

P U B L I C   H E A R I N G

before

SENATE TRANSPORTATION AND COMMUNICATIONS COMMITTEE

on

SENATE BILL 3137  
(New Jersey Transit Corporation)

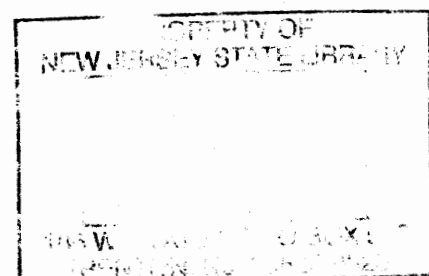
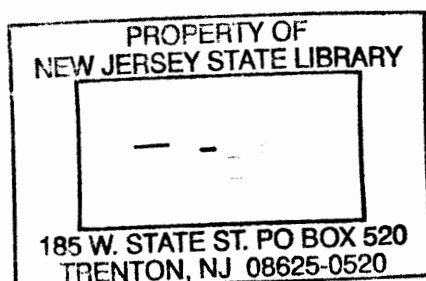
Held:  
April 4, 1979  
Senate Chamber  
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator John M. Skevin (Chairman)  
Senator Francis X. Herbert  
Senator S. Thomas Gagliano

ALSO:

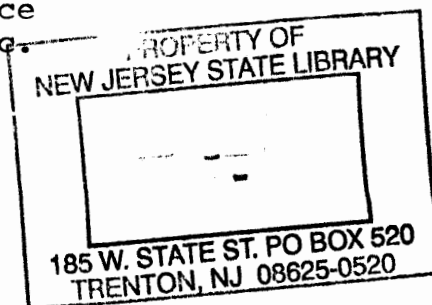
Joseph P. Capalbo, Research Associate  
Office of Legislative Services  
Aide, Senate Transportation and Communications Committee





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SENATE, No. 3137

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 26, 1979

By Senators HERBERT, ERICHIETTI, LIPMAN, J. RUSSO,  
MERLINO and HIRKALA

Referred to Committee on Transportation and Communications

AN ACT creating a public corporation within the Department of Transportation empowered to acquire, operate and contract for the operation of public transportation services and facilities, prescribing its powers and duties and revising parts of the statutory law.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "New Jersey  
2 Public Transportation Act of 1979."

1 2. The Legislature hereby finds and declares that:

2 a. The provision of efficient, coordinated, safe and responsive  
3 public transportation is an essential public purpose which promotes  
4 mobility, serves the needs of the transit dependent, costers com-  
5 merce, conserves limited energy resources, protects the environ-  
6 ment and promotes sound land use and the revitalization of our  
7 urban centers.

8 b. As a matter of public policy, it is the responsibility of the  
9 State to establish and provide for the operation and improvement  
10 of a coherent public transportation system in the most efficient  
11 and effective manner.

12 c. In the development of public transportation policy and plan-  
13 ning, participation by county and municipal governments should  
14 be encouraged.

15 d. In the provision of public transportation services, the State  
16 should consider, consistent with the purposes of this act, the utili-  
17 zation of effective private management.

18 e. In furtherance of these findings and declarations, a public  
19 corporation shall be created with the necessary powers to accom-  
20 plish these purposes, including the power to acquire and operate  
21 public transportation assets.

EXPLANATION—Matter enclosed in bold-faced brackets [thua] in the above bill  
is not enacted and is intended to be omitted in the law.

1 3. As used in this act:

2 a. "Corporation" means the New Jersey Transit Corporation.

3 b. "Motorbus regular route service" means and includes the  
4 operation of any motorbus or motorbuses on streets, public high-  
5 ways or other facilities, over a fixed route and between fixed ter-  
6 mini on a regular schedule for the purpose of carrying passengers  
7 for hire or otherwise, in this State or between points in this State  
8 and points in other states.

9 c. "Capital equipment and facilities" means and includes, in  
10 connection with public transportation service, passenger stations,  
11 shelters and terminals, automobile parking facilities, ramps, track  
12 connections, signal systems, power systems, information and com-  
13 munication systems, roadbeds, transit lanes or rights of way,  
14 equipment storage and servicing facilities, bridges, grade crossings,  
15 rail cars, locomotives, motorbus and other motor vehicles, mainte-  
16 nance and garage facilities, revenue handling equipment and any  
17 other equipment, facility or property useful for or related to the  
18 provision of public transportation service.

19 d. "Paratransit services" means and includes any service, other  
20 than motorbus regular route service and charter services, includ-  
21 ing, but not limited to, dial-a-ride, nonregular route, jitney or  
22 community minibus, and shared-ride services such as vanpools,  
23 limousines or taxicabs which are regularly available to the public  
24 and are not reserved for the private and exclusive use of individual  
25 passengers.

26 e. "Public transportation or public transportation service"  
27 means rail passenger service, motorbus regular route service,  
28 paratransit service, motorbus charter service or rail freight ser-  
29 vice.

30 f. "Motorbus charter service" means and includes subscription,  
31 school bus, charter, tour or other special motorbus services.

32 g. "Rail freight service" means and includes the operation of  
33 a railroad, subway, street, traction or electric railway for the pur-  
34 pose of carrying freight in this State or between points in this  
35 State and points in other states.

36 h. "Rail passenger service" means and includes the operations  
37 of a railroad, subway, street, traction or electric railway for the  
38 purpose of carrying passengers in this State or between points  
39 in this State and points in other states.

1 4. a. There is hereby established in the Executive Branch of the  
2 State Government the New Jersey Transit Corporation, a body  
3 corporate and politic with corporate succession. For the purpose of



4 complying with the provisions of Article V, Section IV, paragraph  
5 1 of the *New Jersey Constitution*, the corporation is hereby allo-  
6 cated within the Department of Transportation, but, notwithstand-  
7 ing said allocation, the corporation shall be independent of any  
8 supervision or control by the department or by any body or officer  
9 thereof. The corporation is hereby constituted as an instru-  
10 mentality of the State exercising public and essential governmental  
11 functions, and the exercise by the corporation of the powers con-  
12 ferred by this act shall be deemed and held to be an essential  
13 governmental function of the State.

14 b. The corporation shall be governed by a board which shall  
15 consist of five members including the Commissioner of Transporta-  
16 tion and the State Treasurer, who shall be members ex officio,  
17 another member of the Executive Branch to be selected by the  
18 Governor who shall also serve ex officio, and two other public  
19 members who shall serve at the pleasure of the Governor. The  
20 board shall designate a secretary who need not be a member.

21 c. Board members other than those serving ex officio shall serve  
22 without compensation, but members shall be reimbursed for actual  
23 expenses necessarily incurred in the performance of their duties.

24 d. The Commissioner of Transportation shall serve as chairman  
25 of the board. He shall chair board meetings and shall have  
26 responsibility for the scheduling and convening of all meetings of  
27 the board. Each ex officio member of the board may designate one  
28 or more employees of his department or agency to represent him  
29 at meetings of the board, and each such designee may lawfully vote  
30 and otherwise act on behalf of the member for whom he constitutes  
31 the designee. Any such designation shall be in writing delivered  
32 to the board and shall continue in effect until revoked or amended  
33 by writing delivered to the board.

34 e. The powers of the corporation shall be vested in the members  
35 of the board thereof and three members of the board shall con-  
36 stitute a quorum at any meeting thereof. Actions may be taken and  
37 motions and resolutions adopted by the board at any meeting  
38 thereof by the affirmative vote of at least three members. No  
39 vacancy in the membership of the board shall impair the right of a  
40 quorum to exercise all the rights and perform all the duties of the  
41 board.

42 f. A true copy of the minutes of every meeting of the board shall  
43 be delivered forthwith, by and under the certification of the secre-  
44 tary thereof, to the Governor. No action taken at such meeting by  
45 the board shall have force or effect until approved by the Governor  
46 or until 10 days after such copy of the minutes shall have been

47 delivered. If, in said 10 day period, the Governor returns such  
48 copy of the minutes with veto of any action taken by the board or  
49 any member thereof at such meeting, such action shall be null and  
50 of no effect. The Governor may approve all or part of the action  
51 taken at such meeting prior to the expiration of the said 10-day  
52 period.

1 5. In addition to the powers and duties conferred upon it else-  
2 where in this act, the corporation may do all acts necessary and  
3 reasonably incident to carrying out the objectives of this act, in-  
4 cluding but not in limitation thereof the following:

5 a. Sue and be sued;

6 b. Have an official seal and alter the same at pleasure;

7 c. Make and alter bylaws for its organization and internal  
8 management and for the conduct of its affairs and business;

9 d. Maintain an office at such place or places within the State  
10 as it may determine;

11 e. Adopt, amend and repeal such rules and regulations as it  
12 may deem necessary to effectuate the purposes of this act, which  
13 shall have the force and effect of law; it shall publish the same  
14 and file them in accordance with the "Administrative Procedure  
15 Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) with the Director of  
16 the Office of Administrative Law;

17 f. Call to its assistance and avail itself of the service of such  
18 employees of any Federal, State, county or municipal department  
19 or agency as it may require and as may be available to it for said  
20 purpose;

21 g. Apply for, accept and expend money from any Federal, State,  
22 county or municipal agency or instrumentality and from any  
23 private source; comply with Federal statutes, rules and regula-  
24 tions, and qualify for and receive all forms of financial assistance  
25 available under Federal law to assure the continuance of, or for the  
26 support or improvement of public transportation and as may be  
27 necessary for that purpose to enter into agreements, including  
28 Federally required labor protective agreements;

29 h. Plan, design, construct, equip, operate, improve and maintain,  
30 either directly or by contract with any public or private entity,  
31 public transportation services, capital equipment and facilities or  
32 any parts or functions thereof, and other transportation projects,  
33 or any parts or functions thereof, which may be funded under  
34 section 3 of the Federal Urban Mass Transportation Act of 1964,  
35 P. L. 88-365 (49 U. S. C. § 1602), or any successor or additional  
36 Federal act having substantially the same or similar purposes or

37 functions; the operation of the facilities of the corporation, by the  
38 corporation or any public or private entity, may include appro-  
39 priate and reasonable limitations on competition in order that  
40 maximum service may be provided most efficiently to the public;

41 i. Apply for and accept, from appropriate regulatory bodies,  
42 authority to operate public transportation services where nec-  
43 essary;

44 j. Purchase, lease as lessee, or otherwise acquire, own, hold,  
45 improve, use and otherwise deal in and with real or personal prop-  
46 erty, or any interest therein, from any public or private entity,  
47 wherever situated;

48 k. Lease as lessor, sell or otherwise dispose of on terms which  
49 the corporation may prescribe, real and personal property, includ-  
50 ing tangible or intangible property and consumable goods, or any  
51 interest therein, to any public or private entity, in the exercise of  
52 its powers and the performance of its duties under this act. In  
53 order to provide or encourage adequate and efficient public trans-  
54 portation service, the corporation may lease or otherwise permit  
55 the use or occupancy of property without cost or at a nominal  
56 rental;

57 l. Restrict the rights of persons to enter upon or construct any  
58 works in or upon any property owned or leased by the corporation,  
59 except under such terms as the corporation may prescribe; perform  
60 or contract for the performance of all acts necessary for the man-  
61 agement, maintenance and repair of real or personal property  
62 leased or otherwise used or occupied pursuant to this act;

63 m. Establish one or more operating divisions as deemed nec-  
64 essary;

65 n. Set and collect fares and determine levels of service for  
66 service provided by the corporation either directly or by contract  
67 including, but not limited to, such reduced fare programs as deemed  
68 appropriate by the corporation; revenues derived from such service  
69 may be collected by the corporation and shall be available to the  
70 corporation for use in furtherance of any of the purposes of this  
71 act;

72 o. Set and collect rentals, fees, charges or other payments from  
73 the lease, use, occupancy or disposition of properties owned or  
74 leased by the corporation; such revenues shall be available to the  
75 corporation for use in furtherance of any of the purposes of this  
76 act;

77 p. Deposit corporate revenues in interest bearing accounts or in  
78 the State of New Jersey Cash Management Fund established pur-  
79 suant to section 1 of P. L. 1977, c. 28 (C. 52:18A-90.4);

80 q. Delegate to subordinate officers of the corporation such  
81 powers and duties as the corporation shall deem necessary and  
82 proper to carry out the purposes of this act;

83 r. Procure and enter into contracts for any type of insurance  
84 and indemnify against loss or damage to property from any cause,  
85 including loss of use and occupancy, against death or injury of any  
86 person, against employees' liability, against any act of any member,  
87 officer, employee or servant of the corporation, whether part-time,  
88 full-time, compensated or noncompensated, in the performance of  
89 the duties of his office or employment or any other insurable risk;

90 s. Promote the use of public transportation services, coordinate  
91 ticket sales and passenger information and sell, lease or otherwise  
92 contract for advertising in or on the equipment or facilities of the  
93 corporation and;

94 t. Enter into any and all agreements or contracts, execute any  
95 and all instruments, and do and perform any and all acts or things  
96 necessary, convenient or desirable for the purposes of the corpora-  
97 tion, or to carry out any power expressly or implicitly given in this  
98 act.

1 6. a. The corporation may enter into contracts with any public  
2 or private entity to operate rail passenger and rail freight service  
3 or portions or functions thereof. Where appropriate, payments  
4 by the corporation for services contracted for under this section  
5 shall be determined in accordance with the Federal Regional Rail  
6 Reorganization Act of 1973 (45 U. S. C., 701 et seq.), the Federal  
7 Rail Passenger Service Act of 1970 (45 U. S. C. 501 et seq.), any  
8 other applicable Federal law, and any and all rules, regulations  
9 and standards, promulgated thereunder and decisions issued pur-  
10 suant thereto. In all other cases, payments shall be by agreement  
11 upon such terms and conditions as the corporation shall deem  
12 necessary.

13 b. The corporation may enter into contracts with any public or  
14 private entity to operate motorbus regular route, paratransit or  
15 motorbus charter services or portions or functions thereof. Pay-  
16 ments shall be by agreement upon such terms and conditions as  
17 the corporation shall deem necessary.

1 7. The corporation or any public or private entity under contract  
2 to the corporation operating regular route motorbus service may  
3 provide motorbus charter service provided that the carrier com-  
4 plies with applicable State and Federal statutes, rules and regu-  
5 lations with regard to any such operations.

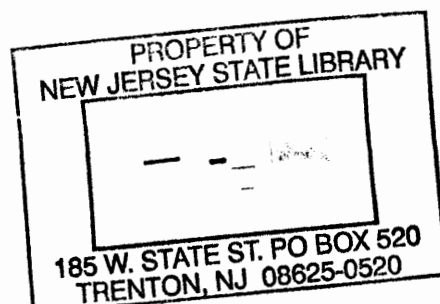
1 8. a. The authority hereby given the corporation pursuant to  
 2 this act with respect to fares and service, shall be exercised by the  
 3 corporation directly or through contract without regard or refer-  
 4 ence to the jurisdiction vested in the Department of Transportation  
 5 by sections 48:2-21, 48:2-24 and 48:4-3 of the Revised Statutes.  
 6 The Department of Transportation shall resume jurisdiction over  
 7 service and fares upon the termination and discontinuance of a  
 8 contractual relationship between the corporation and a private or  
 9 public entity relating to the provision of public transportation  
 10 services operated under the authority of certificates of public con-  
 11 venience and necessity previously issued by the department or its  
 12 predecessors; provided, however, that no private entity shall be  
 13 required to restore any service discontinued or any fare changed  
 14 during the existence of a contractual relationship with the corpora-  
 15 tion, unless the Department of Transportation shall determine,  
 16 after notice and hearing, that the service or fare is required by  
 17 public convenience and necessity.

18 b. Notwithstanding any other provisions of this act, all vehicles  
 19 used by any public or private entity pursuant to contract autho-  
 20 rized by this act, and all vehicles operated by the corporation  
 21 directly, shall be subject to the jurisdiction of the Department of  
 22 Transportation with respect to insurance, maintenance, specifica-  
 23 tions and safety to the same extent such jurisdiction is conferred  
 24 upon the department by Title 48 of the Revised Statutes.

25 c. Before implementing any fare increase for any motorbus regu-  
 26 lar route or rail passenger services, or the abandonment of any  
 27 such services, the corporation shall hold a public meeting in the  
 28 area affected during evening hours. Notice of such meetings shall  
 29 be given by the corporation at least 10 days prior to such meeting  
 30 to the governing body of each county whose residents will be  
 31 affected and to the clerk of each municipality in the county or  
 32 counties whose residents will be affected; such notice shall also  
 33 be posted at least 10 days prior to such meeting in prominent places  
 34 on the railroad cars and buses serving the routes to be affected.

1 9. In any proceeding before the Department of Transportation  
 2 for decreasing or abandoning service, any contract payments  
 3 offered by the corporation for continuing service shall be considered  
 4 as available revenues by the department, in making any determi-  
 5 nation on the petition.

1 10. In order to conserve, improve, and promote public trans-  
 2 portation service necessary for public use pursuant to the provi-  
 3 sions of this act, the corporation may purchase and improve capital



4 equipment and facilities, including, but not limited to, the design,  
5 planning, acquisition, construction, reconstruction, relocation, in-  
6 stallation, removal, establishment, repair or rehabilitation of such  
7 equipment or facilities. The powers herein granted shall be exer-  
8 cised by the corporation, notwithstanding the provisions to the  
9 contrary of P. L. 1948, c. 92 (C. 52:18A-1 et seq.) and chapters 25,  
10 32, 33, 34 and 35 of Title 52 of the Revised Statutes, and in ac-  
11 cordance with procedures set forth in section 11 of this act.

1 11. a. All purchases, contracts or agreements pursuant to this  
2 act shall be made or awarded directly by the corporation, except  
3 as otherwise provided in this act, only after public advertisement  
4 for bids therefor, in the manner provided in this act, notwithstand-  
5 ing the provisions to the contrary of P. L. 1948, c. 92 (C. 52:18A-1  
6 et seq.) and chapters 25, 32, 33, 34 and 35 of Title 52 of the Revised  
6A Statutes.

7 b. Whenever advertising is required: (1) specifications and  
8 invitations for bids shall permit such full and free competition as  
9 is consistent with the procurement of supplies and services neces-  
10 sary to meet the requirements of the corporation; (2) the adver-  
11 tisement for bids shall be in such newspaper or newspapers selected  
12 by the corporation as will best give notice thereof to bidders and  
13 shall be sufficiently in advance of the purchase or contract to  
14 promote competitive bidding; (3) the advertisement shall desig-  
15 nate the time and place when and where sealed proposals shall  
16 be received and publicly opened and read, the amount of the cash,  
17 certified check, cashiers check or bank check, if any, which shall  
18 accompany each bid, and such other terms as the corporation may  
19 deem proper.

20 c. The corporation may reject any or all bids not in accord with  
21 the advertisement of specifications, or may reject any or all bids  
22 if the price of the work materials is excessively above the estimate  
23 cost or when the corporation shall determine that it is in the public  
24 interest to do so. The corporation shall prepare a list of the bids,  
25 including any rejected and the cause therefor. The corporation may  
26 accept bids containing minor informalities. Awards shall be made  
27 by the corporation with reasonable promptness by written notice  
28 to the responsible bidder whose bid, conforming to the invitation  
29 for bids, will be the most advantageous to the State, price and  
30 other factors considered.

31 d. A proposal bond equal to at least 50% of the bid executed by  
32 the contractor with such sureties as shall be approved by the  
33 corporation in favor of the State of New Jersey, shall accompany  
34 each bid and shall be held as security for the faithful performance

35 of the contractor in that, if awarded the contract, the bidder will  
 36 deliver the contract within 10 working days after the award,  
 37 properly executed and secured by satisfactory bonds in accordance  
 38 with the provisions of N. J. S. 2A :44-143 through N. J. S. 2A :44-147  
 39 and specifications for the project. The corporation may require in  
 40 addition to the proposal bond such additional evidence of the  
 41 ability of a contractor to perform the work required by the contract  
 42 as it may deem necessary and advisable. All proposal bonds which  
 43 have been delivered with the bids, except those of the two lowest  
 44 responsible bidders, shall be returned within 30 working days after  
 45 such bids are received.

46 e. If the bidder fails to provide a satisfactory proposal bond as  
 47 provided in subsection d. of this section, his bid shall be rejected.

48 f. The corporation shall determine the terms and conditions of  
 49 the various types of agreements or contracts, including provisions  
 50 for adequate security, the time and amount or percentage of each  
 51 payment thereon and the amount to be withheld pending completion  
 52 of the contract, and it shall issue and publish rules and regulations  
 53 concerning such terms and conditions, standard contract forms and  
 54 such other rules and regulations concerning purchasing or procure-  
 55 ment, not inconsistent with any applicable law, as it may deem  
 56 advisable to promote competition and to protect the public interest.

57 g. Any purchase, contract or agreement pursuant to subsection a.  
 58 hereof may be made, negotiated or awarded by the corporation  
 59 without advertising in any manner which the corporation may  
 60 deem effective to promote full and free competition whenever  
 61 competition is practicable;

61A (1) When the aggregate amount involved does not exceed  
 61B \$7,500.00; or

62 (2) In all other cases when the corporation seeks:

63 (a) To acquire used public transportation equipment or  
 64 existing public transportation facilities or rights of way; or

65 (b) To acquire subject matter which is that described in  
 66 section 4 of P. L. 1954, c. 48 (C. 52:34-9); or

67 (c) To make a purchase or award or make a contract or  
 68 agreement under the circumstances described in section 5 of  
 69 P. L. 1954, c. 48 (C. 52:34-10).

70 h. The corporation shall require that all persons proposing to  
 71 submit bids on improvements to capital facilities and equipment  
 72 shall first be classified by the corporation as to the character and  
 73 amount of work on which they shall be qualified to submit bids.  
 74 Bids shall be accepted only from persons qualified in accordance  
 75 with such classification.

1 12. a. The corporation shall have the power to acquire by pur-  
2 chase, condemnation, lease, gift or otherwise, on such terms and  
3 conditions and in such manner as it may deem proper, for use by  
4 the corporation or for use by any other public or private entity  
5 providing public transportation services, all or part of the facility,  
6 plant, equipment, property, shares of stock, rights of property, real,  
7 personal, tangible, intangible or mixed rights in property, reserve  
8 funds, employees pension or retirement funds, special funds, fran-  
9 chises, licenses, patents, permits and papers, documents and  
10 records of a public or private entity providing public transportation  
11 services within the State, subject to any outstanding obligations  
12 relating to such items as might be agreed upon by the parties,  
13 together with all or any part of the right of way, equipment, fixed  
14 facilities and other property of any kind of any such entity ending  
15 beyond the boundaries of this State.

16 Such properties upon acquisition by or lease to the corporation  
17 shall become and be operated as part of any public transportation  
18 services by the corporation or any entity designated by the corpo-  
19 ration and the corporation shall have all powers in connection with  
20 such properties and such operations as are conferred by this act.

21 b. The corporation shall also have the power to acquire by pur-  
22 chase, condemnation, lease, gift or otherwise, on such terms and  
23 conditions and in such manner as it may deem proper, any land or  
24 interest therein, including land under water and air rights, which  
25 it may determine is reasonably necessary for the purposes of the  
26 corporation under the provisions of this act and any and all rights,  
27 whether for immediate or future use, title and interest in such  
28 land and other property, including public lands, parks, playgrounds,  
29 reservations, highways or parkways, owned by or in which any  
30 county or municipality, borough, town, township, village, or other  
31 political subdivision of the State has any right, title or interest, or  
32 parts thereof or rights therein and any fee simple absolute or any  
33 lesser interest in private property, and any fee simple absolute in,  
34 easements upon, or the benefit of restrictions upon, abutting prop-  
35 erty to preserve and protect corporation projects.

36 c. The corporation, if it proceeds to acquire any public or private  
37 entity engaged in the provision of public transportation service,  
38 or any part thereof by condemnation, shall have the power to take  
39 control of and operate such entity immediately upon the filing and  
40 approval of the complaint for condemnation, if the corporation in  
41 its discretion, determines such action to be necessary. This power  
42 shall include the possession of all right, title and other powers of  
43 ownership in all properties and facilities described in the petition.



44 Such action shall be effective upon service of a copy thereof on  
45 the condemnee. In the determination of the fair value of any such  
46 entity, there shall not be included any value attributable to expend-  
47 itures for improvements or payments made to the entity by the  
48 corporation, the Commuter Operating Agency or the Department  
49 of Transportation.

50 d. Upon the exercise of the power of eminent domain by the  
51 corporation the compensation to be paid thereunder shall be  
52 ascertained and paid in the manner provided in the "Eminent  
53 Domain Act of 1971," P. L. 1971, c. 361 (C. 20:3-1 et seq.) in so far  
54 as the provisions thereof are applicable and not inconsistent with  
55 the provisions contained in this act. The corporation may join in  
56 separate subdivisions in one petition or complaint the descriptions  
57 of any number of tracts or parcels of land or property to be con-  
58 demned, and the names of any number of owners and other parties  
59 who may have an interest therein and all such land or property  
60 included in said petition or complaint may be condemned in a single  
61 proceeding; provided, however, that separate awards shall be  
62 made for each tract or parcel of land or property; and provided,  
63 further, that each of said tracts or parcels of land or property  
64 shall be wholly within or have a substantial part of its value be  
65 wholly within the same county.

66 e. Upon the filing by the corporation of a complaint in any action  
67 to fix the compensation to be paid for any property or at any time  
68 thereafter, the corporation may file with the clerk of the county in  
69 which such property is located and also with the clerk of the  
70 superior court a declaration of taking, signed by the corporation,  
71 or such employees of the corporation as may be designated by the  
72 corporation, declaring that possession of one or more of the tracts  
73 or parcels of land or property described in the complaint is thereby  
74 being taken by and for the use of the corporation. The declaration  
75 of taking shall be sufficient if it sets forth (1) a description of each  
76 tract or parcel of land or property to be taken, (2) a statement of  
77 the estate or interest in the property being taken, (3) a statement  
78 of the sum of money estimated by the corporation to be just com-  
79 pensation for the taking of the estate or interest in each tract or  
80 parcel of land or property described in said declaration, and  
81 (4) an allegation that, in compliance with the provisions of this act,  
82 the corporation has established and is maintaining a trust fund  
83 as hereinafter provided.

84 f. Upon the filing by the corporation of a declaration of taking  
85 and the depositing with the clerk of the superior court of the amount

86 of the estimated compensation stated in the declaration, the  
87 corporation, without other process or proceedings, shall be entitled  
88 to the exclusive possession and use of each tract or parcel of land  
89 or property described in said declaration and may forthwith enter  
90 into and take possession of said land or property, it being the intent  
91 of this provision that the action to fix compensation to be paid or  
92 any other proceedings relating to the taking of the land or property  
93 or interest therein or entering thereon shall not delay the taking of  
94 possession thereof and the use thereof by the corporation for the  
95 purposes authorized by this act. The corporation shall not abandon  
96 any condemnation proceeding subsequent to the date upon which  
97 it has taken possession of the land or property as herein provided.

98 g. The corporation shall cause notice of the filing of a declaration  
99 of taking of property as provided in this act and of the making of  
100 the deposit required by this act with respect thereto to be served  
101 upon each party to the action who resides in the State, either  
102 personally or by leaving a copy thereof at his residence or business  
103 address if known, and upon each such party who resides out of the  
104 State, by mailing a copy thereof to him at his residence or  
105 business address, if known. In the event that the residence of  
106 any such party or the name of such party is unknown, such  
106A notice shall be published at least once in a newspaper published  
107 or circulating in the county or counties in which the property is  
108 located. Such service, mailing or publication shall be made within  
109 30 days after filing such declaration. Upon the application of any  
110 party in interest and after notice to other parties in interest,  
111 including the corporation, the Superior Court may direct that the  
112 money deposited with the clerk of the superior court or any part  
113 thereof be paid forthwith, without deduction of any fees or com-  
114 missions, to the person or persons entitled thereto for or on account  
115 of the just compensation to be awarded in said action; provided,  
116 that each such person shall have filed with the clerk of the superior  
117 court a consent in writing that, in the event the award in the action  
118 shall be less than the amount deposited, the court, after such notice  
119 as the court prescribes and hearing, may determine the liability,  
120 if any, for the return of the difference or any part thereof and  
121 enter judgment therefor.

122 If the amount of the award as finally determined shall exceed  
123 the amount so deposited, the person or persons to whom the award  
124 is payable shall be entitled to recover from the corporation the  
125 difference between the amount of the deposit and the amount of  
126 the award, with interest at the rate of 6% per annum thereon from

127 the date of making the deposit. If the amount of the award so  
128 determined shall be less than the amount so deposited, the clerk  
129 of the superior court shall return the difference between the  
130 amount of the award and the deposit, including all accrued interest  
131 thereon, to the corporation unless the deposit or any part thereof  
132 shall have theretofore been distributed, in which event the court,  
133 on application of the corporation and notice to all persons interested  
134 in the award and affording them an opportunity to be heard, shall  
135 enter judgment in favor of the corporation for the difference  
136 against the party or parties liable for the return thereof.

1 13. The corporation may appoint an executive director, directors  
2 of operating divisions, divisions, and other such additional officers,  
3 all of whom need not be members of the corporation, and may  
4 employ consulting architects, engineers, auditors, accountants,  
5 construction, management real estate, operations and financial ex-  
6 perts, supervisors, managers and such other professional consult-  
7 ants and officers and employees, and may fix their compensation,  
8 as the corporation deems advisable; and may promote and dis-  
9 charge such officers and employees, all without regard to the pro-  
10 visions of Title 11 of the Revised Statutes. In developing an  
11 employee compensation schedule, the corporation shall consult  
12 with appropriate authorities of the State and file such schedule  
13 with them upon completion. The corporation shall by October 31  
14 of each year submit to the Governor and the presiding officers and  
15 the Transportation and Communications Committees of both  
16 Houses of the Legislature, a list of all full and part-time officers  
17 and employees of the corporation and the salaries, wages and com-  
18 pensation received by said officers and employees during the pre-  
19 ceding fiscal year.

20 Persons holding positions in the classified and unclassified service  
21 of the State who are presently enrolled in the Public Employees'  
22 Retirement System shall, while employed by the corporation, con-  
23 tinue as members of that retirement system and retain all rights  
24 and protection provided them by said retirement system. Persons  
25 employed by the corporation who are members of a State-admin-  
26 istered retirement system other than the Public Employees' Re-  
27 tirement System shall, upon acceptance of their employment with  
28 the corporation, be required to transfer their membership to the  
29 Public Employees' Retirement System.

30 Employees of the corporation who are not presently enrolled  
31 in any State-administered retirement system shall be enrolled in  
32 the Public Employees' Retirement System if they are eligible

33 under the terms of section 73 of P. L. 1954, c. 84 (C. 43:15A-73).  
 34 Employees who are ineligible for enrollment in the Public Em-  
 35 ployees' Retirement System shall retain membership in any non-  
 36 State retirement system under which they have accrued benefits  
 37 or rights or shall be eligible to join such system.

1 14. The exercise of the powers granted by this act shall be in  
 2 all respects for the benefit of the people of the State, and since  
 3 the improvement, operation, and maintenance of public transporta-  
 4 tion services by the corporation constitute the performance of  
 5 essential governmental functions, the corporation shall not be re-  
 6 quired to pay any taxes or assessments upon any public trans-  
 7 portation project or any property acquired or used by the  
 8 corporation under the provisions of this act or upon the income  
 9 therefrom.

1 15. All expenses incurred by the corporation in carrying out  
 2 the provisions of this act shall be payable from funds available  
 3 to the corporation therefor and no liability or obligation shall be  
 4 incurred by the corporation beyond the extent to which moneys  
 5 are available. No debt or liability of the corporation shall be  
 6 deemed or construed to create or constitute a debt, liability, or a  
 7 loan or pledge of the credit of the State.

1 16. Real property and rolling stock owned or used by the cor-  
 2 poration shall be exempt from all claims of creditors and from  
 3 levy, execution or attachment.

1 17. Notwithstanding any of the provisions of the "New Jersey  
 2 Contractual Liability Act" (N. J. S. 59:13-1 et seq.) to the con-  
 3 trary, contract claims and suits against the corporation shall be  
 4 governed by said act.

1 18. a. The corporation shall, by September 15 of each year, file  
 2 with the Commissioner of Transportation a report in such format  
 3 and detail as the Commissioner may require setting forth the actual,  
 4 operational, capital and financial results of the previous fiscal year,  
 5 the operational, capital and financial plan for the current fiscal  
 6 year and a proposed operational, capital and financial plan for the  
 7 next ensuing fiscal year.

8 b. On or before October 31 of each year, the corporation shall  
 9 make an annual report of its activities for the preceding fiscal year  
 10 to the Governor and to the presiding officers and the Transporta-  
 11 tion and Communications Committees of both Houses of the Leg-  
 12 islature. Each such report shall set forth a complete operating  
 13 and financial statement covering its operations and capital projects  
 14 during the year.

15 c. All records of minutes, accounts, bills, vouchers, contracts  
 16 or other papers connected with or used or filed with the corporation  
 17 or with any officer or employee acting for or in its behalf are hereby  
 18 declared to be public records and shall be open to public inspection  
 19 in accordance with P. L. 1963, c. 73 (C. 47:1A-1 et seq.) and regu-  
 20 lations prescribed by the corporation.

21 d. The corporation shall cause an audit of its books and accounts  
 22 to be made at least once each year by certified public accountants  
 23 and the cost thereof may be treated as a cost of operation. The  
 24 audit shall be filed within 4 months after the close of the fiscal  
 25 year of the corporation and a certified duplicate copy thereof shall  
 26 be filed with the Division of Budget and Accounting in the De-  
 27 partment of Treasury.

28 e. Notwithstanding the provisions of any law to the contrary,  
 29 the State Auditor or his legally authorized representative may  
 30 examine the accounts and books of the corporation.

1 19. All real or personal properties purchased heretofore for  
 2 public transportation purposes in the name of Commuter Operating  
 3 Agency, Department of Transportation, its predecessors or the  
 4 Commissioner of Transportation, shall be deemed to have been  
 5 purchased in the name of the State by and through the corporation  
 6 and shall henceforth be deemed to be and shall actually be the  
 7 property of the corporation.

1 20. This act is intended to protect and promote the public health,  
 2 safety and welfare, and shall be liberally construed to obtain the  
 3 objectives and effect the purposes thereof.

1 21. If any provision of this act or the application thereof to any  
 2 person, or circumstances, or the exercise of any power, or authority  
 3 thereunder is held invalid or contrary to law, such holding shall  
 4 not affect other provisions or applications or affect other exercises  
 5 of power or authority under said provisions not contrary to law,  
 6 and to this end, the provisions of this act are declared to be  
 7 severable.

1 22. Section 5 of P. L. 1966, c. 301 (C. 27:1A-5) is amended to  
 2 read as follows:

3 5. The commissioner, as head of the department, shall have all  
 4 of the functions, powers and duties heretofore vested in the State  
 5 Highway Commissioner and shall, in addition to the functions,  
 6 powers and duties invested in him by this act or by any other law:

7 (a) Develop, from time to time revise and maintain a compre-  
 8 hensive master plan for all modes of transportation development,  
 9 with special emphasis on public transportation;

10 (b) Develop and promote programs to foster efficient and eco-  
11 nomical transportation services in the State;

12 (c) Prepare plans for the preservation **[and]**, improvement  
13 *and expansion* of the **[railroad]** *public transportation* system, with  
14 special emphasis on **[commuter railroads]** *the coordination of*  
15 *transit modes and the use of highways and public streets for public*  
16 *transportation purposes*;

17 **[(d)** Develop plans for more efficient public transportation  
18 service by railroads and motor bus operators; develop statistics,  
19 analyses, and other data of use to railroad and bus operators in the  
20 provision of public transportation service; facilitate more effective  
21 coordination between bus service and other forms of public trans-  
22 portation, particularly the commuter railroads; review petitions  
23 for motor bus franchises in areas served by the commuter railroad  
24 system and make appropriate recommendations on such petitions.]

25 *(d) Enter into contracts with the New Jersey Transit Corpora-*  
26 *tion for the provision and improvement of public transportation*  
27 *services*;

28 (e) Coordinate the transportation activities of the department  
29 with those of other public agencies and authorities;

30 (f) Cooperate with interstate commissions and authorities, State  
31 departments, councils, commissions and other State agencies, with  
32 appropriate Federal agencies, and with interested private indi-  
33 viduals and organizations in the coordination of plans and policies  
34 for the development of air commerce and air facilities; **[and]**

35 (g) Make an annual report to the Governor and the Legislature  
36 of the department's operations, and render such other reports as  
37 the Governor shall from time to time request or as may be required  
38 by law**[.]**; *and*

39 (h) Promulgate regulations providing for the charging of and  
40 setting the amount of fees for certain services performed by and  
41 permits issued by the department, including but not limited to the  
42 following:

- 43 (1) Providing copies of documents prepared by or in the
- 44 custody of the department;
- 45 (2) Aeronautics permits;
- 46 (3) Right-of-way permits;
- 47 (4) Traffic signal control systems.

1 23. Section 2 of P. L. 1973, c. 126 (C. 27:1A-65) is amended to  
2 read as follows:

3 2. For the purposes of this act, unless the context clearly in-  
4 dicates otherwise:

5 a. "Commissioner" means the Commissioner of Transportation;  
 6 provided, however, that he may delegate any of his powers or duties  
 7 under this act to any subordinate division, agency or employee of  
 8 the Department of Transportation *or to the New Jersey Transit*  
 9 *Corporation.*

10 b. "Carrier" means any individual, copartnership, association,  
 11 corporation, joint stock company, public agency, trustee or receiver  
 12 operating motor buses or rail passenger service on established  
 13 routes within this State or between points in this State and points  
 14 in adjacent states.

15 c. "Motor bus" means "autobus" as defined in R. S. 48:4-1, and  
 16 includes those autobuses, commonly called jitneys, as defined in  
 17 R. S. 48:16-23.

18 d. "Offpeak times" means the hours from 9:30 a.m. to 4 p.m.  
 19 and from 7 p.m. to 6 a.m. during the weekdays, and all day on  
 20 Saturdays, Sundays and holidays.

21 e. "Senior citizen" means any individual 62 years of age or over.

22 f. "Handicaped citizen" means any individual who, by reason  
 23 of illness, injury, age, congenital malfunction, or other permanent  
 24 or temporary incapacity or disability, is unable without special  
 25 facilities or special planning or design to utilize mass transporta-  
 26 tion facilities and services as effectively as persons who are not so  
 27 affected.

1 24. Section 73 of P. L. 1954, c. 84 (C. 43:15A-73) is amended to  
 2 read as follows:

3 73. a. The Public Employees' Retirement System is hereby  
 4 authorized and directed to enroll eligible employees of the New  
 5 Jersey Turnpike Authority, the New Jersey Highway Authority,  
 6 Palisades Interstate Park Commission, Interstate Sanitation Com-  
 7 mission, the Delaware River Basin Commission and the Delaware  
 8 River Joint Toll Bridge Commission.

9 In the case of the Delaware River Joint Toll Bridge Commission,  
 10 the eligible employees shall be only those who are employed on the  
 11 free bridges across the Delaware river, under the control of said  
 12 commission.

13 The said employees shall be subject to the same membership, con-  
 14 tribution and benefit provisions of the retirement system as State  
 15 employees.

16 b. The State University of New Jersey, as an instrumentality  
 17 of the State, shall, for all purposes of this act, be deemed an em-  
 18 ployer and its eligible employees, both veterans and nonveterans,  
 19 shall be subject to the same membership, contribution and benefit  
 20 provisions of the retirement system and to the provisions of chapter

21 3 of Title 43 of the Revised Statutes as are applicable to State em-  
22 ployees and for all purposes of this act employment by the State  
23 University of New Jersey after April 16, 1945, and for the purposes  
24 of chapter 3 of Title 43 of the Revised Statutes any new employ-  
25 ment after January 1, 1955, shall be deemed to be and shall be con-  
26 strued as service to and employment by the State of New Jersey.

27 c. The Compensation Rating and Inspection Bureau, created and  
28 established pursuant to the provisions of R. S. 34:15-89, shall, for  
29 all purposes of this act, be deemed an employer and its eligible em-  
30 ployees, both veterans and nonveterans, shall be subject to the same  
31 membership, contribution and benefit provisions of the retirement  
32 system and to the provisions of chapter 3 of Title 43 of the Revised  
33 Statutes as both are applicable to State employees.

34 The retirement system shall certify to the Commissioner of In-  
35 surance and the Commissioner of Insurance shall direct the Com-  
36 pensation Rating and Inspection Bureau to provide the necessary  
37 payments to the retirement system in accordance with procedures  
38 established by the retirement system. Such payments shall in-  
39 clude (1) the contributions and charges, similar to those paid by  
40 other public agency employers, to be paid by the Compensation  
41 Rating and Inspection Bureau to the retirement system on behalf  
42 of its employee members, and (2) the contributions to be paid by  
43 the Compensation Rating and Inspection Bureau to provide the  
44 past service credits up to June 30, 1965 for these members, both  
45 veterans and nonveterans, who enroll before July 1, 1966.

46 d. The New Jersey Sports and Exposition Authority, created  
47 and established pursuant to the "New Jersey Sports and Exposi-  
48 tion Authority Law," P. L. 1971, c. 137 (C. 5:10-1 et seq.) shall  
49 for all purposes of this act, be deemed an employer and its eligible  
50 employees both veterans and nonveterans, shall be subject to the  
51 same membership, contribution and benefit provisions of the re-  
52 tirement system and to the provisions of chapter 3 of Title 43 of  
53 the Revised Statutes as are applicable to State employees.

54 (1) Eligible employees as used herein shall not include persons  
55 who are not classified as salaried, or who are compensated on an  
56 hourly or per diem basis, or whose employment is normally  
57 covered by other retirement systems to which the authority makes  
58 contributions.

59 (2) Eligible employees previously permitted to enroll in the re-  
60 tirement system shall redeposit the contributions previously made  
61 by them and all service credit shall then be restored and future  
62 contributions made at the date of contribution as originally



63 assigned. The authority shall redeposit the employer payments  
64 it had made, with interest to the date of redeposit.

65 e. *The New Jersey Transit Corporation created and established*  
66 *pursuant to the "New Jersey Public Transportation Improvement*  
67 *Act of 1979", P. L. 19 , c. shall for all purposes of this act,*  
68 *be deemed an employer and its eligible employees both veterans*  
69 *and nonveterans, shall be subject to the same membership, con-*  
70 *tribution and benefit provisions of the retirement system and to*  
71 *the provisions of chapter 3 of Title 43 of the Revised Statutes as*  
72 *are applicable to State employees. Eligible employees as used*  
73 *herein shall include persons in management, professional or clerical*  
74 *positions but shall not include persons who are not classified as*  
75 *salaried or who are compensated on an hourly or per diem basis*  
76 *or whose employment is normally covered by other retirement*  
77 *systems to which the corporation may make contributions.*

1 25. a. The following are repealed:

2 P. L. 1966, c. 301, § 15-27 (C. 27:1A-15 to 27:1A-27);

3 P. L. 1966, c. 301, § 29-32 (C. 27:1A-29 to 27:1A-32);

4 P. L. 1975, c. 371, § 1, 2 (C. 27:1A-18.1 and 27:1A-18.2);

5 P. L. 1967, c. 138, § 1, 2 (C. 27:1A-24.1 and 27:1A-24.2);

6 P. L. 1976, c. 119, § 1-7 (C. 27:1A-28.7 to 27:1A-28.13).

7 b. The repealer of these acts and part of acts shall not in any  
8 way affect any contracts, agreements, determinations, orders,  
9 rules or regulations heretofore made or promulgated, as the case  
10 may be by the Commuter Operating Agency or the Department  
11 of Transportation pursuant to any authority heretofore granted  
12 but such contracts, agreements, determinations, orders, rules and  
13 regulations shall be continued by the corporation with full force  
14 and effect until otherwise amended, repealed or terminated in  
15 accordance with the terms thereof or pursuant to the provisions  
16 of this act.

1 26. Whenever in any law, rule, regulation, contract, document,  
2 judicial or administrative proceeding or otherwise, reference is  
3 made to the New Jersey Commuter Operating Agency, the same  
4 shall mean and refer to the New Jersey Transit Corporation.

1 27. Until such time as the corporation and its board are legally  
2 constituted pursuant to section 4 of this act, the Commuter Operat-  
3 ing Agency is authorized to exercise all of the powers granted the  
4 corporation by this act. On the date that the corporation and board  
5 are legally constituted pursuant to section 4 of this act, the Com-  
6 muter Operating Agency shall no longer exercise any of its powers  
7 pursuant to P. L. 1966, c. 301 as amended and supplemented by  
8 P. L. 1976, c. 119.

9 Anticipatory actions appropriate and necessary to effect the  
10 establishment of the corporation and the implementation of its  
11 duties are authorized to be accomplished as promptly as possible by  
12 the Commuter Operating Agency in advance of the date that the cor-  
13 poration and its board are legally constituted, including the making  
14 of authorized appointments and within the limits of applicable  
15 appropriations to the Department of Transportation, the expendi-  
16 ture of funds for payment of salaries and expenses incident thereto.  
1 28. This act shall take effect immediately, but section 25 shall  
2 remain inoperative for 60 days after enactment.

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#### STATEMENT

Massive public investment in capital and operating assistance to New Jersey's network of predominantly privately owned and operated public transportation services has failed to increase ridership, stabilize fares or substantially rationalize and improve services. The inability of the State to select effective management of public transportation resources has further impeded progress toward these goals. The program of State assistance to private owner-operators was designed 10 years ago as an interim measure and is gravely deficient as the basis of a stable and effective public transportation network for the State.

This bill thus represents a comprehensive effort to replace the "interim" program with a long-term program designed to insure the stable delivery and improvement of public transportation services. It provides for broad authority to effectuate these ends. The existing Commuter Operating Agency is abolished and replaced by a New Jersey Transit Corporation, a public corporation located in the Department of Transportation. The corporation will be directed by a five-member board including the Commissioner of Transportation who shall serve as chairman. The corporation is empowered with extensive authority to own, operate and contract for the provision and improvement of public transportation services, including bus and rail service, paratransit service, and motor-bus charter service. It is also empowered to exercise independent authority to purchase goods, services and property.

Actions of the corporation are subject to the veto of the Governor. An annual report to the Governor and Legislature is required to be submitted by October 31 of each year.

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SENATOR JOHN M. SKEVIN (Chairman): We'd like to convene the second public hearing on S-3137. My name is John Skevin. I'm a State Senator from Bergen County, District 38. To my left is Senator Frank Herbert. We will have as our first witness John Gilhooley, Transport of New Jersey. Mr. Gilhooley we want to congratulate you as the recipient of the Shamrock of the Year, as I understand, the Gael of the year from Bergen County. And, we want to extend our congratulations and best wishes on that very significant award from a foreign country, of course, but a country close to many, many of us in New Jersey.

JOHN GILHOOLEY: Well, it's not a foreign country to me, Mr. Chairman, I live in Bergen County but I would say that the award is totally undeserved. It's a pleasure to see you gentlemen again. Last time I think we were together was on the property of Transport of New Jersey after you had spent 4 or 5 hours climbing up and down on subway cars and buses looking over our operations in the shops. It's been a few months since that time but it's good to be back with you again and I deeply appreciate through you and the other members of the committee the opportunity that you have afforded us to appear here this morning with regard to Senate Bill 3137. And, if I may, Mr. Chairman, I will say that I am starting with a little problem in my throat and if I have to stop from time to time, I hope you'll be indulgent.

SENATOR SKEVIN: We certainly will, Mr. Gilhooley.

MR. GILHOOLEY: My personal views regarding public ownership and operation of mass transit facilities are, I think I can say modestly enough, quite well known. My opposition to that concept has been expressed many times in innumerable forums based upon long and varied experience which has in part encompassed responsibility for the day to day operation of the largest public and the largest private mass transit systems in the country. That opposition continues and for those who are contemporaneously interested in those views, they can be easily found in such past statements and press comments thereon. Thus, to repeat all those views here this morning is unnecessary. What is clear is that the ultimate decision regarding this issue is within the province of the elected and appointed officials of that government which has to decide upon the matter and, if I may say so, live with the ultimate consequences of that decision.

This statement concerning Senate Bill No. 3137 is submitted on behalf of Transport of New Jersey and the Maplewood Equipment Company.

Transport of New Jersey, which operates the State's largest public transportation system, is a wholly owned subsidiary of Public Service Electric and Gas Company. In addition, Transport is the owner of Maplewood Equipment Company. Maplewood is a conglomerate of several formerly bankrupt companies which had been operated under a court order receivership. Transport acquired these companies at the specific request of Governor William T. Cahill back in 1972 who personally asked Transport, myself, the then Chairman of Public Service, to take over these companies in the interest of the State. And, we did so. And with the approval of the receiver in bankruptcy, we moved forward because there were no other private or public agencies willing to or able to undertake the responsibility for maintaining and operating this public transit system in its totality.

Senate Bill No. 3137 would create a new public agency to be known as the "New Jersey Transit Corporation," i.e. an authority. This entity would be empowered to engage in a wide range of activities concerning public transportation services.

Regardless of what action the Legislature determines to take on this bill, we welcome the attention and consideration that is being directed towards the critically important problem of how the State is to provide stable, adequate and efficient transportation services for its citizens. It has been generally recognized that the existing subsidy program was never designed to be a permanent solution to the transportation problems that were developing when this program was enacted. The present subsidy program was initiated in 1969 on what was intended to be a purely stop-gap basis. That the present subsidy arrangement has functioned for 10 years is more a tribute to the flexibility and determination of the carriers who have had constantly to restructure relationships over this period than it is testimony to the adequacy of the present law.

We share the Department of Transportation's conclusion, therefore, that it is necessary to change the present transportation program in order to assure the citizens of the State that they will receive the transportation services they need in the most effective manner and at the lowest possible cost.

It is apparent from the Commissioner's statement to this Committee on March 28, 1979 that he has concluded that Transport and Maplewood should be the cornerstone of whatever program the State is going to pursue. Realistically, we believe that this is a correct assessment of the importance of these carriers to the transportation network in New Jersey.

Transport has been conscientiously providing transit services for the people of New Jersey for 75 years. Despite the rigid constraints imposed in the last five years by the lack of adequate capital funds, we believe that Transport and its employees have performed this mission exceedingly well. We are not, Mr. Chairman, instant experts. 75 years of experience, gentlemen, is a long time and I suppose we've learned a few things along the way.

Transport is not only the State's largest mass transportation company, it also carries more passengers than all the State's rail facilities combined including PATH and PATCO. Operating in 20 of the State's 21 counties, Transport provides essential services for more than 100 million annual riders many of whom do not have viable transportation alternatives. Its work force of 3,500 employees, operating a fleet of over 1,500 buses and 18 depot locations represent the closest approach to a comprehensive transportation system that New Jersey has. The importance of Transport to the State's transportation network is further underscored by its ownership and operation of Maplewood which carries an additional 10 million riders annually.

The question before this Committee and the Legislature, of course, is how best to achieve the policy objective. Obviously, there exists a wide range of opinions as to whether public ownership will produce the desired results rather than a properly structured public-private partnership. Transport has previously indicated reasons why it has felt that it could provide the State with the services and the transportation results that the citizens demand and that they deserve. The Department of Transportation nevertheless has decided that this approach should be abandoned and the State should now commit itself to a course of public ownership.

At this point, it should be mentioned that the existing program in the area of both rails and buses does not provide subsidies for the benefit of the carriers. It does not provide subsidies for the benefit of the carriers. If the beneficiary of the existing subsidy program were the carriers, the program would

not have been approved initially nor would it have been expanded and continued over the years. What the State has been purchasing for the millions of dollars expended annually has been transportation services for its citizens that would not have been otherwise available. The services provided by Transport and Maplewood, as well as other carriers under contract with the State is mandated by the State in terms of routes, fares and frequency of service. It is more realistic, therefore, to describe the present contract program as a purchase of service contract rather than a "subsidy program". It is the rider who uses these transportation facilities that is receiving the so-called subsidy and not the carrier. Under present service contracts, our companies receive neither depreciation expense for the use of our facilities and equipment or any return on our investment. At most, the companies are reimbursed for their costs of providing the services mandated by the State. The return to the carriers has been less than real cost and it is the carrier that has ended up subsidizing the State. I read in the paper this morning as I was coming down here, a distinguished New Jerseyman in speaking about increasing the fare on PATH to 10¢ and then another 10¢ a year from now, the former Commissioner of Transportation and now Chairman of the Port Authority used a phrase that he used much when he was here as a commissioner - that there's no such thing as the free lunch. That probably is true except that I think the proof of that sometimes is in its obverse, and I've just stated the obverse - it is the carrier that has ended up subsidizing the State. So, there is a free lunch there somewhere.

It has been recognized since mid-1973 by the State and our companies that Transport could not continue its full range of operations without State financial assistance. Since entering into its first service contract with the State in February 1974, the companies have regularly indicated to the State their desire to structure a long-term relationship that would insure stability of operations and provide a basis for producing the most efficient and economical transportation service possible under the circumstances. Moreover, the companies have always indicated a willingness to discuss with the State any of the alternative approaches that have been available including public ownership or revised and improved service contract arrangements. What we have always sought and have never achieved to date is a policy decision from the State on this critical issue. To the extent that the discussions on Senate Bill No. 3137 help to produce such a policy determination from the entire State government, we seek and applaud such efforts.

Since Transport entered into a contract arrangement with the State in 1974, it has never had an agreement with the State covering an operating period for as long as an entire year. In fact, during the five-year period that we have been contracting with the State, circumstances have required us to enter into more than 30 contracts and contract extensions many of which have provided for the continuation of our contract arrangement for a month or even less. Such contract instability, living hand to mouth, is totally inconsistent with the performance of efficient and economical service.

If the State is now prepared to make up its mind as to what it wants from Transport, we are prepared to accept the State's policy decision, provided that, if the decision is public acquisition, that we receive a fair compensation for the property being acquired by the State and, what is equally if not more important, there is provided a certainty of protection by the State of all of the employees, hourly rated and management employees - all of them - of Transport

and Maplewood. These employees are entitled to no less. As this Committee knows from the statements that have been submitted on behalf of both unionized and non-unionized members of Transport, they, as well as the companies, seek such assurances both in the legislation to be adopted and in any negotiations that may ensue.

If the State should decide to continue with a public-private partnership, we would also cooperate with that approach. We would urge, however, that the existing "subsidy" law be restructured to permit purchase of service contracts that provide for depreciation, return on investment and incentive subsidies and penalties along the lines developed by the New Jersey Department of Transportation in 1976. A revised and improved subsidy approach has never, never been given an opportunity to demonstrate whether it could succeed and satisfy the State's requirements. In this case, Mr. Chairman, I wonder what has ever become of the Esposito Report which was a report generated as a result of a joint resolution of the Assembly and the Senate setting up a committee staffed by representatives of the Senate, the Assembly, DOT, the PUC and Energy Department in the person of Mr. Jacobson, Labor and the commuters? A report was furnished. It came out very strongly in favor of the incentive subsidy approach and I haven't seen or heard of it during any of the discussions leading up to this bill. I just wonder where that is and what has ever become of it?

The choice is the State's. We will cooperate fully provided that we are fairly treated in the approach selected and our employees are properly protected by the State.

Addressing Senate Bill No. 3137 specifically, there are certain aspects of this proposal that deserve careful attention by the Legislature and possible revision. Most importantly, we would note that the powers and authority granted to the Corporation under this bill are so broad and so unlimited that there is no way of knowing in advance what course of action this Corporation would pursue. The range of options available to the Corporation are extremely wide and the legislation does not attempt to restrict or dictate how the Corporation should proceed even during the initial phases of organization.

In this sense, Senate Bill No. 3137 differs radically from virtually every other authority or comparable entity ever created by New Jersey legislation. Now, why is this so? New Jersey has used independent authorities for a number of different purposes. The laws creating these agencies, however, invariably set forth very specifically the tasks to be undertaken by the agency. This is so with regard to the turnpike and the highway authorities as well as our numerous inter-state bridge and tunnel authorities. It is also true of agencies such as the New Jersey Sports and Exposition Authority. In each of these cases, the areas within which the agency could operate and the projects that they could undertake were carefully agreed upon in advance and authorized by law. While these agencies have broad and general powers, the ability to undertake new projects is generally conditioned upon further legislative authorization. As a result, in such instances the Legislature understood in advance what projects it was approving and the agency understood what project it was permitted to undertake before the law was passed.

Under Senate Bill No. 3137, no comparable project approach is provided for. Total discretion as to how public transportation services are to be provided and maintained is granted to the Corporation without any legislative guidance or direction. While we recognize the necessity for some reasonable flexibility in

such an agency, we believe that the initial mission of this new entity, if it comes to be, should be defined much more specifically and so set forth in the law.

If it is the State's intention to acquire Transport and Maplewood, as the Commissioner has stated, we would recommend that the law specifically direct and authorize such acquisitions. If other carriers are to be involved, they should be named as well. In the absence of such specifics, recognizing that this agency does not now exist and that commitments cannot be made on its behalf, there is no way that the State, the carriers, the public, the press can know with any degree of certainty what the Corporation will actually undertake to do.

In the final analysis, it is the total uncertainty that confronts the carriers, their employees, the riding public, the State, the press and everyone else in the State which creates the great concern about the bill. If the proponents of this legislation will commit themselves to the course of action they have in mind, whatever that course may be, all interested parties would be better able to take and defend a position concerning the desirability of the legislation.

Now, it obviously would be possible to go through Senate Bill No. 3137 commenting upon its numerous provisions and making suggestions for modifications or changes. We have not undertaken to do this because it is not our intention to find fault or to seek dispute on non-policy matters. We would bring to the Legislature's attention, however, one ambiguity in the law which could raise serious problems if not addressed and corrected. The bill authorizes the Corporation to continue to contract for transportation services in Section 6. This section is devoid of any standards or limitations and this warrants further consideration. More importantly, however, the power of the Department to continue existing contractual arrangements with carriers is made unclear by the provision of Section 11 of the Act which requires competitive bidding. This Section appears not to have been intended to apply to subsidy contracts. The language is so broad, however, that it could be interpreted to be applicable to contracts for transportation services. Now, if this is the intent of, or the interpretation that is ultimately placed upon this Section, it would seriously interfere with or prohibit existing subsidy arrangements by requiring open bidding in instances where individual carriers have been providing the services as part of their franchise right. This is the situation in which the Varsity Company and New York City finds itself right now in terms of carrying handicapped children to school. This ambiguity is potentially so serious that some clarification must be made. I'm not saying, Mr. Chairman, that that is what the bill necessarily calls for. I am suggesting that there is a serious ambiguity there and I think that if you want to avoid that shoal - if you want to get between Scylla and Charybdis on this one - it would be helpful to address yourself to the ambiguity.

Before concluding, the companies also wish to address the issue raised by the Commissioner concerning the payment of pension obligations incurred prior to February, 1974. The Commissioner has contended that the State should not recognize the cost implications to the companies of paying for these obligations. He has insisted that the companies are legally obligated to pay these benefits. The issue, however, is simply not legal obligation to pay but rather capacity to pay. Transport is legally obligated to pay all of the obligations incurred during its operation. Its inability to meet its operating costs is the very reason for State financial assistance. Public Service has no present legal obligation to pay such costs. Although it may have a contingent liability under certain circumstances,

quite remote from this room or these circumstances, its obligation, if any, will arise only if Transport ceases to operate.

The contention that past pension obligations are somehow different from other cost obligations of the company is a distinction that has never been recognized by any responsible agency. Such costs have always been treated as proper operating costs when paid by all regulatory agencies including the ICC and the PUC as well as the Internal Revenue Service - mirabile dictu. The DOT itself regularly pays these costs for other carriers. Moreover, the Commissioner himself recognizes that the failure to pay these costs would result in the destruction of the carrier since a withholding of the necessary funds would mean the carrier could not continue to operate due to a lack of funds.

We are most concerned by the Commissioner's unilateral action on this critical issue last January when he abruptly changed the terms of the agreements under which Transport had been operating since February, 1974. It is neither our intention nor desire to precipitate a crisis or a confrontation. So long as the State desires to have the transportation services provided by Transport and is prepared to cover all the cost of all those services to the extent that the fare box revenue is inadequate, such services will continue to be provided. It is totally unrealistic and arbitrary for the State to believe that it can continue to demand transportation services without being prepared to pay its proper proportionate share of those costs.

Seventy percent, I would remind you, Mr. Chairman, of Transport's operating costs and ninety-two percent of Maplewood's operating costs are covered out of Transport's and Maplewood's operating revenues. The performance of Transport and Maplewood in this regard is outstanding and far better than any other transit carrier in the country that I know of. The average for the industry in America is 53.6% coverage of expenses out of the fare box. That's quite a record. The State, therefore, has been obligated to pay a relatively small part of the total cost of Transport's operations in return for obtaining the level of services it has required. We know that the State has been receiving fair value for its expenditure. If the State determines not to proceed by way of public acquisition of Transport and Maplewood, we would hope that the State's position would not preclude a continuation of essential transportation services.

In conclusion, Mr. Chairman, our companies seek neither special benefit nor special treatment from the State. We recognize, and have done so for 75 years, - a long, long time - Transport and Maplewood are vital to the transportation system of New Jersey. We are prepared to cooperate fully in any effort to preserve these companies and their essential services and to insure that services are provided to the public in the most efficient and economical manner possible. We recognize both the desirability of and the necessity for a change in the existing contract arrangement. We ask only that the State decide as promptly as possible the course it wishes to follow. We would further hope that in selecting a course of action the State will recognize that it is in the public's interest to treat the carriers and their employees fairly and honestly. If it does so, Mr. Chairman, you can expect our full cooperation in any decision you may choose to make. Thank you very much, sir.

SENATOR SKEVIN: Thank you very much, Mr. Gilhooley. If we may address a few questions if you have the time ---.



MR. GILHOOLEY: I have all the time in the world.

SENATOR SKEVIN: There is a summary report on the Governor's Commission of Budget Priorities. Are you familiar with that report, Mr. Gilhooley?

MR. GILHOOLEY: I read something about it in the paper, Mr. Chairman.

SENATOR SKEVIN: O.K. There was a reference to a takeover of the private system in Nassau County, are you familiar with that takeover? Would you care to comment?

MR. GILHOOLEY: Mr. Chairman, I am familiar in general terms with that. I believe the organization is - I think the anagram for it is MSBA, popularly known as "Mizba"---I am not specifically informed as to the details of the operations. There is a general opinion throughout the industry as to the efficiency and efficacy of that organization but I don't think it would be appropriate for me to express it here.

SENATOR SKEVIN: Are you familiar with the conclusion that the Commission indicated that the takeover was a financial and administrative disaster?

MR. GILHOOLEY: I believe there was something like that in the newspapers. Yes, sir.

SENATOR SKEVIN: In terms of your reference to the percentage of operating costs in your statement, Mr. Gilhooley, you indicate that Transport's and Maplewood's operating costs were covered by operating revenues of 70% and 92% respectively. And then you made reference to other carriers ---.

MR. GILHOOLEY: I'm talking about all the transit carriers in the United States. The industry average is about 56%.

SENATOR SKEVIN: Public and private?

MR. GILHOOLEY: Yes, sir.

SENATOR SKEVIN: Do you have any idea what it would cost the taxpayers of the State over the next five years over and above what they are paying now if we took over the present system?

MR. GILHOOLEY: No, sir. I do not. I have never sat down to do a pro forma on that. I presume that those who are advocating the public takeover route have done so and would be prepared to answer that better than I.

SENATOR SKEVIN: In your experience, Mr. Gilhooley, - and I know that you've been involved with public transit systems in New York City in particular if I recall correctly - has any public operation ever resulted in a savings to taxpayers? Or have any reduced costs after going public?

MR. GILHOOLEY: I know of none.

SENATOR SKEVIN: In your statement I recall a reference to the incentive subsidy and to the Esposito Report. Do you feel that an incentive subsidy plan could be created and operated efficiently in New Jersey?

MR. GILHOOLEY: If there's the will and the intelligence, there's no question in my mind that it can be done. It's never been tried. I suggest we try it. If it turns out it cannot be done, you can always follow the takeover route. But, once the eggs are scrambled, Mr. Chairman, you can't unscramble them.

SENATOR SKEVIN: We can't go back?

MR. GILHOOLEY: No, sir.

SENATOR SKEVIN: I have no further questions. Mr. Herbert.

SENATOR HERBERT: Mr. Gilhooley, Senator Skevin referred to incentive programs. There's a lot of experience with public ownership and I think there are

successes as well as failures but, is there any good experience in incentive programs? Can you point to any system in the country where incentive programs are working?

MR. GILHOOLEY: Yes. I think you might well direct that question better to Mr. Barnett Rukin who will be a witness this afternoon. Operating in the Westchester County area, I think he's going to provide some testimony on that point. The fact that they've not proliferated is an historical development - and I don't know how much of this you want to get into - but, I think the fact that people are even thinking about it is a reaction to what has happened, in my opinion. It's an adverse reaction to what has happened when so many of the private companies went public with the kind of results that were characterized in that report that you referred to, Mr. Chairman. It's disastrous. That's not my language, it's the language in that report. We're looking for some other way to do it.

SENATOR HERBERT: Mr. Gilhooley, under any incentive program would there be penalties as well as incentives?

MR. GILHOOLEY: Oh, yes. I don't believe - and I've said this for 20 years - in taking money and throwing it at carriers. I think it is the worst thing you can do. I think you've got to hold their feet to the fire, you've got to establish performance criteria, and you've got to hold them to it. If they don't stick to it, if they stray, then you penalize them and you penalize them heavily. If they perform excellently, then you reward them. But, unless you have both sides of that coin, you're not going to have an effective program - and that was what I understood was being constructed back in 1976.

SENATOR HERBERT: But, then, aren't we into a dilemma? Suppose you do penalize an operator and he has to pay the penalty, where does he get the money? Does he cut back on service? Does he raise his fares? He's back into the old gimme game again. He's got to get his money somewhere.

MR. GILHOOLEY: I would assume that if he is that bad, he got no depreciation and no return on investments and nothing for his performance, he ought not to be in the business. And, it wouldn't take me long, if I were in the State, to get him the hell out of the business and get someone in there who is willing to do it.

SENATOR HERBERT: So, you are looking for the incentive program as a step before eventual State takeover of those routes that have proven to be badly operated?

MR. GILHOOLEY: I really don't know that this distinguished body cares what I think about incentive programs. What I am suggesting is that it is a possible step that could be taken next to see if the ultimate step can be avoided. But, it is not for me to say what should be done it is for me perhaps to - out of some wealth of experience - to suggest alternatives that might avoid a complete public takeover. Now, the judgment as to whether it should be done or shouldn't be done is certainly not mine. I'm a private citizen. I think it is a worthy alternative to consider. And not only I, may I say, but all of those members of the Legislature, the PUC, the DOT and all the others who participated in the Esposito Report came to that conclusion unanimously. And that report, as I recall it, was authorized by a joint resolution of both houses and still is before you.

SENATOR HERBERT: Yes. I understand the State has filed suit against TNJ for return of 1.5 million dollars in elderly and handicapped subsidies that TNJ ostensibly didn't use for elderly and handicapped fares. Now, without going into the merits of the case - of course you have your opinion and the State has

theirs - isn't this an indication that incentive program couldn't work? Because, what kind of criteria are you using? Where are the checks?

MR. GILHOOLEY: I don't see the relevance. In the first place, you might want to inquire into the background of that so-called overpayment and the equities that surrounded it which is now before a court. It is almost 4 years now since the so-called overpayment was made. Every nickel, every penny of that money went into providing bus service for the citizens of New Jersey. It came out of a different fund, a different pot. There were some promises made that were not kept by governmental people. That is a very complicated situation and is sub judica at the moment and I think I've said about as much as I should. But, I don't see the relevance between that and the question of the adequacy or efficacy of an intelligently thought through incentive program.

SENATOR HERBERT: The relevancy is this, sir, if we are disagreeing now about whether or not TNJ provided service for handicapped and elderly, could we not also disagree under an incentive program? For example, we say that the buses were not on time. The carrier comes in and says, "Well, we had snow on the road or ice on the road. The buses were on time but because of this, that and the other thing they weren't." In other words, we'll get into another contest where we're winding up in court most of the time under an incentive program. That's the relevancy of the question.

MR. GILHOOLEY: Mr. Chairman, that goes with the intelligence of the people who are called in to set up the incentive program, the clarity of the standards that are set, the rules that are laid down. This doesn't present any serious problems for people who have the will and the intelligence and the administrative ability to carry it out.

SENATOR HERBERT: Thank you. I have no further questions.

SENATOR SKEVIN: One other question, Mr. Gilhoolley. I don't know if you have these facts before you or not. If there were a takeover what would the municipalities lose in terms of property taxes, personal property, and payroll taxes? Do you have any idea?

MR. GILHOOLEY: No, sir I don't. I can give you a rough ball-park number - subject to check later in the day - as for Maplewood and Transport alone it is in the neighborhood of a million dollars. I don't know where else the takeover would lead but I think that figure may be a little bit high. It's somewhere between \$900,000 and \$1,000,000. But, I'd rather have someone report back here this afternoon and correct the record on it. We'll give you an exact figure

SENATOR SKEVIN: We're going to change the order of the witnesses because of a special request involving the United Transportation Union. Their president has an airplane flight to make shortly after 12. So, if he's available we would appreciate it if Mr. Tilley would yield to Kenneth R. Moore.

I R V I N M C F A R L A N D: I would like to thank you, Mr. Chairman, for holding this session up for a few minutes until we get our group together. Mr. Chairman, members of the Committee, my name is Irvin McFarland. I'm State Legislative Director of the United Transportation Union in the state of New Jersey with offices located at 375 West State Street, Trenton, New Jersey. I want to thank you on behalf of our rail and bus members in the state of New Jersey for this opportunity to present our views and concerns of S-3137 the proposed New Jersey Transportation Act of 1979. For the sake of brevity and with your permission, Mr. Chairman, I would like to share my allotted time for presentation of testimony to this

Committee with Mr. Kenneth R. Moore, Vice President- Bus Director, United Transportation Union and Mr. Edward D. Friedman, Counsel for the United Transportation Union. At this time I present to you Mr. Moore for the purpose of submitting testimony.

K E N N E T H R. M O O R E: Mr. Chairman and members of the Committee, I want to express my appreciation in allowing me to make this statement at this time. It is very critical that I be at another place this afternoon and it's impossible to get another flight. So, If I may proceed ---.

My name is Kenneth R. Moore and I am accompanied today by Mr. Irv McFarland, State Legislative Director, State of New Jersey, United Transportation Union, and Mr. Edward D. Friedman, the attorney for the United Transportation Union and for the Railway Labor Executives' Association.

I appear here today in my capacity as International Vice President, Director of the Bus Department of the United Transportation Union and on behalf of Mr. J. R. Snyder, National Legislative Director of the United Transportation Union and Chairman of the Legislative Committee of the Railway Labor Executives' Association.

I want to thank you for the opportunity to appear before you at this time and on behalf of the members of the United Transportation Union and the twenty-one unions which are affiliated with the Railway Labor Executives' Association. We appear here today not only on behalf of the bus employees employed in New Jersey but also on behalf of the employees employed in the rail industry in New Jersey. We speak for both of these groups because, as you know, S-3137 authorizes a take-over by the State not only of bus systems but also of rail systems.

The predecessor labor organizations now comprising the United Transportation Union were organized as far back as 1863. The United Transportation Union represents approximately 250,000 transportation employees, many of whom are employed in the rail and bus transportation in the state of New Jersey. I want to also point out at this time that the United Transportation Union is the largest transportation union affiliated with the National AFL-CIO.

The RLEA, on whose behalf we speak today, is an association of international railroad labor organizations, twenty-one in number, representing all crafts and classes employed in the railroad industry in the country. I have a list attached to this statement as an appendix, naming the twenty-one organizations of the RLEA.

It is the function of the United Transportation Union and of the Railway Labor Executives' Association to promote the common interest and welfare of the employees of the bus and rail transportation throughout the United States and in this case in the State of New Jersey.

These various organizations have been involved for more than a century in developing and maintaining systems of transportation in New Jersey and throughout the country. The members whom we represent and their predecessors have played a vital role in the development of systems to respond to the transportation needs of the communities in this State. The delivery of effective transportation services has been and continues to be one of our vital concerns.

We share the concerns so ably expressed by Commissioner Louis J Gambaccini in his testimony on Wednesday, March 28, 1979, before this Committee.

We assure the Committee and the Commissioner that we will do everything

in our power to work with him and with the State of New Jersey in the development of the kind of an effective public transportation which he envisions in his statement.

As pointed out to the Committee, in the testimony of Walter Bierwagen, on behalf of the Amalgamated Transit Union, on March 28, 1979, the bill is seriously deficient because of its silence regarding employee protection from adverse effect resulting from mass transportation acquisition. We therefore must insist that proper employee protection be provided in this bill or any other formulation of legislation for a mass transit system for the State of New Jersey.

Without adequate safe-guards of this kind, we cannot support this bill but must oppose it. As we stated earlier, this bill fails to provide any protection for the employees. We propose language to be included in the bill which will provide a level of protection as contained in Section 13(c) of the Urban Mass Transportation Act as amended in 1964, which in part directs the following:

"It shall be a condition of any assistance, that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interest of employees affected by such assistance. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including the continuation of pension rights and benefits) existing under collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their position with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their position with respect to their employment which shall in no event provide benefits less than those established pursuant to Section 5 (2) (f) of the Act of February 4, 1887, as amended. The contract for the granting of any such assistance shall specify the terms and conditions of the protective arrangements."

These conditions will provide for a continuation of collective bargaining within established bargaining units and will maintain and preserve without interruption the rights, privileges and benefits, including continuation of pension rights, existing under collective bargaining agreements. These conditions are grounded in a policy that was established almost four decades ago by the U.S. Congress.

The late Senator Wayne Morse of Oregon, along with our wonderful senator here in the State of New Jersey, Senator Harrison Williams, was the proponent of this policy in its application to mass transportation many years ago, called it the "status quo" principle. By this, he meant that when the State or the subdivision of the State takes over a private mass transit system it occupies the shoes of its private predecessor, subject to all of the rules of collective bargaining.

Of particular significance in this application here is the continuation of pension rights. The private companies which will be taken over by the authority have pension plans. The participants and beneficiaries of these plans have large and important stakes in the continuation and preservation of their benefits. All of these plans are subject to the federal law governing pensions - ERISA. Some

of these plans are now fully funded. Commissioner Gambaccini in his testimony last week touched upon this point and gave his personal assurance that "past and future pensioners should not be unduly disturbed ... because in any event their pension rights will be protected."

It is most assuring to our members to learn of the Commissioner's commitment in this respect. The amendment to the bill which we suggest would simply underwrite this assurance.

We can support a legislative proposal such as S-3137 only if these time-honored collective bargaining policies are incorporated into the bill. In this connection, while we are in agreement generally with the design of the labor protection provisions outlined by Mr. Bierwagen in his testimony last Wednesday, we would like to emphasize the need to preserve the stability of historical bargaining units as provided by federal law. To this end, we modify somewhat the language of Section 13(d) of the proposal submitted by ATU to provide that:

"the historical units for collective bargaining established by practice or by contract as defined by the National Labor Relations Act of 1947, as amended, shall remain undisturbed and shall not be merged, consolidated or modified without the consent of the International or National Labor organizations of which the accredited representative of the employees employed in such unit is a subordinate local."

Commissioner Gambaccini, during his testimony last week, was questioned by Senator Gagliano whether or not he would favor having a single union covering a system-wide unit which would include all employees employed in the new authority. In his response, Commissioner Gambaccini stated that a rearrangement of existing bargaining relationships is possible but unlikely and indicated that he was receptive to the continuation of the current bargaining units.

He also stated that, based upon his sixteen years experience as Vice President and General Manager of the PATH, Port Authority Trans Hudson Railway, working with and negotiating with thirteen railway labor organizations he found that the most effective way of carrying out his responsibility was within the existing bargaining framework.

All of the thirteen railway labor organizations including the United Transportation Union to which the Commissioner referred in his testimony, are members of the RLEA on whose behalf we appear today.

It is our firm position that this experience to which the Commissioner refers must be considered and adopted in the formation of an authority as proposed in this bill.

At this time I should like to request the permission of the Chairman to include in the record as a part of my testimony, a copy of our proposed language to insure the continuation of the historical bargaining units as they now exist.

The testimony which to our knowledge has thus far been presented to this Committee has focused on the transitional problems of a takeover of the New Jersey bus companies. Little if anything has been said about the impact of the bill on the authority of the proposed Corporation to acquire rail properties now owned and operated by Conrail. It is apparent to all of us that there is a real possibility that some part, if not all of these Conrail properties will be taken over by the new authority.

The ATU proposal which the RLEA and the UTU helped draft adequately protects the condition of the railroad employees in the event of such takeover.

This proposal was submitted to the Committee last week. As Mr. Bierwagen stated in his testimony, the railroad provisions were derived from language in the Illinois legislation to which we gave our full support.

This kind of protection for rail employees is just as essential as the protection for bus employees which we have earlier described.

It is imperative that each group - bus as well as rail - be accorded the same measure of collective bargaining assurance if this bill is to have our support.

Again, Mr. Chairman, I want to thank you. I want to thank the members of the Committee for allowing us to appear before you.

SENATOR SKEVIN: We thank you, Mr. Moore, for your testimony. We appreciate your presence here. We realize your busy schedule. I have no questions. Senator Gagliano.

SENATOR GAGLIANO: I apologize to the Chairman and members of the Committee and to the public for being late. I am pleased to advise that I got here from West Long Branch in 18 minutes by helicopter. One thing is on my mind and I might as well ask the question. If and when there is a takeover whether it be rail or bus or both, the employees would then become employees of a public corporation, in effect, an agency of the State. You have indicated on several occasions that you, of course, want to continue to have the collective bargaining rights you have now. Not a minor situation is the fact that when we discuss collective anything in the public sector we often call it collective negotiations, not collective bargaining because there is no right to strike on the part of public employees. Let me just ask that question. Would you anticipate that the right to strike which you now enjoy would carry forward on the part of your men - your brotherhood - when and if this becomes a public corporation?

MR. MOORE: Senator, in many parts of the country, we have continued with our rights as we enjoyed as being private employees. It is imperative that we devise something for the resolution of disputes, that is, we have to have arbitration or we have to have strike - one or the other. Now, in Illinois, we have a bill that does provide for the resolution of disputes by arbitration including interest disputes - I'm talking about negotiations, labor contracts.

SENATOR GAGLIANO: O.K. Let me ask you the next question because I'm not that familiar with it. From the standpoint of the private negotiations, is there anything in the current UMTA laws or any other laws which would protect you in that regard? In other words, you either have a right to strike if there is a public takeover or you must have arbitration, one or the other.

MR. MOORE: We believe that UMTA does address itself to this. And it has been determined by the courts in some areas where they are void - I'm talking about the employees are void of the right to strike - then the dispute should be arbitrated. And the court has so held.

SENATOR GAGLIANO: Now, with respect to pension benefits, would you say in your opinion, that the pension benefits of - let's say for example, Transport of New Jersey - are equal to, as good as, or better than or worse than the pension benefits that public employees would get under the Public Employees Retirement System in New Jersey? Insofar as the employees are concerned, which is the better program?

MR. MOORE: I don't think that I can make an evaluation sitting here

because there are numbers of different plans covering employees in the State of New Jersey in the various bus companies. Some plans may be better and some may be worse. Probably there are a couple plans that are better than TNJ. Then there are others that are worse - much worse.

SENATOR GAGLIANO: You would anticipate though, on a takeover, that the people with TNJ would become part of PERS; I can't remember how the bill reads. Would they keep their own pension plan or become part of PERS? I remember reading something about it but can't remember the detail.

AIDE CAPALBO: The way the bill is written, the hourly employees - the drivers - would not be part of PERS.

SENATOR GAGLIANO: The hourly employees? That would be the drivers and that would be most of the employees.

AIDE CAPALBO: That's right. They would not be part of PERS.

SENATOR GAGLIANO: They would not be part of PERS, so we would continue the pension system that they are now a part of?

MR. MOORE: To be eligible for UMTA funds you have to guarantee that there will be no worsening of benefits. So you could not worsen their pension benefits.

SENATOR GAGLIANO: If that's the case, why do you feel strongly that this should be included in the bill if we already have to abide by it?

MR. MOORE: Well, if you were to use State funds then the federal application would not apply or the federal provisions would not apply. And, we think that the State of New Jersey would want to treat their employees just as well as the federal government has dictated. It should be true.

SENATOR GAGLIANO: So, what you're saying is, if we bought out a particular bus company solely with State funds that the UMTA rules or statute would not apply?

MR. MOORE: That's the way it is now. But, we maintain that they should apply.

SENATOR GAGLIANO: I know what you're saying. I didn't realize that UMTA would not apply in any condition because I guess I figured that in any case we would be using federal funds for at least part of the funding for any takeover.

MR. MOORE: It would apply then.

SENATOR GAGLIANO: I have no other questions. Thank you.

SENATOR SKEVIN: Senator Herbert.

SENATOR HERBERT: Mr. Moore, thank you for coming today. I completely understand your concerns. Let me assure you that it is the intention of the sponsor of the bill that we would use Urban Mass Transit Authority funds for acquisition. I thought, in drafting the bill when I got legal opinion on this, that under the UMTA Law 13 (c) your employees would be fully protected. Despite the fact that the bill is moot on that point, your employees would be fully protected. Now, your contention is that as the bill is drawn, they are not protected if in fact 100% State funds are used to purchase the company, is that correct?

MR. MOORE: If 100% State funds are used, yes, they would not be protected.

SENATOR GAGLIANO: Has that been tested in other states? Has it come up in other areas?

MR. MOORE: Well, the condition of the federal provision 13 (c) states that these conditions have to apply if you obtain federal funds. So, if you



obtain one dollar it would automatically apply.

SENATOR HERBERT: Let me assure you that we fully intend to apply for UMTA funds for any State acquisition and in that case, your employees would be fully protected.

MR. MOORE: You would also be entitled to, in addition to capital projects - buying rolling stock, buses and etc. - you'd be entitled to operating assistance and we want you to have all of this. We will help you get them. But, I think it would be much smoother, and, again, it would reassure our members that New Jersey is wanting to do this right and giving them their protection. And, therefore, we think it should be in the bill. Then there never would be any question.

SENATOR HERBERT: Now I understand where you're coming from, sir. Thank you very much for coming.

SENATOR SKEVIN: Frank Tilley, Bergen County Board of Transportation. I note that the next three speakers are representatives of various County Boards of Transportation. And we don't intend to limit anyone's privilege and opportunity to speak before our Committee but if, by chance, your statements are supportive and you would like to highlight your statements rather than to read them verbatim, I'm certain that the Committee would be very receptive to that approach. But, by no means let me prevent you from reading if you so desire an entire statement, Mr. Tilley. We welcome you from Bergen County and realize the long distance that you travel. I travel that same distance. So that if you do have a statement, Mr. Tilley, and would like to read it in full, we'd be delighted to hear your golden voice. On the other hand, if you would like to highlight your statement, we would certainly appreciate that approach also.

F R A N K T I L L E Y: Thank you, Senator. In view of the fact that some of the things I'm going to say in here relate to situations with which I am intimately familiar in our own area, I don't feel the statements of other county representatives would adequately portray the picture I hope to portray. So, If you'll bear with me ---

SENATOR SKEVIN: We'll bear with you, Mr. Tilley.

MR. TILLEY: We'll keep the time pressure in mind. I mention in my statement the name and the fact that I'm the Executive Director of the Board of Transportation of Bergen County. We are an official County agency responsible to the Board of Freeholders for the preservation, improvement and expansion of public transportation facilities within the County. Our Board is a spokesman for the citizens of Bergen County on transportation matters.

In addition to that, I have served as Chief of the Bureau of Bus Operations of the New Jersey Department of Transportation for the 13 month period May 1975 to July 1976.

Our County Board of Transportation at its regular public meeting on March 13th voted to endorse the concept embodied in S-3137. The Board further endorses the amendments presented by Judge Labrecque at the public hearing here on March 28th and the Board recommends that those amendments be incorporated into the proposed legislation.

New Jersey cannot be compared with other areas, in most of which a single major transportation property, or two or three or maybe half a dozen, have been taken over by a public body. Here, with 21 bus companies and a huge passenger railroad complex all now under subsidy, the characteristics of the problem are

unique and opportunities abound for reducing or eliminating redundant administrative and other overhead charges.

Realistically we must accept the fact that, under the onslaught of inflation and the rapidly escalating price of energy, costs of operating public transportation are going to go up. This will be true regardless of who operates it. But if the public isn't now getting the service it needs and deserves, and the delivery of service can't be improved under the present system, we may as well get ready to pay for what we need and then see to it that we get it.

There seems to be general agreement that the present subsidy system is a total failure. Suggestions have been offered that all we need to do is to put some patches on that system and leave it to private enterprise to do the job. The question is, can private enterprise do the job? There are two reasons why we feel that it cannot.

First is the historical system of carving operating territories into protected franchised fiefdoms with exclusive rights. That concept may have had merit when bus routes were profitable, or where their principal function was to deliver suburban commuters to their jobs in New York or Philadelphia. But this system makes it difficult if not impossible for enterprising carriers to initiate new services, or to restructure existing lines so that they will be more responsive to contemporary travel demands and land use. Any such enterprising carrier, if one can be found, is forced to go through a long, tedious and expensive procedure involving public hearings which are certain to attract opposition from his competitors who have imaginary notions about the harm they will suffer if the new service is initiated. The Public Transportation Corporation offers an opportunity to pool our transportation lines and to rationalize them into a meaningful network of services that simply cannot be realized under the fragmented system that now obtains. Permit me, gentlemen, to depart just briefly from my prepared text and cite a horrible example in Bergen County. Senator Skevin, Senator Herbert would agree I'm sure that State Highway 4 is the principal east-west corridor in Bergen County. Now, until not too long ago, there were four different bus companies operating buses and bus lines on Route 4. Three of those companies operated two lines each, morning, noon and night, seven days a week. A fourth company operated another line. None of these 7 lines operated by 4 companies had local rights. They could not pick up local passengers along Route 4. Those rights were reserved for a fifth company operating one route on Route 4 which only operated on weekdays, only operated during peak morning and afternoon hours, provided 7 trips on those days and for the rest of the days of the week no local service was provided because the carriers providing the buses didn't have the franchise. The situation has been rectified recently but that situation existed for years.

There is another reason why much of private enterprise does not appear to be equal to the job. Very simply, it lacks initiative.

Let me cite three examples from our experience in Bergen County. The first one relates to an effort by County government to restructure existing local transit lines so that they would provide access to new traffic generators such as the major shopping centers in Paramus, and also to serve County parks and other institutions outside of Hackensack. The dominant carrier turned a deaf ear saying that the plan would never work, and instead initiated proceedings to abandon service on several of the routes under consideration. Convinced that its plan was at least

worth a try, the Bergen County Board of Chosen Freeholders, through our Board of Transportation, approached the Commuter Operating Agency with a proposal to provide 50% funding on a match of equal size from the COA. The proposal was approved, restructured service was started, and it continues to this day with off-peak ridership exceeding that of the carrier's own franchised lines.

The second example concerns a small independent carrier operating only two routes between one of Bergen's municipalities and a decaying urban center in a neighboring county. We approached that bus company with a proposal to extend one of his lines three miles into neighboring Paramus to serve a latent demand for access to the shopping centers there. It was suggested that this would generate revenues to compensate for the declining ridership in the other direction. The County offered to support the carrier in his efforts to secure operating rights. The carrier's response was, "Our line has been running this way since 1916. Why should we change it now? Besides, the change in route would confuse my drivers."

Thirdly is the case of another small independent operator with lines from Bergen County points to the same urban center in the neighboring county. Ridership on his buses had also declined sharply, although in the territory he served in Bergen County there was an offsetting demand for bus service to the Paramus shopping centers. Once again the County offered a proposal to support the carrier in securing operating rights that would improve revenues and provide a meaningful service. The carrier's response was, "Why should I bother? If my revenues go up, my subsidy will be reduced. I will be no better off. I am not interested."

To the extent that this represents the thinking of private enterprise, the public will be better served without it.

Much has been said in these hearings about "incentives." As was pointed out by the representative of school bus operators at the hearing here on March 28th, the only meaningful incentive is profit. One wonders what private enterprise is doing in a business where you can't make a profit? Here and there a given bus route may generate enough revenue to cover operating expenses. For the typical bus company, however, its overall operation is deficit-producing and the day of profitability is over -- forever. Except for two or three of the carriers still operating without subsidy support, all of the unassisted companies are either self-subsidized through charter, school and package express business, or they can already see the cloud on the horizon with the day of reckoning fast approaching. The one or two exceptions have such unique operating characteristics that they could not possibly be considered typical.

Also uncharacteristic of the industry are the "Mom and Pop" single-route low-overhead, independent carriers such as those in Hudson County. They serve markets composed primarily of transit-dependents in heavily populated urban areas. Many of them are survivors of the age of the jitney and they compete with large carriers who must operate service throughout the day and at night at a deficit while many of the independents skim the cream during the peak travel hours and then retreat to their garages. Without the lease of State-owned buses it is questionable how many of them could afford to purchase their own vehicles.

An incentive suggests that a carrier has been given a goal to achieve. One of the most likely objectives would be attracting new ridership to the carrier's lines. This, however, is an impractical and inequitable way to measure satisfactory performance. Consider bus company A which operates a route in a high-density,

low-income urban area where everyone already is a bus rider. Consider bus company B running in a low-density area where the service is essential but, until there is further residential or commercial development, there will be no appreciable increase in patronage. What can either carrier do to develop new riders?

This is by way of saying that it is impossible by almost any means to increase passenger volumes on some lines; conversely, that on other lines there will be little variation in ridership regardless of the quality of the service.

Should on-time performance be one of the criteria used in an incentive program for private operators? The general public might think so, disregarding the fact that all bus services are subject to the unforeseeable traffic delays and congestion on our overburdened streets and highways. In the past the COA has attempted to improve on-time performance on the passenger rail lines, with two results. The first was that one railroad padded its schedule so heavily that it was a simple matter to provide punctual service. As a matter of fact, it was difficult to run late. In a second instance, another railroad, with poor on-time performance, told the COA that financial penalties would simply reduce its capability to run the trains at all.

Another possible incentive would be a reward for improved training of drivers and for supervision of service on the street. For many of the subsidized carriers, the thorough training of former days has been done away with, while supervisory personnel have been drastically reduced or eliminated entirely. The COA has not had sufficient funding through the State budget to underwrite the costs of adequate training programs or of assigning the required supervisory personnel in the field.

It has been suggested that the attitudes of bus passengers on the matters addressed by S-3137 should be determined by surveys conducted at bus terminals. What this will produce is the familiar litany of complaints about poor service, dirty buses, insolent drivers, high fares and inadequate schedules. It is unlikely to uncover any new or useful information. The typical commuter is concerned only that his bus be on time, that he has a seat and that fares remain constant or even decrease. The public does not understand the complexities of the subsidy program; it believes that Transport of New Jersey is already a State-owned and operated system; and it puts all the blame for higher fares and reduced service upon the carriers, as if they had deliberately determined to discourage ridership. Bus riders do not understand that service reductions and fare increases have been ordered by the COA in response to escalating costs and shortfalls in budgetary appropriations by the State Legislature.

Considering the difficulties of doing business as a private enterprise in the transit industry, it is not surprising that so many of the carriers lack the initiative to improve their services. Their chief concern is staying in business to earn a living from charter and related operations. For these reasons we should stop venerating private enterprise as something sacrosanct and see it for what it has become: an anachronism.

The time has come to end the years of sidestepping the issue. The time has come to face the fact that whatever we do is going to be costly. The time has come to recognize that, with this problem, the bottom line should not be simply the number of dollars expended but rather what those dollars will produce in terms of benefit to the public. The time has come to catch up with the rest of the world. Gentlemen, the time has come to bite the bullet. Let's do it.

SENATOR SKEVIN: Thank you, Mr. Tilley. We appreciate your statement. I just have one question. I'm sure you're familiar with the facilities of the present systems in Bergen County. Do you have any idea of the amount of real estate and other taxes that would be lost by the municipalities in Bergen County if there was a takeover?

MR. TILLEY: I couldn't give you a figure off hand, Senator, but as far as the unsubsidized companies go, there is, to the best of my immediate recollection, only one bus company with one garage in Bergen County, one unsubsidized --- one subsidized company. Let me state that again. One subsidized bus company has one garage in Bergen County.

SENATOR SKEVIN: Unsubsidized?

MR. TILLEY: Subsidized. Now, correction two. I've thought of a second. Two subsidized bus companies each have one garage in Bergen County.

SENATOR SKEVIN: I'm thinking of Oradell as one.

MR. TILLEY: That's one of them. The other is the Garfield-Passaic Transit Company in Garfield.

SENATOR SKEVIN: Isn't there one in the Cliffside Park area? On Anderson Avenue --- Palisade ---

MR. TILLEY: All right. Correction. As I said, I'm trying to do this quickly from memory. That's right, that's the third one on Fairview Avenue in Cliffside Park.

SENATOR SKEVIN: I have no further questions. Senator Herbert.

SENATOR HERBERT: No questions.

SENATOR SKEVIN: Senator Gagliano.

SENATOR GAGLIANO: You give a very convincing statement. What you are doing is coming right up front and saying it's going to cost a lot more regardless of which way we go.

MR. TILLEY: It appears that way, Senator, considering the fact that with inflationary pressures all costs are going up, particularly diesel fuel - all types of fuel, of course, all energy. There will, however, as I see it, be significant savings in eliminating redundant overhead and administrative expenses that the State now pays the twenty one bus companies.

SENATOR GAGLIANO: And, Frank, in your own mind, you're satisfied that if we go this route with the public takeover of buses that, in your opinion as an expert - and I consider you an expert - will service be better?

MR. TILLEY: We have discussed with the Commissioner how, if the bill is enacted, it will be implemented. And one of the things we've talked about, and Commissioner Gambaccini has shown a very welcomed openness to, is the opportunity for counties that are equipped to do so to become directly involved in determining what service will be operated, how it will be operated, routes, schedules, and so forth. Now, we don't have this opportunity under the present system. If we did have it, I would certainly see an improvement in service.

SENATOR GAGLIANO: Would you recommend that we prepare an amendment and try to make that a part of this bill, that there would be the type of county activity you're talking about?

MR. TILLEY: Well, I certainly wouldn't object to it.

SENATOR GAGLIANO: Have you or any of your organization prepared such an amendment or an outline of such an amendment?

MR. TILLEY: I'm sure the County Transportation Association could do that, yes. With Judge LaBrecque's help I'm sure we could develop something.

SENATOR GAGLIANO: I would appreciate it if you would do that because I think the bill probably needs several amendments. I've made some suggestions and others have. You make the point that it is going to cost us all a lot more if we do this. The next point is, is it going to be worth it? Is the service going to be that much better? You have what you think is an affirmative way of coming up with better service, that is to use the facilities that the County Coordinating Committees already have, the expertise that you have, your staff, and the whole thing. And maybe we could come up with an amendment which Senator Herbert would agree with which would strengthen the bill from that standpoint. So, could I ask you to work with such an amendment that we could look at?

MR. TILLEY: I would be happy to take that word back to our association at its meeting next week.

SENATOR GAGLIANO: I presume that you are part of the determination which indicated that there should be more so-called public participation in the Board of Directors or the Trustees, so to speak, of the Authority?

MR. TILLEY: As I indicated in my statement, we support the amendments proposed by Judge LaBrecque last week. And that's one of them.

SENATOR SKEVIN: As Chairman, I'm going to use my prerogative to change our current list of witnesses. I see the presence of the Essex County Executive, Peter Shapiro so Mr. Reuben would you yield to Mr. Shapiro? The next witness will be the Executive from Essex County

P E T E R   S H A P I R O: Thank you, Mr. Chairman. I appreciate your making a special time for me here in the program. Mr. Chairman, members of the Senate Transportation and Communications Committee - good afternoon. It is a pleasure for me to come before you in support of Senate Bill 3137, the "New Jersey Public Transportation Act of 1979."

The Public Transit Corporation which would be established as a result of passage of this legislation is long overdue in the State of New Jersey. The Bus Subsidy Program enacted in 1970 has proven to be a dismal failure. As you have heard, while nationwide bus ridership has risen by 11 percent since 1970, New Jersey has experienced a 41 percent drop in ridership.

One reason for this decline in ridership is the inefficient fragmented service provided by private bus carriers. This inefficiency should come as a surprise to no one. Private enterprise is most efficient when it is truly competitive and depends on the profit motive to determine its success. When a private corporation falls into deficit and depends each and every year on subsidies from the State to make up the difference between income and outgo, it no longer has any incentive for efficiency.

Essex County, New Jersey's largest and most urban county, is especially hard hit by the present inefficiencies of our bus system. This inefficiency can be highlighted by the following examples of restrictions and duplication of service. #1. At present, two bus services - an independent line and the Transport of New Jersey - provide transportation into the business district of Newark - the State's largest city and the Essex County seat. Each bus line follows the same route, however, the independent line costs .35¢ while Transport of New Jersey costs .45¢. Although we subsidize Transport of New Jersey, more citizens are utilizing the unsubsidized independent line primarily because it is better and cheaper.

#2. Transportation between West Orange and Newark Penn Station is provided by three bus lines - Trackless Transit, Decamp, and TNJ. Although these bus lines travel the same routes, each line has a different set of restrictions and a different level of service. They serve the same populations in a confused, costly and energy inefficient way.

#3. Even though these duplications of service continue, every few months our citizens read or hear of another bus line shut down and another neighborhood deprived of public transportation. Last year, several hundred senior citizens in the Stuyvesant Village area of Irvington lost bus service. In addition, senior citizens in the Ivy Hill area of Newark have seen their services curtailed. The private carriers have also failed to adjust their service to meet new demands in the areas of our county's growth. For example, the towns of Livingston, Roseland and the Caldwells, which have experienced enormous growth over the last 20 years are serviced by only 1 or 2 bus lines and in the case of North Caldwell, by none. As a result, the many children of these areas are totally dependent on their parents' cars - the least energy efficient means of transportation available. And it affects, of course, more than just the children.

Nearly 80,000 of Essex County's citizens ride the buses each day. The lack of co-ordination between mass transportation services causes many citizens in our urban centers severe hardship. The Public Transit Corporation called for in this legislation would have the ability to ease this hardship by having direct input into the establishment of routes.

As long as our bus corporations were making a profit it was, I suppose, understandable that we put up with a lack of direct public accountability. However, now that the corporations depend for their livelihood on the State's purse being open to them we can no longer tolerate decisions on services being made by the means of the past. What we have in effect done, by our existing system, is subsidized a series of near monopolies, encouraged inefficiency, and allowed service to deteriorate. We have protected corporate profits at the expense of the rights of our citizens.

Mr. Chairman, it is vitally important that we understand one fact - for all intents and purposes the State of New Jersey does own Transport of New Jersey. We pay the price but we do not buy one cent's worth of accountability. In effect with subsidized private carriers we have the worst of both worlds. Our citizens have the right to expect that we be better watchdogs over their tax dollars and better providers of their transportation needs.

I'd like to add a few words to my prepared text at this point because I feel it's so important in that we delay no longer in this very important task. I feel a sense, from having served in the Assembly and now serving in the direct execution of the policies of the largest county in the State, a sense of desperation about this very problem - about the fact that there may be a lack of will for us to perform the necessary radical surgery, if you want to call it that, necessary to deal with this very big problem. I get a sense that there may be a bias against public ownership. Despite the success that we here in New Jersey know we've had with the lottery, for example, which is known nationwide as one of the very best, with the Meadowlands Complex, in your own county, that we can point to with such pride, the success of public ownership in this very area, that there still lingers this bias against public ownership in an area where it is so desperately needed.



In closing, I would like to propose an amendment to Section 8 (c) of the legislation. This amendment calls for a formal public hearing prior to implementing any fare increase, for any motor bus regular route or rail passenger services. In addition, a public hearing should be required when any significant curtailment or abandonment of any such service is contemplated. This amendment would strengthen the legislation by providing increased public participation, something which I feel is very important.

Mr. Chairman, members of the Committee, I again would like to thank you for affording me this opportunity to express my views on this important piece of legislation.

SENATOR SKEVIN: We appreciate your presence, I'm not going to say Mr. Executive, I'm going to say Mr. Assemblyman, we appreciate your comments. I was interested in your first example about the two bus services, one an independent line and the other the subsidized line, apparently the unsubsidized line provides the better service and is utilized by more of your citizens in Essex County. That's an interesting observation and I would think in support of private enterprise rather than public takeover, on that statement alone on that particular route.

MR. SHAPIRO: The interesting comparison, I think, is not between private enterprise and public takeover rather between the private corporations where they can succeed, where in fact there is an ability to succeed, and the private corporations that are subsidized, where they are not even succeeding today where a private corporation could succeed. The direct result of our subsidy program, I think, has been to completely turn the profit motive on its head. What has happened in effect when we put private enterprise in a position where it is no longer operating according to the profit motive, and in effect they're operating according to an exact reverse motive, they know that their deficit is going to be picked up. There's no magic to private business. They're no different from you or me. They acquire their knowledge in the same way. They operate according to the same standards of behavior and the like. But they know that if they have to have a profit at the end of the year, that their success is going to be measured that way. Once their success loses that measurement - once they know that they can come to us as they do now and have their deficit made up in total by the State - they no longer have that kind of incentive for efficiency. At that point, I think, we have to decide if we want to trigger public accountability. We want to try to make what good we can out of what is going to be a natural deficit situation as Mr. Tilley well described before I sat down. I think that we have the ability in this State, the know-how, the tremendously talented people here that show that they can run a good public enterprise. What we're talking about is just the difference between public and private enterprise. Today we've got the worst of both worlds.

SENATOR SKEVIN: Pete, one other question. I know in Newark they have a payroll tax, is it limited to Newark alone?

MR. SHAPIRO: Yes it is limited to Newark only. It was just reduced by the way last year.

SENATOR SKEVIN: If there was a public takeover, do you have any idea of the amount of real estate, payroll taxes, etc. that would be lost or no longer available to the various municipalities in Essex and Newark?

MR. SHAPIRO: In terms of real estate taxes directly, if there were a public takeover, all of the facilities would, I believe, come under the in-lieu-of tax provisions of the law which would require a State in-lieu-of tax payment which



would be basically equivalent to the local purposes tax rate applied against the assessed valuations of the properties that would be taken over. We currently get those payments, for example, on the College of Medicine and Dentistry, on the State office building in Newark and the like. If these were, in fact, State facilities, they would come under that act.

SENATOR SKEVIN: Completely?

MR. SHAPIRO: Under the definition of the act - I could try to research that and get back to you on it - but I think the spirit of the act clearly is that areas are to be compensated that have a disproportionate number of facilities that are State owned.

SENATOR SKEVIN: This would be another cost factor that the State would take over?

MR. SHAPIRO: Well, it's an existing cost to the corporations today our having to foot the bill for - that we're footing the bill for through our subsidy plan - so it's not a new cost. It's a cost which is built in to the cost of providing the service. It's a cost that corporations are paying today. It shouldn't be a cost that municipalities pick up under a State takeover. It should be born along with the other costs if the State going to decide to take this act as I hope it will. It's one of the costs that needs to be picked up and it would be via that in-lieu-of tax payment program.

SENATOR SKEVIN: I have no further questions. Senator Herbert.

SENATOR HERBERT: Thank you for coming, Mr. Shapiro. You served as a member of the Joint Appropriations Committee, I understand, for two years, three years?

MR. SHAPIRO: I was for two years a member and for my final as the Vice Chairman on the Assembly side.

SENATOR HERBERT: Could you share with us the opinion of the Appropriations Committee as this appropriation came before them every year? What was their opinion of the bus subsidy program and how should they have approached it?

MR. SHAPIRO: Every year that the subsidy proposal came before the Appropriations Committee it was followed immediately by one collective groan from all of the members of the Committee. Everyone knew that here was another problem that we still have not dealt with. Everyone on the Committee felt the same sense of frustration about it - here we go, let me think of a more genteel way of putting it, pouring more down the drain. Here we go pouring more of the State's funds into this bottomless pit of the subsidy program. And, we're not getting anything for it. In fact, we're getting worse and worse services for it. I can't really understate the sense of frustration about that. The frustration was not just the expense though, it was where it was going and what it was buying us. I think you can change that side of the ledger, is what I'm saying.

SENATOR HERBERT: We have to look at this thing very calmly that perhaps the State takeover might cost more. Correct?

MR. SHAPIRO: I think that what I heard well stated in Mr. Tilley's statement earlier that the costs in this area are going to go up regardless. They are going up for inflationary reasons. The basic pattern of deficit operation of public transportation is an inevitable one because of the economics of it. There is no magic cure for it and we can't expect one. The cost will increase with inflation perhaps we can make some savings due to consolidation - due to putting in efficiencies when and if there is a State takeover, and the kind of consolidations

which could follow that. We're doing the same things by the way in Essex County today - just today, and in fact this morning, I signed the Administrative Code which will consolidate many of our agencies. We'll see some savings. In the long run inflation is a reality that we're going to have to live with particularly in areas that have to do so critically with transportation, like fuel costs.

SENATOR SKEVIN: Senator Gagliano. May I interject a brief comment? Did you groan any more or less on the Appropriations Committee when it came to education?

MR. SHAPIRO: I think the groans are different. When it comes to education at least there are some performance measurements. At least they can have the Commissioner in front of them and say, "All right, how come we're producing here and we're not producing there? How come there is a problem in the area of compensatory education?" and the like. When the Commissioner would come before them they had very specific questions. They would be holding the Commissioner accountable for specific programs and specific things that went wrong. When the Transportation Commissioner appeared before them, he'd simply say, "Sixty one million dollars - that's how much we're going to pour into the coffers of a private corporation to buy a service that I can't even tell you about because they run it."

SENATOR SKEVIN: You had different types of groans then?

MR. SHAPIRO: Very different types of groans. But it is revealing. Our job - or I should say the job that you have that I used to have as a member of the Assembly - is to hold our agencies accountable, and to be able to hold them accountable in detail. And we could do that with the Commissioner of Education. He might not always respond, Senator, but we could do it. With the Commissioner of Transportation you can't because he's an indirect agency feeding money into something else which by virtue of its structure is completely separate from our structure's accountability.

SENATOR SKEVIN: Senator Gagliano.

SENATOR GAGLIANO: Mr. Shapiro, I have to presume that you would not want us to take over more lines than we had to take over. That is, if a line is running profitably, whether it is using some of its charter money to help make the payroll or whatever, you would not want to see us take that over, I presume.

MR. SHAPIRO: I think that we have to make sure that the entity established under this bill - if it is to be established - has a great deal of flexibility. So I wouldn't draw the line so tightly. I'm a little worried about the concept that when ever public ownership and public enterprise - as it really ought to be called - gets involved that often people look at only the lemons. They, in a sense, stack the deck against it. They wait until something becomes such a lemon and then they say, "You take it over." Then they point a finger at you later and say, "Look how bad public ownership is, look how bad public enterprise is because it can't run anything right." The truth is, we always give them the worst possible things to run. It might be a good idea, at least I think it would be a good idea, to try to give it the maximum kind of flexibility so that it can have the efficiencies which could be built into really running the show, so to speak. I think that we've got excellent examples in this State. If we look at the Meadowlands, if we look at the Lottery - the Lottery is criticized, of course, but it's not criticized because of its inefficiency, it's criticized because people wonder where the dollars went. We've got good explanations for that when we learn about them, of course, but these are things that are run beautifully and run by public enterprise.

SENATOR GAGLIANO: Yes, they are run by public enterprise. But, theoretically at least, except insofar as the underworld runs gambling, they have a monopoly of the legal ramifications of gambling. Correct?

MR. SHAPIRO: Well, the Meadowlands is in a competitive position, in a sense, the Lottery ---

SENATOR GAGLIANO: Well, the Meadowlands is in a competitive position because the Legislature put them there. They only pay what - one half of one percent of their handle ---

MR. SHAPIRO: Yes. It has a certain competitive advantage but I think the point is that even when we look at an area like public transportation that we've got near monopolies in many cases. We have very little in the way of true competition. I pointed out one example, by the way, in my district, in my county where there was that case of a couple competing bus lines but largely rather than competition we've got overlap. We've got such strong regulation, of course, and we've got a situation of deficit - a natural deficit situation where it makes more sense for us to combine to try to take the advantage of consolidation and coordination that we can't get if we try to split it apart and say, "This one looks like a profit maker and this one looks like a money loser. And, why don't we give all the lemons to the State?"

SENATOR GAGLIANO: O.K. Then my presumption is wrong. You favor, in effect, complete flexibility on the part of the public corporation.

MR. SHAPIRO: Yes.

SENATOR GAGLIANO: So, if the public corporation wants to take an otherwise viable company and put it in with the lemons, so to speak, and wants to take a couple delicious apples and put them in with the lemons, you favor that to make a better fruit salad?

MR. SHAPIRO: I would say I would agree with granting that flexibility within certain parameters as, I think, are described within the legislation. The concept is the important ---

SENATOR GAGLIANO: Well, that's my problem. Are they described in the legislation?

MR. SHAPIRO: I'm not a detailed student of the specific provisions, my main thrust is the concept which I think is so important to get across.

SENATOR GAGLIANO: O.K. Well, the concept is one thing, as I say, in order to make the salad palatable to everyone, it seems to me that 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. I think this is the nub of it too because you're in favor of flexibility - and I can understand that - but too much flexibility might mean that we have, in effect, total takeover. And, we might then even cost our taxpayers more money. I don't know. I'm running this through my mind. Something you said triggered it in my mind that we should do something about the money makers, that is, to protect them to allow them to keep making money. I personally wouldn't know how we would crank that into the legislation but it does bother me that we would go in with such a flexible situation that we could take them over without any test except the vote of the public corporation.

MR. SHAPIRO: I suppose this is a detailed matter that this Committee will have to wrestle with. I feel that the need to protect the public is the greater need, rather than the need to protect a few individual corporations in

this case. In any case, they would be protected and they would be fully compensated for their property. There would be no question about that under this law. The only question in my mind is how badly are we going to hurt our State by continuing to go down this path? How badly are we going to continue to hurt all the senior citizens who used to come to my office as an Assemblyman and tell me every few months or so about another bus they'd lost? At least in my area we heard it all the time, I'm sure it must be the case in Monmouth as well.

SENATOR GAGLIANO: We don't have nearly the bus lines. They have to have cars.

MR. SHAPIRO: You never had to suffer the curtailment that way.

SENATOR GAGLIANO: We've suffered a lot of curtailments but we just have not had the bus lines that I'm sure you have. Thank you very much.

MR. SHAPIRO: Thank you, I appreciate your giving me this time.

SENATOR SKEVIN: Arthur Reuben, Somerset County Board of Transportation.

A R T H U R   R E U B E N: Mr. Chairman, members of the Committee, I am pleased to be here today to deliver this resolution from Somerset County's Citizens Transportation Coordinating Committee. I will speak to that and make a few comments. I also happen to be Chairman of the County Transportation Association of New Jersey and Chairman of the Transportation Committee of the County Planners Association of the State of New Jersey and would respond to any questions you have in respect to these positions. But, I am referring in particular to the resolution that was passed by the Citizens Committee of Somerset County where they indicated that they felt there was a need for greater input on the part of the counties into the Public Corporation board. They had suggested that it be a nine-man board and that there should be minority representation on the board from the counties so that two of the individuals should be designated by the official Review Committee which has been endorsed by the County Transportation Association. There is a feeling that there should be a check on the public Corporation, recognizing that the check would not be a veto but just a responsive input. Beyond the resolution, I might just make a few comments. The New Jersey situation has been rather unique in its way of handling its transportation problems. It has a divided management. And I think the proposal for an incentive program is another unique proposal - not that it hasn't been tried in one or two places - but the predominant method of handling transportation is through public corporations throughout the country. I think one of the big problems in our present situation that would continue in any kind of incentive system is this question of divided management. I think there is a question of management capability and in the State of New Jersey we now have the potential of having good management capability in the Department of Transportation. But, even beyond that, even if we don't get good management capability, I think the question of being able to center responsibility on who should provide that good capability is essential to this legislation and why we are endorsing the legislation. I might comment on one other item in regard to the legislation and this question of responsible management. I participated in a Union County meeting where their citizens' committee were trying to get a train to stop in Elizabeth that passed through Elizabeth with closed doors. The head of the commuter operating agency said when pressed, "Well, I don't negotiate with the unions, Conrail does the negotiating." I think these rather simple things that relate to the administration of both bus and rail transit cannot be handled by a divided management and get productivity. In relation to bus companies it becomes even worse because the bus

companies have their own franchises which they regard as part of their assests. Therefore, when you try to consolidate given bus lines, down a given corridor, in Bloomfield, New York or through Somerset County, you get this problem that you can't bring about these consolidations under the present system. Nor do I think you would be able to bring it about under an incentive system because the bus companies would still be trying to hold onto this asset, their franchise which they regard as something they can market when they are taken over. I think that Mr. Gilhooley said that we haven't given incentive system a chance to function in the State of New Jersey and I guess that's correct. But, I wonder how long we can wait under a system that is costing us more and more each day and experiment with situations when this whole process has been gone through throughout the rest of the United States. I think we should learn something from the lessons of other areas of the country. My final comment is that I do believe, with others, that inflation will continue, that the cost will continue to go up but I think there can be major operational efficiencies made under a public corporation. Thank you.

SENATOR SKEVIN: Thank you, Mr. Reuben. I have no questions. I just want to express my and the Committee's appreciation for the resolution in support of the takeover. And would you express our best wishes to the committee. Senator Gagliano.

SENATOR GAGLIANO: Only one question. Do you consider Somerset County north or south Jersey?

MR. REUBEN: We're sort of in the waist but our bus and transit systems operate in close connection with north Jersey.

SENATOR GAGLIANO: That same situation occurs in Monmouth County where I'm from and I note that the bill talks about north Jersey and south Jersey districts and I wondered if we should have a central Jersey district.

MR. REUBEN: I think the Legislature initially talked or thought in these terms and I think it left this question unstated so there could be the possibility of other operating districts in the State of New Jersey. It represents one of the problems of legislation - difficulty of legislating an exact determination when you may arrive at a different conclusion as to better operational efficiencies.

SENATOR SKEVIN: Thank you, Mr. Reuben. Mr. John Hoscheck, Gloucester County Board of Transportation.

J O H N    H O S C H E C K: I would like to assure the honorable Committee that I have no qualms about where Gloucester County is in the south or north Jersey. I will read this as rapidly as possible and it's quite short so if you will just let me go through this. I want to make some very general points not specifically to Gloucester County because I think the problems we have in transportation today go far beyond the provincialism of a single county. My name is John P. Hoscheck. I am the Coordinator for Public Transportation for the County of Gloucester. My office is located in the county office building North Delsey Drive, Clayton, New Jersey. I would like to add my support to S-3137 provided consideration is given to those comments made by the honorable Theodore J. LeBrecque, March 28, 1979 on behalf of the County Transportation Association of New Jersey. That statement referred to changes in a five-member board so that the public members would be people with knowledge and experience of the transportation industry, and to the addition of a review board with review committees made up of transportation people from the various counties. Some testimony was made by others concerning the

future of charter, school and tour bus companies should bill S-3137 be enacted. Public corporations and transit authorities are in operation across the country, but these have not driven school and charter bus lines out of business. Mercer County operates its own bus system yet charter and school bus companies flourish. Where in the entire United States can anyone point to a charter or school bus company which is going out of business solely because of a publicly owned transit system. One thing the Senate Transportation Committee must consider is the takeover of any private carrier or the purchase of any capital equipment with federal funds requires the applying agency to comply with Section 13 (c). While this Section is generally regarded as the labor protection clause, it also applies to private carriers. I have been in this transportation field since 1949 and have been aware of UMTA working since the original Federal Act in 1964, and to the best of my knowledge, no private company has gone to UMTA and made a case against a publicly owned transit system. The horrendous task faced by the New Jersey Department of Transportation in dealing with over 200 individual bus carriers in New Jersey was one I faced from 1969 until 1974. The problems then have been compounded over the last few years so that the administration of any program short of consolidation will merely delay the proven alternative and cause the problem to mushroom further out of control. I say, "proven alternative" because in major cities across the country public-owned systems have acquired a myriad of small private inefficient lines and have been able to hold fare levels down, improve service and upgrade the fleet. The measuring criteria for New Jersey must be service to the public not merely the bottom line figure. The amount of money spent this year from financial assistance to carriers and the future escalation dictates that we not buy poor service continually but that we begin to pay for better service. I believe giving the New Jersey Department of Transportation powers requested in S-3137 with amendments as suggested by the County Transportation Association will accomplish that goal. Thank you very much.

SENATOR SKEVIN: Thank you, John. I have no questions. Senator Herbert? Senator Gagliano? William Singer, League of Conservation Legislation  
W I L L I A M     S I N G E R: Good morning, Senators, my name is William Singer and I'm the legislative agent for the League For Conservation Legislation, which is a collaboration by environmentalists and conservation groups and concerned individuals. We welcome this opportunity to testify to the committee today.

The New Jersey bus system in its present condition is a dismal failure. It has failed to provide adequate services, it has failed to stabilize fares, and it has failed to increase ridership. While bus ridership in the United States has increased by 11% since 1970, bus ridership in New Jersey has decreased by 41% during the same period. New Jersey now provides operating subsidies to 22 out of the 200 bus companies in the State; these buses carry 75% of all passengers. Yet the State has little control over the transport system. Bus service within the State has become redundant on some routes, lacking on others, and totally non-existent elsewhere in growing areas of the State. Despite its mounting investment through the bus subsidy plan in support of private bus lines, the State has only limited power to determine transit routes or schedules.

Senate Bill 3137, the "New Jersey Public Transport Act of 1979," aims to resolve these problems. This legislation will equip the State with the power to establish and to provide a long term solution designed to insure the effective and

efficient delivery and improvement of public transit services in New Jersey. This bill should furnish the tools to increase ridership and to improve service to meet the significant public goals: mobility, improved air quality and energy conservation.

Commissioner Gambaccini has correctly perceived that the State's mass transit system cannot be improved significantly without better coordination of the entire bus and rail network. This coordination would be the responsibility of the proposed New Jersey Transit Corporation. Although there is no way to guarantee that this corporation would be more efficient, the Department of Transportation is confident of its ability to do a better job running the State's buses. With the bus subsidy program expecting to escalate to over \$73 million by 1980, it is not difficult to believe that the State could provide for a coherent public transportation system in a more efficient and less costly manner. The League for Conservation Legislation fully supports this legislation.

LCL would like to make several comments about the composition of the corporation to be established in S-3137. We believe that five members is a good working number. However, we strongly urge that the bill be amended to include the following:

1. public members be given set terms of office rather than serving at the pleasure of the Governor;
2. the appointment of the public members should be held to some standard such as "qualified and knowledgeable about public transit." Although such a criterion cannot be strictly enforced, some standard should exist;
3. if public members are to function as equal participants with the government employees, compensation should be granted. The experience of the Election Law Enforcement Commission, for example, has shown that such members give extraordinary effort. The commissioners of the ELEC are now about to be compensated at \$200 per day. To do otherwise only permits the independently wealthy to serve without sacrifice. Usually those persons with sufficient income have little experience with public mass transit;
4. the public members should be made to disclose whether they have any interests which would conflict with the interests they are to manage.

LCL believes further that in order to develop and promote programs to foster efficient and economical transportation services in New Jersey, full cooperation and involvement by all levels of government will be needed. This participation should include achieving meaningful regional, county, and local involvement in decision making. One or several advisory committees should be considered. The public hearing section of the bill should also be bolstered and more exact requirements should be added. There should be full scale hearings whenever there are to be fare changes, abandonments or major curtailments. Public participation by transit users should also be actively sought.

The League for Conservation Legislation recommends that the newly formed New Jersey Transit Corporation undertake a major effort to improve and intensify its marketing and advertising techniques to encourage the use of buses in New Jersey. Recent fuel shortages demand that we rely on more efficient transportation. To increase ridership in order to meet new concerns of citizen mobility, improvement of air quality, and energy conservation, and to protect and promote the public health, safety and welfare, the public transportation system in the State must be

made more accessible and attractive to New Jersey residents. It is now difficult to acquire pertinent and correct information about mass transit facilities. A coordinated advertising and promotional campaign by the New Jersey Transit Corporation could familiarize citizens with the available services which will encourage them to use public transportation. This campaign should provide the location of bus stops, bus shelters and parking facilities as well as disseminate schedules and maps of the various bus routes.

The function of public transit has had a changing role over the last years since the subsidy program started in 1969. Public transit is now recognized as a vital public service essential to the achievement of several important goals: energy conservation, environmental protection, urban redevelopment, and sound land use planning. The existing bus system in New Jersey has failed to do any of this, along with failing to improve services.

New Jersey has an obligation to improve the quality of its air. In the State Implementation Plan of the Clean Air Act, New Jersey has recognized a need to review public transit organization and financing as they impact on clean air. This bill represents one of the results of that study. We urge this Committee to give serious consideration to this bill as it provides a potential means of achieving the attainment of the State's goals to control particulates, carbon monoxide and ozone. The better and more useful the mass transit, the more chance that these goals will be met.

In addition, New Jersey needs to improve its mass transit system in order to conserve energy. The citizens of New Jersey must be given a reasonable alternative to the ever rising cost of gasoline and its increasing scarcity. Furthermore, we must be able to assure safe and efficient transportation for the sector of our citizenry who are without cars and have no other choice.

The history of the State bus subsidy program is a case of limited and temporary bandages being applied to an increasingly complex and long term problem. Our present system is more of a "finger in the dyke" approach than a serious plan of action. The League for Conservation Legislation believes that S-3137 offers New Jersey citizens the best chance for an improved and efficient mass transit system.

This bill is a very important one and the time for action is now. We do not need any more long term study projects of perfunctory State programs. LCL calls on this Committee and the Legislature to approve S-3137 in order to improve and to correct a program which has been inefficient and costly to New Jersey taxpayers. Now more than ever, it is time to put the public in the driver's seat. Thank you.

SENATOR SKEVIN: Thank you, Mr. Singer. Our last witness for this morning's session will be Joy Ferguson of the Commuters' Wives Organization. After that will be John D'Amico who is with her. After the next witness we will adjourn for lunch and return promptly at 2:30 P.M.

SENATOR GAGLIANO: If I might say, Mrs. Ferguson is a constituent of mine.

SENATOR SKEVIN: I hope she votes for you, Tom.

J O Y F E R G U S O N: Good afternoon, Senators. I certainly should vote for him after the help that we've already gotten from the Senator. I am Joy Ferguson and I represent the Commuters' Wives of Ocean, Monmouth and Middlesex Counties, an organization whose concern is the upgrading of service on the NJCL. Our



organization supports the concept of the proposed New Jersey Transit Corporation. We regard the present system as unwieldy and unworkable and hope that the proposed Corporation might succeed in demanding, and getting better public transportation service for the public of New Jersey. To accomplish this, we would like to see the directors given considerable scope and latitude to make decisions and act swiftly to implement them; this latitude, however, should be balanced by certain provisions that we consider vital to the public interest. In detailing these, it is not our intention to negate the general purpose of the legislation, nor to hamstring the board of the corporation with niggling restrictions. We are concerned only that such a major and far-reaching piece of legislation should be as good as everyone can make it.

First, we feel that the wording stating the purpose of the Act is too general. "The provision of efficient, co-ordinated, safe and responsive public transportation" is a good beginning but there are no specifics in the legislation spelling out how this will be done. No standards are set, there are no criteria for what constitutes efficient, safe service. It is left to the Corporation to determine what is in the public interest. We feel instead that standards and specific proposals should be written into the legislation, such as, for instance, the increase of mass transit ridership by extending service, or more public education. Such a charge to the Corporation should include, but not be limited to, such standards and proposals.

Now, in the absence of a base transportation service plan, yearly updated, such as was included in the Transportation Improvement Act of 1977, we urge the inclusion of criteria for service, and also to change the wording of Section 5(a) at the bottom of Page 15 of the Act. Instead of instructing the Commissioner of Transportation "to develop, from time to time revise and maintain a comprehensive master plan for all modes of mass transportation," we would like this to read: "Develop and revise every 5 (five) years a comprehensive master plan, etc." The revision of the State's master plan is long overdue and in these rapidly changing times should be under continuous update and review.

Secondly, we feel that the proposed Corporation should have more public input. The board of directors should be increased from 5 members to 7; 3 State officials, and 4 public representatives. The 4 public representatives should be appointed by the Governor with the advice and consent of the Senate, should serve set staggered terms, and be removed only for cause. Vacancies must be filled within 3 months and for unexpired terms only. Criteria for the public representatives should include expertise in public transportation or demonstrated managerial capability. It is important for the sake of maintaining continuity that the public members be allowed designated alternates to represent them in case of sickness or unavoidable absence; at the present wording of the bill only the ex officio members are allowed designated alternates.

Besides increasing the number of public representatives on the board, the Commuters' Wives strongly advocate the creation of a review board made up of representatives from each of the counties in the State. This review board would act in an advisory capacity, both to oversee the Corporation's operations and make sure it gets the necessary input from the local level. In this line we suggest that on Page 16 of the Act at Line 32, the words "and county agencies" could be added right after "appropriate Federal agencies."

We believe the review board would also aid in promoting executive accountability in the proposed Corporation. The New Jersey Department of Transportation has a dismal record of inertia in the past, notably the failure to implement the legislative directive in the Bond Issue of 1968, and we would hope that the county representatives would be able to guard against any such failures in the future.

Our third recommendation deals with public meetings. The Act presently mandates public meetings in the affected areas before implementing fare increases or abandoning services. We feel that there should be public meetings in the preliminary planning stages, but in the final stage a public hearing should be held in the affected areas in the evening, not only before implementing fare increases or abandoning service, but also before major curtailment of service. Then there should be at least 20 days notice given before a public meeting or hearing; it sometimes takes much time to develop testimony. I understand that Maryland's Transportation Act, which Commissioner Gambaccini cites as an example of a successful transit agency, mandates 30 days notice. Such notice should be published in all daily newspapers in the affected area and also posted in bus and rail depots and stations.

As a minor point, but in the interest of speeding up the proposed Corporation's actions, we suggest that in the absence of the Governor, the Acting Governor be empowered to sign the minutes of the board's meetings. We also feel strongly that these corporate meetings should be open to the public.

We offer these suggestions, gentlemen, not in a negative spirit, but in the hope of obtaining the best public transportation system that can be devised for this densely populated, under-serviced state.

We appreciate very much the opportunity to speak before the Committee. I don't need to remind the Senators present that the New Jersey Legislature has passed no major piece of transportation legislation in the last 10 years, during which time such services as the State had were going down the drain. I hope you will not fail us now.

SENATOR SKEVIN: We appreciate your comments. Of all the witnesses, we do respect everyone that appears before us, but when we have commuters - especially commuters' wives - we do take that into consideration. We certainly appreciate your appearance here. I have no questions. Senator Herbert.

SENATOR HERBERT: Just one comment and perhaps staff can shed some light on this. I assume that under the Sunshine Law that meetings of this Corporation will be open to the public. Is that correct, Mr. Capalbo?

MRS. FERGUSON: I asked several people, Senator, including lawyers, and they were not able to tell me with any certitude how that would work with the Corporation.

SENATOR HERBERT: Well, we'll check on that. I think it's a good suggestion.

AIDE CAPALBO: I would have to check on that for you. We're talking about a corporation and we're not talking about a State agency. While the corporation is in the Department of Transportation it is not a bureau of the Department.

SENATOR HERBERT: I would assume, Mrs. Ferguson, that any meetings that make decisions about public transportation would be open to the public. Now, that's my assumption. If it's not in the bill and legally we need more protection, I would support you on that particular amendment.

SENATOR GAGLIANO: I've already asked for several amendments so maybe I could ask Joe to prepare that amendment also that we would specifically have this Corporation subject to the Open Public Meetings Act of the State. That wouldn't take much in terms of language and then we'd be clear on it because it is kind of neither fish nor fowl - that is the Public Corporation. I think the Commuters' Wives raised a very good point. So, I'd like to suggest that we have that to look at as an amendment. The other question I had, Mrs. Ferguson, was whether you feel that the bill as written where it refers to north Jersey and south Jersey, should include any reference to central Jersey? Or would you think we're covered well enough in that the destinations is what they are thinking about here - north Jersey, south Jersey type destinations - would be districts involved? Do you think we should expand that some more and have a central New Jersey district?

MRS. FERGUSON: Senator, it was my understanding that the wording, north and south, was included in the original, is it in the present amended version?

SENATOR GAGLIANO: I can't recall.

AIDE CAPALBO: I talks about one or more operating divisions, it doesn't mention north or south.

MRS. FERGUSON: I would hope that whatever system is considered most workable, whether it's a regional system or an overall State system having regard to the objectives, that we would not be overlooked in central Jersey.

SENATOR GAGLIANO: Thank you - excellent speech.

SENATOR SKEVIN: We will now adjourn until 2:30.

(recessed for lunch)

#### AFTERNOON SESSION

SENATOR SKEVIN: I'd like to reiterate our object is to obtain as much information and new input as we possibly can have on this very important piece of legislation. On the other hand, if what you're going to say has been said before, it will be very receptive if you would simply highlight your statements rather than read verbatim, long lengthy statements. At the same time, I don't want to discourage anyone who would like to express himself fully. If there is a statement, it will be taken verbatim by the stenographers here as part of their record so it's only duplication to repeat word for word what you are about to testify to. We ask your forbearance and hopefully your cooperation. We do have four or five more witnesses and ask that you limit your remarks as much as possible. Mr. D'Amico.

J O H N D' A M I C O, J R.: Thank you, Senator, I'll try to follow your suggestion. My name is John D'Amico and I commute daily from Little Silver to Newark by train. I am also the Co-chairman of the Irate Shore Commuters and also a member of Shore Commuters for On-Time Service (SCOTS). I am making this statement on behalf of both organizations, which have received financial support from more than 2,000 commuters as well as local businessmen and the governing bodies of more than a dozen municipalities, including Oceanport, where I am a Councilman. And I'll add to that that we have, we feel, the moral support of some 8,500 commuters who ride the North Jersey Coast line every day. Although my remarks today will be made from the standpoint of a rail commuter, we do talk to our brethren who commute

by bus and I feel that much of what I will say reflects their thinking as well.

The crucial issue, of course, is whether or not there should be public ownership of mass transportation facilities and services by a public corporation.

Without going over the same ground that has been covered by other speakers, let me just say that we feel that the framework in which this issue should be reviewed should be as broad as possible and should include the consideration that the Legislature itself has found and determined that the State is threatened by the prospect of both near and long-term energy shortages and that, in short, there is an energy crisis. If you take that fact as the starting point and read the excellent Energy Master Plan, in particular the policy statement on energy and the New Jersey transportation system, you will, I think, get an overview and a context of the crisis in mass transportation which makes speedy and effective action so urgent. The Department of Energy has concluded that there is a basic public transportation network and level of service which must be established and maintained. It has therefore recommended that there be no further cutbacks of rail service or track abandonment; that existing rail lines be preserved and allowed to deteriorate no further; and that existing commuter lines should be upgraded to provide reliable, high quality service.

With respect to fare policy, the Department has recommended that fares should be recognized as a tool in the marketing of mass transportation services in New Jersey. It should be realized, says the Department of Energy, that further fare increases and service cuts will be detrimental to transportation energy goals. Finally, the Energy Master Plan observes that improved mass transit will contribute to the economic health of New Jersey by aiding in the revitalization of the State's urban centers. It can also better environmental quality by eliminating a portion of the automotive pollutants that currently prevent New Jersey from attaining Federal air quality standards for smog.

It is obvious, Senators, that the Department of Transportation, the Commuter Operating Agency, Conrail and the bus companies with whom the agency has had contracts have been unable, and in some cases, unwilling to prevent the steady disintegration of the State's mass transportation system, with the various consequences described in the Energy Master Plan.

Major capital projects such as the electrification of the North Jersey Coast line and re-electrification of the Erie Lackawanna have been stalled for over a decade, notwithstanding the availability of 1968 bond issue funds and Federal Urban Mass Transportation Administration grants. Meanwhile, commuter bus lines and railroads, such as the North Jersey Coast line, remain unreliable, unsafe, inefficient, uncoordinated, uncomfortable and unsanitary. Last October, the Commuter Operating Agency removed the last incentive for people to use public transportation, which was price, by raising rail and bus fares an average of 10%.

It has been suggested by some that perhaps if the subsidy program were reformed and incentives provided for improved services, the private carriers would do a better job. We disagree for two reasons:

1. Notwithstanding the fact that the present Passenger Service Contract between Conrail and the Commuter Operating Agency provides for graded incentive payments if trains are operated at 91.6% or more on time, reliable on-time service is not being provided.

2. Conrail is the only game in town, and it is a "con-game." If the State does not make rail service continuation payments to Conrail under the Rail

Reorganization Act of 1973, Conrail can drop passenger service. Conrail has the State over a barrel, and it is milking the State subsidy program for every subsidy dollar it can get by deferring the maintenance and improvements called for by the contract and by cutting back on its personnel. To enforce its rights, the Commuter Operating Agency would have to take Conrail to court, an approach which has the disadvantages of expense and delay and will not produce any immediate benefits for the commuters.

We recognize that the Department of Transportation is studying alternatives to Conrail, but the Port Authority and Amtrak are not clamoring for the privilege of providing passenger train service. Besides, based on his record while Commissioner of Transportation and his proposed 67% fare increase on P.A.T.H., Alan Sagner would be the commuters' choice only if they wanted train service eliminated. Similarly, Amtrak ranks as one of the most intransigent foes of the commuter, considering the deterioration of Amtrak facilities and service between New York and Newark and the condition of Newark's Penn Station, where escalators are still not working. In sum, finding a private or quasi-public corporation to operate a \$100 million plus commuter rail operation will not be as easy as replacing a secretary with a Kelly girl.

We therefore conclude that the State must create a public corporation to provide passenger rail service. Of course, the public corporation should be permitted to enter into contracts with any public or private entity as it is likely that the corporation will have to continue to deal with Conrail until it can gear up for a State takeover of service. In anticipation of this possibility, Senate Bill 3137 should be strengthened to give the State at least the same protection presently afforded by Sections 1A-20 and 22 of the Transportation Act of 1966 which are scheduled for repeal. The bill should spell out the obligations of the service provider and mandate contractual provisions pertaining to auditing and settlement of payments. I have set forth in the appendix some amendments which would make the service provider accountable to the corporation and the commuters and taxpayers of New Jersey.

Recognizing that we have no choice but to create a public corporation if we are to have any hope for improvement in rail transportation, do we have any reason to expect that the corporation will do a better job than the Department of Transportation? Unfortunately, the record of the D.O.T. does not inspire confidence in the ability of the State to provide quality commuter service. Conrail is not entirely to blame for the present malaise of our rail transit system; the Commuter Operating Agency and the D.O.T. have not been diligent in protecting and advancing the interests of New Jersey taxpayers and commuters.

We have the following suggestions which we feel will turn the situation around and give the public corporation a chance to succeed.

The principal reason for the poor performance of the agency is poor management, which has largely ignored the complaints and suggestions of the commuters. Competent and dedicated mass transportation experts such as the new Commissioner Gambaccini and advocates must be appointed to the board. Furthermore, commuters and other interested citizens must be represented.

The Commuter Advisory Board, which used to give advice to the Commissioner regarding problems of commuter railroads, is now defunct because the D.O.T. stopped sending out meeting notices. Senate Bill 3137 does not address this problem. Our first recommendation, therefore, is that there be established an Advisory Council

on Transportation consisting of representatives of rail and bus commuter groups, associations of state, county and municipal officials and transportation boards; railroad and bus companies under contract; unions representing the employees of those companies; and organizations promoting energy conservation, environmental protection and urban revitalization. The Advisory Council would be empowered to request information from the corporation; hold hearings; make recommendations concerning the long-term planning, management and improvement of public transportation; and review prior to adoption proposals of the corporation which would decrease public transportation services or increase fares. I set forth a wording for such an entity in the appendix and it's patterned after a body which is functioning quite well along these lines, named the Advisory Council on Energy Planning and Conservation.

Our second recommendation for streamlining the structure of the transit corporation is that Section 4(b) of the Act be amended to provide for at least four public members of the governing board of the corporation, one of them being the chairman of the Advisory Council on Transportation, just proposed. All public members should be appointed by the Governor with the advice and consent of the Senate. In order to attract good candidates for membership on the board, public members should be paid at least \$150 for each meeting they attend.

Thirdly, the clause allowing each ex officio member of the board to designate one or more employees of his agency to represent him at board meetings should be deleted from Section 4(d) of the Bill. The Commissioner, Treasurer and representative from the Executive Branch should be individually responsible and accountable and not be allowed to hide behind their assistants. If they cannot attend a particular meeting, then the vote of a majority of those attending and constituting a quorum, should control.

Fourth, the authority given the corporation with respect to fares and service must be circumscribed by the requirement that any decision in these areas take into account the public purposes and policies set forth in Sections 2(a) and 2(b) of the Act. The Board should also be required to take into account the recommendations of the Advisory Council on Transportation. In addition, the corporation should be required to hold a Mandatory Formal Hearing pursuant to the New Jersey Administrative Code when it proposes to decrease passenger service or increase fares. Also, the Division of Rate Counsel of the Office of the Public Advocate should be required to represent bus and rail transit riders at such hearings. It is only with these safeguards that the users of mass transit will be afforded the same basic protection presently enjoyed by other consumer groups in this age of consumerism.

I would like to conclude my remarks with the observation that the proposed New Jersey Transit Corporation can be made to work if it is structured properly, adequately staffed, well-managed and amply funded.

Adequate funding is particularly important. As the Department of Energy has stated, budget allocations for mass transit must be assigned with the realization that further fare increases and service cuts will be detrimental to transportation energy goals.

The State of New Jersey - located as it is between two of the largest cities in the world and with its own large cities - deserves a first-class mass transportation system. The facts and circumstances lead us inexorably to the conclusion that the State operation of that system is essential if we are to

accomplish what has already been achieved in virtually every other industrialized country in the world: fast, reliable, safe and comfortable mass transportation. Let me just add a coda to that, if I may with two points.

In the letter which I've already handed out, Mr. William Nesbitt, the Chairman of SCOTS makes two additional suggestions: one that the Senate and its Counsel investigate the propriety of condemnation vis a vis due process in operation of the business of the Corporation that the Corporation acquires immediately upon filing and approval of the condemnation complaint, and, that for 30 days after the Governor's acceptance of the Board minutes, the Legislature have the power of veto over any proposed condemnation action. And one final statement. By nature of the fact that I had to be in Trenton today to represent my employer at another hearing, I was fortunate to be able to attend this hearing. I think though that if you want the input of the commuters, you're going to have to schedule a hearing at a time and place that commuters can get to. So, I would in my final recommendation suggest that at least one hearing be held in the evening hours at a place where commuters would be able to contribute.

SENATOR SKEVIN: Thank you, Councilman. We appreciate your remarks and the fact that you came up from Oceanport. We do intend to have a further public hearing or public hearings where the commuter will have the opportunity to participate. So, again, thank you. I have no further questions.

SENATOR GAGLIANO: I don't have any questions but I do want to say that Mr. D'Amico is also a constituent of mine. I'm proud of the work that they've done. They have done a tremendous amount of work in the last year when we realized the severity of the commuters' problems. I think we're finally getting around to doing something about it.

SENATOR SKEVIN: I'm sure that Mr. D'Amico and Joy Ferguson realize the fine representation they have from Monmouth County ---

SENATOR GAGLIANO: You didn't have to say that.

MR. D'AMICO: Amen to that.

SENATOR SKEVIN: I certainly am a champion of Tom's efforts. He's a fine representative for the area.

MR. D'AMICO: We agree with that. Thank you very much.

SENATOR SKEVIN: Stephen Lax, Committee for Better Transit.

S T E P H E N L A X: Good afternoon. My name is Stephen Lax. I am coordinator of the New Jersey Task Force of Committee for Better Transit. Committee for Better Transit is an all-volunteer citizens' group of approximately 400 members. I thank you for the opportunity to appear here today.

The New Jersey Task Force of Committee for Better Transit supports S-3137. Before deciding to support this bill, we asked ourselves three questions: Could an improved subsidy program work? Would a public transit corporation work? Who would probably benefit if this bill became law?

To the question of whether an improved subsidy program would work, we had to say no. There are just too many instances of duplication of service between subsidized carriers, not to speak of further duplication with non-subsidized carriers, and other inefficiencies of route structure and garage operations to reasonably believe that continued subsidy will ever work. For example, TNJ closed its garage in Perth Amboy a number of years ago. Since that time their bus service to that area has been severely curtailed, in part because of the increasingly high cost of deadheading buses from the New Brunswick and Elizabeth garages. At the same

time, other subsidized operators have garage space in the Perth Amboy area. Even more extreme is the deadheading of TNJ buses from the same two garages to Monmouth and Ocean counties to serve new population centers in that area. Some buses must travel for more than an hour to reach the start of their routes. Only if there is consolidation of ownership and the removal of inter-company rivalry would a real incentive exist to remove wasteful deadheading and other inefficiencies inherent in the current subsidy program.

I had the opportunity to serve on the Citizens' Advisory Panel to the 1976-77 New Jersey Public Transit Organization and Financing Study. That study suggested that, in 1975 dollars, a consolidated system would create efficiencies resulting in a six million to ten million dollar annual saving in operating costs. Other studies, too, including one done by the Office of Fiscal Affairs, have consistently pointed out the inadequacies and inefficiencies inherent in any subsidy program approach.

Would a public transit corporation work? Here the answer is probably yes. In most metropolitan areas of the United States and Canada, there is unified ownership. Service is responsive to the public need and ridership is increasing at a more rapid rate than in New Jersey. If it works elsewhere, it should work here.

We also asked who would benefit if the State owned the public transit system. We were a little surprised when we realized that current commuters to New York and Philadelphia would benefit little. Generally, good to excellent service exists during rush hours to those cities. Intra-state and off-peak transit users, should benefit immensely from the coordination of services. We see the resources currently being wasted on duplicative services being used for the provision of new services. We see the economies to be had by consolidating back office operations being used to provide even more service. We see the time when a person can take a bus to the Meadowlands Sports Complex for a sporting event or concert as easily as he or she can now get to Madison Square Garden using public transportation.

We also see the consolidated transit system providing benefits even to those who cannot use it. We see decreased highway congestion; we see gasoline being conserved and available for those who must rely on the automobile; we see an improvement in our air quality standards. In the event of a real energy crisis, a truly integrated public transit network will put New Jersey in a far stronger position than it otherwise would be. To us, these potential benefits far outweigh any potential risks.

There are a few specifics in the bill on which we would like to comment. We feel that the development of public transit policy must include not only state, county, and municipal governments; but also transit users and concerned citizens. We also feel strongly that the provisions for public meetings prior to the implementation of any fare increase or abandonment of service -Section 8c of the bill - must be strengthened and expanded. We urge that while public meetings should be held to obtain public input during preliminary study of possible service changes prior to a final decision being made, a public hearing should be held which places the final decision under scrutiny of those concerned. We also feel that significant curtailment of service should be treated under the same provision as abandonment of service. Minor changes in service, using the standards recently developed by the Commuter Operating Agency, need not be subjected to the hearing process. Ten day notice prior to the public meeting is insufficient. We believe



twenty day notice should be given to allow for the development of responsible input. Finally, notice of such meetings or hearings should be placed in daily newspapers normally circulating in the area affected, as well as in railroad cars and on buses.

I'd like to say that we think these changes will strengthen the bill. However, the bill is so important that we can support the bill even without these changes. In addition, I originally planned to regale you with a whole list of inanities that exist in the current subsidy program. I don't think you need to hear them. I'd just like to say that the current subsidy program is like the Gordian knot - attempts to untie the knot never worked. Indeed, they just made the knot tighter. Then Alexander the Great came along with his sword and sliced the knot open. This bill can slice our subsidy mess open and create a very effective new public transportation policy in New Jersey. Thank you.

SENATOR SKEVIN: Thank you for your statement and comments, Mr. Lax. I have no questions. Barnett Rukin, Shortline.

BARNETT RUKIN: Mr. Chairman, Senators, thank you for the opportunity to speak here today. My name is Barnett Rukin. I am the Executive Vice President of Hudson Transit Lines, Inc. of Mahwah, in Bergen County, operators of Short Line buses. I am here today to discuss S-3137, the bill introduced at the behest of the Department of Transportation to allow for public takeover of the transit operators in the State of New Jersey.

To date the Department of Transportation has produced voluminous documentation to make their case. Coupled with an excellent public relations effort and bright staff, the approach has drawn some initial support from the press, some Legislators and others. However voluminous the documentation has been and however well motivated staff has been, the effort nonetheless suffers from superficiality. Their major study which is a review and analysis of the current subsidy program can be used to point out potential pitfalls based on past performance and improper conceptions for the future. Using the categories set forth in the Executive Summary of that report let me provide a different look at the same problems than the Department has heretofore provided.

1. The current program is based on ten-year old emergency legislation. That legislation is broad enough to give the DOT power to promulgate goals and priorities with corresponding rules and regulations relating to maintaining and possibly improving New Jersey's transit system. Sad to say, that has never been done and by the Department's own admission "no... (master) plan has ever been developed." It is incredible that an executive department responsible to the people for a transportation program has never in its ten-year history developed a meaningful master plan, yet now blames private enterprise for failure of its program and proposes as the solution their taking over the physical operation of the system.

2. The current contract assistance program fails to respond to changing goals. This is an embarrassing admission by the people responsible for the program. It is clear to me that the failure in responding to changing goals lies mostly in the Department. After ten years they still have no original goals, much less changing goals. Moreover, much greater amounts of money have been spent on railroad service than on bus service even though buses carry more than four times the passengers. There is no discussion of the enormous operating subsidy paid for rail passengers - \$2.07 per ride on the old Erie-Lackawanna service - or the enormous capital programs for railroads. There is no escaping the fact that the most affluent public transportation users ride railroads, not buses. But the policies of the DOT have

promulgated programs causing assistance levels to railroad users to rise to 75% of the cost of a ride. Nowhere is railroad service run by a public corporation mentioned nor does this section address the fact that departmental programs assist companies not users, thereby promulgating inequities to the public using public transportation facilities.

3. Effects on ridership. Ridership declines are a function of many factors, including policies of the DOT, implementation and improvement of PATCO and PATH, declining inner-city population and employment and the economic decline of the region. I can't understand how the Department can blame carriers for the results of programs which they themselves mandated. The DOT has never provided any incentive for carriers to operate more effectively, in fact their policy has been to maintain existing companies without questioning the need for their specific routes. Their theory is to pay for what is in place whether needed or not. As the inner cities lost population and jobs the transit system lost riders. Yet the DOT never provided funds to institute service in the generally suburban, sometimes rural areas of economic and population growth but instead pursued continuation of services in declining markets.

Costs of the program reflect on DOT policies. When fares are not raised and costs go up there is no alternative for a subsidized carrier but to need additional subsidy. Until the subsidy pays 100% of the costs the rise in subsidy expense in absence of fare increase has to be greater than the percentage rise in costs. The anguish about the growth in the size of the subsidy program is more emotional than objective and yet, the DOT has maintained a schizoid philosophy about fares. While it says its policy is to keep fares low, in actuality it keeps fares low only for passengers on subsidized services. Programs using State funds should benefit people. New Jersey DOT's program has been directed at the companies it subsidizes, not at people, and it benefits no one.

4. Financial morass. Much of this problem can be solved by a revised subsidy program that directs aid to users of public transportation. Assistance can be weighted to benefit services, people, and areas most needy. The program can be structured to include all public transportation users. Such a program should be structured to change the economic climate of the transportation business, taking the emphasis away from nit-picking and instead, putting it toward developing a high quality up-to-date transportation network. The financial morass raises serious questions about the Department's ability to manage. Why, for example, does it administer 21 different contracts with 21 different companies, some of whom were forced onto subsidy because their competitors were subsidized?

Any program supporting free enterprise has to include depreciation and return on investment. The DOT's argument about availability of 80% Federal funding for equipment has a number of converses. What happens to assets already owned in the private sector? If their depreciation is not covered, the carrier gives them away. Also, the real costs on the bus side are operating costs, and not capital costs. And more efficient operations, even with losses paid for at a lower percentage by the Federal government, can overcome the benefits of a richer capital asset formula.

As to uncertainty over support levels, you all know this is a problem affecting almost every publicly funded institution. Schools, prisons, and others all suffer from this problem.

5. Multiplicity. The DOT, if involved in transportation services, should monitor the service to the public. Service on the street exists whether one or hundreds operate it. The State has made only token efforts to rationalize service and routes over the past ten years. The Department has promulgated no goals and no priorities. It hasn't even updated its master plan - ever. If the State takes over the transportation network, it won't operate from a single garage with a single supervisor. This will be a big business requiring a multiplicity of operating and administrative functions and a multiplicity of locations.

The DOT's funding process has been terrible for years. New Jersey is known for slow filings, long delays, poor transfer mechanisms. Other states have no more serious problem funding projects for private carriers than for public agencies.

The DOT's policies oppose innovation. The DOT won't pay subsidized companies for service not under contract, nor will they allow discontinuance of service. Unsubsidized companies have been systematically ignored.

6. Inability to enforce operational policies. If the DOT had a. an incentive program which made the transportation business encouraging to management and to investment; b. rules and regulations governing goals, priorities, and practices of a public transportation system and; c. a regulatory and development staff to mold the industry to meet such goals, then they could demand accountability. It is beyond belief that the Agency which has not, and apparently cannot, set goals and priorities for a transportation system now proposes to you that it operate the system. Public operation is no Utopia. Look at the costs of Mercer Metro. Measure the bus operations in Westchester County - private - as against Nassau County - public - in New York. I suggest to this Committee that it meet, in camera, if necessary, with the County Executive of Nassau County or the Franchise Director of New York City to see the results of public operation in this region. By the way, New York City has over 1,200 privately owned and operated buses in its transit system. Why do the present and former Commissioners of Transportation in New York State support private operations? I emphasize to you the difficulty in providing good transportation. It cannot be done in a cost-effective manner without incentive. It cannot be done efficiently by a political organization unable to buffer itself from politics. Costs of running service in an inflationary economy cannot be kept down by increasing service and maintaining fares. The inertia inherent in a political context leading to maintenance of fares has led in New Jersey to railroad passengers paying less than one-third the cost of their ride and the utterly ludicrous situation where my company could carry all the passengers in Northwest Bergen County to New York free of charge if the State provided us with the same level of subsidy as it now provides our railroad competitor. Which one of this Committee or his colleagues in the Legislature will introduce the bill asking for higher fares? That is just not a political practicality. So the losses run on.

7. Inherent conflicting interest. Unequivocally I deny the existence of an inherent conflict of interest between public and private goals. The DOT would have us believe that Chevrolet outsells Plymouth only because it provides an inferior product at a higher cost; that the profit incentive doesn't work toward providing higher quality and lower cost. The private economic interest of the carriers has to do with return on investment. To realize profit a company has to take in more revenue than it spends. It is advantageous to an operator to have the lowest fares possible while providing the highest quality service, as that will attract the most riders. If the DOT has a policy of maintaining low fares, it can easily pay operators the

difference between economically justified fares and those charged to the public. But the DOT doesn't do that. On railroads and subsidized bus lines it doesn't raise fares to meet cost increases. Yet the passengers on unsubsidized lines must pay the full cost of the service which includes profits and the taxes to keep government operating. Even under these adverse conditions some lines not only remain unsubsidized but also compete successfully with subsidized lines. Obviously this is difficult for the unsubsidized carriers to do and can't go on forever under existing or proposed Departmental policies.

The DOT laments that it doesn't gain popularity by holding down fares but I don't believe and no one in this room believes that \$143 million of State funds should be used to win a popularity contest. It should be used to provide the best transportation at the lowest cost to the users, both at the fare box and at tax time. It is the users and the taxpayers who need equitable treatment.

The second major DOT document compares TNJ with other large bus operations. This, too, is superficial. There is no other company just like TNJ. Nowhere else in the U.S. is there a transit company operating inner-city transit service, inter-city commuter service, long distance regular route service, rural service, a subway, and nationwide charters and tours. I am certain that whatever TNJ is today is more a result of Department of Transportation and other public policy than anything else. The advent and growth of PATCO and PATH alone decimated some of the most viable bus routes in the world. Although PATH has an excellent reputation for service and management, its success has come at the expense of an annual loss of nearly \$40 million. The Department of Transportation in having no rules and regulations, no goals, no priorities, not even a real master plan has made TNJ and other subsidized carriers' major goal simply one of survival. That goal shows in their attempt to insure that they incur only costs which are reimbursable, leaving little management time and no dollars for innovation. In not being paid for depreciation or profit no subsidized company can update equipment. In knowing their funding is capped no subsidized company can look for new horizons nor take any economic or marketing risks. The policies creating this attitude are DOT policies. In this report there is no discussion of how these policies reflect on passenger statistics, nor how changing demographic or economic conditions reflect on passenger statistics. The statistics presented which relate to costs are virtually meaningless because not only are the comparisons probably not analogous but also much of the cost structure of TNJ has been refined over five years to meet the criteria of the DOT.

Overall the inherent weakness of our present system seems to lie primarily with the Department. In ten years it has made no attempt to improve an emergency program. It has no catalogue nor measurement of essential services. It has no plan to keep fares down or service levels up for all passengers. It provides no equity to users or providers of service, nor to taxpayers. It has made no attempt to rationalize service, in fact it has subsidized service of companies competing with unsubsidized companies. In most cases this has caused both companies to become subsidized when perhaps one company could survive with no subsidy, and make a positive contribution to the overall economy of the State.

To rectify the problems the Department now concludes it should have the power to own and operate the system. I believe the logic leading to their conclusion is not only convoluted but dangerous. The concept of public operation besides being short-sighted threatens the economic revitalization of the State. It promulgates big government and insulates the system from true responsibility

to the electorate. It develops an inertia for expanded service and fares that don't reflect the true cost of operation. Then, when the costs are out of hand, presents the Legislature and/or the people with untenable choices - sometimes threats - about raising fares or discontinuing services. The October 1978 fare increases for subsidized operators is a clear example. For three years no fares on subsidized lines were raised by the Department while costs increased in excess of 35%. Interestingly in this proceeding the Department argues forcefully that one of the important reasons for public takeover is growth in the size of the subsidy program. Yet for three years and 35% worth of cost increases the Department raised no fares and absorbed the full cost increases on all subsidized lines. At the same time, and for sound reason, no one in the political sphere asked for fare increases. Parenthetically, I don't have to spell out the impact of these fare policies on competitive unsubsidized services whose only source of revenue is the fare box.

What does the new bill promise? It promises an independent corporation to run public transportation, whose chairman will be the Commissioner of Transportation. It strains logic to see the Commissioner fulfilling his statutory obligations as Commissioner while exercising independence in his role at the corporation. All three named board members are presently principal voting members of the COA. This independent agency seems to violate constitutional principles. It promises a lot of improvement in delivering transportation services which I have to believe are more illusory than real. It doesn't yet spell out a master plan, goals, priorities, protection of existing labor nor management. Obviously it provides no protection for private enterprise which has been the bulwark of our economic system. It never mentions costs. It never mentions the role of unsubsidized or continuing privately run services vis-a-vis subsidized or publicly operated services. In fact, it provides the public corporation with the power to put private companies out of business in numerous ways. It can condemn, acquire, compete with, set lower fares, run more service whether needed or not. It can selectively or systematically exclude private companies from participation in any or all programs. It encourages the corporation to take steps it deems appropriate to limit competition in furtherance of its own purposes. I think this may raise questions of supremacy of federal law as it affects Trans-Hudson operations. In short it gives total control of transportation to a public entity.

This new approach, whether pursued for tactical or other reasons, is dangerous. Besides not addressing the question of future costs the Department has made no argument about its ability to run a system well or cost effectively. It is accepted that the larger and more formalized a transit service becomes the higher becomes the operating cost per unit of measurement. Big business has higher costs than mom and pop businesses. It is accepted that the question of survival of the firm is a major dynamic in labor's approach to wages and working conditions. When the State owns the system there is no longer any real question about survival of the firm. It has been accepted in New Jersey prior to these hearings that free enterprise is the most efficient economic system, that profit motivates managers and owners to meet the test of the marketplace at the lowest cost. While for ten years the Department has attempted to modify this philosophy by mandating certain costly conditions, such as fares lower than cost and service higher than required by patronage - for which I think it should pay - and by promoting inefficiency, it now comes forth with a proposal to run the system itself. And it still provides no goals, no priorities, no master plan, no estimates of cost.

In ten years my company has probably been affected by decisions of a dozen Commissioners and Assistant Commissioners in the Department of Transportation. A solution to the problems we face now has eluded them all. Yet for some reason not one has responded to the problems within the Department nor to the strengths in the private sector outside the Department in finding a solution. I run a bus line that carries a lot of people in New Jersey without subsidy at a cost per passenger that would allow me to carry all the passengers of the competing railroad free if I had their subsidy per passenger.

SENATOR SKEVIN: Can I interrupt? I'm very interested in what you say there about transportation of your railway competitor. How many people do they take to New York?

MR. RUKIN: I don't know what the counts are on the railroad.

SENATOR SKEVIN: How many people do you take to New York?

MR. RUKIN: In the rush hour, at present, our total commuter service is about 3,000 in each direction. 6,000 a day of which about 2,000 in each direction, or 4,000 a day originate in New Jersey.

SENATOR SKEVIN: If you received the same subsidy as your competitor, the railroad, how many more people do you think you would attract?

MR. RUKIN: Well, if we applied that subsidy to our fares---

SENATOR SKEVIN: I'm talking about that free ride to New York as you mentioned in your statement.

MR. RUKIN: It would seem to me that we would have to carry the bulk of the passengers carried on our system, on the railroad and people who are presently using their automobiles. It's an economic choice for the users.

SENATOR SKEVIN: Approximately, how many people would that involve?

MR. RUKIN: I have to believe the railroad carries more people on that division than we do so we would have to add an excess of 2,000 passengers a day to our system in each direction, in the rush hour only. Of course, in mid day and in the evening we have so much excess capacity on the service that we run that it's not a significant question. Neither the railroad nor us carries many passengers after nine o'clock in the morning and before five o'clock at night.

It is not an easy task to provide the quantity and quality of service we do in a manner that attracts people to our service and at the same time be faced with formidable competition from a publicly run, artificially priced railroad service. The methods by which the Department runs this railroad - documentation of poor railroad service, DOT cost overruns, or delays are not necessary, I'm certain, for this Committee - the lack of development in a ten-year period of transit goals and priorities; and the lack of a master plan all point to the inability of a public corporation to provide cost-effective ownership and/or management. The Post Office, Amtrak, Conrail, MSBA, MABSTOA, etc., etc., etc. have all promised far more than they have delivered. And the shortfall from promise to performance has been at taxpayer and user expense. On January 9, 1979, Governor Byrne, in his State of the State message, said "Government must stop trying to do better what it should not be doing at all." What it should not be doing is proposing to pre-empt the private sector in providing public transportation services.

What is needed now is not a State run transit system. What is needed is the adoption by the State - Executive and Legislative branches alike - of a policy to fulfill the philosophy of a transportation system based on its citizens' needs for mobility as well as their ability to pay for those needs at the fare box and at

tax time. This policy must work for the people not for the bureaucrats, not for the carriers, not for any special interest group. There must be a single standard for transportation support based on needs for mobility along with other social goals. In this regard the carrier acts only as the mechanism for carrying forth policy. If the government wants to pursue a policy of low fare levels and high service levels, then its policy must be directed to these goals. Passengers should not be discriminated against on the basis of whose services they use.

Institutionalized inequities and inconsistencies pervade our current system causing a deterioration in the economic climate within which carriers perform. This has created a severe negative long-term effect. We have bemoaned this state of affairs for years and predicted that the State's approach as carried out by the Department would lead to poorer service and higher cost. If we haven't reached bottom, we are near. We have said for a number of years that New Jersey's transportation policy is directed to the extinction of private carriers. Having a private carrier operate a system totally under the direction of government, limiting his income to breakeven, not covering his depreciation is almost equivalent to the government's running the service. The industry can attract neither capital nor management talent without economic stability. This is the state of transportation in New Jersey today and the cure is not one more dose of the same ineffective medicine for this proposed dose is final, irreversible, and fatal.

As the computer industry has learned so we must learn, the most difficult problems to solve are those of software, not hardware. There is a great deal more to be accomplished by management than by capital infusion. The most effective management historically has been in the private sector, the worst has been in the public sector. While good transportation is impossible without proper funding, vast funding under New Jersey's lack of goals and priorities cannot produce good transportation. There is no way for public systems to become responsive to economic criteria and changing requirements of users as private operators of necessity must be. Transportation must enhance our State not be an undue financial burden to it. If we now take the step of going to public ownership there will be no turning back. Every jurisdiction that has gone public has been unable to turn back even though there are many who wish they could. The old private establishment will be fast replaced by the new bureaucratic establishment and the new institutionalized position of labor. We believe before that step is taken the State of New Jersey should put its transportation house in order. We see no reason that the State cannot be an effective policy maker and overseer of its transportation industry while services are provided by the private sector. Our industry has presented to the Department a broad outline for replacing the existing subsidy program with an incentive based operating assistance program. The Department rejected these suggestions as not meeting their specific criteria for institutional change and yet their proposed bill is not specific at all except for the change from private to public ownership. Nowhere do they address crucial questions such as how to rationalize service, increase ridership, revitalize urban areas, coordinate inter-modal services. Nowhere do they address questions of costs; cost to acquire, cost to operate. The Department is asking for an open ended contract to run public transportation. It has provided no satisfactory reasons for you to grant its request.

SENATOR SKEVIN: Mr. Rukin, thanks very much for the excellent statement. You question the lack of the cost figures in your statement. Do you have any



estimate of your organization or private operators as to the estimate of costs of the new program?

MR. RUKIN: There really can be none because costs are a function of service as well as the costs that make up the service. There is nobody who is magician enough to be able to increase service levels by 50% while reducing costs. And depending on what the public policy will be as to the nature of services that are to be run, we can't make any determination as to what the cost will be. It's just my opinion - and mine in this room perhaps alone - that the cheapest costs of running whatever service is deemed necessary by the public policy makers, can be incurred through the private enterprise system rather than through the system of public ownership. I believe in free enterprise. I believe, with a proper system of goals and priorities and a master plan and so forth, that the State can and should set up, that private operators can provide the highest quality service at the lowest cost of providing it.

SENATOR SKEVIN: Senator Herbert.

SENATOR HERBERT: Mr. Rukin, as usual, you're an able spokesman for your side. I'd like to ask you a few questions about incentives - a question I asked Mr. Gilhooley. Are there any incentive programs presently operating in the United States that you can point to as good incentive programs?

MR. RUKIN: The only one that I'm totally familiar with is in New York State. There are programs, I believe, in at least Oregon and Michigan and perhaps others but I must say I'm not familiar with the demographics or the nature of operations or anything else of that sort, and I would not be qualified to discuss them. But, in New York State, in 1973 or 1974, after having a program that did nothing but pay for losses for as long as public transportation has been supported there - which is longer than it has been in New Jersey - the Assembly Ways and Means Committee and the Senate Transportation Committee, the Governor's Office, everybody was at about the same point you're at in New Jersey where they were trying to stem the tide of paying for losses and watching the constituency of the operators grow only as their need for reimbursement of their losses grew. They came up with a program to pay for service on the basis of passengers carried and miles run, different formulas for railroads than they had for buses, then they subsequently added the ferry system to that at a different formula also. They obviously had to back into the numbers at the beginning because they had services that were losing lots of money that had to be continued for social and other public policy reasons. But, they brought a lot of new people into the program and they made a major attempt to stem the tide of transportation operations going over from the private to the public side. I don't think since that time there have been any operations that have gone over from the private to the public side. We operate in New York State. We operate under the rules and regulations of that operating assistance program. The basic criteria for it are the number of passengers you carry and the number of miles you run your vehicles. The project is funded by the State and the federal government and the local counties that you run through. It has some problems but, on the whole, it's an excellent program. There are changes that are being made in it on a regular basis. It has not grown in size nearly as large as the rest of the subsidy programs have. From the point of view of a private operator, it is a terrific program. From a philosophical point of view, it allows you to run your business, to do what you know best which is to run buses, to attract people to meet the marketing needs, to meet not only perceived needs but



real needs of the passengers, to keep fares down so you can attract people and to go out there and run your buses as many miles, to as many places, and carry as many people as you possibly can do. It doesn't call for you to meet a test of whether or not you spend 40¢ too much for a bouquet to send to the family of a bereaved driver whom you lost, or something of that sort or whether or not you have too much overhead or not enough. That's the problem on the company side. The program is for the people. And it's got enough incentive in it that if there were routes in New York that are not able to be run by certain other companies, my company would be interested in taking over those routes and trying to run them. They do not have that philosophy in New Jersey.

SENATOR HERBERT: Am I to understand you do receive subsidies from New York State?

MR. RUKIN: Yes, for certain operations in New York. They do not subsidize the company, they provide a level of assistance based on passengers and miles for the types of service that the State wants to support. For example, I run long distance buses from New York City to Binghamton non-stop - it's 185 miles - that service is not subsidized, there is no operating assistance for that. That I run totally on my own. But by the same token, I run bus service from Rockland County, right beyond your --- I guess it's not your district --- Suffern, and Orange County with lots of commuter service within a radius of 75 miles of New York City, and for that, through Orange County or Rockland County, we are paid an assistance level based on the passengers that we carry and the miles we run in that type of service.

SENATOR HERBERT: Suppose the State does go to an incentive program, would it not really cost us more money than we're spending now? I mean, suppose we're spending the same amount of money now - \$50 million - and we provide incentives for carriers like yourself, where is that money coming from? TNJ would either have to cut service or ---

MR. RUKIN: O.K. I don't see our program as a \$50 million program. I see our program as a \$143 million program for transportation.

SENATOR HERBERT: That's what you recommend for a program?

MR. RUKIN: No, no, no. I think that's what you're spending now. You're spending \$50 million for buses and the rest of it for railroads.

SENATOR HERBERT: I see. O.K.

MR. RUKIN: I don't know if that's State budget or if it includes the federal share or not but I think we have to recognize that we've got a transportation network and a transportation problem and we want to help the people who use it at the lowest total cost to those people and to you. Now you can say anything you want about how much a system is going to cost, it's not going to cost the State any more than what you people appropriate. Now, if you appropriate \$10 million then you've got a \$10 million program, if you appropriate \$200 million then you've got a \$200 million program. And if you continue going the way you're going the program is going to keep growing in leaps and bounds until everybody is on the subsidy and you're paying 100 percent of the costs. I don't have figures on what it costs to run the entire transportation network in the State, but it certainly is more than \$143 million. From what I read of Mr. Gilhooley's speech this morning, Transport pays 70 percent of its own way out of the fare box. So, you'd have to pick up another 70 percent or 2-1/2 times what you're paying now to pay the whole cost. I'm not looking for any money for Shortline out of this program.

SENATOR HERBERT: We understand that. You run an excellent line.

MR. RUKIN: What I am looking for is equity for my passengers. I don't think that your program should put my company out of business which stops me from providing excellent service and an excellent line. And that's what you're doing now. So, if you want to pay me and if I'm making a reasonable return on my money, since you do ultimately control whether or not we get fare increases, and since we do require fare increases all the time because we're in an inflationary economy, if there is any windfall for me, it's a one time shot. You're certainly not going to give me more than five or ten percent of my gross if you're only giving Transport after six years, thirty percent of theirs. And if my costs are going up by seven or eight or nine or ten percent, that's means that if in the first year I have to pass up a fare increase, I'm back to even. So, who is getting the benefit of it? Not Shortline. I'm really talking about this more in terms of my expertise in the transportation industry and as a resident taxpayer of the State.

SENATOR HERBERT: Under an incentive program, what accountability does the State demand? Or could demand?

MR. RUKIN: In New York State the accountability is very limited. What they require is that you meet the test of the Certificates of Public Convenience and Necessity that you're granted. You also have somewhat of a political problem because the counties are administering the funds and the State is administering the funds and if they call upon us to do different things, we have to be reasonably responsive or face the loss of those funds. That's significant. Now you are looking at that as another source of revenue, the fare box being one and the incentive being another and you have to treat it the same way you treat your passengers - if I don't take care of my passengers they are going to stop riding my buses and if I don't take care of the State or the County that is giving me money, they are going to stop giving me the money.

SENATOR HERBERT: But, really the bottom line, the reason you are in business is profitability.

MR. RUKIN: Absolutely. And that profitability is after covering depreciation and officers' salaries and all the items that the Department of Transportation runs around the State auditing for some twenty one subsidized carriers and I don't know how many railroads and spends lots of money doing it. Now, there are regulatory safeguards. The Motor Carrier Act on the federal side has been around since 1935, I'm sure with some problems but every institutional framework has problems. The Board of Public Utility Commissioners in the State of New Jersey has been around since, I don't know, from when and is now incorporated in the Department of Transportation. There are regulatory safeguards there as to what kind of expenditures you can have, what a proper rate of return is. You've got the same problem with Public Service Electric and Gas or the Jersey Central Power and Light Company or Metropolitan Edison in Harrisburg. They are all regulated and meet the test. All you're doing now, if you want a different test, is say, "O.K. Let's have somebody else watch over them."

SENATOR HERBERT: One of the questions I wanted to ask you was on capital equipment - spending for capital equipment. If we go to an incentive program, 100 percent of the cost will be borne either by the taxpayers under the incentive program and subsidies in the companies or with a public corporation with matching funds from the federal government, it will cost the taxpayers only twenty percent. Is this correct?

MR. RUKIN: No. The State presently owns a good number of buses almost all of which are leased by the State to the private operators. They were purchased with eighty percent federal funds and a twenty percent local match. So, with private operators running the business, if the State chose to become part of that program on an ongoing basis, they could continue to put up a twenty percent local match, get eighty percent from the federal government, acquire the buses and parcel them out to the operators on a lease for a dollar a year or whatever the terms of the lease may be. I probably was mistaken when I said we don't get any subsidy, we presently operate 127 buses in New Jersey - three of them are owned by the New Jersey Department of Transportation.

SENATOR SKEVIN: Senator Gagliano.

SENATOR GAGLIANO: I just have a couple questions. Mr. Rukin, I've heard the term "rationalization of service" so many times it's almost like a buzz word, if you'll pardon the expression. What does that mean to you?

MR. RUKIN: Well there are certain obvious places where there are total duplications of service. The Route 9 corridor, for example, I guess in Monmouth and Ocean County, where foot for foot from where Exit 9 comes near the Turnpike to Cape May, the service is duplicated by two carriers - Transport of New Jersey which went on subsidy in 1974 and also by Lincoln Transit which because of the subsidized nature of their competitive service was dragged onto the subsidy some time later. They run service to the same towns at basically the same tariffs with the same equipment to the same places.

SENATOR GAGLIANO: So, what you're saying is "rationalization of service" would either use one or the other of those two carriers but they wouldn't be in direct head to head competition with each other?

MR. RUKIN: I would think that would be the easiest place to start with rationalizing. I believe there are other places in New Jersey where there is the same kind of direct foot for foot competition.

SENATOR GAGLIANO: Do you feel, based on your years of experience in transportation, that under the existing law and under the existing COA framework that this irrationalization of service could have been taken care of?

MR. RUKIN: I don't think there is any question about it.

SENATOR GAGLIANO: How would you have suggested that it be done?

MR. RUKIN: I think the first thing you need is a plan. Without a plan you can't do anything on a long-term basis, and there has never been a plan. Once the plan was established and if there were any goals in that plan to eliminate this kind of competition, the first thing - and bear with me on this as I'm not a lawyer - the law says that the Department of Transportation or the COA should not subsidize services unless they are in imminent danger of collapse or discontinuance. The first thing is that if one company needs a subsidy it obviously doesn't need a subsidy on the route that it is competing with a non-subsidized company on because in the absence of subsidy to the subsidized company, the unsubsidized company would perform the service. So, right off the bat you have a solution to the problem - stop the subsidy on that portion of the route. The company can't make it; they'll go out of business. That's competition. Everybody's talked about the lack of competition out there today; they forget that 98% of transportation in the State of New Jersey is by automobile. We're probably competing with bicycles and feet for our portion of the business.

SENATOR GAGLIANO: So you feel that could have been done under the current laws?

MR. RUKIN: Without question.

SENATOR GAGLIANO: Do you feel that DOT over the past ten years has been hamstrung in being able to do this? Was there a political reason they didn't do it? Was there a question of competency? Is that the reason they didn't do it - what do you think?

MR. RUKIN: One of my problems has been my political naivete so I don't know what the politics of it have been. I don't know if they have had a problem getting funding or not. But they haven't had a plan so I don't know how you could reasonably ask someone to fund something when they don't know what they are funding. All they know is every year they come back and on June 15th they say, "Well, this program expires on June 30th and if you guys don't get off the mark, the service is going to stop on July 1st." Well, what do you do up here? You've got enough trouble trying to read the mail that comes in in this job and they want you to be transportation experts and in 15 days solve the problems they haven't been able to solve every year in 365 days. I just don't think there has been a plan. That's one of things that concerns me. It has been ten years. It has been all kinds of people. And I have to say that the last ten months have been a major improvement in everything that is going on. The mail is answered. The people are bright. They are ready to talk about problems. They seem to understand things, but 10 years before or 9 years and 2 months before, whatever it was, is a long time. I don't know what the future brings. Nobody is going to give us a contract, or you a contract on where they are going to be in a year from now or two years from now.

SENATOR GAGLIANO: One other question and this is one I heard some discussion about over a period of time. You talked about underutilization in off peak hours. What percentage of your gross income increase could come about if, for example, you were able to offer half fares to everybody in off peak hours as long as there were empty seats on the bus?

MR. RUKIN: Well, this isn't like an airline where you have reservations. You never know when the seats are empty and the seats would stay empty longer if the people knew they could buy half fares if the seats were empty. There is a reasonably good half fare program in New Jersey now for senior citizens.

SENATOR GAGLIANO: Right. I'm talking about whether anybody could get a half fare. Would it increase your gross income 1%, 5%? What do you think?

MR. RUKIN: I think there would be an increase in our income. I think it would be rather small because if anybody had to compare the cost of using his automobile as against the cost of using the bus now, there is no question that they would ride the bus anyway. So, if they are not, obviously, their major function in not using the bus is not an economic one - it may have to do with the Port Authority bus terminal, it may have to do with no bus shelters and standing out in the cold, it may have to do with no park and ride facilities, it may have to do with poor bus service. It may have to do with any number of things - maybe they're going to the East side and not the West side. I really couldn't project that. I have to think it would help us. It has to help us if someone is going to make up the difference. I assume you mean that we would collect half fare from the rider and the other half from somebody else, perhaps the State. So, it has to help us. It is not going to drive anybody away but I could not put a number on it.

SENATOR GAGLIANO: One other question. In New York where you have the system you talked about, does New York have the right under any existing law to take over a bus line by eminent domain?

MR. RUKIN: I'm not a lawyer, but I believe that every single takeover of a formerly private company was done by specific enabling legislation. I believe each public authority has an enabling legislation that allowed it to become a public authority.

SENATOR GAGLIANO: O.K. So what I'm saying is if your operation in Rockland County, or where ever it is, was going along and New York decided to take it and to buy it from you or acquire it, that they would, in effect, have to get special legislation to cover that? Or could they just go in and say, "We want your company"?

MR. RUKIN: I don't think they could come in and say they want our company. But, I don't know.

SENATOR GAGLIANO: Thank you. It's a very good statement.

SENATOR SKEVIN: If I may. Mr. Rukin, you were here when Peter Shapiro testified about the two lines in Newark - one was subsidized and one was not subsidized. The independent unsubsidized trip cost 35¢ and the subsidized trip cost 45¢ and more people were using the unsubsidized line because it was better and cheaper. Will you tell me why we are subsidizing the one line as against the other?

MR. RUKIN: It's a great question but I don't think I'm the one you ought to ask.

SENATOR SKEVIN: I find it simply incredible that we're doing that.

MR. RUKIN: This is basically one of the things we've been saying. Some of the other things that we find to be incredible are the fact that without your even seeing it, PATH is being subsidized to the tune of anywhere from twenty nine to forty million dollars which also competes with private bus lines. It decimated a very major line of transport and it affects our lines because not only are you paying \$2.07 a rider on the Erie-Lackawanna - that only gets you to Hoboken - now the State is paying another 70¢ - no, I'm sorry, the Port Authority is paying another 70¢ per rider for the completion of that rail trip which originates in Waldwick or Hohokus or Ridgewood or Ramsey on our line and terminates in Manhattan.

SENATOR SKEVIN: And what's the charge for your company to take someone?

MR. RUKIN: We have high published one-way fares but 90% of our riders ride on our monthly commuter books. We do not have a fare in New Jersey on a monthly ticket that is higher than \$2 a ride. Everything is less than \$2 a ride. I don't have a copy of the tariff with me.

SENATOR SKEVIN: The equivalent ride to New York on a railroad is \$3 ---

MR. RUKIN: No. The passenger pays on average \$1.37. Erie-Lackawanna average fare paid at the fare box is \$1.07 and 30¢ on PATH. So the average fare that is paid is \$1.37. Now that averages from the longest haul points to the shortest haul points. I'm sure a Rutherford passenger on Erie-Lackawanna pays less than a Mahwah passenger, for example. What I'm saying is that the total cost to the State to provide that service is \$2.07 and to the Port Authority somewhere around 90¢ or something of that sort.

SENATOR SKEVIN: Well, that's \$3 then ---

MR. RUKIN: Yes. And that is only the operating cost per ride. That does not include any of the capital equipment that with State or federal dollars have been purchased for those railroads and which cost I have not included in those figures. Now in my figures for the cost per ride, it includes every bit of our cost because that is what the people pay. And theoretically, that includes all

operating costs, all capital costs, taxes, return on investment, depreciation, officers' salaries, everything.

SENATOR SKEVIN: Including profit.

MR. RUKIN: Including profit and including taxes without which none of this building would operate. And if the State runs the system - I heard that dropped this morning that it's not significant - but nobody projects that out at an inflation rate of 6 or 7 percent over the next 15 years on what that million they talked about today might be, that will otherwise be irretrievably lost.

SENATOR SKEVIN: Any further questions? Thank you very much. We have three more speakers and we anticipate concluding this hearing at about 4:15. So if the remaining speakers would limit themselves to 10 minutes or less, we would certainly appreciate that approach. Paul Whitney, a commuter. We're delighted to have you Mr. Whitney.

P A U L W H I T N E Y: Thank you very much, Senator Skevin. Perhaps it could solve most of our problems if we all moved to the northern part of Bergen County and give Shortline all the money and we'll all ride for free. Thank you very much for the opportunity to speak to you on this bill. I am a daily bus commuter from Lakewood to Jersey City and the PATH to New York. I'm also Vice Chairman of the Lakewood Township Transportation Committee. I spend over \$1,000 a year in bus fares and I shudder to think what would happen if anything happened to the bus subsidy program. So I feel qualified to speak on this subject.

Last week, Commissioner Gambaccini competently presented an alternative proposal to the skyrocketing cost of the present bus system. There were also many people who spoke against it. They seem to feel that their personal or private interests are better than the daily bus rider. I wonder if any of those people ever ride the buses.

There is large variation in bus service in this State particularly in Ocean County where probably over one third of the people are senior citizens. The only service that I know of is on Route 9. Retirement communities pay for private buses to take them to stores but you can't get to a hospital, you can't get to a doctor.

Very reluctantly I favor passage of this bill. In general, I am in favor of granting strong operating powers to corporate management but this bill goes too far in concentrating all authority in the Chairman, the State Treasurer and a third person from the Executive branch. Commissioner Gambaccini spoke last week of governmental employees' management capabilities equal to those in the private sector. I'm sure there are a lot of people who would debate that.

Senator Gagliano asked whether the Governor's appointments should require the advice and consent of the Senate. Even this requirement sometimes gets abused.

Therefore, I would urge you to consider amending this bill to provide that four public members be appointed by the Governor and not necessarily those in the transportation field. If they can't run a private business in transportation, I'm not so sure they could run the State's business.

S-3137 gives the New Jersey Transit Corporation unlimited power to do anything, buy anything, sell anything, charge any fee. It also gives them the authority apparently to get into the charter business and so forth.

To me, this power is too great. Some form of reasonable control has to be incorporated without impairing the management of the Corporation's operations.

I am aware of the requirements in the bill that the Governor must approve the minutes of each board meeting; that the Corporation must follow customary bidding practices and limitations on the creation of any debts. But, this system could run at a deficit and I'd like to know how the State plans to finance that. If they can't create any debt, then the only way is to raise fares which is very politically explosive. The general public needs assurance that their interest will be properly respected and that this Corporation is not going to mushroom into another governmental bureaucracy.

Last week and today you had representatives of labor unions who spoke of protecting the employees and their pensions. I think that the present crisis in New York City where the Varsity Bus Company is having an unauthorized strike, thousands of school children who desperately need to get to school can't get there. Where the city had tried to help them, taxicabs were smashed and there were riots and so forth. Can you imagine what would happen if the State of New Jersey was suddenly stopped of all transportation? You'd have so many cars on the highway that you couldn't even get to work.

The present bus subsidy system is a cost reimbursement system, no matter how you like it and that is somewhat comparable to Medicare, Medicaid, and Blue Cross. Those systems have proved themselves to be inefficient, inadequate, and increasingly expensive. The bus subsidy itself has proven to be inefficient and inadequate. And therefore, to me any use of any incentives is a waste of time.

Nevertheless, the Transit Corporation has to have some kind of cost containment built into its structure. For example, people argue about being deprived of depreciation. Lord, with what this State is providing now, what is it 80% of all the buses? Why should the bus companies get depreciation when they get the bus for free. It's true they have depreciation on their garages perhaps and so forth.

Also, there has been too little said about what the Legislature is going to do in the long-range financial picture. Newspapers have talked about a proposed bond issue to finance the purchase of bus companies, new equipment, and so forth. I think this is a little too vague. We're not talking about a few million, we're talking about hundreds of millions. Once we go in, there is no backing out. I think the State has to make some projections of what it is going to cost. Even if it is an estimate, it is better than flying blind.

The public has to be convinced of the merits of this bill. We are all familiar with the promises of the Port Authority of New York to provide additional rail services in trade for increased fares. The bridge fares were increased all right but I don't see any increased services. The Ocean County Sewerage Authority completed a huge disposal system so large that it will never use it. The Department of Environmental Protection procrastinates in dealing with projects - with projects held up such as Route I-195 in Howell. I'm sure Senator Gagliano knows about that one. I've been living in Lakewood nearly five years and the thing isn't finished yet. And it doesn't look as if it ever will be. Surely the State can build a highway a few more miles. Is this an example of the competent business management that Commissioner Gambaccini refers to?

Gentlemen, are we being forced into a hasty decision? I hope not. Please don't delay this program too long.

SENATOR SKEVIN: Thank you for coming up as a private citizen. We really appreciate your statement and remarks and will certainly consider your input.



SENATOR GAGLIANO: No questions. Thank you. He's on that Route 9 corridor where we have the subsidized buses competing against ---

MR. WHITNEY: You know you talk about duplication of service, that's not quite correct. Because a few years ago the State authorized an interchange of tickets so when a person buys a ticket on Lincoln, it is also good on TNJ. In Lakewood, for example, we had two bus terminals less than a block apart and the State combined the two of them. So that duplication isn't quite fair to say at least not from Lakewood to New York.

SENATOR SKEVIN: Thank you, Mr. Whitney. Bill Pascrell, City of Paterson. Once, twice, Bill Pascrell? Martin Brilliant. Do you have a statement?

M A R T I N     B R I L L I A N T: No, I didn't have time to prepare a written statement.

SENATOR SKEVIN: Could you give us your full name and address and organization, if any?

MR. BRILLIANT: O.K. My name is Martin Brilliant. I live at 39 McCampbell Road in Holmdel in Monmouth County and I am representing myself. I'm not even a commuter. I'm a boy who used to live in Brooklyn and used to go anywhere by putting a nickel in a subway. That has been completely turned around now. Where I am now I am completely dependent on a private car and so are my children. I've been driving more and enjoying it less. Also, I'm an officer of the Committee For Better Environment which is a non-profit organization in Monmouth County. That organization fully supports the concept of public transportation but unfortunately we are not all in agreement as to the best way to achieve public transportation. So, in my remarks that I am going to make to you, I do not represent the Committee For Better Environment. I may also add that although I'm not a commuter, I did give a contribution to the Shore Commuters for On-time Service.

My professional training is in engineering. I work for Bell Telephone Laboratories in Holmdel in the Network Performance Planning Center. I learned a lot there about common carrier operations but I must say that I do not in any way represent Bell Telephone Laboratories or the Bell System or any part of it in the remarks I'm going to make today.

It occurred to me when I was reviewing my planned remarks this morning that sooner or later you would begin to realize that this man is plugging his own profession. Well, I guess I am. I'm not looking for a job in transportation but I believe in the kind of work that I do and I believe that this kind of work is the key to reconciling a lot of the divergent points of view that you have heard today. Everybody has his own idea about what is essential. I'll try to explain to you what I mean as I go on. I came here to speak in opposition to S-3137 because I think it is premature. The reason I think it is premature is that you have tried what you are trying now as private ownership but it is not free enterprise. It is private ownership in which the private initiative is constrained by things that have very little to do with providing the best service at the least cost. These are things that have been mentioned before, protective franchises and subsidies. It appears that private companies are doing the best they can today to continue in operation under these constraints and that looks like very good management. The way to get better service, it seems to me, allows two alternatives before you go to the last resort which is public ownership. I just want to mention these as background to what I'm going to say. One thing that has not been tried and has been suggested is various different ways of communicating public objectives to the private



companies through the Department of Transportation. Incentive programs is one. Perhaps more to the point might be some direct communication of public objectives like if we want to get more service on this line - dialogue - how do we do it? There are various ways of formalizing this. We've heard various kinds of incentives suggested today. Another way, and I can't speak for the bus industry but there may be some interest in it, is to try free enterprise. That is, what would happen to the bus industry if we let them compete, let them choose their own fares, let them do their own marketing, just what would happen? We don't even know what would happen.

All right, so I came here understanding from newspaper reports that we were talking about just a bus system takeover and thinking that there were alternatives that should be tried before then. And then I came here this morning for the first time I saw the bill that was being considered and it covered rail freight and rail passenger transportation too. Immediately, I felt a rush of enthusiasm because this is really a different story. A rail commuter service, in particular, is in the hands of an organization that has no department to handle that kind of thing. It is in the wrong organization. I was impressed by the sort of completeness of the picture and then I realized that the problem that I saw was still there.

Let me talk about the problem. As background, let me describe some of the basic ideas that I saw in the transcript of an Assembly Committee Hearing - the Committee on Transportation and Communication about three years ago. I assume that you have all seen it but let me review as I see it the facts that came out there. Their basic question was, "Why are some bus companies running on subsidies and some don't need subsidies?" Some routes turn out to be unprofitable just because there are not enough riders at the existing fares to pay the cost of running the buses on that route. That's one thing. Where different bus companies run along the same route and one is subsidized and the other is not, there was a suggestion that perhaps the subsidized company is really losing money on another route. Then, it turns out, a small company can have lower costs because its garage is closer to its routes. Or, some companies actually work out better because they are using non-union labor. And before you criticize companies for using non-union labor you have to admit that they are providing service, they are providing employment, and they are paying taxes. Here is some background in fact, here are some costs that cannot be attributed to mismanagement. I got some other cost ideas in the context of rail passenger service as distinct from bus service. I got the idea looking at some general principles in some specific costs that if you looked at the actual costs of running a passenger train, as for instance you might say specifically on the North Jersey Coast line, it takes so many workers to run a train, you pay them so much a year, they carry so many passengers at such and such a fare. That fare, by the way, is very much lower than what it would cost them to use a car to go the same distance. I sent some letters around to various people trying to find out why it was that the answer I came out with was that the fares were paying the costs. I got an answer from the Department of Transportation in Newark saying that they were too busy supervising the day-to-day operations of the railroad to answer my specific sophisticated questions about costs. They referred it to a research organization in Trenton. That Department of Transportation office then sent me a letter with some generalities and referred me to a book that was last revised in 1966. Now, this was last year, 1978 that I was asking these questions. Needless to say, that book did not answer the questions. I've heard that the Department of Transportation has become a lot more active but from what I know about the kind of planning studies that I do, there is no way you

can go from the state they were in a year ago to a full understanding of the problem in one year. So, we do not have in the Department of Transportation as far as I have been told, answers to what does it really cost to provide passenger service on existing lines under existing conditions, let alone what it would cost if you had "good management."

With this background, there are real cost questions. Now let's go into a scenario of what would happen if you created a public transportation corporation and this corporation took over, let's say, Transport of New Jersey. Now you have some lines that seem to have too few riders to pay the cost. Now, somebody has got to look into this in detail and ask these questions: How many workers, how many buses does it take to run this? How much garage cost is there? What does it cost to run this? What are the riders paying? What could they afford to pay if you wanted to raise the fares? Marketing studies --- How could you increase the number of riders? Is it possible? If you built different sizes of parking lots could that increase the ridership?

You need some planners, various kinds of planners - marketing people, systems engineers, systems analysts, whatever you want to call them, these are not synonymous terms either, they represent some overlapping disciplines. That kind of work has to be done and you have to pay for somebody to do it.

The thing I want to point out is that the important thing is that this specific planning work be done, not who does it or who pays for it to be done. This same planning work could be done right now in the Department of Transportation if they were funded and given a charter to do it. It would be done by the private bus operating companies if they were operating under real free enterprise. A certain amount of that is being done right now to see how they can minimize their operating costs on subsidized lines. And very often it is going to be a question of sheer minimization of costs because there is no feasible way to get more riders. The point is there has to be this planning work, detailed costs and marketing studies - studies of how much investment you need, return on capital, this is not being done. And when you get into this you are going to get into some questions about objectives that have been ducked for a long time. At what point do you decide that a bus that carries three passengers is going to be discontinued? Four passengers? Two passengers?

My suggestion, let me bring this to a conclusion, is this. The first thing you do is recognize that this kind of planning effort has to be done at a much more intensive level than is being done now and to see that the Department of Transportation is mandated and funded to do it. Then, you look for ways to get private owners to do what you really want them to do instead of asking them to perform miracles under the present constraining system. Also, you take a look at another alternative and that is to see what would happen if you let some or all of the system run under private free enterprise - set your own fares, try to make a go of it in the market as it exists, free competition. I'm not saying you do this. I'm saying you look at it and see if it will work. As a last resort, if you are convinced that you have a plan and there is no other way to implement that plan, then you would go to public ownership. The reason is that once you have gone to public ownership and it turns out to be a mistake, you are unlikely to find anybody who will buy the system back from you. Thank you very much. I'm glad I came.

SENATOR SKEVIN: This will conclude this public hearing today. Thank you.

(Hearing concluded)

APPENDIX A

- 1) American Railway Supervisors Association
- 2) American Train Dispatchers Association
- 3) Brotherhood of Locomotive Engineers
- 4) Brotherhood of Maintenance of Way Employes
- 5) Brotherhood of Railroad Signalmen
- 6) Brotherhood of Railway Carmen of the United States and Canada
- 7) Brotherhood of Railway, Airline and Steamship Clerks, Freight Handlers, Express and Station Employees
- 8) International Longshoremen's Association
- 9) Hotel & Restaurant Employes & Bartenders International Union
- 10) International Association of Machinists and Aerospace Workers
- 11) International Brotherhood of Boilermakers and Blacksmiths
- 12) International Brotherhood of Electrical Workers
- 13) International Brotherhood of Firemen & Oilers
- 14) International Organization of Masters, Mates & Pilots of America
- 15) National Marine Engineers' Beneficial Association
- 16) Railroad Yardmasters of America
- 17) Railway Employes Department, AFL-CIO
- 18) Sheet Metal Workers' International Association
- 19) Seafarers International Union of North America
- 20) Transport Workers Union of America
- 21) United Transportation Union

SUBSTITUTE AMENDMENT FOR SECTION 13D  
OF PROPOSED LABOR RELATIONS  
PROVISIONS TO BE ATTACHED TO THE  
"NEW JERSEY PUBLIC TRANSPORTATION  
ACT OF 1979" (S 3137, AS FILED ON 2/26/79)

Section 13D [Labor Contracts.]

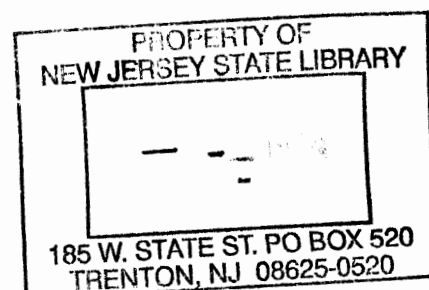
(a) Notwithstanding the provisions of any law to the contrary, the Corporation shall deal with and enter into written contracts with employees of the Corporation, through accredited representatives of such employees authorized to act for such employees concerning wages, salaries, hours, working conditions, and pension or retirement provisions. Nothing in this Act shall be construed, however, to permit hours of labor in excess of those prohibited by law or to permit working conditions prohibited by law.

(b) Whenever the Corporation acquires the public transportation facilities of a transportation agency, either in proceeding by eminent domain or otherwise, and/or operates such facilities either directly or by contract with a transportation agency, all employees actively engaged in the operation thereof shall be transferred to, and appointed as employees of the Corporation or transportation agency, subject to all rights and benefits of Sections 13A through 13G; provided, however, that the historical units for collective bargaining established by practice or by contract as defined by the National Labor Relations Act of 1947, as amended, shall remain undisturbed and shall not be merged, consolidated or modified without the consent of the International or National labor organization of which the accredited representative of the employees employed in such unit is a subordinate local. The Corporation or transportation agency shall assume and observe all applicable labor contracts and pension obligations. These employees shall be given seniority credit and sick leave, vacation, insurance, and pension credits in accordance with the records or labor agreements from the acquired transportation system. Members and beneficiaries of any pension or retirement system or other benefits established by the acquired transportation system shall continue to have rights, privileges, benefits, obligations and status with respect to such established system. The Corporation or transportation agency shall assume the obligations of any transportation system acquired

by it with regard to wages, salaries, hours, working conditions, sick leave, health and welfare and pension or retirement provisions for these employees. The Corporation or transportation agency and the employees, through their representatives for collective bargaining purposes, shall take whatever action may be necessary to have pension trust funds presently under the joint control of such acquired transportation system and the participating employees through their representatives transferred to the trust funds to be established, maintained, and administered jointly by the Corporation or transportation agency and the participating employees through their representatives.

(c) Whenever the Corporation shall take any of the actions specified in Section 13B, subsection (c), it shall do so only after meeting the requirements of Section 13B, subsection (b), and in addition, whenever the Corporation shall acquire and operate the public transportation facilities of a transportation agency engaged in the transportation of persons or freight by railroad, it shall do so only in such manner as to insure the continued applicability to the railroad employees affected thereby of the provisions of all federal statutes then applicable to them and a continuation of their existing collective bargaining agreements until the provisions of said agreements can be re-negotiated by representatives of the Corporation and the representatives of said employees duly designated as such pursuant to the terms and provisions of the Railway Labor Act, as amended (45 U.S.C. 151 et seq.); provided, however, that nothing in this subsection shall prevent the abandonment of such facilities, or the discontinuance of such operations pursuant to applicable law, or the substitution of other operations or facilities for such operations or facilities, whether by merger, consolidation, coordination or otherwise. In the event new or supplemental operations or facilities are substituted therefor, the provisions of Section 13E shall be applicable, and all questions concerning the selection of forces to perform the work of such new or supplemental facilities or operations, and whether the Corporation shall be required to insure the continued applicability of the federal statutes applicable to such employees shall be negotiated and, if necessary, arbitrated, in accordance with the procedures set forth in Section 13E.

3X



RESOLUTION  
OF  
SOMERSET COUNTY CITIZENS TRANSPORTATION COORDINATING COMMITTEE

WHEREAS, for almost a decade the State of New Jersey has been financially assisting a deteriorating bus service at costs that have been increasing by quantum leaps; and

WHEREAS, the present system of financially assisting private bus companies has proven unproductive both in route operations and in attracting ridership when compared with the rest of the country; and

WHEREAS, there exists an urgency to conserve energy, reduce traffic congestion and traffic fatalities, improve the quality of life in the State of New Jersey, and in particular, in our urban areas; and

WHEREAS, there is a critical need for the State of New Jersey to exercise quality controls over the expenditure of government funds for transit;

THEREFORE, BE IT RESOLVED, that the Somerset County Citizens Transportation Coordinating Committee endorse the major thrust of the "New Jersey Public Transportation Act of 1979" creating a public transit corporation, subject to the suggestions of the Somerset County Citizens Transportation Coordinating Committee, which will follow; and

BE IT FURTHER RESOLVED, that this legislation be amended to create an official Review Board, which may have subcommittees representing the various operating districts of the Corporation to be composed of a designee of the Governing Body of each county; and

BE IT FURTHER RESOLVED, that the Review Board shall have the obligation to preview and review the actions of the public transportation corporation; and

BE IT FURTHER RESOLVED, that the Public Corporation Board be enlarged to nine members of which two members shall be designated by the official Review Board for a two year term of office; and

BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the Commissioner of Transportation, all State Legislators, and the Governor.

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Somerset County Citizens Transportation Coordinating Committee at their March 22, 1979 Meeting.

  
Robin N. Popovich, Secretary

3/23/79  
ag



SHORE COMMUTERS FOR ON TIME SERVICE

P.O. Box 597, Red Bank, N.J. 07701

William Nesbitt  
Chairman

William Meltzer  
Treasurer

Les Turner  
Secretary

Thomas Kitrick  
Rail Operations

Charles Guariglia  
Public Relations

Dennis Lenahan  
Membership

Joseph McChristian  
Newsletter

Peter Carton  
Legal Counsel

Harold Arnold, Jr.  
Legal Counsel

Donald Steckroth  
Legal Counsel

April 3, 1979

New Jersey Senate Committee  
on Transportation & Communication  
Senate Building  
Trenton, N. J.

RE: Senate Bill 3137

In reference to the April 4, 1979 hearing on Senate Bill 3137; as you are aware we will not be able to attend in person. Mr. John D'Amica has offered to verbally present our organization's position on this as introduced February 26, 1979.

In order to properly manage the large sums of money, numbers of projects and daily operational requirements of mass transportation in the State of New Jersey, a vehicle such as a Public Transportation Corporation would be beneficial.

We are at difference from the bill, as introduced, as to how this may be best affected.

In order to have access to the best talent available, perpetuate same with the least adverse political consideration, and to make real and effective use of the public members of the Corporation, these public members should;

Be greater in number than the Governor and those state officials appointed and serving at his pleasure,

Be appointed by, or with, the advise and consent of the State Senate,

Serve for terms of staggered and overlapping lengths,

Senate Committee on  
Transportation & Communication  
April 3, 1979  
Page - 2 -

Continue to serve after expiration of their term  
should a successor not be at that time appointed.

We feel that the designation of others to represent and  
vote for duly appointed members of the Board will serve  
only to create and perpetuate an absentee management.  
Therefore, such designations should not be allowed.

We ask that the Senate and its Counsel investigate the  
propriety of condemnation vis a vis due process in op-  
eration of said business by the Corporation immediately  
upon filing and approval of the complaint.

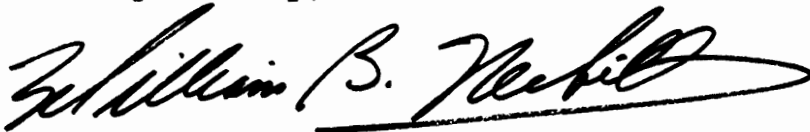
That for 30 days from the Governor's acceptance of Board  
minutes, the Legislature have the power of veto over  
proposed condemnation actions.

Public confidence in the processes and operations of the  
Government sector is absolutely necessary to assure the  
cooperation and the participation of the public. This public  
perception of the Corporation, its structure, the ability  
to hear the using public and fairly act upon that input  
and other considerations of resources will only be gained  
and maintained by a structure perceived as fairly balanced  
in the public's behalf.

We must attract the best management from the public sector  
to serve on the Board. This will not be possible if those  
who are best suited for the task, perceive their service  
as being titular, without strategic impact or continuity.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, reading "William B. Nesbitt". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

William B. Nesbitt  
Chairman



cc: Senator William Bradley  
Senator Harrison A. Williams  
Congressman James J. Howard  
State Senator Brian T. Kennedy  
State Senator S. Thomas Gagliano  
State Senator Eugene J. Bedell  
Assemblyman John Paul Doyle  
Assemblyman Daniel F. Newman  
Assemblyman William F. Dowd  
Assemblyman Anthony M. Villane, Jr.  
Assemblyman Walter J. Kazloski  
Assemblywoman Marie A. Muhler  
Assemblyman William E. Flynn  
Assemblyman Richard van Wagner  
Hon. Theodore J. Labrecque,  
Chairman  
Transportation Coordinating Committee  
Mr. Lester S. Goldstein,  
Chairman  
Monmouth County Planning Board  
Mr. Harry Larrison, Jr.  
Freeholder Director

SCOTS Executive Board  
Irate Shore Commuters  
Commuters' Wives

Mr. Jules Plangere  
Asbury Park Press  
Mr. Arthur Kamin  
Red Bank Register  
Mr. Guy Bayer  
Newark Star Ledger

# STATEMENT

John D'Amico, Jr., on behalf of Irate Shore Commuters  
and Shore Commuters for On-Time Service  
N.J. Senate Committee on Transportation and Communications  
Trenton - April 4, 1979

My name is John D'Amico, Jr., and I commute from Little Silver to Newark everyday by train. I am Co-chairman of the Irate Shore Commuters and also a member of Shore Commuters for On-Time Service (S.C.O.T.S.). I am making this statement on behalf of both organizations, which have received financial support from more than 2,000 commuters as well as local businessmen and the governing bodies of more than a dozen municipalities, including Oceanport, where I am a Councilman. Although my remarks today will be made from the viewpoint of a rail commuter, I believe that there will be much that our brethren who commute by bus will agree with.

The crucial issue to be decided by your committee and the State legislature is whether there should be public ownership of mass transportation facilities and services by a public corporation.

The framework for your consideration of this issue should be the following provision of the Department of Energy Act:

"The Legislature hereby finds and determines that a secure, stable, and adequate supply of energy at reasonable prices is vital to the State's economy and to the public health, safety and welfare; that this State is threatened by the prospect of both near and long-term energy shortages...."  
N.J.S.A. 52:27F-2.

Pursuant to the Act, the Department of Energy has drafted a comprehensive State Energy Master Plan and an excellent policy statement entitled "Energy and the New Jersey Transportation System." The following points are made in these reports, which were issued in October, 1978:

- (1) The transportation sector in New Jersey is characterized by a steady increase in automotive fuel use which is directly related to a simultaneous decline in the level of mass transportation services for New Jersey citizens.

- (2) There has been a steady deterioration of parts of New Jersey's commuter rail system. Outdated and deteriorated equipment, poor maintenance procedures, and delays in capital improvements have reduced on-time performance in some cases to less than 50%.
- (3) There has been an overall decline in transit use. As ridership declines continue, revenues decrease as well. This has led to increased fares and further service cuts, and ultimately to additional declines in ridership and increases in automobile use. Continuing acceptance of decreased transit use and decreased mobility is no longer feasible from an energy and equity point of view.
- (4) Transportation accounts for about 30 per cent of New Jersey's gross energy consumption, and over 40 per cent of all petroleum products consumed in the state are related to travel.
- (5) Significant energy savings are possible through both short and long-term conservation strategies in transportation including the improvement of mass transit by rail, which can focus on areas of high trip density, become an attractive alternative for the daily commuter, provide a basic level of service for captive riders, and assure mobility in the event of short or long-term petroleum shortages.

The D.O.E. has concluded that there is a basic public transportation network and level of service which must be established and maintained. It has therefore recommended that there be no further cutbacks of rail service or track abandonment; that existing rail lines be preserved and allowed to deteriorate no further; and that existing commuter lines should be upgraded to provide reliable, high quality service.

With respect to fare policy, the D.O.E. has concluded that fares should be recognized as a tool in the marketing of mass transportation services in New Jersey. It should be realized, says the D.O.E., that further fare increases and service cuts will be detrimental to transportation energy goals. Finally, the Energy Master Plan observes that improved mass transit will contribute to the economic health of New Jersey by aiding in the revitalization of the State's urban centers. It can also better environmental quality by

eliminating a portion of the automotive pollutants that currently prevent New Jersey from attaining Federal air quality standards for smog.

It is obvious that the Department of Transportation, the Commuter Operating Agency, Conrail and the bus companies with whom the agency has had contracts have been unable, and in some cases, unwilling to prevent the steady disintegration of the State's mass transportation system, with the various adverse consequences described in the Energy Master Plan and the Transportation policy statement.

Major capital projects such as the electrification of the North Jersey Coast line and re-electrification of the Erie Lackawanna have been stalled for over a decade, notwithstanding the availability of 1968 bond issue funds and Federal Urban Mass Transportation Administration grants. Meanwhile, commuter bus lines and railroads, such as the North Jersey Coast line, remain unreliable, unsafe, inefficient, uncoordinated, uncomfortable and unsanitary. Last October, the Commuter Operating Agency removed the last incentive for people to use public transportation, which was price, by raising rail and bus fares an average of 10%.

It has been suggested by some that perhaps if the subsidy program were reformed and incentives provided for improved services, the private carriers would do a better job. We disagree for two reasons:

(1) Notwithstanding the fact that the present Passenger Service Contract between Conrail and the C.O.A. provides for graded incentive payments if trains are operated at 91.6% or more on time, reliable on-time service is not being provided.

(2) Conrail is the only game in town, and it is a "con-game." If the State does not make rail service continuation payments to Conrail under the Reorganization Act of 1973 (Section 304(c)(2)), Conrail can drop passenger

service. Conrail has the State over a barrel, and it is milking the State subsidy program for every dollar it can get by deferring the maintenance and improvements called for by the contract and by cutting back on its personnel. To enforce its rights, the C.O.A. would have to take Conrail to court, an approach which has the disadvantages of expense and delay and will not produce any immediate benefits for commuters.

We recognize that the Department of Transportation is studying alternatives to Conrail, but the Port Authority and Amtrak are not clamoring for the privilege of providing passenger train service. Besides, based on his record while Commissioner of Transportation and his proposed 67% fare increase on P.A.T.H., Alan Sagner would be the commuters' choice only if they wanted train service eliminated. Similarly, Amtrak ranks as one of the most intransigent foes of the commuter, considering the deterioration of Amtrak facilities and service between New York and Newark and the condition of Newark's Penn Station, where the escalators are still not working. In sum, finding a private or quasi-public corporation to operate a \$100 million plus commuter rail operation will not be as easy as replacing a secretary with a Kelly girl.

We therefore conclude that the State must create a public corporation to provide passenger rail service. Of course, the public corporation should be permitted to enter into contracts with any public or private entity, as it is likely that the corporation will have to continue to deal with Conrail until it can gear up for a State takeover of service. In anticipation of this possibility, Senate Bill 3137 should be strengthened to give the State at least the same protection presently afforded by N.J.S.A. 1A-20 and 22 which are scheduled for repeal. The Bill should spell out the obligations of the service provider and mandate contractual provisions pertaining to auditing and settlement of payments. I have set forth in the appendix to this statement

proposed amendments designed to make the service provider accountable to the corporation and the commuters and taxpayers of New Jersey.

Recognizing that we have no choice but to create a public corporation if we are to have any hope for improvement in rail transportation, do we have any reason to expect that the corporation will do a better job than the Department of Transportation? Unfortunately, the record of the D.O.T. does not inspire confidence in the ability of the State to provide quality commuter service. Conrail is not entirely to blame for the present malaise of our rail transit system; the Commuter Operating Agency of the D.O.T. has not been diligent in protecting and advancing the interests of New Jersey taxpayers and commuters.

We have the following suggestions which we feel will turn the situation around and give the public corporation a chance to succeed.

The principal reason for the poor performance of the agency is poor management, which has largely ignored the complaints and suggestions of the commuters. Competent and dedicated mass transportation experts and advocates must be appointed to the board. Furthermore, commuters and other interested citizens must be represented.

The Commuter Advisory Board, which used to give advice to the Commissioner regarding problems of commuter railroads, is now defunct because the D.O.T. stopped sending out meeting notices. Senate Bill 3137 does not address this problem. Our first recommendation, therefore, is that there be established an Advisory Council on Transportation consisting of representatives of rail and bus commuter groups, associations of state, county or municipal officials and transportation boards; railroad and bus companies under contract; unions representing their employees; and organizations promoting energy conservation, environmental protection and urban revitalization. The Advisory Council would

be empowered to request information from the corporation; hold hearings; make recommendations concerning the long-term planning, management and improvement of public transportation; and review prior to adoption proposals of the corporation which would decrease public transportation services or increase fares.

I have suggested in the appendix statutory language setting up such an Advisory Council, patterned after N.J.S.A. 52:27F-12 and 13 establishing the Advisory Council on Energy Planning and Conservation.

Our second recommendation for strengthening the structure of the transit corporation is that Section 4(b) of the Act be amended to provide for at least four public members of the governing board of the corporation, one of them being the chairman of the Advisory Council on Transportation. All public members should be appointed by the Governor with the advice and consent of the Senate. In order to attract good candidates for membership on the board, public members should be paid at least \$150 for each meeting they attend.

Third, the clause allowing each ex officio member of the board to designate one or more employees of his agency to represent him at board meetings should be deleted from Section 4(d) of the Bill. The Commissioner, Treasurer and representative from the Executive Branch should be individually responsible and accountable and not be allowed to hide behind their assistants. If they cannot attend a particular meeting, then the vote of a majority of those attending and constituting a quorum, should control.

Fourth, the authority given the corporation with respect to fares and service must be circumscribed by the requirement that any decision in these areas take into account the public purposes and policies set forth in Sections 2(a) and 2(b) of the Act. The Board should also be required to take into account the recommendations of the Advisory Council on Transportation. In

addition, the corporation should be required to hold a Mandatory Formal Hearing pursuant to N.J.A.C. 16:50-3.1 through 3.4 when it proposes to decrease passenger service or increase fares. Also, the Division of Rate Counsel of the Office of the Public Advocate should be required to represent bus and rail transit riders at such hearings. It is only with these safeguards that the users of mass transit will be afforded the same basic protection presently enjoyed by other consumer groups in this age of consumerism.

I would like to conclude my remarks with the observation that the proposed New Jersey Transit Corporation can be made to work if it is structured properly, adequately staffed, well-managed and amply funded.

Adequate funding is particularly important. As the Department of Energy has stated, budget allocations for mass transit must be assigned with the realization that further fare increases and service cuts will be detrimental to transportation energy goals.

The State of New Jersey--located as it is between two of the largest cities in the world and with its own large cities--deserves a first-class mass transportation system. The facts and circumstances lead us inexorably to the conclusion that state operation of that system is essential if we are to accomplish what has already been achieved in virtually every other industrialized country in the world: fast, reliable, safe and comfortable mass transportation.



APPENDIX - AMENDMENTS AND  
ADDITIONS TO SENATE BILL 3137

Add the following as Section 6.c. (All new matter):

Each contract entered into in accordance with this act shall contain conditions, terms and provisions as the corporation may require including, but not limited to the following:

(1) A requirement that the aforesaid public or private entity maintain and operate the service required by virtue of the contract and all facilities incidental thereto in a safe, sanitary and proper manner and condition with a minimum of delays or cancellations and with maintenance of arrival and departure times for all stations and stops;

(2) Deductions and penalties with respect to unsatisfactory service;

(3) Periodic auditing of financial results and settlement of payments;

and

(4) Termination, waivers, release, modification or other effect in event of nonperformances, or of strikes, riots, disasters, acts of God or conditions not caused or permitted by the entity under contract.

New Provisions Establishing Advisory Council on Transportation (all new matter):

There is created an adjunct to the New Jersey Transit Corporation an Advisory Council on Transportation which shall consist of 15 members representing the following: associations of state, county or municipal officials and transportation boards; public or private entities providing public transportation service under contract with the corporation; unions representing employees of such entities; associations of rail and bus commuters and passengers; organizations promoting environmental protection and energy conservation; and organizations promoting the economic revitalization of cities. Members shall be appointed by the Governor with the advice and consent of the Senate.

The council shall elect a chairman, vice chairman and secretary from its membership. Of the members first appointed, five shall serve for terms of 2 years, five for terms of 3 years and five for terms of 4 years. Thereafter all appointments shall be made for terms of 4 years. Members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, and any vacancy occurring in the membership of the council by expiration of term or otherwise, shall be filled in the same manner as the original appointment for the unexpired term only.

Members of the council shall serve without compensation but shall be reimbursed for expenses actually incurred in attending meetings of the council and in performance of their duties as members thereof. The council shall meet at least four times each year, at the call of its chairman, and at such other times, at the call of the corporation, as it deems necessary.

The Advisory Council on Transportation is empowered to:

- a. Request from the corporation such transportation information as it may deem necessary;
- b. Consider any matter relating to public transportation;
- c. From time to time submit to the corporation any recommendations which it deems necessary for the long-term planning, management and improvement of public transportation;
- d. Study public transportation services and make its recommendations thereon to the corporation;
- e. Review, prior to their adoption, proposed rules and regulations of the corporation and proposed actions which would decrease public transportation services or increase fares, and make its recommendations thereupon; except that the corporation may adopt, without such prior review, rules and regulations determined by the corporation to be emergency measures essential to preserve the public health, safety or welfare; and

f. Hold public hearings in regard to matters the council is empowered to consider, study or review.

Amend Section 4.b. as follows:

4.b. The corporation shall be governed by a board which shall consist of ~~five~~ seven members including the Commissioner of Transportation and the State Treasurer, who shall be members ex officio, another member of the Executive Branch to be selected by the Governor who shall also serve ex officio, and ~~two~~ four other public members who shall ~~serve-at-the-pleasure-of~~ be appointed by the Governor with the consent of the Senate and serve for terms of four years. Of the first members appointed, two shall serve for terms of 2 years and two for terms of 4 years. Thereafter all appointments shall be made for terms of four years. Members shall serve after the expiration of their terms until their respective successors are appointed and shall qualify, the new appointees serving for the balance of the unexpired terms.

Amend Section 4.c. as follows:

4.c. Board members other than those serving ex officio shall ~~serve without compensation, but members~~ be paid the sum of \$150 for each meeting they attend and shall be reimbursed for actual expenses necessarily incurred in the performance of their duties.

Amend Section 4.d. as follows:

4.d. The Commissioner of Transportation shall serve as chairman of the board. He shall chair board meetings and shall have responsibility for the scheduling and convening of all meetings of the board, ~~Each-ex-officio member-of-the-board-may-designate-one-or-more-employees-of-his-department-or agency-to-represent-him-at-meetings-of-the-board,-and-each-such-designee-may lawfully-vote-and-otherwise-act-on-behalf-of-the-member-for-whom-he-constitutes~~

~~the designee,--Any such designation shall be in writing delivered to the board and shall continue in effect until revoked or amended by writing delivered to the board,~~ which shall be open to the public.

Amend Section 4.e. as follows:

4.e. The powers of the corporation shall be vested in the members of the board thereof and ~~three~~ five members of the board shall constitute a quorum at any meeting thereof. Actions may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of at least ~~three~~ four members. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

Add the following clause to Section 8.a. at line 5 after the word "Statutes.":  
This authority must be exercised, however, in a manner consistent with public purpose and policy set forth in Sections 2.a. and 2.b. of this act.

Amend Section 8.c. as follows:

8.c. Before implementing any fare increase for any motorbus regular route or rail passenger services, or the abandonment of any such services, the corporation shall ~~hold a public meeting~~ secure and consider the recommendations of the Advisory Council on Transportation and shall conduct Mandatory Formal Hearings pursuant to N.J.A.C. 16:50-3.1 through 3.4 in the areas affected during evening hours. Notice of such meetings shall be given by the corporation at least 10 days prior to such meeting to the governing body of each county whose residents will be affected and to the clerk of each municipality in the county or counties whose residents will be affected; such notice shall also be posted at least 10 days prior to such meeting in prominent places on the railroad cars and buses serving the routes to be affected.

Add a new Section 8.d. as follows (all new matter):

The Division of Rate Counsel of the Department of the Public Advocate shall represent and protect the interests of bus and rail transit riders at all hearings held pursuant to Section 8.c. and the corporation shall pay to the Division of Rate Counsel the expenses of counsel, experts and assistants employed by the division in such proceedings.

JOHN E. LOCKWOOD  
2490 White Horse-Hamilton Square Road  
Hamilton Square, New Jersey 08690

March 28, 1979

Senate Transportation and  
Communications Committee  
State House  
Trenton, New Jersey 08625

Dear Committee Member,

Mr. Chairman and committee members, I'm here today as a concerned New Jersey resident and also as an officer of an organization representing over 300 New Jersey business people engaged in transporting our school children to and from their classes each school day.

Free enterprise is a basic concept of our American way of life and school transportation business people provide this excellent example. Usually they are home town or nearby operators aware of local community and school needs. These business people are assets to each community because they patronize local merchants, pay their share of taxes, support legislative representatives, participate in civic groups, and keep school transportation costs down by assuming many duties in addition to their competitive bidding for school routes.

Senate bill S-3137 could possibly create a costly state government boondoggle under the control of only three persons. It could eventually destroy every free enterprise busing system in New Jersey under the guise of improving efficiency within this proposed state owned bus operation. The statement on the back of the bill admits that the Commuter Operating Agency (COA) has failed in its approach to manage public transportation effectively. A further solution to abolish C.O.A. and establish another corporation does not attack the real problems but moves them around.

The existence of two mass transit authority operations bordering New Jersey, namely South Eastern Pennsylvania Transit Authority (SEPTA) and the Metropolitan Transit Authority (MTA) in New York, reveals that poor customer service coupled with ungovernable extravagance is common.

Some of New Jersey mass transit bus operations have problems that should be dealt with quickly, factually, fairly, and sincerely. The state requirement of continuing operations of regular route passenger service year after year over routes which do not warrant bus service is senseless and wasteful. The New Jersey Department of Transportation Commuter Services Assistance payment to TNJ in 1978 amounted to over 30 million dollars which is based upon the anticipated receipt of federal UMTA Section 5 funds each

year. Suppose these UMTA fund payments to New Jersey were stopped? Could New Jersey taxpayers absorb this additional tax burden?

The largest single operator of mass bus transportation service in New Jersey is Transport of New Jersey. Their letter dated July 9, 1976 to the Honorable Robert Patricelli of the Urban Mass Transportation Administration in Washington submitted details and reasons why TNJ should be allowed to engage in school bus operations using federally funded transit type buses and facilities in violation of UMTA regulations and also federal Standard 17. Gross operating revenues for 1975 were listed at \$73,821,000 with school contract service revenue at \$950,000 or less than 2 percent of the gross, yet TNJ attempted to deprive small local (yellow bus) school transportation operators of work.

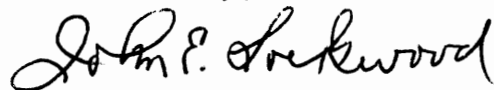
Private school transportation operators utilize part time help such as housewives, retired persons, college students, and various local people who are very dependent on this income earned driving a school bus. Many of these people now driving our school buses would not be employed by a state operated agency as TNJ does not presently hire this segment of our work force.

Parents seeking assistance to their school transportation problems should not have to call a conglomerate office at restricted hours or miles remote from their home for answers.

The legal aspect of this legislation seems extremely questionable in my mind and I therefore ask each committee member to carefully evaluate this proposed communistic legislation.

Thank you.

Sincerely,



John E. Lockwood

cc: John Skevin, Chairman  
Walter Sheil  
S. Thomas Gagliano  
Francis Herbert

Encl.

CITY OF PATERSON  
OFFICE OF THE MAYOR



CITY HALL, PATERSON, NEW JERSEY 07505 ☐ 684-5800

DIVISION OF  
POLICY PLANNING  
AND MANAGEMENT  
DIRECTOR  
WILLIAM J. PASCRELL, JR.

TESTIMONY:

THE SENATE TRANSPORTATION COMMITTEE

RE: S 3137

WILLIAM J. PASCRELL, JR.  
DIRECTOR, POLICY PLANNING  
AND MANAGEMENT  
PATERSON, NEW JERSEY  
APRIL 4, 1979





I. PATERSON'S DEPENDENCE ON PUBLIC TRANSIT

The economy of the City of Paterson and the well being of its citizens has always depended on the reliable provision of public transportation. Paterson's Downtown and many of the industries of the City could not survive without public transportation to convey shoppers and workers.

The public transportation system serving Paterson has suffered enormous decline in the last several years. Since 1970, for a number of economic and social reasons, bus service has been reduced by more than 37 % in Paterson and its surrounding area. Most bus schedules have been severely cut and some service has disappeared completely. Despite this, approximately 20% of all trips in Paterson and 11 % of all trips in Passaic County are still made by bus.

II. INADEQUANCIES OF THE BUS SUBSIDY PROGRAM

The erosion of bus services in Paterson is part of a statewide problem. The problem has and still is fostered by the continued reliance on a "stop-gap" State emergency subsidy program created in 1970. It has grown from \$500,000 in 1970 to \$49.9 million in 1978 but it has created neither more nor better bus services. In fact, there exists some 37 % less service and 41% fewer passengers than in 1970. But worse than the cost is the



fact that no one has control of the situation and that there exists no rational mechanism to control or manage public transportation in New Jersey.

In Paterson we view bus transportation as a public service. It is vital to the health of our economy, welfare of our citizens and the richness of our environment. And in many cases the availability of public transportation is synonymous with economic opportunity. It provides transportation mobility to a significant proportion of Paterson's labor force.

We, therefore, can no longer tolerate the further decay, excessive cost and constant threats of descontinuance of service that comprises the present status of bus transportation. How can the rest of the nation achieve an 11 % increase in public transportation ridership since 1970 while New Jersey's system performs so miserably? Something positive and permanent must be proposed and implemented immediately.

### III. "NEW JERSEY PUBLIC TRANSPORTATION ACT OF 1979"

A permanent alternative to the present bus subsidy program has been recently presented to the New Jersey legislature. State Transportation Commissioner Louis Gambaccini has proposed a piece of legislation to create the mechanism that will turn Paterson's and New Jersey's public transportation fortunes around. The legislation is dedicated to provide "efficient, coordinated, safe and responsive public transportation" that



"promotes mobility, serves the need of the transit dependent, fosters commerce, conserves limited energy resources, protects the environment and promotes sound land use and the revitalization of our urban centers."

The legislation creates a Public Transit Corporation whose sole purpose is to supply the most and best public transportation possible for the public dollars spent. This is a far cry from the raid on the public till that the current subsidy program represents. The new corporation is mandated to operate on a regional level with the participation of county and municipal governments. This is consistent with our position, taken in October of last year, that local transit services must be reorganized and consolidated along the lines of a public authority. The legislation offers Paterson and its surrounding communities a golden opportunity and it should be supported.

#### IV. GOALS FOR PUBLIC TRANSIT

With this new mechanism and opportunity we can finally strive to make public transportation a positive force for living and working in Paterson and the State.

We must strive to create a true public transportation system. One that links city and suburb, home and work place, and



that offers a real alternative to the automobile for some of the millions of trips made every day. The various bus routes and train lines serving our area must be linked into one coordinated system with free of low cost transfers possible.

We must strive to achieve a stable or even a reduced transit fare. This past year the one zone local bus fare rose to \$.45 but the average bus trip actually cost \$.70. A new public transportation system must offer a more logical and simplified fare structure.

We must strive to restore, expand and create new bus service where necessary. Major activity centers in our area are not connected or accessible by public transportation. For example, you cannot get to Montclair State College from Paterson by public transportation. In Paterson we have whole neighborhoods totally without bus service. In our suburbs the lack of service is appalling.

We demand a higher level of reliability and convenience in public transportation services. Minimally the new system must have greater on-time performance, coordination would be impossible otherwise. The public transportation system must also make itself more convenient to its users. It must be marketed and advertised, its service schedules published and made available; its bus stops upgraded and bus shelters installed; and new and modern buses placed into service.



And finally we must strive to create a public transportation system with a new and progressive image. It must have an identity that will instill pride in the region it serves and pull the whole region together. Public transportation is the one visible public service that can touch everyone.

## Transit Fact Sheet

Presently 22 subsidized bus operators in the State who provide 80% of all passenger service.

In Paterson and Passaic County all bus services are subsidized.

Paterson has six different companies supplying totally uncoordinated bus service of varying quality.

Because the State has already spent or committed some \$200 million in capital improvements for public transportation it owns or will soon own most transit rolling stock and some of the other assets of the subsidized bus companies. In Paterson the State D.O.T. already owns the huge TNJ bus garage on Market Street which houses several hundred buses.

The \$24 million (plus or minus) in additional assets of the subsidized carriers is not an enormous additional investment, especially since it is offset by 80% Federal funds by U.M.T.A.

The State's annual subsidy to the operation of public transportation most probably will not be reduced by the public acquisition and operation. Reducing the subsidy does not seem possible or advisable in these times of escalating energy costs.

But for \$50 million in bus operating subsidy a public authority can eliminate duplication, create efficiencies, and increase the quality and quantity of transit services. In effect, it can deliver more and better transit service to the citizen for the same public dollar.

The City and County input into transit service planning has improved recently with respect to the State but the results are no better than in the past. The mechanism for transit improvements is so cumbersome under the subsidy program that public transportation is viewed by the local governments and the citizenry as totally unresponsive to their needs.

In Passaic County we have been trying to create a timed-transfer bus system which will tie all our bus services together. It is a modern innovative idea which is impossible to implement because it requires a consolidated, inefficient management and operations structure.

No one wants to put viable private transportation companies out of business. But if an operator has two local transit routes that are losing money but are in the public interest to continue; and he also has a profitable charter business---does it make sense to subsidize his entire operation? \*

Let him continue his charter business. The public transit corporation should acquire and consolidate those local transit routes in the public interest into a larger operation that will either restore their fiscal viability or make them deliver maximum public service.



