction---

And bring in business totaling between \$2500 and \$5000 and you'll participate in a drawing for a new stereo system.

Be a Champion and go beyond this limit---

Bring in business totaling \$5000 or more, and you'll participate in a drawing for a 19" color television.

Program Highlights

1. Charter and Special Service orders are based on availability of buses.
2. Employees will receive credit for Charter and Special Service business based on the amount charged to customers once the trip is completed.
3. NJTBus Charter and Special Service promotion items will be distributed upon the completion of trips booked.
4. Drawings for the stereo system and 19" color television will be held at the end of each promotional period on a date to be announced.

Mr. Heinle's enthusiasm for the program is bound to spread; as he states, "Everyone can be a Champion by promoting our Charter and Special Service Operation."

Good Luck Everyone!

For Charter and Special Service information call: (NJ) 800-221-2365 or (609) 342-5350, (NY) 800-221-2368 or (PA) (215) 567-2947.

For more information on the Incentive Program call Anne DeAngelis: 761-8535.

*Charter and Special Service Staff are not included.

Handwritten stamp: TRANSPORTATION

TESTIMONY OF ROBERT W. LOVITO BEFORE THE SENATE TRANSPORTATION

AND COMMUNICATIONS COMMITTEE ON MARCH 19, 1984

SENATOR RAND & COMMITTEE MEMBERS, I AM ROBERT W. LOVITO, PRESIDENT OF CAVAVAN COACH LINES, INCORPORATED, A SMALL FAMILY-OWNED COMMUTER CARRIER IN THE STATE OF NEW JERSEY, AND I ALSO SERVE AS A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED BUS OPERATORS SURVIVAL ASSOCIATION.

THIS MORNING, I SHOULD LIKE TO ADDRESS THE COMMITTEE ON TWO POINTS:

ONE: THE CURRENT PRACTICE OF DESTRUCTIVE COMPETITION BETWEEN SUBSIDIZED AND UNSUBSIDIZED CARRIERS WHICH OPERATE REGULAR LINE-SERVICE.

TWO: THE INABILITY OF PRIVATE CARRIERS TO COMPETE WITH AND DRAW COMPARISONS BETWEEN THEIR OWN OPERATIONS AND THOSE OF NEW JERSEY TRANSIT WHICH IS A RESULT OF NEW JERSEY TRANSIT'S FREEDOM FROM FINANCIAL ACCOUNTABILITY.

TURNING NOW TO MY FIRST POINT, SUBSIDIZED AND UNSUBSIDIZED CARRIERS HAVE FOR SOME TIME BEEN IN DIRECT COMPETITION FOR THE AUTHORITY TO OPERATE INTERSTATE AND INTRASTATE "REGULAR ROUTE" LINE SERVICE. HOWEVER, THE WEAPONS WITH WHICH THE COMPETITORS ARE WAGING BATTLE ARE NOT EQUAL, AND THE RULES DEFINING THE COMPETITION CLEARLY FAVOR THOSE CARRIERS WHICH RECEIVE STATE AND FEDERAL SUBSIDIES. WE ARE HERE BECAUSE OF THIS, SENATORS. WE ARE HERE BECAUSE WE HAVE NOWHERE ELSE TO GO. PRIVATE CARRIERS HAVE NO RECOURSE AGAINST ANY INJUSTICE OF THE SYSTEM IN WHICH WE OPERATE.

EXAMPLES OF THE FAVORITISM WHICH UNFAIRLY BENEFITS SUBSIDIZED CARRIERS CAN BE FOUND IN AN EXAMINATION OF THE BIDS SUBMITTED LAST SPRING FOR THE OPERATION OF A PARK AND RIDE FACILITY IN NORTHERN NEW JERSEY. THREE PRIVATE UNSUBSIDIZED CARRIERS BID FOR THE OPERATING CONTRACT, AS DID ONE SUBSIDIZED CARRIER. THE SUBSIDIZED CARRIER, WHICH RECEIVED THE AWARD OF THE CONTRACT, SUBMITTED A BID

ALMOST 67% HIGHER THAN THE PRIVATE CARRIERS, ALTHOUGH ALL CARRIERS OFFERED ESSENTIALLY SIMILAR SERVICES. THE RELATIVELY FREE ACCESS THE SUBSIDIZED CARRIER HAD TO THE "BOTTOMLESS PUBLIC PURSE" ALLOWED THAT CARRIER TO PLACE A HIGHER BID AND OPERATE AT HIGHER COSTS, WITHOUT FEAR OF SUFFERING THE DEVASTATING EFFECTS OF THE RESULTING OPERATING LOSSES. THE NON-SUBSIDIZED PRIVATE CARRIERS, HOWEVER, WERE LIMITED BY CONCERNS OF PROFITABILITY, AND WHEN FORCED TO RELY SOLELY UPON OPERATING REVENUES COULD NOT EFFECTIVELY BID AGAINST THE SUBSIDIZED CARRIER. THE SUBSIDIZED CARRIER, MOREOVER, ADMITTED THAT IT WAS WILLING TO TAKE A LOSS, A POSITION NO PRIVATE CARRIER COULD RESPONSIBLY TAKE.

SIMILARLY, PRIVATE CARRIERS HAVE FOUND THAT WHEN EFFICIENTLY COMPETING WITH SUBSIDIZED CARRIERS, THE SUBSIDIZED CARRIERS AGAIN BENEFIT FROM THEIR FREEDOM FROM ECONOMIC CONSTRAINTS AND ARE ABLE TO "FLOOD" A PARTICULAR LINE WITH SUBSIDIZED BUSES.

ONCE FLOODED WITH BUSES, THE NUMBER OF PASSENGERS ON EACH BUS DECLINES, AS DOES THE REVENUE RECEIVED PER BUS. TO THE PRIVATE CARRIERS THE RESULT IS DISASTROUS; HOWEVER, THE SUBSIDIZED CARRIERS FEEL LITTLE OR NO EFFECT SINCE THEY ARE CUSHIONED FROM ECONOMIC SHOCK BY THE BOTTOMLESS PUBLIC PURSE. THE SUBSIDIZED CARRIER CAN FLOOD THE ROUTES ON WHICH THERE IS COMPETITION TO THE POINT WHERE UNSUBSIDIZED CARRIERS ARE FORCED OFF THE PARTICULAR ROUTE, OR ARE FORCED OUT OF THE INDUSTRY ENTIRELY.

THE RESULTS OF BOTH UNCHECKED BIDDING PRACTICES AND THE FLOODING OF PARTICULAR ROUTES RESULTS IN SIGNIFICANT LOSS OF PUBLIC MONIES, AND ULTIMATELY RESULTS IN INCREASED TRANSPORTATION COSTS TO THE TAXPAYER. IN ADDITION, THE RESULTING COLLAPSE OF PRIVATE OPERATORS RESULTS IN DIRECT LOSS OF BUSINESS ACTIVITY, STATE TAX REVENUES, THE LOSS OF JOBS IN THE TRANSPORTATION INDUSTRY ITSELF, AND THE ACCOMPANYING INDIRECT LOSS OF BUSINESS ACTIVITY, JOBS AND TAX REVENUES FROM TRANSPORTATION RELATED INDUSTRIES.

IN ADDITION TO THE PROBLEMS OF INEQUITABLE COMPETITIVE STANDARDS, THE PRIVATE TRANSPORTATION INDUSTRY IN NEW JERSEY ALSO SUFFERS FROM THE FACT THAT ITS MAJOR COMPETITOR, NEW JERSEY TRANSIT, IS NOT ACCOUNTABLE FOR ITS ACTIONS TO ANY OVERSEEING BODY OTHER THAN ITS BOARD OF DIRECTORS.

ON A FINANCIAL LEVEL, THE CURRENT LEGISLATIVE FRAMEWORK DOES NOT REQUIRE NEW JERSEY TRANSIT TO REPORT ON PARTICULARIZED OPERATIONS. INDEED, INSTEAD OF SPECIFIC "BOTTOM LINE" FIGURES, NEW JERSEY TRANSIT REPORTS ITS REVENUES ON A SYSTEM WIDE BASIS. THESE REPORTING PROCEDURES PREVENT PRIVATE CARRIERS FROM ADEQUATELY COMPARING THEIR OWN OPERATIONS TO THOSE OF NEW JERSEY TRANSIT, AND IT ALSO PREVENTS THE TAXPAYERS FROM REALIZING THE TRUE COST, EFFICIENT OR INEFFICIENT, AT WHICH NEW JERSEY TRANSIT CONDUCTS ITS OPERATIONS.

THE QUESTION OF WHO CAN OPERATE ANY PARTICULAR ROUTE MOST EFFICIENTLY CANNOT BE ANSWERED SINCE THERE IS ONLY ONE SET OF FIGURES AVAILABLE, THOSE OF THE PRIVATE TRANSIT OPERATORS. INDEED IF NEW JERSEY TRANSIT IS TO SERVE THE PUBLIC INTEREST, IT OUGHT NOT TO OPERATE ROUTES WHICH CAN BE MORE EFFICIENTLY OPERATED BY PRIVATE CARRIERS. LIKEWISE, IF NEW JERSEY TRANSIT CAN OPERATE A ROUTE MORE EFFICIENTLY, THE PRIVATE CARRIERS SHOULD WITHDRAW. HOWEVER, THE CURRENT LACK OF REPORTING REQUIREMENTS PREVENTS THESE COMPARISONS FROM EVER BEING MADE.

THE FREEDOM FROM STRINGENT REPORTING AND DISCLOSURE REQUIREMENTS ALSO PREVENTS PRIVATE CARRIERS FROM EXAMINING THE MANNER IN WHICH NEW JERSEY TRANSIT ALLOCATES THE STATE AND FEDERAL ASSISTANCE RECEIVED EACH YEAR. WITHOUT THE ABILITY TO REVIEW THE ALLOCATION OF THESE RESOURCES, PRIVATE CARRIERS AND TAXPAYERS CAN

NOT BE ASSURED THAT THE TRANSPORTATION SERVICES TO THEM ARE THE MOST EFFICIENT, NOR CAN THEY BE SURE THAT NEW JERSEY TRANSIT IS INDEED BEING AS COST EFFICIENT AS POSSIBLE, OR WHETHER OR NOT NEW JERSEY TRANSIT IS MAKING THE WIDEST AND MOST EFFECTIVE USE OF STATE AND FEDERAL SUBSIDIES, FOR THE BENEFIT OF THE NEW JERSEY TAXPAYING RESIDENTS.

IN AT LEAST ONE EXAMPLE THAT I KNOW OF, NEW JERSEY TRANSIT ALLOCATES STATE OWNED BUSES TO SUBSIDIZED CARRIERS, NOT FOR THE BENEFIT OF NEW JERSEY TAXPAYERS, BUT FOR NEW YORK STATE COMMUTERS.

ROCKLAND COACHES, A MAJOR NEW JERSEY SUBSIDIZED CARRIER OPERATES COMMUTER ROUTES FROM ROCKLAND COUNTY, NEW YORK, TO THE PORT AUTHORITY BUS TERMINAL IN NEW YORK CITY. NEW JERSEY SUBSIDIZED BUSES ARE SERVING NEW YORK STATE RESIDENTS IN NEW YORK STATE, TRAVELING THROUGH NEW JERSEY, BUT MAKING NO STOPS IN OUR STATE. WHY ARE NEW JERSEY TAX DOLLARS BEING USED FOR THIS PURPOSE?

FINALLY, LET ME ADDRESS THE CHARGE WHICH HAS FREQUENTLY BEEN MADE AGAINST PRIVATE CARRIERS -- THAT WE ARE OUT TO "SKIM THE CREAM," THAT WE ARE ONLY INTERESTED IN TAKING OVER PROFITABLE ROUTES. WELL, SENATORS, LET ME RELATE MY OWN EXPERIENCE. IN FEBRUARY OF 1983, WHEN MANHATTAN TRANSIT COMPANY WENT BANKRUPT, NEW JERSEY TRANSIT MOVED TO TAKE OVER MANHATTAN TRANSIT COMPANY'S COMMUTER ROUTES, EVEN WHILE CLAIMING THEY WERE UNPROFITABLE. GENTLEMEN, I FILED FOR AND WAS GRANTED OPERATING AUTHORITY FROM THE INTERSTATE COMMERCE COMMISSION FOR AS MANY OF MANHATTAN'S ROUTES AS I WAS ABLE TO SERVICE. I KNEW THEY WERE REPUTEDLY UNPROFITABLE, BUT I BELIEVED I COULD TURN THEM AROUND. I WAS WILLING TO GO AFTER A SO-CALLED UNPROFITABLE MARKET AND TAKE THE CHANCE THAT I WOULD BE SUCCESSFUL. I OPERATE THOSE ROUTES PROFITABLY TODAY IN DIRECT COMPETITION WITH NEW JERSEY TRANSIT, TOWN FOR TOWN, STOP FOR STOP, WITHOUT ANY FEDERAL OR STATE TAXPAYERS' DOLLARS.

ONE FINDING OF THE NEW JERSEY PUBLIC TRANSPORTATION ACT OF
1979 WAS:

"IN THE PROVISION OF PUBLIC TRANSPORTATION SERVICES, IT IS
DESIRABLE TO ENCOURAGE TO THE MAXIMUM EXTENT FEASIBLE THE
PARTICIPATION OF PRIVATE ENTERPRISE TO AVOID DESTRUCTIVE
COMPETITION."

IN THIS INSTANCE, ON THESE MANHATTAN COMMUTER ROUTES, NEW
JERSEY TRANSIT INCREASED SERVICE BY 400% WHEN IT HAD A
COMPETITOR FROM THE PRIVATE SECTOR, AND ON ANOTHER ROUTE WITH
NO COMPETITION IT CUT SERVICE BY 90%.

THE PUBLIC INTEREST WOULD BE BETTER SERVED TODAY ALONG THESE
ROUTES WITHOUT THE DESTRUCTIVE COMPETITION FROM NEW JERSEY TRANSIT.

PRIVATE CARRIERS HAVE FREQUENTLY BID ON ROUTES CLAIMED TO BE UNPROFITABLE -- AND PROVED THAT CLAIM WRONG. MAYBE NEW JERSEY TRANSIT CAN'T RUN THE ROUTES AT A PROFIT, BUT PRIVATE CARRIERS CAN DO SO. AGAIN, WHY? BECAUSE NEW JERSEY TRANSIT DOES NOT REPORT THE PROFITABILITY OF INDIVIDUAL ROUTES. THEY CAN CLAIM A ROUTE IS PROFITABLE, BUT THEY CAN'T SHOW IT IN DOLLARS AND CENTS. WE CAN.

WE PRIVATE OPERATORS HAVE THE SAME RELATIONSHIP WITH MR. PREMO AS THE PRISONER ON DEATH ROW HAS WITH THE WARDEN. WE BOTH WALK TO THE GAS CHAMBER TOGETHER, BUT ONLY ONE OF US WILL WALK BACK.

I SHOULD LIKE NOW TO INTRODUCE MR. PAUL GOLDMAN, WHO WILL SPEAK TO YOU ON SOLUTIONS TO THESE PROBLEMS WHICH THE ASSOCIATION WOULD LIKE TO OFFER TO THE COMMITTEE FOR ITS CONSIDERATION.



New Jersey Highway Authority

EXECUTIVE OFFICE'S • WOODBRIDGE, NEW JERSEY, 07095 • (201) 442-8600

Garden State Parkway
Garden State Arts Center

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RICHARD S. SAMBOL

GEORGE P. ZILOCCHI
Acting Executive Director

March 15, 1984

Mr. Peter R. Manoogian
Senate Transportation and Communications Committee
CN - 042
State House
Trenton, New Jersey 08625

Dear Mr. Manoogian:

It would be greatly appreciated if you would distribute the attached information and correspondence to Chairman Rand and members of the committee.

Mr. John Simonse, Operations Manager, and myself will be representing the Highway Authority at the meeting on Monday March 19th.

Very truly yours,



William F. Smith

Assistant to the Executive Director

WFS:sr
Enclosures

C.C.: George P. Zilocchi
John H. Simonse

GENERAL STATEMENT

The New Jersey Highway Authority, long before the Commuter Advisory Group on Route 9 came to us, realized that something had to be done to improve commuter traffic flow in the Raritan area. In August of 1979, the New Jersey Highway Authority formally requested Vollmer Associates to study the area between Interchange 120 and Interchange 129 on the Garden State Parkway. Vollmer Associates reviewed all the traffic needs in this area and prepared a report entitled, "Raritan River Area Transportation Study", dated February 22, 1980. Immediately after receiving this report, this Authority started implementing all the recommendations therein. After this work was well underway, we started receiving contacts from the Route 9 Advisory Committee, New Jersey Transit, and the New Jersey Department of Transportation; and we have continued to work closely with them in implementing any workable and practical solutions to expedite all commuter traffic as efficiently as possible. After many of the Phase 1 improvements were either in place, or under design, commuter traffic was still continuing to grow rapidly, due to the rapid growth of industrial office complexes along the I-287 corridor.

We again contacted Vollmer Associates to re-study the same area to see what additional improvements should be made in this area to move traffic more efficiently. Vollmer prepared a technical memorandum, entitled "Traffic Analysis in the Area from Interchange 117 to Interchange 129", dated November, 1982. During the preparation of the report, it became obvious that some of the improvements discussed were sorely needed, and the Authority went ahead and did many of the recommendations while the report was still being prepared. Because of this, Vollmer submitted a covering letter with the report, dated February 23, 1983, which attempted to assess the effectiveness of some of the changes made, while the report was being finalized.

To date this Authority has either implemented, or is in the process of constructing or designing all practical solutions to moving all commuter traffic - buses, vans, and cars - and we feel strongly that to provide an exclusive toll lane for buses would cause congestion for non-bus users and for bus users alike. The Authority disagrees with the Route 9 Commuter Advisory Committee's belief that when drivers see buses easily going through tolls, it will encourage them to use mass transit. We disagree for several reasons.

First, our experience with the HOV Lane on the state section of the Parkway back in 1980 showed that discrimination against those who are not using mass transit does not convince them to use mass transit, but rather it frustrates these commuters because many of them do not have the option of taking mass transit. Many of them are sales people or work on flexible or variable schedules that are not serviced by the present bus schedules and routes.

Also, if buses were given a dedicated toll lane, it is likely that no vehicles would be seen easily going through tolls, since the level of congestion would prohibit the buses from easily getting to their reserved lane.

The New Jersey Highway Authority agrees that it is important to move people through the toll plazas with a minimal amount of delay to the users. However, in order to move people, it is necessary to move vehicles. The best way to do this is by allowing all of the vehicles access to the entire plaza, as this will result in the smoothest flow of traffic. The additional weaving and hazardous maneuvers that restricted toll lanes would cause will disrupt the orderly flow of traffic. The entire motoring public is delayed when accidents must be cleared from the plaza area.

With each modification that this Authority has made in the Raritan Toll Plaza area, the operation has shown visible improvement. It is our intention to continue with our planned program of Raritan area construction and our Bus Token Program to facilitate the movement of all traffic through the Raritan Bridge area.

Our planned improvements, scheduled for construction in the near future, include the following:

1. Add two toll lanes and widen the approach to both Raritan Toll Plazas.
2. Provide shoulders between Interchange 123 and Raritan Toll Plazas.
3. Improve the entrance Ramp 123 where it connects to the Garden State Parkway northbound.
4. Realign the approach to Raritan North Toll Plaza.
5. Add a sixth lane southbound between Interchange 127 and Raritan South Toll Plaza.
6. Improve the ramps between the Garden State Parkway and Route 440 West (I-287 North).

REASONS FOR HAVING A BUS TOKEN

The Authority is instituting a universal bus token for use on the Garden State Parkway for a variety of operational reasons.

At present, all buses - commuter, casino, charter, etc., must use manual lanes. The introduction of a bus token would allow these buses to use not only the manual lanes, but would also allow them to use designated automatic lanes which will speed their trip through our plazas and offer the regular route bus carriers faster and more consistent scheduling capabilities.

This is true, in particular, for the casino buses in the southern toll plazas along the Garden State Parkway where only one manual lane in each direction is available for these casino buses to use. Due to the nature of their business, these buses tend to caravan together and arrive at the plaza in large groups. They, therefore, line up in the only manual lane available, causing undue delays to their scheduled operations and also causing this Authority operational problems, since the few patrons in the area in cars now have to suffer undue waiting times.

We have been experiencing speeding problems and tailgating problems from the casino bus drivers. This could be partially due to the time that they are waiting to make change and get their receipt from each of the plazas they use. The bus token will offer these casino bus operators faster travel times down the Garden State Parkway without the necessity of speeding or tailgating or obtaining a receipt.

The Authority toll collectors will receive a great benefit in the improvement of the air quality and environment in which they must work. Since these buses platoon together, the collectors are subjected to long periods of time where the bus diesel exhaust is emitted in great quantities in their lanes, causing severe annoyance to our collectors. The problem has become so bad recently that we have posted signs in each manual lane asking the bus drivers to depart slowly to limit the amount of noxious fumes emitted in the toll lanes.

Also, a failure to provide some alternate means of bus passage will result in a requirement for additional toll collector personnel.



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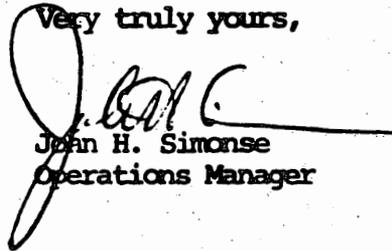
February 22, 1984

Senator Walter Rand, Chairman
Senate Transportation and Communications Committee

Dear Senator Rand:

The hearing on Senate Joint Resolution No. 9 has been scheduled at the same time as the regular monthly meeting of the New Jersey Highway Authority. As a result, the Commissioners and executive staff members of the Authority will be unable to attend the hearing. I have prepared a statement detailing the Authority's position regarding Senate Joint Resolution No. 9 which I wish to have entered into the record of this hearing. This statement will be presented by Mr. Vincent Guiliano, Superintendent of Tolls, New Jersey Highway Authority.

Very truly yours,



John H. Simonse
Operations Manager

JHS:n

STATEMENT

The proposed Senate Joint Resolution No. 9 addresses itself to preferential treatment for commuter buses on the Garden State Parkway, particularly at toll facilities. The popular concept of preferential treatment presumes a dedicated toll lane for, in this case, commuter buses. Such a concept is, of course, preferential treatment and, under many circumstances, lends itself very well to expediting the passage of the selected or designated preferred traffic through toll facilities.

Unfortunately, on the Garden State Parkway, we are faced with a problem in that the areas where commuter buses are most desirous and most require preferential treatment are just those areas which are currently operating at capacity during commuter peaks. As an example, commuter buses, in fact all buses, comprise less than 1% of the toll traffic at the Raritan North Toll Plaza, which is a very busy area and one which is heavily used by both commuter buses and other commuters, since it is the corridor from Central and South Jersey to the offices, manufacturing plants and research centers of the New York and North Jersey metropolitan area.

We presently experience a Volume to Capacity Ratio of .99 at that plaza during peak commuter traffic periods. The dedication of a lane at this facility would not expedite the flow of commuter bus traffic beyond the first few minutes since we would soon reduce our Volume to Capacity Ratio to 1.04. Even that early improvement for commuter buses would be accomplished to the detriment of the other 99+% of the patron vehicles who use this toll facility. Loss of one of 15 lanes would soon result in a traffic backup, the end product of which would be a stoppage of flow so that no vehicle, including commuter buses, would be able to approach the toll plaza, except in a stop and go condition, just the opposite of the desired result.

At their December meeting, the Commissioners of the New Jersey Highway Authority authorized the staff to proceed with the implementation of a bus token program. This program, simply put, will not extend preferential treatment to commuter buses, but will allow buses, commuter and otherwise, to avail themselves of a greater number and wider spread of toll lanes.

Our best estimate for the complete implementation of this bus token operation is early 1985.

It is suggested that the improvement for commuter buses on the Garden State Parkway through this program will be far superior to that resulting from any form of preferential treatment and that the sponsors of this proposed Resolution consider this fact.



Garden State Parkway

Memorandum

DATE: March 12, 1984

TO: Mr. William F. Smith, Assistant to Executive Director

FROM: Thomas J. Critchley, General Attorney

SUBJECT: Senate Resolution No. 4

Senate Resolution No. 4 directs the Senate Transportation and Communications Committee to study the feasibility of allowing New Jersey Transit Corporation buses to travel free on the State toll roads and report its findings, conclusions and recommendations to the Senate and accompany that report with any legislative bills which it would recommend for adoption by the Legislature.

Similar legislation exempting members of the National Guard and of reserve components of the Armed Forces of the United States from payment of tolls on toll roads and other toll facilities was enacted by the Legislature in 1968, Chapters 352 and 414.

That legislation was reviewed by the Chancery Division of the Superior Court, 109 N.J. Super 424 (1970, Chancery Division) and found to be unconstitutional, in violation of Article 1, Section 10 of the United States Constitution and Articles IV and VII, par. 3 of the New Jersey Constitution, which prohibit the respective Legislatures from passing any laws impairing obligation of contract under statutes relating to collection of tolls on toll roads for benefit of bonds issued to finance construction.

In reaching its decision regarding Chapters 352 and 414, Laws of 1968, the Court observed that the New Jersey Highway Authority had existing covenants with bondholders which pledged all revenues as collateral for Authority bonds. The Court concluded that, "a statute which would have had the effect, if valid, of reducing somewhat the total of revenues available for bondholders to whom those revenues had been pledged by contract" would be unconstitutionally invalid. Sills, page 431.

"Section 9 of the New Jersey Highway Authority Act specifies the provisions which the Authority may include in any bond resolution and provides that such a resolution shall constitute a contract with the bondholders. Among the provisions which may be included are covenants as to rates of tolls and other charges to be established.

"Pursuant to section 9 of the act, the Authority's general bond resolution of July 8, 1953 and its junior bond resolution of July 7, 1962 contain covenants as to the rates of tolls and other charges. For example, in the general resolution (1) section 501 pledges the tolls and other revenues of the Authority for the benefit of the bonds issued pursuant to the resolution; (2) various sections establish funds into which the revenues of the Authority are to be paid; (3) section 707 contains a covenant that the Authority has the right and power to fix, charge and collect tolls and other charges for use of the Garden State Parkway, and (4) section 711 requires the Authority to exercise its powers to fix, charge and collect tolls so that revenues in each year will meet certain specified requirements.

"In addition to the provisions of the general resolution and the junior bond resolution, the act itself constitutes a contract with, and pledge to, the bondholders. Sections to be mentioned here include (1) section 5(i) of the act which gives the Authority the power to fix and revise and collect tolls, (2) section 5(j) which gives the Authority the power to establish rules and regulations for the use of the Garden State Parkway; (3) section 9 (referred to above) which specifies that such a resolution shall constitute a contract with the bondholders and that among the provisions which may be included are covenants as to rates of toll and other charges to be established; (4) section 14 which specifies that the Authority is authorized to fix, revise, charge and collect tolls and charges; that such tolls and charges shall be so fixed and adjusted as to carry out and perform the terms and provisions of any contract for the benefit of bondholders, and that such tolls and charges shall not be subject to supervision or regulation by any agency of the State, (5) section 18(a) which provides that no vehicle shall be permitted to make use of the Garden State Parkway

March 12, 1984

except upon payment of such tolls as may be prescribed by the Authority, and (6) section 20 which requires the Authority to permit the largest toll-free use of the Parkway consistent with its obligations to the bondholders and consistent with safe and economical construction and operation of the project on a self-supporting basis.

"Considering the provisions of the New Jersey Highway Authority Act and those of the two bond resolutions of the Authority, I think that chapters 352 and 414 of the Laws of 1968 are both unconstitutional impairments of the existing contracts between the Authority and its bondholders." . . . Sills, p. 427.

Since the Court concluded that Chapters 352 and 414 would effect the prohibited revenue reduction, it entered a judgment instructing the Trustees of and the New Jersey Highway Authority to enforce the provisions of its Authority Bond Resolutions as though the Chapters in question had never been passed by the Legislature. Sills, page 431.

In my view, buses owned by New Jersey Transit are not sufficiently different from vehicles owned by members of the National Guard and of reserve components of the Armed Forces of the United States. Therefore, legislation exempting such buses would, in all likelihood, suffer the vice of unconstitutionality addressed in Sills. For that reason, I am of the opinion that such legislation would be unconstitutionally invalid and unenforceable, as was the case with Sills. I am reasonably certain that a court reviewing legislation exempting New Jersey Transit buses from the requirement to pay tolls would enter a prohibitive judgment similar to that in Sills.

I am additionally providing you with a copy of a memo from Herbert Olarsch, Turnpike Authority, to William J. Flanagan, Executive Director, regarding Senate Resolution No. 4. In my view, many of the points made by Mr. Olarsch apply with equal force to this Authority.



Thomas J. Critchley

TJC/fm

Attachments

cc: Mr. George P. Zilocchi (w/atts.)

January 27, 1984

MEMORANDUM TO: William J. Flanagan
Executive Director

RE: Free Passage
New Jersey Transit Buses
Senate Resolution-4

Proposed State Senate Resolution-4 provides for the free passage of New Jersey Transit buses on the New Jersey Turnpike. This action is designed to facilitate the increased use of public owned transit and reduce the public subsidy to said agencies by the State. The Turnpike Authority, through its Bond Resolutions and enabling legislation, though, is not authorized, nor, therefore, able to permit free transit for New Jersey Transit buses.

The New Jersey Turnpike Authority, a semi-autonomous State Agency, which is established within the Department of Transportation, is authorized to construct, operate, and maintain turnpike projects (NJSA 27:23-3(A)). No action may be taken by the Turnpike Authority without the subsequent approval of the Governor. The review and veto power of the Governor, the State Treasurer, and the Comptroller of the Treasury is to be exercised

with due regard for the rights of the holders of the bonds of the authority at any time outstanding, and nothing in, or done pursuant to this paragraph (F) shall in any way limit, restrict or alter the obligations or powers of the authority or any representative or officer of the authority to carry out and perform in every detail each and every covenant, agreement or contract at any time made or entered into by or on behalf of the authority with respect to its bonds or for the benefit, protection or security of the holders thereof.

NJSA 27:23-3(F). As the Turnpike is financed entirely through the sale of bonds, the bondholders have an interest in the financial activities of the Turnpike Authority that is even superior to that of the State itself. NJSA 27:23-2.

Throughout the enabling legislation, as well as within the Bond Resolutions themselves, the protection of the financial interest of the bondholders is repeated. NJSA 27:23-3(F); 27:23-F; 27:23-7.1; 27:23-8; Turnpike Revenue Refunding Bonds, Series G, adopted August 7, 1972, (hereinafter cited as "1972 Bond Resolution",) 713, 714, 715; Turnpike System Revenue Bond Resolution, adopted June 23, 1977 (hereinafter cited as "1977 Bond Resolution",) 501 et seq.

The provisions within the Bond Resolutions provide security for the bondholders, and are relied on by the bondholders to provide financial security for the investment and therefore make the bonds more marketable. See, United States Trust Co. v. State of New Jersey, 431 U.S.1, reh. den. 431 U.S. 975 (1977), (court determining similar status of comparable provisions within Port Authority of New York and New Jersey Bond Resolutions).

Provisions within the Bonds secure the interests of the Bondholders further by placing limitations upon the use of monies received for or in connection with the Turnpike System (1977 Bond Resolution 502 et seq.), the number and types of vehicles allowed to travel upon the Turnpike for free, and the uniformity of tolls to be collected within reasonable classifications, "regardless of the status or character of any person, firm or corporation..." contributing to the traffic load. 1972 Bond Resolution 714. These provisions are designed to maintain the financial integrity of the Turnpike Authority and its financial agreements. They discourage any attempts by employees and administrators of the Turnpike Authority to misuse their positions to allow preferential treatment for personal or political reasons.

Free passage on the Turnpike is categorically prohibited except for "members, officers, and employees of the Authority actually in the performance of their duties or in the course of traveling to or from the place of the performance of such duties, ..." a limited classification of public health and safety officials and individuals. 1972 Bond Resolution 714. In addition, free passage may also be granted to facilitate the operation of concessions and services upon the Turnpike, as well as an additional number of free passes, not to exceed twenty-five (25) such passes. 1972 Bond Resolution 714. Because of this reason alone, the Turnpike Authority will not be able to grant free travel passes to NJ Transit Buses. Allowing the NJ Transit vehicles to travel upon the Turnpike without charge would amount to a subsidy to an activity with not even a partial benefit for the Turnpike Authority, as it raises the possibility of increased use of such vehicles. (This contention of increased use of public transportation, though, is unsupportable, and is directly contrary to a recent U.S. Census "Journey to Work" report. John Herbers, "New Mass Transit Data Rekindle Urban Issue," N.Y. Times, March 31, 1983, pp A1 & B14). Therefore, unless the present Bond Resolutions are amended and specific enabling legislation authorizes the Turnpike Authority, we are prohibited from engaging in any "activity not directly related to the use of a turnpike project...." NJSA 27:23-5.9.

Even if the Turnpike Authority could justify allowing NJ Transit buses to have free passage because of a primary benefit to a Turnpike Project, Bond Resolutions restrict the use of such arbitrary classifications. 1972 Bond Resolution 714. The

typical Bond Resolution provides that the Turnpike Authority may classify and reclassify the traffic, as long as the tolls charged are uniform per class, regardless of status or character of the patron. 1972 Bond Resolution 714. The proposed legislation would only require free transit (or greatly reduced fare schedules) for NJ Transit buses; non-NJ Transit commuter buses would not be provided with similar Turnpike Authority benefits. If the argument in the preceding paragraph fails in court, this proposal requires a two part discussion. First, would cover the members of the classification, and second would cover the impact of the membership of that classification upon the rate schedule and, therefore, the probability of passage.

Bond Resolution provisions providing for uniform tolls would require that the classification be uniform as per the members of the class, regardless of the status of the class member. 1972 Bond Resolution 714. If the State Legislature, the Department of Transportation and the Turnpike Authority desire to promote the use of mass transit for the journey to work patron, or even to help subsidize NJ Transit, the classification must be so broadly written as to be equally applicable to public and privately owned/operated vehicles catering to the commuting rider. As stated above, this is because of provisions within the Bond Resolutions (eg. 1972 Bond Resolution 714), which are protected by our enabling legislation (eg. NJSA 27:23-7). To facilitate the free or greatly reduced passage of NJ Transit vehicles, all commuter service buses must benefit from the same classification provisions. There is nothing per se wrong with such a classification, as it is supporting a legitimate State interest (eg. conserving fuel, reducing air pollution and wear and tear upon the Turnpike), but the Turnpike Authority has already reduced toll rates for this class of patrons, and kept them at a reduced rate despite the fact that other rates have been increased.

Any further reductions in the toll rates would have an enormous impact on the financial stability of the Turnpike Authority. Change in classifications on rates may be considered as long as the following three part test is met: (1) it is recommended by the Traffic Engineer; (2) it will not affect traffic of a character which constitutes 10% or more of the revenues; and (3) it will not result in a reduction of net revenues. 1977 Bond Resolution, 713, subsection 5. To complete these requirements, tolls would have to be raised across the board, to make-up for the substantial loss to income (Part 3). As the revenue from the commuter buses contribute to the financial welfare and stability of the Turnpike Authority, and loss of that income would not also be supported by a reduction in the wear and tear of the Turnpike System, it is questionable whether any of these requirements could be met.

The financial stability of the Turnpike Authority is an important consideration in determining whether to allow the free

flow of NJ Transit buses. The New Jersey Turnpike Authority does not receive a State subsidy to pay for its operational expenses. Although the State does provide a financial subsidy to NJ Transit, and a percentage of those funds are then presently passed on to the state toll authorities, these toll authorities (i.e., N.J. Turnpike Authority) are not used primarily, nor supported solely by New Jersey residents or State funding. In addition, the monies paid to the Turnpike Authority are payment for services just as if NJ Transit were paying for gas, tires, and salaries of employees. (NJ Transit could not reasonably expect to receive these services or products free of charge.) Finally, the New Jersey Turnpike Authority is not supported by tax dollars, but receives its revenue from its tolls; no credit of the State or any subdivision is pledged to repay bonds or support the Turnpike system. NJSA 27:23-2. Neither "taxpayers", nor "residents" of the State support the New Jersey Turnpike Authority - tolls are paid for by "patrons," without any concern for their point of origin, destination, or residency status. (The Turnpike Authority always complies with Federal and State Constitutions and Laws, including the Commerce Clause, U.S. Const., Art. 1, 8, Clause 3.) Any argument supporting toll free passage for NJ Transit vehicles based upon a fictional State subsidy to the New Jersey Turnpike Authority is therefore totally without merit.

In conclusion, the New Jersey Turnpike Authority is unauthorized to provide free passage for NJ Transit buses, and further reductions in the toll charges, because of the necessity to make the toll classification overly broad, will seriously jeopardize the financial stability of the Turnpike Authority and its bondholders.



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cc: Chairman Sullivan
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