

Committee Meeting

of

SENATE TRANSPORTATION COMMITTEE

SENATE BILL NO. 1321

(Employee tax incentives for ride-sharing programs)

SENATE BILL NO. 1384

(Requires certain NJT bus routes to be contracted out on a competitive basis; establishes the New Jersey Competitive Bus Service Commission)

SENATE BILL NO. 1320

(Provides employer tax incentives for ride-sharing programs)

LOCATION: Legislative Office Bldg.
Committee Room 9
Trenton, New Jersey

DATE: December 10, 1992
2:00 p.m.

MEMBERS OF COMMITTEE PRESENT:

Senator C. William Haines, Chairman
Senator John P. Scott, Vice-Chairman
Senator Randy Corman
Senator Thomas F. Cowan
Senator Walter Rand



ALSO PRESENT:

Peter R. Manoogian
Office of Legislative Services
Aide, Senate Transportation Committee

New Jersey State Library

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Hearing Unit, 162 W. State St., CN 068, Trenton, New Jersey 08625-0068

Committee Meeting

of

SENATE TRANSPORTATION COMMITTEE

SENATE BILL NO. 1321

(Employee tax incentives for ride-sharing programs)

SENATE BILL NO. 1384

(Reduces certain NJT bus routes to be contacted out on a competitive basis; establishes the New Jersey Competitive Bus Service Commission)

SENATE BILL NO. 1320

(Provides employer tax incentives for ride-sharing programs)

DATE: December 18, 1993
2:00 p.m.

LOCATION: Legislative Office Bldg.
Committee Room 2
Trenton, New Jersey



MEMBERS OF COMMITTEE PRESENT:

Senator C. William Haines, Chairman
Senator John P. Scott, Vice-Chairman
Senator Randy Gorman
Senator Thomas F. Cowan
Senator Walter Rand

ALSO PRESENT:

Peter R. Manopoulos
Office of Legislative Services
Aide, Senate Transportation Committee

New Jersey State Library

Hearing Recorded and Transcribed by
The Office of Legislative Services, Public Information Office
Hearing Unit, 102 W. State St., CN 002, Trenton, New Jersey 08625-0002

C. WILLIAM HAINES
Chairman
JOHN P. SCOTT
Vice-Chairman
ANDREW R. CIESLA
RANDY CORMAN
THOMAS F. COWAN
WALTER RAND



New Jersey State Legislature

SENATE TRANSPORTATION COMMITTEE
LEGISLATIVE OFFICE BUILDING, CN-068
TRENTON, NEW JERSEY 08625-0068
(609) 984-7381

COMMITTEE NOTICE

TO: MEMBERS OF THE SENATE TRANSPORTATION COMMITTEE
FROM: SENATOR C. WILLIAM HAINES, CHAIRMAN
SUBJECT: COMMITTEE MEETING - December 10, 1992

The public may address comments and questions to Peter Manoogian, Committee Aide, or make bill status and scheduling inquiries to Kim Johnson, secretary, at (609) 984-7381.

The Senate Transportation Committee will meet on Thursday, December 10, 1992 at 2:00 P.M. in Room 9, Legislative Office Building, Trenton.

The following bills will be considered:

S-1321 Rand	Provides employee tax incentives for ride-sharing programs.
S-1384 Haines/Scott	Requires certain NJT bus routes to be contracted out on a competitive basis; establishes the New Jersey Competitive Bus Service Commission.

FOR DISCUSSION ONLY:

S-1320 Rand	Provides employer tax incentives for ride-sharing programs.
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Issued 12/04/92

[FIRST REPRINT]

SENATE, No. 1320

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 9, 1992

By Senators RAND, Haines,
Cowan, Ciesla and Corman

1 **AN ACT** providing for employer tax incentives for participation
2 in ride-sharing programs, and supplementing Chapter 26A of
3 Title 27 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the
6 *State of New Jersey*:

7 1. a. For accounting or privilege periods beginning on and
8 after January 1, 1993, but ending not later than December 31,
9 2004, an affected employer that is a taxpayer subject to the
10 provisions of the Corporation Business Tax Act (1945), P.L.1945,
11 c.162 (C.54:10A-1 et seq.), the "Financial Business Tax Law
12 (1946)," P.L.1946, c.174 (C.54:10B-1 et seq.), "The Savings
13 Institution Tax Act," P.L.1973, c.31 (C.54:10D-1 et seq.), the tax
14 imposed on marine insurance companies pursuant to R.S.54:16-1
15 et seq., the tax imposed on fire insurance companies pursuant to
16 R.S.54:17-4 et al., the tax imposed on insurers generally,
17 pursuant to P.L.1945, c.132 (C.54:18A-1 et seq), the public utility
18 franchise tax, public utilities gross receipts tax and public utility
19 excise tax imposed pursuant to P.L.1940, c.4, and P.L.1940, c.5
20 (C.54:30A-16 et seq. and C.54:30A-49 et seq.), or that is a
21 taxpayer in respect of a distributive share of partnership income
22 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
23 et seq., which provides commuter transportation benefits as
24 defined in section 3 of P.L.1992, c.32 (C.27:26A-3) shall be
25 allowed a credit against that tax equal to 10% of the cost of
26 commuter transportation benefits for the relevant accounting or
27 privilege period, as appropriate, subject to the limitations of
28 subsection b. of this section.

29 b. (1) The credit granted a taxpayer for an accounting or
30 privilege period shall not exceed the per employee limit
31 multiplied by the number of employees participating in
32 alternative means of commuting at the work location. The per
33 employee limit shall be \$72 for the accounting or privilege
34 periods beginning on and after January 1, 1993 but before
35 January 1, 1994, and for those periods thereafter the Director of
36 the Division of Taxation, in the Department of the Treasury, shall
37 adjust the limit, rounded ¹[up] ~~down~~¹ to the nearest dollar, in
38 proportion to the change in the average consumer price index for
39 all urban consumers in the New York and Northeastern New
40 Jersey and the Philadelphia areas, as reported by the United
41 States Department of Labor, from calendar year 1993 to the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
Senate STR committee amendments adopted December 10, 1992.

1 calendar year ending immediately before the appropriate period.

2 (2) The taxpayer may only claim a credit for providing
3 commuter transportation benefits based upon a direct
4 expenditure made after the taxpayer has registered with the
5 department as prescribed in subsection c. of section 5 of
6 P.L.1992, c.32 (C.27:26A-5); provided that a taxpayer shall
7 continue to be eligible for the credit as long as the taxpayer
8 remains in substantial compliance with subsections d., e., f. and
9 h. of section 5 of P.L.1992, c.32 (C.27:26A-5); and provided
10 further that the commissioner may allow additional time for the
11 taxpayer to comply with subsections d., e., f. and h. of section 5
12 of P.L.1992, c.32 (C.27:26A-5) before a credit amount is
13 disallowed for an affected employer; however, a credit amount
14 shall be disallowed if the taxpayer fails to comply with section 5
15 of P.L.1992, c.32 (C.27:26A-5) within three years from the due
16 date of the tax return reflecting a liability against which a credit
17 was claimed.

18 (3) The amount of the credit allowed under this section for an
19 accounting or privilege period shall not exceed 50% of the tax
20 liability which would be otherwise due after first applying the
21 credits, if any, allowed under any other law and shall not reduce
22 the amount of tax liability to less than the statutory minimum
23 provided in subsection (e) of section 5 of P.L.1945, c.162
24 (C.54:10A-5), section 3 of P.L.1946, c.174 (C.54:10B-3) or section
25 3 of P.L.1973, c.31 (C.54:10D-3), as may be applicable.

26 (4) A taxpayer having liability for more than one of the taxes
27 enumerated in subsection a. of this section for an accounting or
28 privilege period shall allocate the credit amount available for
29 that period to the liabilities for that period in the proportion that
30 each liability bears to the total of the liabilities for that period,
31 and each apportioned amount of credit shall be applied to only
32 one amount of liability.

33 (5) A partnership shall not be allowed the credit under this
34 section directly, but the amount of credit of a taxpayer in
35 respect of a distributive share of partnership income under the
36 "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., shall
37 be determined by allocating to the taxpayer that proportion of
38 the credit acquired by the partnership that is equal to the
39 taxpayer's share, whether or not distributed, of the total
40 distributive income or gain of the partnership for its taxable year
41 ending within or with the taxpayer's taxable year. For the
42 purposes of paragraph (3) of this subsection, the tax liability
43 which would be otherwise due of a taxpayer is that proportion of
44 the total liability of the taxpayer that the taxpayer's share of
45 the partnership income or gain included in gross income bears to
46 the total gross income of the taxpayer.

47 c. Each employee who receives money towards commuter
48 transportation benefits from the employee's employer as an
49 advance, a reimbursement, or both, shall furnish suitable proof to
50 the employer, in the form of receipts, ticket stubs or the like,
51 that the employee utilized monies provided by the employer for
52 an alternative means of commuting, as defined pursuant to
53 section 3 of P.L.1992, c.32 (C.27:26A-3).

54 d. For the purposes of verifying eligibility for the credit, the

1 commissioner shall certify to the Director of the Division of
2 Taxation a list of those employers which have registered with the
3 department, or have an approved compliance plan or an approved
4 amended compliance plan. The list shall be provided to the
5 Director of the Division of Taxation within 90 days of
6 registration and within 210 days of each submission of a
7 compliance plan or each amended compliance plan.

8 e. The taxpayer shall file with the department a schedule of
9 the expenditures for which the taxpayer has claimed a credit
10 pursuant to this section on any tax return filed with the Director
11 of the Division of Taxation, in such form and pursuant to such
12 rules as shall be prescribed by the commissioner in consultation
13 with the Director of the Division of Taxation. The department
14 shall provide the Director of the Division of Taxation with the
15 schedule and such other information as is required pursuant to
16 subsection j. of section 5 of P.L.1992, c.32 (C.27:26A-5).

17 2. This act shall take effect immediately and the gross income
18 tax credits authorized pursuant to paragraph (5) of subsection b.
19 of section 1 shall be applicable to taxable years beginning on and
20 after January 1, 1993.

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25 Provides employer tax incentives for ride-sharing programs.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 1320

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 1992

The Senate Transportation Committee favorably reports Senate Bill No. 1320 with committee amendments.

This bill, as amended by the committee, provides employer tax incentives for participation in the ride-sharing program to be instituted under the "New Jersey Traffic Congestion and Air Pollution Control Act," P.L.1992, c.32 (C.27:26A-1 et seq.). Specifically, the bill provides for an employer tax credit of up to 10% of the cost of commuter transportation benefits provided by an employer, with a dollar limit of \$72 per employee participating in alternative means of commuting per year. The dollar amount, which is subject to change because of inflation, is keyed to allowances set forth in the recently enacted "National Energy Policy Act," Pub.L. 102-486.

The amendments adopted by the committee provide for rounding off of increases in the credit because of inflation.

[FIRST REPRINT]

SENATE, No. 1321

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 9, 1992

By Senators RAND, Haines,
Cowan, Ciesla and Corman

1 AN ACT providing for employee tax incentives for participation
2 in ride-sharing programs, amending N.J.S.54A:7-2 and
3 supplementing Title 54A of the New Jersey Statutes.

4
5 BE IT ENACTED by the Senate and General Assembly of the
6 State of New Jersey:

7 1. (New section) a. For the purposes of the "New Jersey
8 Gross Income Tax Act," N.J.S.54A:1-1 et seq., "gross income"
9 shall not include commuter transportation benefits as defined
10 pursuant to section 3 of P.L.1992, c.32 (C.27:26A-3), up to and
11 including the limit per taxable year per employee pursuant to
12 subsection b. of this section. Should an employee receive
13 commuter transportation benefits in excess of those limits in a
14 taxable year, only the amount in excess of those limits shall be
15 included in gross income. If an employee receives money towards
16 commuter transportation benefits from the employee's employer,
17 as an advance, a reimbursement, or both, the employee shall
18 furnish suitable proof to the employer in the form of receipts,
19 ticket stubs or the like that the employee used the employer
20 provided money for alternative means of commuting as defined
21 pursuant to section 3 of P.L.1992, c.32 (C.27:26A-3).

22 b. The limit per taxable year per employee shall be \$720 for
23 the taxable years beginning on and after January 1, 1993 but
24 before January 1, 1994. For taxable years thereafter, the
25 director shall adjust the limit, rounded ¹[up] ~~down~~¹ to the nearest
26 ¹[\$10] ~~\$5~~¹, in proportion to the change in the average consumer
27 price index for all urban consumers in the New York and
28 Northeastern New Jersey and the Philadelphia areas, as reported
29 by the United States Department of Labor, from calendar year
30 1993 to the calendar year ending immediately before the taxable
31 year.

32 2. N.J.S.54A:7-2 is amended to read as follows:

33 54A:7-2. Information statement for employee or recipient of
34 other payments. Every employer or payor of a pension or annuity
35 required to deduct and withhold tax under this act from the
36 wages of an employee or from the payment of a pension or
37 annuity, or an employer who would have been required so to
38 deduct and withhold tax if an employee had claimed no more than
39 one withholding exemption, shall furnish to each such employee,
40 or pension or annuity recipient or the estate thereof, in respect
41 of the wages or pension or annuity payments paid by such

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Senate STR committee amendments adopted December 10, 1992.

1 employer or payor to such employee or pension or annuity
2 recipient during the calendar year on or before February 15 of
3 the succeeding year, or, if his employment or pension or annuity
4 is terminated before the close of such calendar year, within 30
5 days from the date on which the last payment of the wages or
6 pension or annuity is made, a written statement as prescribed by
7 the director showing the amount of wages or pension or annuity
8 payments paid by the employer or payor to the employee or
9 pension or annuity recipient, the cost of commuter transportation
10 benefits, as defined pursuant to section 3 of P.L.1992, c.32,
11 (C.27:26A-5), excludable by the employee pursuant to section 1
12 of P.L. , c. (C.) (now before the Legislature as this bill),
13 and the cost of such benefits not so excludable, provided by the
14 employer to the employee, the amount deducted and withheld as
15 tax, the amount deducted and withheld as worker contributions
16 for unemployment and disability insurance as provided under the
17 New Jersey Unemployment Compensation Law, and such other
18 information as the director shall prescribe.

19 (cf: P.L.1989, c.328, s.2)

20 3. This act shall take effect immediately, and the gross
21 income tax exclusion authorized in section 1 shall be applicable
22 to taxable years beginning on and after January 1, 1993.

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26

27 Provides employee tax incentives for ride-sharing programs.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 1321

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 1992

The Senate Transportation Committee favorably reports Senate Bill No. 1321 with committee amendments.

This bill, as amended by the committee, provides employee tax incentives for participation in the ride-sharing program to be instituted under the "New Jersey Traffic Congestion and Air Pollution Control Act," P.L.1992, c.32 (C.27:26A-1 et seq.). Specifically, the bill requires that up to \$720 per year in employer provided commuter benefits be excluded from the employee's income for the purposes of the State gross income tax. The dollar amount, which is subject to change because of inflation, is keyed to allowances set forth in the recently enacted "National Energy Policy Act," Pub.L. 102-486.

The committee adopted amendments conforming the bill to the federal law with regard to rounding off of increases in the excludable amount because of inflation.

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1992

By Senators HAINES and SCOTT

1 AN ACT concerning competitive service on certain bus routes,
2 establishing the New Jersey Competitive Bus Service
3 Commission, amending P.L.1979, c.150 and P.L.1954, c.84 and
4 supplementing Title 27 of the Revised Statutes.

5
6 BE IT ENACTED by the Senate and General Assembly of the
7 State of New Jersey:

8 1. (New section) Sections 1 through 16 of this act shall be
9 known and may be cited as the "New Jersey Competitive Bus
10 Service Act."

11 2. (New section) The Legislature finds and declares that:

12 a. It is in the public interest to increase economy and
13 efficiency in State Government by providing increased
14 competition for the right to operate regular route motorbus
15 services currently operated by the New Jersey Transit
16 Corporation.

17 b. It is also in the public interest for the Board of the New
18 Jersey Transit Corporation to continue to determine routes and
19 minimum service and maximum fare policies for regular route
20 motorbus services it now operates or contracts for in the State.

21 c. When offering private carriers the opportunity to operate
22 motorbus service presently provided by the New Jersey Transit
23 Corporation, the corporation shall compete for routes or route
24 segments offered to ensure that service is provided at the least
25 cost to the State.

26 d. Therefore, to avoid any appearance of conflict among the
27 various roles which the New Jersey Transit Corporation has in the
28 provision of public transit services, it is in the best interest of
29 the State to establish a New Jersey Competitive Bus Service
30 Commission within the Department of Transportation to issue
31 proposals, select carriers, and ensure the proper administration of
32 the operation of routes so awarded.

33 3. (New section) As used in this act:

34 "Bus service package" means one or more regular route
35 motorbus routes or route segments to be operated by a single
36 qualified carrier.

37 "Carrier" or "qualified carrier" means the corporation or a
38 private carrier.

39 "Commission" means the New Jersey Competitive Bus Service
40 Commission established by section 4 of this amendatory and
41 supplementary act.

42 "Commissioner" means the Commissioner of Transportation.

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

Matter underlined thus is new matter.

1 "Corporation" means the New Jersey Transit Corporation.

2 "Department" means the Department of Transportation.

3 "Private carrier" means a private entity qualified by the
4 commission to operate bus service packages pursuant to section 9
5 of this amendatory and supplementary act.

6 4. (New section) a. There is established in the Department of
7 Transportation the New Jersey Competitive Bus Service
8 Commission consisting of five members as follows: the
9 commissioner and the State Treasurer, who shall be members ex
10 officio, and three public members, one of whom shall be
11 appointed by the Governor, with the advice and consent of the
12 Senate, and the two remaining to be appointed by the Governor,
13 one of whom upon recommendation of the President of the Senate
14 and the other upon recommendation of the Speaker of the
15 General Assembly. No more than three members of the
16 commission shall be of the same political party. The public
17 members appointed by the Governor shall serve a four year term,
18 except that the public member appointed by the Governor upon
19 recommendation of the President of the Senate shall serve for a
20 four year term and the public member appointed upon
21 recommendation of the Speaker of the General Assembly shall
22 serve for a two year term. At least one public member shall be a
23 regular bus commuter.

24 Each public member shall hold office for the term of the
25 member's appointment and until the member's successor shall
26 have been appointed and qualified. A member shall be eligible
27 for reappointment. Any vacancy in the membership occurring
28 other than by expiration of term shall be filled in the same
29 manner as the original appointment but for the unexpired term
30 only.

31 b. Each public member may be removed from office by the
32 Governor, for cause, after public hearing, and may be suspended
33 by the Governor pending the completion of such hearing. All
34 members before entering upon their duties shall take and
35 subscribe an oath to perform the duties of their office faithfully,
36 impartially and justly to the best of their ability. A record of
37 such oaths shall be filed in the Office of the Secretary of State.

38 c. The commission shall not be deemed to be constituted and
39 shall not take action or adopt motions or resolutions until at least
40 three members shall have been appointed and qualified in the
41 manner provided in this section. The commissioner shall serve as
42 chairperson of the commission. The members shall annually elect
43 one of their members as vice chairperson. The members shall
44 elect a secretary who need not be a member. The powers of the
45 commission shall be vested in the members thereof in office from
46 time to time and three members of the commission shall
47 constitute a quorum at any meeting thereof. Action may be
48 taken and motions and resolutions adopted by the commission at
49 any meeting thereof by the affirmative vote of at least three
50 members of the commission. No vacancy in the membership of
51 the commission shall impair the right of a quorum of the
52 members to exercise all the powers and perform all the duties of
53 the commission.

54 d. The members of the commission shall serve without

1 compensation, but the commission may reimburse its public
2 members for actual expenses necessarily incurred in the
3 discharge of their duties. Notwithstanding the provisions of any
4 other law, no member shall be deemed to have forfeited nor shall
5 the member forfeit the member's office or employment or any
6 benefits or emoluments thereof by reason of the member's
7 acceptance of the office of ex officio member of the commission
8 or the member's services therein.

9 e. Each ex officio member may designate an employee of the
10 member's department or agency to represent the member at
11 meetings of the commission. All designees may lawfully vote and
12 otherwise act on behalf of the member for whom they constitute
13 the designee. The designation shall be in writing delivered to the
14 commission and shall continue in effect until revoked or amended
15 in writing delivered to the commission.

16 5. (New section) The sole purpose of the commission shall be
17 to facilitate and coordinate the provision of regular route
18 motorbus service within the State through competitive proposals.

19 6. (New section) The commission shall:

20 a. Require the corporation to submit proposed bus service
21 packages and consider designating these proposals as bus service
22 packages.

23 b. Consider designating proposals submitted by private carriers
24 as bus service packages.

25 c. Designate bus service packages and issue and review
26 requests for proposals for the operation of bus service packages.

27 d. Designate the carrier to operate a bus service package in
28 accordance with section 10 of this amendatory and supplementary
29 act.

30 e. Monitor the operation of bus service packages contracted
31 for pursuant to this amendatory and supplementary act.

32 f. Adopt regulations necessary to fulfill the commission's
33 duties under this act in accordance with the provisions of the
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
35 et seq.).

36 7. (New section) The commission and the corporation are
37 directed to cooperate with each other in identifying bus service
38 packages, the issuance of proposals for the operation of bus
39 service packages, and the administration of the operation of bus
40 service packages. When the commission designates a private
41 carrier to operate a bus service package, the corporation shall
42 enter into a contract for the provision of that service with the
43 private carrier within ten days. The department shall provide the
44 commission with the personnel necessary to carry out its duties.

45 8. (New section) a. The commission shall implement a system
46 whereby the regular route bus service operated by the
47 corporation on the effective date of this amendatory and
48 supplementary act shall be offered in bus service packages to
49 qualified carriers through a competitive process.

50 b. Any regular route motorbus services operated under
51 competitive proposals pursuant to this amendatory and
52 supplementary act shall be subject to a new competitive proposal
53 at least once every five years.

54 c. The corporation shall make all equipment purchased with

1 public funds available under nominal leases to private carriers
2 awarded contracts for the operation of bus service packages.

3 9. (New section) a. Within three months of the effective date
4 of this amendatory and supplementary act, the commission shall:

5 (1) Develop and adopt criteria for designating bus service
6 packages in a manner that will encourage competition between
7 qualified carriers to operate bus service packages. The criteria
8 shall include, but not be limited to: balance of profit potential
9 among bus service packages, homogeneous geographic location of
10 routes, ease of incorporation of the routes into the existing
11 systems of private carriers, and, to the extent possible,
12 combining of routes so that no more than 75 buses are necessary
13 to operate the bus service package.

14 (2) Promulgate reasonable standards with respect to
15 experience, safety records, and financial responsibility and other
16 areas deemed appropriate by the commission by which private
17 carriers can be qualified to provide bus services pursuant to this
18 amendatory and supplementary act. The standards shall be
19 clearly defined in each request for proposals issued by the
20 commission and shall not be designed to restrict the number of
21 eligible participants in the competitive proposal process.

22 (3) Prepare a standard form of agreement for carriers
23 providing bus services. The contract shall include, but not be
24 limited to:

25 (a) Reasonable passenger comfort, safety, service and vehicle
26 maintenance standards;

27 (b) Standards for access to bus services for persons with
28 disabilities, which shall be as specified in the corporation's plan
29 for those services;

30 (c) Standards for training and safety records to be required of
31 any driver;

32 (d) Requirements for reasonable insurance protecting the
33 corporation from liability for the acts, negligence, or omission of
34 private carriers, their agents, and their employees;

35 (e) Reasonable penalties for inadequate performance, including
36 the corporation's right to cancel contracts upon the approval of
37 the commission;

38 (f) Provisions and standards on the use of the corporation's
39 logo, transfers, transit ways, bus stops, vehicles and other
40 elements as are owned by the corporation and appropriate for use
41 by the private carrier under contract to the corporation.

42 (g) Require that a private carrier shall not operate interstate
43 service within the geographic boundaries of a bus service package
44 for a period of one year after the expiration of that bus service
45 package contract without the written consent of the corporation.
46 The corporation may impose penalties on a private carrier which
47 fails to comply with this requirement including, but not limited
48 to, prohibiting the carrier from participating in the bus allocation
49 program, the private carrier capital improvement program and
50 the senior citizen and handicapped fare reimbursement program.
51 In addition, the commission may deem a private carrier which
52 fails to comply with this requirement ineligible to operate bus
53 service packages.

54 (4) Develop reasonable standards for reliability, on-time

1 performance, and other appropriate service quality considerations
2 for each route or route segment for which competitive proposals
3 are sought. The standards shall be clearly defined in each request
4 for proposals issued by the commission.

5 b. The commission may not establish any requirement relating
6 to the wages, benefits, or union organization of employees of any
7 private carrier providing service under this amendatory and
8 supplementary act. All private carriers providing service under
9 this amendatory and supplementary act shall comply with and
10 give adequate certification of compliance with all applicable
11 federal and State labor laws.

12 c. No change in contract payment amount to a private carrier
13 shall be made except as specified in the contract. Payment
14 changes in a contract shall be limited to indices, escalators,
15 deflators, changes in service level and other expressly stated or
16 calculable amounts, consistent with the request for proposals and
17 the proposal of the private carrier awarded the contract. Any
18 increase in revenues from increased ridership in a bus service
19 package shall accrue to the operator of the bus service package.

20 10. (New section) a. Each request for proposals shall specify
21 the route, service frequency, and fares and exact service level in
22 terms of annual revenue service hours and miles to be assumed in
23 the cost proposal as determined by the commission.

24 b. The commission shall seek the widest reasonable
25 distribution of each request for proposals.

26 c. The commission shall advertise each request for proposals
27 within ten days of issuance, and in accordance with the
28 department's general procurement policy.

29 d. Proposals shall be required to be submitted not less than
30 60 days from the date of the last advertisement for requests for
31 proposals for a bus service package, except in emergency
32 circumstances.

33 e. Services shall commence under any request for proposals as
34 soon as reasonably practical within the parameters of the service
35 requirements.

36 f. Any qualified carrier may respond to any request for
37 proposals. The commission shall ensure that disadvantaged
38 business enterprises, as defined in part 23 of title 49 of the Code
39 of Federal Regulations, as amended, have an opportunity to
40 respond.

41 g. Requests for proposals shall include the requirement that
42 any private carrier operating a bus service package, when filling
43 positions created as a result of operating that bus service
44 package, shall first offer employment to corporation employees
45 who might lose their employment as a result of the termination
46 of service by the corporation which would be required by that
47 contract. The private carrier shall be the sole determinant of the
48 labor requirements necessary to comply with the contract. A
49 private carrier shall not be required to hire any corporation
50 employee who does not meet the private carrier's employment
51 qualifications.

52 h. With respect to each request for proposals, the commission
53 shall designate the qualified carrier to operate the bus service
54 package whose responsible and responsive proposal offers the

1 maximum return or the lowest cost to the corporation. In
2 determining the maximum return or lowest cost to the
3 corporation, the commission shall consider any specific and
4 quantifiable additional costs to be borne by the corporation as a
5 result of the award of the contract to either a private carrier or
6 the corporation.

7 i. The commission may reject any or all proposals it deems to
8 be not in the best interest of the State.

9 11. (New section) The corporation shall submit a proposal, and
10 be awarded a bus service package subject to the following
11 conditions:

12 a. Any labor conditions assumed in the proposal shall either be
13 specified in currently effective labor contracts or be executed
14 before the proposal deadline in a written and binding agreement
15 between the corporation and the appropriate labor organization.

16 b. The corporation's proposal price shall be based on the cost
17 for the service. Any deviations from avoidable cost for the
18 service must be based upon contract amendments or other
19 independently verifiable cost reductions. "Avoidable cost" means
20 all direct or indirect costs attributable to a bus service package
21 that would be avoided or eliminated if the bus service package
22 were not operated by the corporation. In calculating avoidable
23 cost the corporation shall include, but not be limited to, costs of:
24 operator wages and benefits; fuels and lubricants; tires, parts and
25 supplies; tolls and fees; insurance; mechanic and other garage
26 personnel wages and benefits; operation and maintenance of
27 garages; regional supervisors; bus and executive management; and
28 administrative and support functions.

29 c. The corporation shall not make or be bound by any contract,
30 agreement or assurance which creates or extends any form of
31 obligation for continued employment or employee compensation
32 with respect to employees assigned to a bus service package
33 beyond the expiration date for the competitively contracted
34 service.

35 d. The corporation shall be bound by the same terms,
36 conditions, and performance and other standards as would have
37 applied to a private carrier awarded the contract under the
38 request for proposals. If the corporation's performance is not in
39 compliance with this provision, the corporation shall relinquish
40 the contract and advise the commission to issue a new request for
41 proposals for the service. The corporation, however, shall
42 operate the service until a new contract is entered into.

43 12. (New section) Whenever a private carrier operates a bus
44 service package, during the term of the contract, that carrier
45 may increase or expand regular route motorbus service within the
46 geographic boundaries of the bus service package. Any increase
47 in revenues in the bus service package resulting from the
48 increased or expanded service shall accrue to the operator of the
49 bus service package.

50 13. (New section) The State Auditor shall perform, or shall
51 contract with an independent certified public accounting firm,
52 other than the corporation's regular auditor, to perform, a
53 neutral and unbiased performance audit to be completed and
54 reported to the Legislature not later than eighteen months after

1 the effective date of this amendatory and supplementary act.
2 The performance audit shall analyze in a fair and equitable
3 fashion the implementation of this amendatory and
4 supplementary act including, but not limited to, compliance with
5 the competitive proposal process, compliance with avoidable cost
6 requirements, the level of contract compliance by private
7 carriers, the cost of that compliance and whether those costs will
8 be recurring or may be reduced, application of savings to
9 consumer benefit and taxes paid by private carriers. All costs of
10 the audit shall be borne by the corporation.

11 14. (New section) Each year for a period of five years from
12 the effective date of this amendatory and supplementary act, the
13 commission shall make every effort to issue on an annual basis
14 requests for proposals on ten percent, and, at minimum, shall
15 issue requests for proposals on five percent, of the regular route
16 motorbus service operated by the corporation. The annual
17 competitive proposal requirement shall be met only by the
18 requests for proposals for service not operated under competitive
19 proposals and not previously offered as a bus service package. In
20 any year in which the commission does not issue requests for
21 proposals on ten percent of the regular route motorbus service,
22 the commission shall submit a report to the Governor, the Senate
23 President, and the Assembly Speaker detailing the reasons why
24 this requirement was not met.

25 15. (New section) The Office of Public Carrier Affairs in the
26 corporation is transferred to the department and shall hereafter
27 be known as the Office of Competitive Bus Service. All
28 employees of the office are transferred to the department. All
29 records, property and financial resources of the office are
30 transferred to the department and all responsibilities of the
31 office shall be assumed and performed by the department.

32 16. (New section) All transfers directed by this act shall be
33 made in accordance with the "State Agency Transfer Act,"
34 P.L.1971, c.375 (C.52:14D-1 et seq.). Nothing in this act shall be
35 construed to deprive employees of their right, privileges,
36 obligations or status with respect to any retirement system.

37 17. Section 6 of P.L.1979, c.150 (C.27:25-6) is amended to
38 read as follows:

39 6. a. The corporation may enter into contracts with any public
40 or private entity to operate rail passenger service or portions or
41 functions thereof. Where appropriate, payments by the
42 corporation for services contracted for under this section shall be
43 determined in accordance with the Federal Regional Rail
44 Reorganization Act of 1973 (45 U.S.C. 701 et seq.), the Federal
45 Rail Passenger Service Act of 1970 (45 U.S.C. 501 et seq.), any
46 other applicable Federal law, and any and all rules, regulations
47 and standards, promulgated thereunder and decisions issued
48 pursuant thereto. In all other cases, payments shall be by
49 agreement upon such terms and conditions as the corporation
50 shall deem necessary.

51 b. The corporation may enter into contracts with any public or
52 private entity to operate motorbus regular route, paratransit or
53 motorbus charter services or portions or functions thereof.
54 Payments shall be by agreement upon such terms and conditions

1 as the corporation shall deem necessary. Contracts for the
2 provision of regular route bus service offered and awarded after
3 the effective date of this amendatory and supplementary act
4 shall conform to the provisions of P.L. , c. (C.)(now
5 before the Legislature as this bill).

6 (cf: P.L.1979, c.150, s.6)

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

9 73. a. The Public Employees' Retirement System is hereby
10 authorized and directed to enroll eligible employees of the New
11 Jersey Turnpike Authority, the New Jersey Highway Authority,
12 Palisades Interstate Park Commission, Interstate Sanitation
13 Commission, the Delaware River Basin Commission and the
14 Delaware River Joint Toll Bridge Commission.

15 In the case of the Delaware River Joint Toll Bridge
16 Commission, the eligible employees shall be only those who are
17 employed on the free bridges across the Delaware river, under
18 the control of said commission, or who are members of the
19 retirement system at the time they begin employment with the
20 commission.

21 The said employees shall be subject to the same membership,
22 contribution and benefit provisions of the retirement system as
23 State employees.

24 b. The State University of New Jersey, as an instrumentality
25 of the State, shall, for all purposes of this act, be deemed an
26 employer and its eligible employees, both veterans and
27 nonveterans, shall be subject to the same membership,
28 contribution and benefit provisions of the retirement system and
29 to the provisions of chapter 3 of Title 43 of the Revised Statutes
30 as are applicable to State employees and for all purposes of this
31 act employment by the State University of New Jersey after
32 April 16, 1945, and for the purposes of chapter 3 of Title 43 of
33 the Revised Statutes any new employment after January 1, 1955,
34 shall be deemed to be and shall be construed as service to and
35 employment by the State of New Jersey.

36 c. The Compensation Rating and Inspection Bureau, created
37 and established pursuant to the provisions of R.S.34:15-89, shall,
38 for all purposes of this act, be deemed an employer and its
39 eligible employees, both veterans and nonveterans, shall be
40 subject to the same membership, contribution and benefit
41 provisions of the retirement system and to the provisions of
42 chapter 3 of Title 43 of the Revised Statutes as both are
43 applicable to State employees.

44 The retirement system shall certify to the Commissioner of
45 Insurance and the Commissioner of Insurance shall direct the
46 Compensation Rating and Inspection Bureau to provide the
47 necessary payments to the retirement system in accordance with
48 procedures established by the retirement system. Such payments
49 shall include (1) the contributions and charges, similar to those
50 paid by other public agency employers, to be paid by the
51 Compensation Rating and Inspection Bureau to the retirement
52 system on behalf of its employee members, and (2) the
53 contributions to be paid by the Compensation Rating and
54 Inspection Bureau to provide the past service credits up to

1 June 30, 1965 for these members, both veterans and nonveterans.
2 who enroll before July 1, 1966.

3 d. The New Jersey Sports and Exposition Authority, created
4 and established pursuant to the "New Jersey Sports and
5 Exposition Authority Law," P.L.1971, c.137 (C.5:10-1 et seq.)
6 shall for all purposes of this act, be deemed an employer and its
7 eligible employees both veterans and nonveterans, shall be
8 subject to the same membership, contribution and benefit
9 provisions of the retirement system and to the provisions of
10 chapter 3 of Title 43 of the Revised Statutes as are applicable to
11 State employees.

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

17 (2) Eligible employees previously permitted to enroll in the
18 retirement system shall redeposit the contributions previously
19 made by them and all service credit shall then be restored and
20 future contributions made at the date of contribution as
21 originally assigned. The authority shall redeposit the employer
22 payments it had made, with interest to the date of redeposit.

23 e. (1) The New Jersey Transit Corporation created and
24 established pursuant to the "New Jersey Public Transportation
25 Act of 1979," P.L.1979, c.150 (C.27:25-1 et seq.) shall for all
26 purposes of this act, be deemed an employer and its eligible
27 employees both veterans and nonveterans, shall be subject to the
28 same membership, contribution and benefit provisions of the
29 retirement system and to the provisions of chapter 3 of Title 43
30 of the Revised Statutes as are applicable to State employees.
31 Eligible employees as used herein means only those individuals
32 who are members of the Public Employees' Retirement System
33 or any other State-administered retirement system immediately
34 prior to their initial employment by the corporation.

35 (2) Any employee of the New Jersey Transit Corporation
36 transferred to the Department of Transportation pursuant to
37 P.L. , c. (C.)(now before the Legislature as this bill) may
38 purchase credit for all service with the corporation rendered
39 prior to the effective date of P.L. , c. (C.)(now before the
40 Legislature as this bill) if that service would otherwise be eligible
41 for credit in the retirement system. This purchase shall be made
42 in the same manner and shall be subject to the same conditions
43 provided for the purchase of previous membership service by
44 section 8 of P.L.1954. c.84 (C.43:15A-8).

45 f. (1) The Casino Reinvestment Development Authority,
46 created and established pursuant to P.L.1984, c.218 (C.5:12-153
47 et seq.), the New Jersey Urban Development Corporation,
48 created and established pursuant to P.L.1985, c.227 (C.55:19-1 et
49 seq.), the South Jersey Food Distribution Authority, created and
50 established pursuant to P.L.1985, c.383 (C.4:26-1 et seq.), the
51 New Jersey Development Authority for Small Businesses,
52 Minorities and Women's Enterprises, created and established
53 pursuant to P.L.1985, c.386 (C.34:1B-47 et seq.), and the
54 Catastrophic Illness in Children Relief Fund Commission, created

1 and established pursuant to P.L.1987, c.370 (C.26:2-148 et seq.)
2 shall each, for all purposes of this act, be deemed an employer
3 and eligible authority, corporation, or commission. Employees,
4 both veterans and nonveterans, shall be subject to the same
5 membership, contribution and benefit provisions of the
6 retirement system and to the provisions of chapter 3 of Title 43
7 of the Revised Statutes as are applicable to State employees.

8 (2) The current or former employees of the authorities, the
9 corporation, and the commission may purchase credit for all
10 service with the authority, corporation, or commission rendered
11 prior to the effective date of this amendatory and supplementary
12 act, P.L.1990, c.25 (C.43:15A-73.2 et al.), if that service would
13 otherwise be eligible for credit in the retirement system. This
14 purchase shall be made in the same manner and shall be subject
15 to the same terms and conditions provided for the purchase of
16 previous membership service by section 8 of P.L.1954, c.84
17 (C.43:15A-8). The authority, corporation, or commission shall
18 pay the unfunded liability as determined by the actuary for prior
19 service purchased by its employees in accordance with a schedule
20 approved by the actuary. This obligation of the authority,
21 corporation, or commission shall be known as the accrued liability
22 for prior service credit.

23 (3) For any employee of the authorities or of the corporation
24 or commission who is in service with the authority, corporation,
25 or commission on the effective date of this amendatory and
26 supplementary act, P.L.1990, c.25 (C.43:15A-73.2 et al.), the age
27 of enrollment for the purposes of the member contribution rate
28 under section 25 of P.L.1954, c.84 (C.43:15A-25) shall be the age
29 of the employee on the date the continuous service with the
30 authority began. Any employee who was a member of the
31 retirement system on the date continuous service with the
32 authority, corporation, or commission began but whose
33 membership expired before the effective date of participation by
34 the authority, corporation, or commission in the retirement
35 system, and who has not withdrawn the employee contributions
36 from the system, shall participate in the retirement system under
37 the former membership and shall contribute to the system at the
38 rate applicable to the former membership.

39 (cf: P.L.1990, c.25, s.1)

40 19. This act shall take effect immediately.

43 STATEMENT

45 This bill would provide for the contracting out of motorbus
46 regular route service currently operated by the New Jersey
47 Transit Corporation (the corporation) through a competitive
48 process. The bill establishes the New Jersey Competitive Bus
49 Service Commission (the commission) in the Department of
50 Transportation which is charged with implementing the
51 competitive process. The commission would comprise five
52 members: the Commissioner of Transportation, the State
53 Treasurer, and three public members appointed by the Governor.
54 Of the three public members, the Governor would appoint one

1 public member on the recommendation of the President of the
2 Senate and one public member on the recommendation of the
3 Speaker of the General Assembly. One public member would be a
4 regular bus commuter. The Commissioner of Transportation
5 would serve as chairperson of the commission.

6 The commission would designate bus service packages, defined
7 as one or more regular route motorbus routes or route segments
8 to be operated by a single qualified carrier, and issue and review
9 requests for proposals submitted for the operation of the bus
10 service packages. The commission would designate the carrier to
11 operate a bus service package using the criteria of the carrier
12 whose responsible and responsive proposal offers the maximum
13 return or lowest cost to the corporation. The corporation would
14 be required to submit proposals and would determine its proposal
15 cost on an avoidable cost basis. When the commission designates
16 a private carrier to operate a bus service route, the corporation
17 would be required to enter into a contract for the operation of
18 that service with the private carrier within ten days.

19 Bus service packages would be established in a manner to
20 encourage competition between qualified carriers to operate bus
21 service packages. Criteria for the development of bus service
22 packages would include: balance of profit potential among bus
23 service packages, homogeneous geographic location of routes,
24 ease of incorporation of the routes into the existing systems of
25 private carriers and, to the extent possible, combining of routes
26 so that no more than 75 buses are necessary to operate the bus
27 service package. Service would be required to meet reasonable
28 standards established by the commission. When filling positions
29 created as a result of operating a bus service package, private
30 carriers would be required to first offer employment to
31 corporation employees who might lose their employment as result
32 of the termination of that service by the corporation. However,
33 a private carrier would not be required to hire any corporation
34 employee who does meet the private carrier's employment
35 qualifications.

36 The bill would transfer the corporation's Office of Public
37 Carrier Affairs and its employees to the department where the
38 office would be know as the Office of Competitive Bus Service.
39 The transfer would be made in accordance with the "State
40 Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.). The
41 Office of Competitive Bus Service would provide the commission
42 with necessary staff to implement the competitive contracting
43 program.

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45

46

47

48 Requires certain NJT bus routes to be contracted out on a
49 competitive basis; establishes the New Jersey Competitive Bus
50 Service Commission.

TABLE OF CONTENTS

	<u>Page</u>
Dawn E. Perrotta Assistant Vice President New Jersey Business & Industry Association	1
James J. Snyder Director Division of Transportation Assistance New Jersey Department of Transportation	1
Shannon H. Gibson Legislative and Regulatory Analyst New Jersey State Chamber of Commerce	8
Carol Katz New Jersey Motor Bus Association	9
William S. Revere Director of Operations Orange, Newark, and Elizabeth Bus Company, Inc.	11
John M. Solomita, Jr. General Manager South Orange Bus Owners Association	12
Shirley A. DeLibero Executive Director New Jersey Transit New Jersey Department of Transportation	12
Linda Nowicki Research Scientist Bureau of Air Quality Planning New Jersey Department of Environmental Protection and Energy	13
Solon Karakoglou President Great Northern Trolley Co. Inc.	15
Paul D. Chrystie Acting Director Office of External Affairs New Jersey Department of Transportation	26

TABLE OF CONTENTS (Continued)

Page

Michael Siano
International Vice President
Member, General Executive Board
Amalgamated Transit Union

30

Vito Forlenza
Chairman
New Jersey State Council
Amalgamated Transit Union

33

William Braden
Chairman
The Board of Public Transportation
Ocean County
New Jersey

34

APPENDIX:

Statement submitted by
Dawn E. Perrotta

1x

Statement submitted by
James J. Snyder

8x

Statement submitted by
Shannon H. Gibson

12x

Statement submitted by
Carol Katz

15x

New Jersey Bus Maintenance Study, and
assorted articles submitted by
Solon Karakoglou

18x

Resolution submitted by
William Braden

24x

Statement submitted by
Vito Forlenza

25x

* * * * *

SENATOR C. WILLIAM HAINES (Chairman): I'd like to start the meeting. I'd like you all to sit down, if you can. We tried to get a bigger room, but we were unsuccessful in that.

Okay, we're going to start on bills No. S-1321 and S-1320. We'll entertain discussion on these two bills first. Jim Snyder, from the Department of Transportation is first. Jim?

Senator Cowan, welcome.

Is Jim Snyder here? I'm hoping that we will not have too long a meeting here. There are transportation problems, both north and south of here. I know that we don't want to extend this too long. I hope we can cut comments down to a minimum and not read documents. We can read the documents at a later date. Please summarize, if you can do this.

D A W N E. P E R R O T T A: Mr. Chairman, Jim has invited me to sit with him. Is that all right, in the interests of saving time?

SENATOR HAINES: Yes, go ahead. That's okay, Dawn.

J A M E S J. S N Y D E R: Thank you very much, Senator Haines and members of the Committee. I will do my best to be as brief as possible.

I want to first express Assistant Commissioner Johnson's regrets that she could not be here personally today, but I can assure you that she joins me and the Department in considering S-1320 and S-1321, both bills, as critical to the success of the Department's Employee Trip Reduction Program.

I think there are really three reasons why we support these bills. First of all, as you know, we are trying to implement a change in life-style. That change in life-style cannot be made through voluntary programs at all, alone. We need incentives to encourage employees to change their commuting habits. We feel those incentives should best come through the employers, yet the State of New Jersey must be equal partners with the employers.

As you know we are doing our absolute best to implement an Employee Trip Reduction Program in a business friendly environment. I'm sure New Jersey Business & Industry will give you that assurance, as well.

And third, I know there are some concerns about the cost of S-1320 and S-1321. I wanted to give you some assurances that the business tax credit will not be as expensive as some people originally envisioned, and quickly, some reasons.

Not all the employers will have to increase their vehicle occupancy rate. Some are already at target levels. Many of the employers who have to increase their average vehicle occupancy rate will be able to meet their target without a significant financial outlay, especially in the first few years.

SENATOR HAINES: Jim, I hate to interrupt you, but-- And I should have said this, and I apologize for not mentioning this earlier. These two bills have to go through Appropriations. What I would like to do after the first of the year, I'd like to get them voted out of Committee, unless there is major opposition. What I'd like to do after the first of the year is to have a joint meeting with Appropriations on these two bills -- the Transportation Committee and the Appropriations Committee -- and go over the financial side of the thing, because basically, I don't think there is a lot of opposition here in this room to the two bills, but there may be opposition when you look at them from a financial standpoint. We'd like to solve those problems there, because we can't solve them here. Do you get my point?

MR. SNYDER: Very much so. Then let me summarize.

SENATOR HAINES: Right.

MR. SNYDER: These are both very important bills to the Department of Transportation and to the employers in the State of New Jersey. We encourage this Committee to move both of these bills out today, if at all possible.

SENATOR HAINES: Thank you, Jim.

Questions?

SENATOR COWAN: Is there anyone else testifying on the bills, Mr. Chairman?

SENATOR HAINES: Oh, yes. There are several people testifying. Dawn is going to testify.

Dawn?

MS. PERROTTA: Peter has copies of my written testimony, if you wouldn't mind passing it out? I will just, in three sentences or less, certainly reinforce everything Jim has said. We really appreciate your co-sponsorship with Senator Rand on these bills, as well as Senators Cowan, Ciesla, and Corman.

The incentives are critical to employers' successful compliance with the traffic reduction. Employee participation will be motivated by the incentive.

We really appreciate your releasing both from Committee today, and I'll be happy to answer any questions.

SENATOR HAINES: Dawn, I can't promise that we'll release them, because I don't know how the rest of the Committee is going to vote.

MS. PERROTTA: Okay.

SENATOR HAINES: But I think they will be released.

MS. PERROTTA: I appreciate your hope that they will be released.

SENATOR HAINES: Thank you.

Any questions? Senator Scott?

SENATOR SCOTT: We mentioned a fiscal note here. We don't really know the dollar amounts, do we? Do either one of you-- Do we have a dollar amount and the impact on the employer?

MS. PERROTTA: I can say-- The impact on the employer?

SENATOR SCOTT: On the employer and the State. I'm trying to get a number on both, somehow.

MS. PERROTTA: Jim, through the Department of Transportation we have received some figures from--

MR. SNYDER: Right.

MS. PERROTTA: Do you want to go over those?

MR. SNYDER: First, the Department of Treasury is not here. I believe they have estimated the absolute maximum dollar figure if every employer fully subsidized every employee. That figure is in excess of \$20 million cost to the State.

MS. PERROTTA: Could I just interrupt and say something, please? As Jim said, not all companies will have to ask a full 25 percent of their employees to participate. Some employers may be very close to their goal.

For example, if the AVO in a region is 1.1, and the companies' ATO has to become 1.38--

SENATOR SCOTT: Dawn, let me stop you. We understand that.

Another problem I have, the \$20 million is farfetched, because obviously, not every employer is going to have to do with every employee.

MR. SNYDER: Right.

MS. PERROTTA: Yes.

SENATOR SCOTT: So that really, we can discount \$20 million, completely. I am upset on this bill coming back to us now. It was taken out of the original S-35 as a potential debt burden on the State, that we were going to lose money. It was taken out in order to get S-35 through both Houses and signed. Here we are, back in December some six months later, and we're saying now it's okay, because now the employers say they need it.

MS. PERROTTA: Senator Scott, if I may interject.

SENATOR SCOTT: Just a moment, please -- just a moment. The employers are saying they need it. Somebody said, "Why do they need it now, and they knew they couldn't get it

through back in July?" Now we see in December, we're coming back with the wording that was put through in July and taken out -- deleted -- on the original bill.

That upsets me, and I want to know what happened to suddenly make this agreeable to everybody?

MS. PERROTTA: All right. This is not really a new movement. It made it through the Senate Appropriations Committee with no problem.

SENATOR SCOTT: This bill?

MS. PERROTTA: This bill. This is still contained in the original bill. However, when it reached the Assembly Appropriations Committee, this was-- It was two weeks after the Fiscal Year '93 budget had been released. Chairman Frelinghuysen really had what I think are some genuine concerns about providing for tax incentives for employers. The incentive for the employees is no loss of revenue to the State. Anyway, there were genuine concerns within the Committee about doing something that would add to the cost.

SENATOR SCOTT: Wait a minute. You just said it won't cost the State -- this tax--

MS. PERROTTA: The employee incentive is no loss of revenue to the State because it's an exclusion of income never previously taxed.

There are two pieces to this: The employee incentive, being allowed to withhold his income, or not to have to count his income up to \$720 a year.

SENATOR SCOTT: Let me ask you something. We knew this all along. I knew this bill was coming the day after the vote on S-35. The day after it was taken out, I knew this was coming back for us to vote yes on, to provide the employer incentive.

MS. PERROTTA: Right.

SENATOR SCOTT: And I have a real problem with getting legislation through under the guise of fiscal austerity. We

pull some revenue portions out and get it passed, only to come back and revisit this particular legislation six months later.

MS. PERROTTA: Senator--

SENATOR SCOTT: And now we're going to pay. And that's what we're asking to do.

MS. PERROTTA: Senator Scott, it was deleted because at that point in time the economy was in very bad shape.

SENATOR SCOTT: Is the economy in good shape right now?

MS. PERROTTA: It has not improved dramatically, but there are some chances of improvement.

May I just say that Assemblyman Frelinghuysen promised that he would revisit the issue when, ideally, the economy would be in better shape. We're seeing signs of encouragement. Respondents to our recent survey indicated they have some hope.

And Senator, if I may say, you have been fairly critical of this bill which implements a Federal requirement that the State has to comply with. Without these incentives, companies won't be able to comply.

SENATOR SCOTT: Well, we did what was necessary as far as complying with the Federal mandate. You know my views on that. We went well beyond. I doubt very much if the Federal mandate said, "Now you must give the incentive to the employee," and so on. That was not in there. Don't tell me that's a part--

MS. PERROTTA: It's not a requirement.

SENATOR HAINES: Excuse me. I think what we did in the original bill was to comply with the Federal mandate. And I don't think we have to pass this legislation. I mean, we can just let the employer hang out there.

But I think it's important that we do pass this legislation because if we do pass it, it gives the employer an incentive, and it makes it fairer to everybody involved.

So I think there are two different subjects -- at least they are as far as I'm concerned -- and that's why we're looking at this today.

And as I said before, the financial aspects of the thing would be better served, rather than be redundant, would be better served in a joint meeting with the Appropriations Committee. And I think that's what we'll do..

But if there is major opposition, and major opposition from the Committee as well as from the outside, we do not have to move these bills today.

MR. SNYDER: May I add that the ultimate Federal mandate is to get the number of vehicles on the road reduced, and these incentives will be very effective in achieving that goal.

MS. PERROTTA: And may I also add to that, that if the goal isn't achieved-- If employees feel no motivation for participation, companies will be out of compliance. If companies are out of compliance, the State will be out of compliance, and we could face the loss of Federal highway funding, or other sanctions.

Just to clarify for Senator Scott, I'd like to emphasize that BIA continued to support S-35 very strongly, because we needed that bill to implement the Federal requirement for many other reasons. But we continued even after the deletion of these incentives because we were assured by Chairman Frelinghuysen, Senator Rand, and Assemblyman DeCroke that they would revisit the issue because there is an understanding that without these incentives, employers and employees will not feel the motivation to participate. We really believe there should be some State support in the situation that's being imposed upon us.

SENATOR SCOTT: I don't doubt you support this bill -- BIA.

SENATOR HAINES: I think that human nature-- You know, I'm skeptical about the whole concept myself, but I'm willing to listen. I'm willing to try it, because it's a good idea. Human nature is another thing. Whether you can get people out of the single occupancy vehicle into some other mode, and whereas in South Jersey, where I live, there isn't any transit or very little transit, there is not an alternative in some areas of the State.

How do we accomplish this? Pureland, for instance is down south of us, and Pureland, there is no traffic on any of the highways around there. There are no buses. There is no public transportation around there. A lot of the people are traveling from Pennsylvania and are outside of our jurisdiction, right across the bridge.

How do you accomplish this in there like this, I haven't got a clue. But I am willing as a member of this Committee to try it, and I think that's what we've got to do. We're mandated, Federally, to do this, so I, you know-- That's the reason I'd like to see it passed, and let's try it.

MR. SNYDER: We agree entirely.

MS. PERROTTA: Absolutely.

SENATOR HAINES: Any more comments for these folks?

All right. The next speaker is Shannon Gibson from the New Jersey State Chamber of Commerce.

S H A N N O N M. G I B S O N: Hi. Good afternoon.

SENATOR HAINES: Welcome.

MS. GIBSON: I'm Shannon Gibson, and I recently joined the State Chamber as a Legislative and Regulatory Analyst.

SENATOR HAINES: Can you get a little closer to the mike?

MS. GIBSON: Sure. (witness complies) In the interest of brevity I guess I could do one of two things: I could read excerpts from my prepared testimony, which I would prefer to do; or secondly, I could simply say that the State Chamber is in support of both S-1320 and S-1321.

SENATOR HAINES: You've said it all. Now, are there any questions? (laughter)

Senator Scott? (negative response)

MS. GIBSON: If that's the case, I would just encourage you to read the written testimony. I'm not in a position to say too much on the financial impact of those bills. However, I do try to highlight some of the more basic points of the argument.

SENATOR HAINES: We will have an opportunity to do that at a later date.

MS. GIBSON: Okay.

SENATOR HAINES: Thank you.

Carol Kar?

C A R O L K A T Z: Katz.

SENATOR HAINES: Oh, Carol Katz, for God's sakes, John Sol-- Anyway, New Jersey Motor Bus Association. We've got Bill Revere, John-- I don't know who writes these things--

MS. KATZ: I wrote it.

SENATOR HAINES: --but I can't read this. I can't read my own writing, so it's okay, you know.

MS. KATZ: Good afternoon Mr. Chairman and members of the Committee. I'm Carol Katz from IMPACT, here today on behalf of the New Jersey Motor Bus Association. I'd like to introduce Bill Revere from O.N.E. Bus Corporation, and John Solomita from South Orange Avenue Bus, both members of our Association.

Our Association supports S-1321 and the Legislature's efforts to promote mass transit. But we urge you to amend the bill -- and I do have copies of my testimony and our proposed amendments -- to ensure that all commuting workers have an opportunity to benefit from the incentives offered in this bill.

Passengers on virtually all regular, intrastate routes operated by private carriers are currently not eligible for the Bus Card Program, which is administered by New Jersey Transit

for its own routes. As I have testified here before, the Bus Card is a monthly pass for unlimited rides within a specified zone. It provides an incentive for commuters to use mass transit, which is just what we're trying to do here, and for the purposes of this bill, it could serve to document employees' transportation costs.

Unfortunately, riders on privately operated routes must drop coins in a box each time they take a bus. Without an amendment to this bill they would continue to be denied the discount offered to New Jersey Transit riders, and would have no convenient means to document their commutation costs.

We ask that you include passengers of privately operated carriers in the Bus Card Program on the same basis as they are currently included in other discount programs such as the ones for senior citizens, handicapped riders, and school children. In those programs, private operators are reimbursed for the difference between the discount and the full fares.

We have been before you with this issue most recently with regard to S-35. At that time we were told, "Well, it's a good idea, but it doesn't really relate to S-35." We think it relates very much to S-1321 because the Bus Card would give our passengers a means to document their commutation costs. Without it, they have to collect receipts -- 40 receipts a month, or something like that. It's not feasible for the private operators to do that. It's an unfair disadvantage, and it puts a burden on the workers who ride our buses, and the employers.

SENATOR HAINES: Are there any comments from the Committee?

SENATOR SCOTT: Carol, from what I gather, you want to have your buses issue passes to the employees?

MS. KATZ: No, no, no. The bus-- Why don't I let Bill describe the Bus Card Program a little bit. It's not a pass for the employer; it's a discount pass for riders. New

Jersey Transit riders can currently avail themselves of this. It's a discount, monthly pass, but private operators aren't part of the same system, and their passengers can't avail themselves of the same discount.

W I L L I A M S. R E V E R E: Basically, if the privates weren't in it, you'd have a system out there that all the public couldn't use. There would be certain lines where they could go out and use the transit check, and other lines where they couldn't. With the Bus Card, it's a vehicle that allows all the public to use. If we had it on private lines, then the people that we serve could go out and use the transit check and get the discount and promote mass transit. But not being part of it, there would be no way they could be incorporated into that.

SENATOR HAINES: In other words, the company involved buys the Bus Card?

MR. REVERE: No. The passenger buys the Bus Card.

SENATOR HAINES: Well, who pays for it?

MR. REVERE: The company. Okay.

SENATOR HAINES: That's what I'm talking about.

MR. REVERE: Okay.

SENATOR HAINES: The company could buy part of it, could subsidize the Bus Card is what you're saying?

MR. REVERE: Right. Exactly, exactly. And they don't have that available to them with the privates.

SENATOR HAINES: Well, does this have to be an amendment to the current bill? To me it's available now if you make it available.

MR. REVERE: Some of the privates aren't allowed to be in it.

MS. KATZ: We'd also like it to be issued on the same basis as the current discount programs are. In other words, that the privates would be reimbursed for the difference between the discount fare and the full fare. It's consistent

with other programs which have, historically, included the private carriers. This is the only one that doesn't. We think we operate more efficiently than New Jersey Transit, but we don't have a 45 percent cushion in our fares, which is basically the discount that's offered.

MR. REVERE: Just by including the privates, you allow everyone to use what we are talking about here today.

JOHN M. SOLOMITA, JR.: There are entire areas that can't avail themselves of that, like most of Hudson County.

SENATOR HAINES: I would ask the Chairman, if he wants to look at this and wants to entertain an amendment at this point. At the same time, I would like to have, while he is looking at this, Shirley DeLibero, if she could come forward and defend New Jersey Transit. Is she here? (affirmative response)

SHIRLEY A. DELIBERO: There is an opportunity for them to have their own cards if they so choose. But if we gave them our cards, it would be an additional subsidy that the private carriers would be getting. That's additional money. If they want something just so they can have proof of payment, they're certainly welcome to put their own cards in -- the private carriers -- but what they want is to be involved in our Bus Card Program which gives our patrons a discount, and I would have to give them an additional subsidy discount.

SENATOR HAINES: It seems to me that -- and I will just be arbitrary at this point -- that this is a separate item--

MS. DELIBERO: I agree.

SENATOR HAINES: --and that it should be discussed at a separate time. It will be discussed. We'll take it up again. I understand what you're trying to do, and we certainly think that a Bus Card is a good way to handle the situation, but I don't think it should be part of this particular legislation at this time.

MR. REVERE: If I could just make one comment: If we were to have our own Bus Card Program, if I had to take two or three different buses, then I would have to go out and buy two or three different cards. It would be duplication.

SENATOR HAINES: I understand. I understand what you're saying.

MR. SOLOMITA: Just one last point, Senator. There are large areas, heavily populated in New Jersey -- for example, Hudson County -- that don't have the Bus Card, and we're eliminating a very large percentage of the population, a population that is very dependent on mass transit.

SENATOR HAINES: Well, I think your Bus Card is a very good idea, but I don't think it has to be part of this legislation. That's all I'm saying.

MS. KATZ: Mr. Chairman, we appreciate your commitment to take it up again, and we'll be back with you again.

SENATOR HAINES: Okay. Thanks..

MR. SOLOMITA: Thank you.

MR. REVERE: Thank you.

SENATOR HAINES: I think we have Linda Nowicki from New Jersey DEPE, and that will close down discussion on this particular bill.

L I N D A N O W I C K I: Thank you, Senator. Our Department just wanted to go on the public record that we are in support of it. We think that the economic incentives are important for the successful implementation of the Employer Trip Reduction.

SENATOR HAINES: Thank you very much.

Are there questions?

Senator Cowan?

SENATOR COWAN: I move the bill, Mr. Chairman.

SENATOR HAINES: The bill has been moved. Is there a second? (no response) There are some technical amendments. Are they okay with the sponsor? (no response) The technical amendments are okay. The bill has been moved; do I hear a second.

SENATOR RAND: I'll second it.

SENATOR HAINES: Senator Rand seconds it.

Roll call. We have one vote for it already.

MR. MANOOGIAN (Committee Aide): S-1321, with amendments. Senator Cowan?

SENATOR COWAN: Yes.

MR. MANOOGIAN: Senator Rand?

SENATOR RAND: Yes.

MR. MANOOGIAN: Senator Corman has signed in the affirmative.

Senator Scott?

SENATOR SCOTT: No, not until I get a fiscal note and find out what the cost is that's involved.

MR. MANOOGIAN: Senator Haines?

SENATOR HAINES: Yes.

The bill is now released. We need a motion on 1320 to be moved.

SENATOR COWAN: Move the bill.

SENATOR HAINES: Moved.

SENATOR RAND: Second it.

SENATOR HAINES: Moved and seconded, 1320 has been moved and seconded. I ask for roll call.

MR. MANOOGIAN: S-1320 with the amendments: Senator Cowan?

SENATOR COWAN: Yes.

MR. MANOOGIAN: Senator Rand?

SENATOR RAND: Yes.

MR. MANOOGIAN: Senator Corman has signed in the affirmative.

Senator Scott?

SENATOR SCOTT: No.

MR. MANOOGIAN: Senator Haines?

SENATOR HAINES: Yes. That bill is released.

Now we will have discussion on S-1384, and we have a hold over here, Solon Kara-- I'm having a little trouble pronouncing it, which is not unusual for me. Solon, can you come forward and make your statement? He's from the Great Northern Trolley.

SOLON KARAKOGLU: Senator Haines and members of the Senate Committee, I thank you for providing me with this opportunity to express my concerns over a matter which cannot be overlooked; a matter which involves over \$1.4 million in taxpayers' money.

This hearing, and this Committee right here, has restored my faith in our State government. My company, Great Northern Trolley of New Jersey, a New Jersey public utility authorized to conduct passenger services by the New Jersey Department of Transportation, was the lowest bidder on N.J. Transit's RFP No. 93-010. This RFP involved the operation of transit buses in Monmouth County, which was formerly operated by Monmouth Bus Lines. Although we were the lowest bidder, New Jersey Transit staff awarded the bid to a Tennessee company, TCT Transit of Knoxville, Tennessee. TCT Transit, by the way, is not a public utility of New Jersey, and therefore has not passed the stringent safety requirements of New Jersey.

N.J. Transit stated in the hearing of December 3 that my bid price was not considered because in their technical evaluation, Great Northern received 57 points instead of the required 60. This procedure was not outlined in the bid specifications. N.J. Transit's bid specifications made no mention of this point system, nor did it mention that this bid would be evaluated as two separate parts -- a technical portion and a price portion.

The method of selection was outlined in the RFP, which I have here, and you will get copies of. The only elements mentioned were that the award of the contract would be based on the price, which was 60 percent, and the company's ability and qualifications, which was the other 40 percent.

N.J. Transit did not follow their own bid rules for method of selection. I have been advised by government purchasing agents and private purchasing agents, that for this fact alone, the award should be rescinded. Great Northern Trolley, the lowest responsible bidder, believes that N.J. Transit should not be permitted to deviate from their specifications.

What is really amazing is the defects which N.J. Transit indicated as to their reason for giving my company 57 points instead of the required 60. Number one, Shirley DeLibero indicated at the last hearing that Great Northern lost points for our garage. N.J. Transit's maintenance supervisor, Mr. Berkshire, admitted that TCT parks all their buses outdoors, and that at my garage, which was the former Monmouth garage, you can park all buses indoors.

Why did I lose points for this? Everybody knows that if you park vehicles indoors they work a lot better the next morning. The grease in the wheels is better lubricated, it's not frozen. The batteries are a lot stronger, and the buses start. The oil in the engine does not thicken up, there is no problem starting the vehicles, and you can provide on time service.

Only one company operates out of this Monmouth garage, whereas N.J. Transit admitted that a trucking company also operates out of TCT's garage. Why did I lose points for being the sole operator at the Monmouth garage? Mr. Berkshire admitted that TCT's garage is a two-bay work area, and that up to four buses could be worked on at once. Although I disagree with Mr. Berkshire due to the square footage of TCT's garage, I will accept his statement. In my garage you can work on over a dozen buses at once. Why did Great Northern lose points for being able to work on multiple buses at once?

N.J. Transit criticized our garage for lack of service pits. There are no service pits at TCT's garage, and I have their own consultant's report that says service pits are a

hazard and should not be used, hoists should be used. That's what we will use. I have their consultant's report, which was Wilbur Smith and Associates, where this is indicated.

It appears to me that any impartial person who was on this evaluation board would have not favored TCT's garage over Great Northern's. The facts are there. Even though my garage was superior -- and I can challenge anybody, we can hire consultants to study them -- they gave TCT Transit five points more than I did. And keep in mind that I-- They didn't look at my price, because I lost. I was three points below the sixty.

New Jersey Transit disagreed with my miles per gallon that was listed in our proposal, however, they did not substantiate their position with any facts. They just made a statement. Great Northern listed a 4.0 miles per gallon. This figure is accurate according to the American Public Transit Association for a 40-foot transit bus. I have a letter here from Terry Bronson, Manager of Statistics from the American Public Transit Association which indicates that the Mid-Atlantic Region average for a 40-foot transit bus is 4.0 miles per gallon. Why did I lose points for that? Why did Great Northern lose points for their miles per gallon listing when we were right on the money?

N.J. Transit criticized the ratio of maintenance personnel to the number of buses. We listed five mechanics for a peak operation of 18 buses. I have their own consultant's report, from Wilbur Smith, that states there should be one mechanic for every 3.25 buses. I believe we were in the ballpark there as well, and our safety supervisor is also a master mechanic, if need be. This way we would be way over the 3.2. Yet they still ignored this.

To this day TCT has only hired four mechanics, but we heard from the last meeting that they had tighter controls. TCT says they have a five member management team in their

proposal. There is only one manager down there who flies home every Friday night to Tennessee, to spend our profits.

The State's own consultant-- I'm saying things and I'm substantiating them. They haven't substantiated anything yet. I will give you copies of their own consultant's report.

N.J. Transit didn't like our mechanics, and I believe we had sufficient mechanics to have a sufficient preventive maintenance program. Again, we lost points for that, and all I'm trying to get is three points here, so they could look at my price.

The last major thing that they said I did not understand was the run guides. I think the only people who didn't understand the run guides was this Tennessee company, who listed 16 peak period buses, when 18 are required. And yet they criticized my run guides. Also, due to the fact that they only listed 16, and later at an evaluation negotiation they were told they needed 18, these people were allowed to raise their price over a six-figure amount after the bids were opened.

Now this to me is totally unconscionable. If you're going to negotiate with a State agency, your price should go down; it shouldn't go up. So again, points were deducted because I didn't understand.

Let me just finish up here. In summation: N.J. Transit has made statements. They haven't supported them; there are not facts presented. Therefore I conclude that the bid process was biased, that it favored a particular company, and that the award was unfounded and unjust. The flaws alleged with Great Northern's proposal are minor, at best, and could have been satisfactorily answered if Great Northern had the opportunity, as did this Tennessee company, to explain themselves -- not to come to a hearing like this to explain myself.

I would just like to add that New Jersey Transit staff reviews all these RFPs. There should be an impartial person present when they are doing this evaluation. In this way we would know that the private contractors will get a fair share. In this time of hard economic times and State layoffs, \$1.4 million can go a long way. I don't believe the State should pay a dime more than they have to to receive better service for what they are trying to pay for now.

In light of the facts brought out here today, in the name of honesty, justice, and fairness, Great Northern respectfully asks this Committee to recommend to New Jersey Transit to rescind the contract they awarded to the out-of-state, Tennessee company and award it to the proper bidder, Great Northern Trolley.

I would just like to leave with one last thought. Just imagine a New Jersey company that has no experience in transportation that goes to Tennessee -- or let's say even a state like Arkansas -- and they go to Tennessee and there is a Tennessee company there that has experience, that is a Tennessee public utility, that was \$1.4 million cheaper. What decision do you think the Tennessee board would have made? I think that's quite obvious.

Thank you for your time.

SENATOR HAINES: I have looked over these figures the same as you have, and everything that you have said today is clear to me. I know, because I have a lot of equipment, that it is far better off kept inside. I would even add a few more things to what you said. I mean, there is less of a moisture problem. There are a lot fewer problems when you keep equipment inside.

I don't understand why this bid was awarded to a company outside of the State, when you had all the attributes on your side. Are you suggesting a criminal indictment at this point, of New Jersey Transit?

MR. KARAKOGLU: I'm just suggesting-- I just wanted some facts to be heard because it's been bothering me now for quite a while. That's all I'm trying to do right now, is get some answers.

SENATOR HAINES: I mean, these are taxpayer dollars that are being spent, that are going to an out-of-state company at a time when we can't afford, really, to go to an out-of-state company unless there are good reasons. All I see are good reasons that you should have been awarded that contract.

MR. KARAKOGLU: I agree, sir.

SENATOR HAINES: Are there other questions for--

MR. KARAKOGLU: Let me just add one thing. If they thought my price was too low, and there was a problem, I would have to reach into my pocket and pay for it. If this Tennessee company's price was too high, do you think they are going to give you any money back? I don't think so.

SENATOR HAINES: Absolutely not, absolutely not.

MR. KARAKOGLU: That would have been my problem, not the State's problem.

SENATOR HAINES: New Jersey Transit wants to build a train station in Pennsylvania, and spend millions there. They want to bring a bus company in from out-of-state instead of a New Jersey bus company. I wonder if the leadership in New Jersey Transit knows which State is paying the taxes? (applause)

Senator Scott, did you have a question?

SENATOR SCOTT: Not a question, Mr. Chairman, but I think this should definitely be followed up and looked into in this particular contract. And to see if there is any-- If this is a pattern, to find out if it's a pattern of awarding contracts, because I think it is serious, when a State is going to seek, and come in, and take over, based on the testimony that we heard. Thank you.

SENATOR HAINES: Thank you very much, Solon.

Shirley, do you want to make any statement at this point, or not?

MS. DeLIBERO: Mr. Chairman and members of the Committee: When I was here last week you asked me to respond. I have sent to you a response that you probably haven't read yet, and I would ask you to do that.

SENATOR HAINES: We will certainly read it. I didn't want to read it while he was speaking.

MS. DeLIBERO: I understand that.

SENATOR HAINES: We will go over it.

MS. DeLIBERO: It will give you every rationale why the bid was awarded the way it was. I would like to stipulate, also, that New Jersey Transit does not have the option to award bids any way they would like. We are under the Federal mandate, because we receive Federal funds. We are under the scrutiny of the procurement of the Federal government. They oversee every procurement we have. That's why every bidder who feels that they were not treated fairly has the opportunity to come in and put in a protest, which Northern Trolley has sent us a letter from their lawyer. At that time, all of those things will be surfaced.

When we did the bid, we looked at every option, and we looked at the maintenance, and we looked at-- It is not-- We do not put in the proposal that we would be looking at the qualifications prior to opening. That's a process. But we did say that cost, as well as the qualifications would be taken into place.

I can tell you that I have been before this Committee, and I have been before the Appropriations Committee, and certainly have gotten reamed on the fact that I have not -- that our private carrier program was not tightened up, and we did not look at maintenance at the proper intervals. We did not look at where this equipment was being maintained. We have

put together, on the private carrier-- And I have demanded from my staff that we start scrutinizing, and have tighter commitments, and have tighter qualifications. That's what I'm trying to do, and that's how this was awarded.

I believe that you will see, once you read this, that this award was awarded fairly.

SENATOR HAINES: Well, we certainly will read this information that you've--

MS. DeLIBERO: Thank you.

SENATOR HAINES: And I appreciate your giving it to us, but we just got it.

MS. DeLIBERO: I understand. By the time you asked me to get the miles, and all that, it took us this while to get it. I did not know that this was coming up today.

SENATOR HAINES: But I can tell you very honestly, the presentation that Solon gave us, that information seems to be solid. And I agree with everything that everybody has said. Keeping a bus indoors, it makes it-- It lasts longer. There is no question about it.

MS. DeLIBERO: Clearly, if that was the only criteria that was used, whether it was housed inside or outside, I would agree to that. But there were many other things, and I would certainly ask that you look at our explanation, and we will certainly answer any further questions that you may have.

SENATOR HAINES: Well, I appreciate your coming, and I appreciate your statement. We will look over the information and so forth.

MS. DeLIBERO: Thank you.

SENATOR HAINES: We may not be through with this issue, though, however.

MS. DeLIBERO: I understand that, Mr. Chairman.

SENATOR HAINES: Thank you.

We're going to--

SENATOR RAND: May I ask one question?

SENATOR HAINES: Yes. Senator Rand? I'm sorry.

SENATOR RAND: Madame Director, has the decision that the court has handed down -- I think Wednesday or Tuesday of this week -- made any difference in the contract, in the Monmouth County Bus situation?

For your information, Mr. Chairman, the Court handed down a decision which said that New Jersey Transit has to put these people back to work as the original contract calls for. I don't know what the new contractual obligation is, but for my own mind, I'd like a clarification of that issue.

MS. DeLIBERO: The Attorney General's Office is in the process of an appeal to the Supreme Court, so that's pending, Senator Rand.

SENATOR RAND: In spite of the judge's ruling that you had until today to put these people back to work?

MS. DeLIBERO: Yes. We went to Appellate for a stay, and that was denied. And then the Attorney General has gone to the Supreme Court, so until that ruling is found, then we'll have to-- If it's lost in the Supreme Court, then we will have to comply, yes.

SENATOR RAND: Through you, Mr. Chairman. If the Supreme Court upholds the right of the contract, may I ask what that does to the Monmouth County bus situation?

MS. DeLIBERO: It would leave the Monmouth County bus situation the way it is.

UNIDENTIFIED SPEAKER FROM AUDIENCE: The way it was.

MS. DeLIBERO: The way it was. No, the way it is.

Oh, if they uphold the decision that they have made in the lower court, then it would put the employees that were in Monmouth County back in employment, yes.

SENATOR RAND: And who would be running the system?

MS. DeLIBERO: TCT would still run the system, but they would have to employ those workers. They have some of those workers employed now. They would have to employ all of them that could meet the criteria.

SENATOR RAND: It would not change the contract -- the contractual obligations -- they have with you?

UNIDENTIFIED SPEAKER FROM AUDIENCE: That's correct.

MS. DeLIBERO: I would not say that because-- Let me tell you what would happen: The costs would have to go up, because now we're--

SENATOR RAND: That's what I'm driving at.

MS. DeLIBERO: Yes, yes. The costs would have to go up. I would have to bring TCT back in to negotiate the new salaries that they would be forced to pay.

SENATOR RAND: Why couldn't you open the process up again, if there is a new ingredient in here, and let New Jersey Transit bid, as well as any other private contractor? (applause)

Lest we all forget, that this is not privatization by the private sector. This is subsidization by the private sector, as well as the public sector. Let's understand what we're talking about here.

MS. DeLIBERO: Senator Rand, if it's upheld in the Supreme Court, we would certainly get the-- I'm not sure. I don't want to say anything off the top of my head, because I would have to get the Attorney General's ruling on whether we could just take away from the TCT. But if that was not a problem, then we would renegotiate.

SENATOR RAND: The reason I say that is, I had the list -- and I'm not going to read it -- how many buses you've given. I think it's \$140 million worth of buses. You've given reduced fare programs -- \$350,000 reduced fare for senior citizens. Estimates -- nothing secure, but just the estimates that they give you -- \$6 million we give them in subsidies.

MS. DeLIBERO: The private carrier program.

SENATOR RAND: That's correct.

MS. DeLIBERO: You're absolutely right.

SENATOR RAND: This is subsidization by the taxpayers of the State of New Jersey. This is not the private sector running buses, or running rail. It is being subsidized. And I would like to-- While we're on that subject, Mr. Chairman, I would like to know on that contractual obligation that New Jersey is subsidizing, I'd like to see some of the salaries that are gotten by the private carriers and their affiliates. It would be interesting to note that.

MS. DeLIBERO: I believe that's public record in the Department of Transportation, and I'm sure they could send that to you.

SENATOR RAND: Can we obtain that, and can the Chairman get a copy of that?

MS. DeLIBERO: Let me ask someone from the Department of Transportation.

SENATOR RAND: Is that all taken into the bid contract?

MS. DeLIBERO: Absolutely. When they put in their bid amount, it's with their salaries and their profit margin in mind. There's no question about that.

SENATOR RAND: Well, some of the salaries that I've seen make yours look infinitesimal, Senator Scott -- infinitesimal. I would like to see some of that, and if you could get some of that to the Chairman, I would appreciate that.

MS. DeLIBERO: I believe it's the Department of Transportation. Paul, do you have it?

UNIDENTIFIED SPEAKER FROM AUDIENCE: I don't have it on me.

MS. DeLIBERO: No. You'll get it.

SENATOR HAINES: Could you get it to each member of the Committee?

SENATOR RAND: I think it would surprise the members of this Committee when they see some of the salaries of management. Then they'll learn about salaries. (applause)

MS. DeLIBERO: They will send it.

SENATOR HAINES: Thank you, Senator Rand.

Thank you very much, Shirley.

MS. DeLIBERO: Thank you.

SENATOR HAINES: And Senator Rand, I agree with you. I think we ought to have this information.

Okay, we're going to continue with S-1384. Paul Chrystie, again. Paul?

P A U L D. C H R Y S T I E: Senator Haines, I'll try to get through Commissioner Downs' testimony as quickly as possible.

SENATOR HAINES: We appreciate that very much.

MR. CHRYSTIE: Thank you. This is, as I say, Commissioner Downs' testimony.

"Thank you for the opportunity to provide my opinion on S-1384. Before outlining my concerns with this legislation, I'd like to assure you that I do not oppose competitive bidding and the use of private companies to provide bus transportation. Used correctly--"

SENATOR HAINES: Excuse me. He said he cannot oppose? Is that what he said?

MR. CHRYSTIE: He does not oppose competitive bidding.

SENATOR HAINES: Does not oppose. Okay. I'm just clarifying it.

MR. CHRYSTIE: "--and the use of private companies to provide bus transportation. Used correctly, this is good public policy, delivering service to New Jersey at a savings.

"Currently in New Jersey, those routes operated by private carriers are not truly private bus service. Private bus operators receive buses, fare boxes, State fuel tax exemptions, support equipment, and other capital investments provided with both Federal and State dollars. In fact, the private carriers are currently using over \$160 million in publicly funded equipment, and over 74 percent of the private, peak hour fleet, is, in fact, publicly owned.

"I would argue that this bill also does not privatize bus services. It is the further subsidy of private interests with public dollars. As the legislation stands now, the private carrier will turn over fare box revenue to N.J. Transit, and will be paid a fixed price for running the route or routes. If ridership declines, even if the cause is quality of service, the private carrier receives the same payment. If the ridership increases, even if the private carrier had nothing to do with the increase, the private carrier keeps the extra revenue.

"Where is the risk for the private carrier? If ridership is unchanged, the carrier makes money. If ridership decreases, the carrier makes the same amount of money. If ridership goes up, even if that increase has nothing to do with the carrier's performance, the carrier makes more money.

"Free enterprise is a balance of risk for profit potential. There is no risk for the private carriers in this proposal, only profit at the expense of the riding public and the public at large.

"As I said earlier, I do not oppose competition for service when done in a rational and businesslike manner. However, I do not believe that this legislation will foster careful and measured use of private bus carriers. Rather, by including artificially mandated goals, the legislation could force the bidding of route packages that does not make good business sense.

"Furthermore, no one has yet provided any figures that show how this proposal will save the State money. In fact, I would argue that this proposal is guaranteed to cost the State money. A look at the history of the bill on the Assembly side outlines the difficulty one finds in making a mandatory process both cost-effective and workable. The original Assembly version provided no protection for full-time N.J. Transit employees. Such legislation is bound to cause invocation of

13-C provisions that are currently delaying over \$300 million in Federal funds to the State. As amended on the Assembly floor, the bill provides that no full-time employee shall be laid off as the result of contracting out of bus service. As labor is a significant majority of the cost of bus service, and the layoff protection would negate any significant labor savings, as amended the bill would cost the State money. While part-time employees could be laid off, N.J. Transit, as is done in the private sector, uses part-time employees to increase efficiency. As amended, the Assembly version would mandate that N.J. Transit become less efficient without realizing any cost savings.

"Furthermore, the argument that this bill will necessitate worker cuts only by attrition doesn't add up. Assuming that the attrition rate is 5 percent annually, some supporters have argued that 5 percent of service could therefore be bid with little or no difficulty. Such an argument, however, ignores the provision in the bill which calls for 10 percent of the routes to be bid, or Transit is to explain to the Governor and the legislative leadership why they didn't reach the goal. Obviously, reaching the bill's goal of 10 percent would require significant cuts above and beyond any 5 percent attrition rate.

"The attrition argument also fails to recognize that N.J. Transit is a statewide operator. To assume that bidding out 5 percent of routes in northern New Jersey can be offset by attrition ignores the fact that some of the attrition comes from employees in southern New Jersey who have nothing to do with the package of routes bid.

"Furthermore, there is no accountability in the legislation. The Commission would make all decisions regarding packaging and quality of bus service, regardless of any input from N.J. Transit or NJDOT. The bill also removes accountability to the Legislature. In testimony before the

Assembly Transportation Committee a private carrier stated that, 'Unlike New Jersey Transit, the private companies did not have to bend to legislative will.' I would put forth that the need to be accountable to the Legislature is the reason that N.J. Transit has better service with fewer complaints than the private carriers. You control the budget, and as such, Transit needs to be responsive to your concerns, which are the concerns of your constituents, the riding public.

"In addition, you called Shirley DeLibero before you last week, and again today, to discuss how and why a bus contract has gone to an out-of-state company. If this bill is passed, more bus contracts will be going to out-of-state companies. If the concern of the Committee is New Jersey work going to out-of-state persons, this bill would only exacerbate that concern.

"Finally, an examination of the financial issues surrounding this bill gives an ironclad reason not to report the legislation. The numbers don't add up. So far there have been three hearings on the bill. No one in any one of those hearings has provided any hard and fast numbers as to how this will save the State money. In fact, if we look at the history your Committee requested of N.J. Transit, and provided by Shirley DeLibero in her letter to Senator Haines, one could logically argue that the opposite is true. If one compares the growth in State subsidies when the system was under Transport of New Jersey to the growth in State subsidies to N.J. Transit, one finds that the subsidy necessary through the 1970s grew at a rate 50 percent greater than the annual growth under N.J. Transit.

"And what did the State of New Jersey get for that significant growth in subsidy to private carriers: A 45 percent drop in ridership. Shirley DeLibero outlined for you last week that Senators Gagliano and Rand had pleaded with private carriers to pick up riders in their district, but no private carrier was willing to do so.

"This is not to say that there is no place for contracting out of bus service. N.J. Transit is continually looking for appropriate routes to contract out, and is, in fact, a national leader on this issue. Private carriers, through a rationally thought-out and carefully overseen process, already provide over 50 percent of bus service in New Jersey, and that percentage has been steadily increasing since the 1980s. However, this proposal requires that routes be contracted out regardless of cost to the State. Until someone comes before this Committee with quantifiable and verifiable figures as to the cost savings this bill would create, and that those cost savings could be achieved without reducing the quality of service to the riding public, I would recommend that you hold this legislation."

I'd be happy to take any questions. (applause)

SENATOR HAINES: Now look, if you're going to make noise and demonstrate, you're all going to go. That's not the way to hold a public hearing.

I will say at this time, I am probably going to have to follow your recommendations. I do not have enough votes to get it out of Committee today.

If other people have a high priority to speak, I will entertain them. If not, we'll leave here without voting the bill out of Committee.

Is there a high priority here to speak?

M I C H A E L S I A N O: Well, I think, not too much on the bill itself, but I think we should clear up the Monmouth Bus situation, you know, while I'm here, anyway, because I'm involved in that. And the Monmouth Bus where--

SENATOR HAINES: Well, I think that we cannot clear up the Monmouth Bus situation until the courts get done.

MR. SIANO: You're right. And I'm involved in the court situation. So what I want to do is, there were statements made here last week by Ms. DeLibero, and again

today, and another gentleman from whatever. I didn't even know he was involved in the bidding process. And all I want to do is say that Senator Rand is correct when he keeps saying, "Why didn't New Jersey Transit bid on that?"

We made an offer--

SENATOR HAINES: Absolutely. We agree with Senator Rand.

MR. SIANO: And I agree with him also, but you have to understand, there were two deals made with New Jersey Transit to keep the work. I just want to make sure that everybody understands that, and then those deals were reneged on. And that's entered TCT from out-of-state.

I just want to make sure that everybody understands that.

SENATOR RAND: Mr. Chairman, I just want you to know, there was an agreement reached between the union and New Jersey Transit to run Monmouth Bus, and at the last minute, the rug was pulled out from under. That's what they're questioning, let aside the court case, which has nothing to do with the court case.

MR. SIANO: The court case has nothing to do with anything.

SENATOR HAINES: Well, I agree with what Senator Rand says. The whole Committee agrees with Senator Rand on this thing. I think New Jersey Transit dropped the ball. I think there is no question about it, that almost everybody in the room agreed with you on that. But what we can do -- what our purpose here is to sponsor legislation. At this point I don't think we can sponsor legislation that is going to help the situation until we get the judge's decision on this. That's basically where we are.

MR. SIANO: Well, New Jersey Transit the other day obviously was denied the stay.

SENATOR HAINES: It may be-- At least if I read what I think was said here today, the judge's decision may, in fact, put New Jersey Transit back in the picture. I don't know.

MR. SIANO: I'm not too sure about that either. What I think the judge's decision might have to say is that the contract must follow. And I'm not too sure that TCT is out of the picture yet. I'm not positive of that. But the contract must follow if, in fact, we prevail and if they are able to get through the Supreme Court.

SENATOR HAINES: We need your name for the record.

MR. SIANO: Michael Siano, S-I-A-N-O; International Vice President with the Amalgamated Transit Union, residing in Carteret, New Jersey. So I'm not an out of townner, and I'm not an out-of-stater. (laughter)

SENATOR HAINES: Okay.

MR. SIANO: But only because I realize that we have to get into the bill and that's what we're here for. I have nothing, if that's the case right now. I just wanted to clear up the Monmouth Bus situation, because remember, the 38 citizens -- taxpaying people -- who are out of work right now because of that situation.

SENATOR HAINES: My point is, the bill is not going to move today. It's not going to move this year.

MR. SIANO: Okay, all right.

SENATOR HAINES: If anybody objects to that, I'd like to hear them. But we don't have the votes to get it out of Committee, so we can't do anything about that.

MR. SIANO: We're not objecting to that.

SENATOR HAINES: If you have an emergency and you want to talk about this, it's fine, but there is no action going to be taken today or this year.

SENATOR RAND: Mr. Chairman, might I ask a question, through you, please?

SENATOR HAINES: Sure. Senator Rand.

SENATOR RAND: Senator Haines, you have run a very fair and very equitable meeting, and I congratulate you on that. You've been more than patient and more than fair, and to your credit, I want to tell you that. But I do want to say, if you're ever going to consider the bill in the New Year, would you let these people at least know beforehand and ahead of time, so that they don't read in the paper that the bill was released from Committee?

SENATOR HAINES: I certainly will. The bill will not be released in the New Year without further hearings. I can assure you of that.

MR. SIANO: I'm sure you will. I'm sure you will notify us.

SENATOR COWAN: Mr. Chairman, if you have a record of Mike and the other people who were here, I'm sure they'll be notified by our Committee Aide.

SENATOR HAINES: We will notify all the folks who have listed their names that can appear at a future meeting. We have two problems today: We're short on numbers of Committee, we have bad weather, and I don't have the votes even if they were here.

MR. SIANO: Could we, in fact, leave our names and addresses also so we will be notified?

SENATOR HAINES: Absolutely. If you would, I'd appreciate it very much. Leave your addresses with Peter here--

MR. SIANO: Because we'll try to get 1000 people next time.

SENATOR HAINES: Maybe next time we can get a bigger room.

V I T O J. F O R L E N Z A: Mr. Chairman, my name is Vito Forlenza, and I was going to be one of the speakers here. I would just like to go on record that the Amalgamated Transit Union opposes the bills, and it's no good for New Jersey Transit, and it's certainly no good for the taxpayers of the State, or the employees.

MR. SIANO: That's all in our statement.

MR. FORLENZA: That's in all of our statements.

SENATOR HAINES: Well, you know, in my background situation here, there are two members of this Committee who have not made up their minds, and I'll tell you very honestly, it doesn't do much good to have public hearings when they're not here.

Here comes one of them. We can readjourn the meeting, but I think I said it's going to be concluded, so we'll conclude it.

MR. FORLENZA: We agree.

W I L L I A M B R A D E N: Senator Haines? Bill Braden, from Ocean County Board of Public Transportation. Will you reconsider this bill as it's written, because that's what I wanted to say. Because the Assemblyman here was here last week, and he was pointing fingers and saying, "This is what the bill says. This is what's going to happen." And there were other people objecting to him -- to the way he was interpreting it. I read the bill quite clearly myself, and I object to some of his conclusions.

I wish to state that, once this bill, if it ever becomes law, is not going to be up to his interpretation. It's going to be the courts.

SENATOR HAINES: You will be heard at the next public hearing. Thank you.

The meeting is adjourned.

(MEETING CONCLUDED)

APPENDIX



NEW JERSEY BUSINESS & INDUSTRY ASSOCIATION

Statement

of the

New Jersey Business and Industry Association

before the

Senate Transportation Committee

by

Dawn Perrotta

on

*S-1320 and S-1321
(Rand)*

December 10, 1992

1-X

Mr. Chairman and members of the Senate Transportation Committee, I am Dawn Perrotta, Assistant Vice President of the New Jersey Business and Industry Association. NJBIA represents over 13,600 employers Statewide. I would like to thank you for this opportunity to present the views of the business community on S-1320 and S-1321, legislation sponsored by Senator Rand and cosponsored by you, Mr. Chairman as well as Senators Ciesla, Cowan and Corman. These bills would restore employer and employee tax incentives for participation in traffic reduction requirements set forth by P.L. 1992, Ch. 32, the "Traffic Congestion and Air Pollution Control Act." NJBIA strongly supports S-1320 and S-1321 and we urge you to release them from Committee.

As you know, Ch. 32 requires companies with 100 or more employees at one work location to submit and implement traffic reduction plans that will result in a 25 percent increase in the average passenger occupancy (APO) rate of vehicles arriving at the work site over the average vehicle occupancy (AVO) rate of the region. 1990 amendments to the federal "Clean Air Act" mandate traffic reduction plans for states, such as New Jersey, with high levels of ozone and carbon monoxide pollution. Failure by the State to comply could result in the loss of \$400-500 million in federal highway funding--everything but those funds designated for "safety." Restrictions on industrial development could also be imposed.

As you are also aware, NJBIA is not pleased to have its members subjected to another mandate. However, Ch. 32 implements the requirements of a *federal* mandate. Therefore, we must comply. As I have testified before, NJBIA experienced an unprecedented level of cooperation and support from Senator Rand, Assemblyman DeCroce (the Assembly sponsor), Department of

2-X

Transportation (DOT) and Department of Environmental Protection and Energy (DEPE) personnel that allowed this mandate to evolve into a law that is as fair as possible to business--within the confines of federal requirements.

Unfortunately, as Ch. 32 made its way through the legislative process last Spring the tax incentives--which are key factors in companies' ability to achieve successful compliance--were removed by the Assembly Appropriations Committee. They were deleted for what NJBIA believes to be mistaken assumptions regarding the costs to the State.

First, the employee tax incentive, as contained in S-1321, allows up to \$720 per year in employee benefits provided by an employer for participation in traffic reduction programs to be excluded from the employee's State taxable income (which conforms with recent federal legislation). This actually constitutes no loss of revenue to the State since this income has never been taxed previously. This incentive will be highly instrumental in motivating employee participation and we encourage you to reinstate it.

Second, the employer tax incentive, as contained in S-1320, allows employers to receive a tax credit of up to 10 percent of employee benefits provided by the employer (capped at \$72 per employee per year). This is also an essential factor in allowing our members to comply successfully with the requirements of Ch. 32.

The cost estimates provided by the Division of Taxation last Spring regarding the corporate tax credit were staggering and we believe greatly inflated. (I would like to note that Taxation has not yet had the opportunity to

3-x

revise their estimates to reflect the decrease from \$75 per employee as contained in original legislation, to the current \$60 per employee. However, our understanding is that their informal estimate is still somewhat inflated.) Their figures have been calculated according to potential maximum utilization. The assessment was based on the assumption that a full 25 percent of employees of mandated companies would have to participate in traffic reduction programs in order for the companies to achieve compliance. However, a 25 percent increase over an AVO goal does not necessarily translate to a full 25 percent of employees needing to participate. For example, some companies may be close to the goal and will only have to increase their APO by 15 or 20 percent--or even less in some cases. In addition, some employees may choose to take advantage of work-at-home options, staggered work hours or compressed work weeks for which no financial incentive may be necessary. These options, by themselves, may be compensation enough for the employees who choose them.

Furthermore, while the tax credit is effective as of January 1, 1993, very few companies will have traffic reduction programs in place by then--or at all during 1993. The January 1993 date was chosen in an effort to encourage an early beginning by some. However, since companies are not even required to submit their implementation plans until November 1994, very few companies are likely to be participating in 1993 and, therefore, will not be in a position to take advantage of a tax credit. Most companies will begin implementation of traffic reduction programs in 1994 and 1995 when, ideally, the State's economy and budget should be in better shape.

We also believe that the corporate tax deduction cost estimate figure provided last Spring was inflated. While employers will be forced to incur some

4-X

expenditures related to the successful achievement of the APO goal, most of our companies are not in a financial position during these economic times to be excessive. They will only purchase what is necessary.

At this point, it is obviously almost impossible to predict how much employers will have to incur in costs related to successful APO achievement. However, the experiences of other states involved in traffic reduction programs lend support to the possibility that costs will not necessarily be extreme. This is based on information provided by COMSIS of California, the consultant team retained by DOT to assist in the development of New Jersey's compliance plan. Some examples are as follows:

- Even when subsidies are offered, not all eligible employees take advantage of them. Subsidies that require effort on the part of commuters, such as reimbursement for transit passes purchased independently by the employee, or that are felt to have too small a value will not have 100 percent use. For example, Transamerica Life Companies (Los Angeles) offers a carpool subsidy, but its annual commuter survey consistently indicates a higher number of employees are carpooling than are collecting subsidies.
- Data from the South Coast Air Quality Management District show that only 63 percent of plans included a subsidy or other direct financial incentive during the first three years. Of the subsidies that were offered, the average was \$25 per month. Only 10 percent of the subsidies were more than \$50 per month.

5-x

- In a sample of 17 sites nationwide with high AVO increases (20 percent to more than 80 percent) annual gross program costs ranged from about \$100-600 per participating employee. The average was about \$200.

While it is difficult to predict how New Jersey's companies will compare to the experiences of companies in other states, NJBLA strongly believes that a full 25 percent of employees will not have to participate in traffic reduction efforts for which incentives will be provided. However, *even if* that were to be the case and New Jersey's experience is similar to the previous two examples, the estimated cost of the tax credit would be \$6.8 to \$7.2 million, well below the anticipated amount.

I would like to emphasize, though, that NJBLA is in no way suggesting that the \$720 per employee per year base be reduced. While the average may, in fact, turn out to be much lower some companies will find it necessary to spend close to or even more than \$720 per employee in order to motivate participation.

Encouraging employee participation is going to be a major challenge involving great changes in employees' attitudes and behaviors regarding commuting to work. Many companies will have to offer some degree of financial incentive. Without the tax credit, some employers may not be able to provide this compensation. Furthermore, without some assistance, some companies may regard the costs of compliance as excessive enough to warrant them leaving the State. In addition, some level of non-taxable compensation to employees is necessary. Otherwise, employees will see no advantages in participation which could then result in the failure of companies to comply. The State as a whole

6-x

could then be placed in jeopardy of compliance and face the loss of federal funding or other sanctions.

Since employers are being required to implement traffic reduction programs we believe that there should be some degree of State support in this endeavor. Therefore, NJBIA strongly encourages you to release both S-1320 and S-1321. Thank you for the opportunity to testify. I will be happy to answer any questions.

7-x

TESTIMONY ON S-1320 & S-1321

BY JAMES J. SNYDER

DIRECTOR, DIVISION OF TRANSPORTATION ASSISTANCE
NEW JERSEY DEPARTMENT OF TRANSPORTATION

BEFORE THE SENATE TRANSPORTATION COMMITTEE
DECEMBER 10, 1992

Good afternoon Senator Haines and members of the Senate Transportation Committee. I am Jim Snyder, Director of the Division of Transportation Assistance at the Department of Transportation. Assistant Commissioner Johnson asked me to express her regret that she could not personally be here today to support these bills. She has asked me to appear here today to let you know that the Department considers these bills critical to a successful Employer Trip Reduction Program in New Jersey.

We are asking employees to significantly change their lifestyles, to think about the vehicular trips they take, and to consider alternative ways of commuting to work. Incentives must be provided to encourage employees to change their travel behavior, and employers are in the best position to provide these incentives. But business alone has not caused our State to exceed the federal ozone standards. They should not be forced to shoulder the full cost of the Employer Trip Reduction (ETR) Program. The State has an obligation to participate in the costs of implementing this Clean Air program.

8-X

While Chapter 32 meets the federal definition of a legally enforceable mechanism to implement the ETR Program mandated by the Clean Air Act, it relies on voluntary measures to meet its goals. Voluntary measures have not been totally successful in the past, and we do not expect them to work now. Few employees will voluntarily change their behavior without incentives. The national average vehicle occupancy rate has decreased by approximately 10% over the past 10 years under voluntary programs. An employee income tax exclusion will be an incentive to reverse this trend.

The Department is trying to implement its Employer Trip Reduction Program in a business friendly environment. To do this, we need enactment of both the employee income tax exclusion and the employer business tax credit as provided in S-1320 and S-1321.

We believe that the business tax credit will not be as expensive as some may have originally envisioned. Let me explain.

First, not all employers will have to increase their vehicle occupancy rate; some will already be at the target levels.

Second, many employers who need to increase their average vehicle occupancy rate will attempt to meet their target without a significant financial outlay, especially in the first few years.

Third, even when subsidies are offered, not all eligible employees will take advantage of them.

Fourth, employers will utilize non-cost strategies or disincentives such as staggered work hours or charge for parking.

Fifth, employers will not bear the full cost of increasing their vehicle occupancy rate. Some benefits and services will be provided by TMAs or other groups.

Sixth, some trip reduction will result from improved alternatives, for example, HOV lanes, or use of public transit.

Finally, we have evidence that suggests that most employers will not claim the maximum credit. In a nationwide sample of successful ETR programs, costs ranged from \$100 to \$600 per participating employee; the average was about \$200. Using this data as an estimate would bring the annual cost of the business tax credit to a maximum of \$7.2 million, assuming all employees participate.

Other evidence was also obtained from California's South Coast Air Quality Management District. Their data showed that only 63% of the ETR plans included a subsidy for employees, and that the average subsidy offered was \$300 per year. Using this data as a basis, the cost of the business tax credit would approximate \$6.7 million.

In either case, \$7.2 million or \$6.7 million, these estimates are well below the cost figures originally estimated.

Mr. Chairman, the Department wishes to thank you, Senator Rand, Senator Cowan, Senator Ciesla, and Senator Corman for sponsoring S-1320 and S-1321. The Department urges you to release both of these bills from your Committee today.

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NEW JERSEY STATE
CHAMBER OF COMMERCE
ONE STATE STREET SQUARE
50 WEST STATE STREET - SUITE 1110
TRENTON, NEW JERSEY 08608

COMMENTS ON S-1320 AND S-1321 AT A MEETING OF THE
SENATE TRANSPORTATION COMMITTEE

*Thursday, December 10, 1992
Legislative Office Building, Trenton*

Good afternoon. My name is Shannon Gibson and I recently joined the New Jersey State Chamber of Commerce as a Legislative and Regulatory Analyst. The State Chamber has been an active participant in the development and implementation of strategies to achieve better air quality management in New Jersey. It played a leadership role in the New Jersey Clean Air Working Group. It continues to testify at numerous public hearings on specific components of the Clean Air Act Amendments (CAAA), to serve as a member of the Statewide Transportation Air Quality Planning Organization and to support policy goals advocated by the 'Coalition for Clean Air Now'. The latter group is headed by our President, Bill Faherty.

Clearly, we respect the need to achieve and then to maintain air quality standards set forth in the CAAA of 1990. And the Chamber can appreciate how difficult a task it is to develop the most appropriate and cost-effective programs to bring New Jersey into compliance with federal guidelines. It is our opinion that the Legislature should reinstate tax incentives and credits for employer subsidization of transportation control measures in an effort to do just that. We anticipate that tax incentives and credits will make a significant difference as to how effective the state's program is to reduce vehicle

12-x

miles traveled in terms of how quickly success is achieved and how permanent that success is.

It is estimated that 5,500 or so businesses in New Jersey are required to comply with provisions of the Travel Demand Management Program designed to reduce commuters' dependence on single occupant vehicles and control traffic flow. An employer with one hundred or more people at a specific worksite is required to do the following:

- * submit a registration form to the Department of Transportation
- * survey the commutation patterns of its employees and possibly count the number of vehicles entering or leaving the work location during peak travel periods
- * prepare and submit a compliance plan, for a fee, that identifies possible transportation control strategies to be implemented
- * have that compliance plan certified by an independent agent
- * assign a transportation coordinator to make certain these responsibilities are carried out in a timely and accurate manner.

In comments at the NJDEPE's November 1991 public workshop regarding Employer Trip Reduction and other transportation control measures it was suggested that the paperwork, filing fees and other action required on the part of an employer might result in costs being shifted to the consumer. On the other hand if the state is lax with compliance or enforcement it risks losing millions of dollars in badly needed federal funds to improve public infrastructure and mass transit. The State Chamber supports giving a tax credit as outlined in S-1320 to an employer affected by these requirements. It is a fair tax credit in light of what the employer is asked to do and it is an effective method to guarantee compliance without increasing consumer costs.

13-x

New Jersey State Library

But an even more difficult challenge lies ahead for an employer as he tries to motivate his employees to sacrifice the convenience and independence of driving to work in a single occupant vehicle. It is a drastic change in lifestyle that he is requesting and not one that too many people are ready to make without some kind of incentive. In its recently adopted National Energy Policy Act, the federal government recognizes how important it has become to place mass transit and ride-sharing programs on the same level as employer subsidized parking spaces and other perks related to auto travel. Without doing so commuters have very little reason to sacrifice. So the federal government has allowed employers to pay a tax-free benefit of up to \$60 per month to employees who vanpool or use mass transit and up to \$155 to pay for parking at park-and-ride lots. The dollar amount of free parking given to any one employee at his worksite is also capped at \$155. Officials at NJ Transit and various transportation management authorities consider these steps to be a major breakthrough that comes at just the right time.

As a result of amendments to the Clean Air Act and the completion of the interstate highway system, we can expect to see transportation policies take on a whole different character. But we need sound, economically feasible programs that are realistic and not just look good on paper. Senate bills 1320 and 1321, by reinstating tax credits and incentives for ride-sharing programs, can add what is needed to make the Travel Demand Management program one that is less intrusive to both employers and employees.

14-X

New Jersey



MOTOR BUS ASSOCIATION, INC.
401 SO. VAN BRUNT STREET ENGLEWOOD, N.J. 07531

TELEPHONE: (201) 816-0088

STATEMENT ON S-1321
TO THE SENATE TRANSPORTATION COMMITTEE
DECEMBER 10, 1992

THE NEW JERSEY MOTOR BUS ASSOCIATION, WHICH REPRESENTS THE STATE'S PRIVATE MOTOR BUS OPERATORS, SUPPORTS S-1321 AND THE LEGISLATURE'S EFFORTS TO PROMOTE MASS TRANSIT AND CLEANER AIR. HOWEVER, WE URGE YOU TO AMEND THE BILL TO INSURE THAT ALL COMMUTING WORKERS HAVE EQUAL ACCESS TO THE INCENTIVES IN THE BILL NO MATTER WHO PROVIDES THEIR PUBLIC TRANSPORTATION.

PASSENGERS ON VIRTUALLY ALL REGULAR INTRASTATE ROUTES OPERATED BY PRIVATE CARRIERS ARE CURRENTLY NOT ELIGIBLE FOR THE "BUS CARD" PROGRAM ADMINISTERED BY NEW JERSEY TRANSIT FOR ITS OWN ROUTES. THE BUS CARD IS A MONTHLY PASS FOR UNLIMITED RIDES WITHIN A SPECIFIED ZONE. IT PROVIDES AN INCENTIVE FOR COMMUTERS TO USE MASS TRANSIT, AND FOR THE PURPOSES OF S-1321 COULD SERVE TO DOCUMENT EMPLOYEES' TRANSPORTATION COSTS. UNFORTUNATELY, RIDERS ON PRIVATELY-OPERATED ROUTES MUST DROP COINS IN A BOX EACH TIME THEY TAKE THE BUS. WITHOUT AN AMENDMENT TO YOUR BILL, THEY WOULD CONTINUE TO BE DENIED THE DISCOUNT OFFERED TO NJT RIDERS AND WOULD HAVE NO CONVENIENT MEANS TO DOCUMENT THEIR COMMUTATION COSTS.

WE ASK THAT YOU INCLUDE PASSENGERS OF PRIVATELY OPERATED CARRIERS IN THE BUS CARD PROGRAM ON THE SAME BASIS AS THEY CURRENTLY PARTICIPATE IN DISCOUNT PROGRAMS FOR SENIOR CITIZENS, HANDICAPPED RIDERS AND SCHOOL CHILDREN. IN THOSE PROGRAMS, PRIVATE OPERATORS ARE REIMBURSED FOR THE DIFFERENCE BETWEEN THE DISCOUNTED AND FULL FARES.

15-A

BUS CARDS WOULD SERVE AS AN IDEAL RECEIPT FOR MONTHLY COMMUTATION COSTS.

PRODUCING RECEIPTS FOR INDIVIDUAL RIDES WOULD BE COSTLY, CAUSE DELAYS, AND WOULD BURDEN EACH COMMUTER AND HIS OR HER EMPLOYER WITH KEEPING TRACK OF 40 OR 50 SEPARATE RECEIPTS EVERY MONTH. IT'S IMPRACTICAL AND WOULD UNFAIRLY DISADVANTAGE OUR RIDERS.

NJT MAY TELL YOU THAT EXTENDING THE BUS CARD DISCOUNT TO RIDERS ON ALL ROUTES WILL COST SOMETHING. IT WILL -- BUT NJT IS ALREADY FOOTING THE BILL FOR ITS OWN PASSENGERS -- TO THE TUNE OF A UP TO A 45% DISCOUNT ON MONTHLY PASSES. OUR RIDERS, WHO PAY TAXES JUST LIKE NJT RIDERS, ARE ENTITLED TO THE SAME BENEFITS. WE THINK THE FUNDS CAN BE FOUND: WHY NOT USE THE REVENUES FROM THE RETROACTIVE TOLL EXEMPTION GRANTED TO NJT BY THE TURNPIKE OVER AND ABOVE THE LEGISLATURE'S BUDGET?

NJT SAYS THE PRIVATE CARRIERS SHOULD BEAR THE COST FOR OUR OWN DISCOUNT PROGRAM. WE AGREE THAT WE CAN OFTEN OPERATE MORE EFFICIENTLY THAN NJT, BUT WE HAVE NOTHING CLOSE TO A 45% CUSHION BUILT INTO OUR OPERATIONS. NJT ALSO SAYS IT WON'T BE ABLE TO MONITOR THE PRIVATE CARRIERS -- BUT IT MONITORS US IN THE OTHER DISCOUNT PROGRAMS.

THE AMENDMENT WE SUGGEST WOULD INSURE THAT ALL NEW JERSEY BUS RIDERS WOULD HAVE THE OPPORTUNITY TO RESPOND TO S-1321'S INCENTIVES. IN THE INTEREST OF SIMPLE FAIRNESS, I URGE YOU TO AMEND S-1321.

16-x

DRAFT AMENDMENT TO S-1321

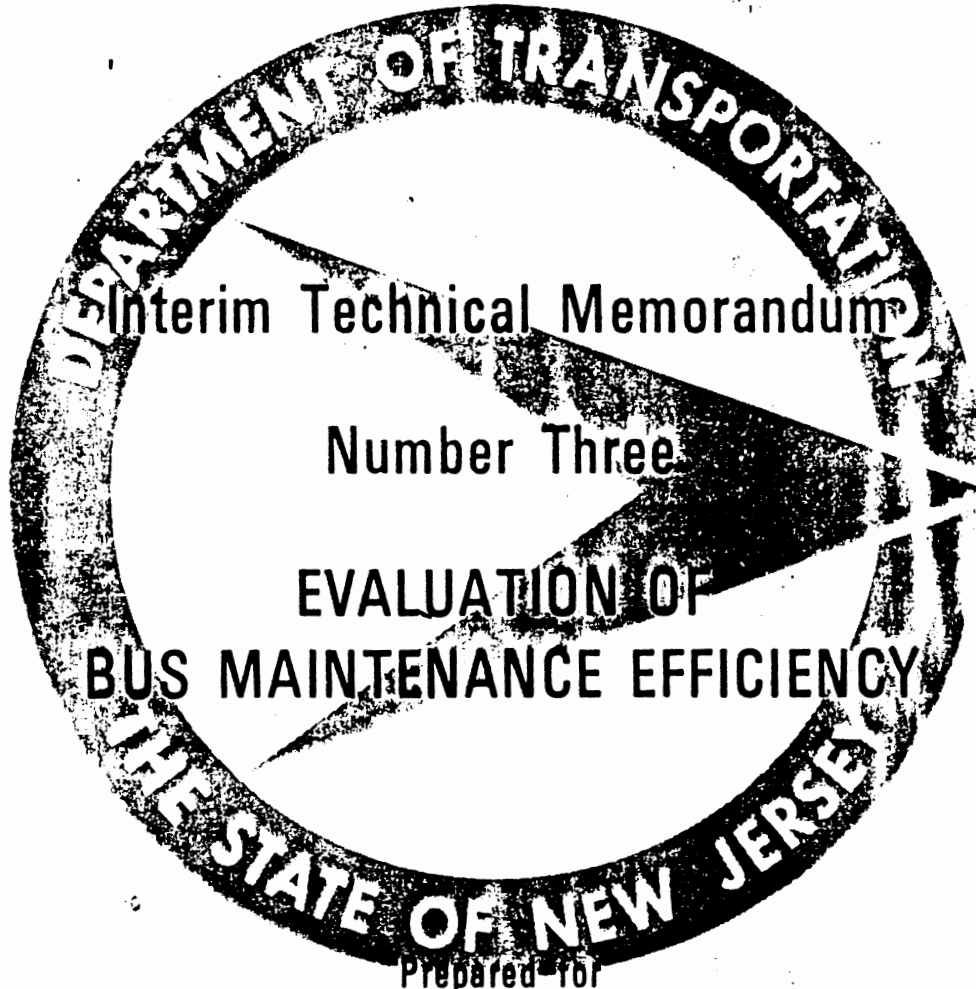
New Section (3):

Mass transit fare incentives offered by New Jersey Transit or the Department of Transportation shall include all carriers. Privately owned or operated carriers shall be reimbursed for the difference between any incentive fare and the full fare.

For the purposes of this section, "carrier" means any individual, copartnership, association, corporation, joint stock company, public agency or public authority, trustee or receiver operating or controlling motor buses or rail passenger service on established routes within the State or between points in this State and points in adjacent states.

17-X

NEW JERSEY BUS MAINTENANCE STUDY



New Jersey Department of Transportation and
Tri-State Regional Planning Commission

Wilbur Smith and Associates

18-x

MAINTENANCE EFFICIENCY CRITERIA/STANDARDS

In an attempt to provide relevant bases by which individual facilities might be assessed, the Consultant has relied upon generally accepted industry standards. The standards have been modified somewhat to reflect the unique conditions of widespread private ownership and small, dispersed facilities found to exist in New Jersey.

Size of Facility

The transit industry has established that a maintenance facility servicing 225 to 250 buses is most efficient, both in terms of physical size and number of mechanical personnel. A fleet of this size permits the employment of almost all skills required for a full service facility.

Maintenance efficiency is frequently measured in terms of the ratio of mechanical personnel to buses. Prior to the appearance of air conditioned, radio equipped fleets, a ratio of one mechanical employee for every three or 3.25 buses was considered good.

More recently, this ratio has been reduced because of both operational and technological factors. The modern day high

Pits

Hoists should, where possible, replace pits. A pit is, in-and-of-itself, a hazard. Current opinion holds that from the mechanical perspective, the best use of a pit is for bus brake adjustments; otherwise, pits in excess of one are not warranted on new properties.

In New Jersey, pits almost never possess guide rails and stops to prevent buses' wheels dropping. Few bus maintenance shops have pits containing escape stairs at both ends. Among small size properties, pits are commonly found to be: 1) too short (well under 50 feet long); 2) improperly lighted (lighting not vapor tight); and, 3) poorly drained. With rare exception, pits on transit properties lack chain or plank fall protection against falls by unaware persons. Inspection pits should never be located near fuel islands as is the case in several of TNJ's division garages.

Bus Circulation

Flow-through site and maintenance area designs eliminate bus backing. To the bus operator, a large area rearward of the bus comprises a blind spot. So great is the hazard in backing

RESOLUTION

November 2, 1992

WHEREAS, there is a growing need for more local bus service in Ocean County, including both more frequent service and additional routes, and these routes should offer user friendly fares and schedules to encourage ridership; and

WHEREAS, NJ Transit has provided reliable, clean efficient and attractive bus service to the citizens of Ocean County on a number of bus routes, and NJ Transit has offered a standardized fare structure with flexible transfers and discounts for frequent commuters and senior citizens, and has also unified the statewide bus system and stabilized the level of service and increased bus on-time performance to high levels; and

WHEREAS, private bus companies, receiving taxpayer provided buses, have a primary interest to maximize profits. This has added to the taxpayer expense and commuter disservice by focusing on charter operations thereby prematurely wearing out the buses, skimping on maintenance, abandoning marginal routes and running less service than users require, as well as delaying buses until they are overcrowded and providing poor route coordination with NJ Transit bus and rail service.

Whereas, a return to the conditions which precipitated the formation of New Jersey Transit would not be in the best interest of the residents of Ocean County and the State of New Jersey.

THEREFORE, be it resolved that the Ocean County Board of Public Transportation opposes assembly Bill A-1175 and its Senate equivalent that would force privatization of most of NJ Transit's bus routes.

Be it further resolved that this Board urges the Ocean County Board of Freeholders to actively fight against the passage of these bills through direct contact with our legislative representatives.

Be it further resolved that certified copies of this resolution be sent to the Board of Chosen Freeholders and elected officials representing Ocean County in the New Jersey State Legislature.

I, Jean Coale, secretary to the Board of Transportation of the County of Ocean, hereby certify that the above is a true copy of a resolution passed by the Board on 2nd day of November 1992.


Jean Coale

24-X

December 1, 1992

**Statement of Vito Forlenza, Chairman
Amalgamated Transit Union
New Jersey State Council**
in opposition to the
Privatization of Transit Services
operated by
**New Jersey Transit
(A-1175 and S-409)**

Mr. Chairman:

My name is Vito Forlenza and I serve as chairman of the Amalgamated Transit Union's New Jersey State Council representing 8 ATU locals throughout the state with some five thousand members employed by New Jersey Transit. In addition, the ATU represents employees of many private transit operators in the state of New Jersey. Because of our unique status representing both public and private mass transit workers, I believe we bring an important perspective to the subject of privatization today.

Privatization Mandates Do Not Work

Our position is clear. The ATU is opposed to any state legislative efforts to mandate that New Jersey Transit privatize existing transit services through competitive bidding to the private sector. Such decisions should be NJT's to consider without the imposition of arbitrary standards or conditions.

Bus service in New Jersey is already provided by a variety of private operators. Many of these operators are under contract to NJT or otherwise receive buses and other equipment from the state and the system is working well.

Bills currently pending before the state legislature (A-1175 and S-409) have, unfortunately, been premised on misguided assumptions that such efforts can assist the state in cutting its expenditures while otherwise assuring the maintenance and quality of its service operations. This is not true.

Our experiences in many states throughout the country, including Colorado, Florida, California and Louisiana have demonstrated that forced efforts compelling transit agencies to privatize existing transit services through these procedures have not produced the expected results.

Contracting-Out Increases Costs, Reduces Service Quality

Rather than cost savings, state and local budgets have experienced cost increases and cost shifting as long-standing public transit workers are replaced with lower paid part-time employees working without health insurance, pension programs and any expectation of continued long-term employment.

In each of the states mentioned these experiments brought with them serious service and maintenance problems, ridership losses, revenue decreases and surprising increases in operating

costs, notwithstanding significant initial reductions in wages and benefits for the replaced workers.

In this regard, the Regional Transit Authority of Denver, Colorado, mandated by the state to privatize 20 percent of its services, experienced significant cost increases in the first two years of its operations. A recent review of its operating expenses since 1988 indicate cost savings have not been achieved. Similar efforts in Miami and New Orleans were canceled after costs rose dramatically and the system experienced severe service and maintenance problems, ridership and revenue losses and substantial employee turnover.

The SCRTD system in California has also reported cost increases following the contracting out of parts of its bus service operations.

Bill Increases Administrative Costs, Decreases Flexibility

Significantly, management's flexibility in the design, planning and implementation of its transit service operations would be adversely affected by these measures, as NJT is called upon to manage a multitude of operators with different managements, garages, and employee arrangements. In this regard, a provision in one bill requires that NJT contract out bus service in 75 bus segments leading to an absurd fragmenting of service operations. By further requiring five-year service contracts the bill would handicap administrative review and controls over these arrangements as well.

Bill Lacks Job Protections, Federal Funds Jeopardized

The bill contains no job protection or benefit guarantees for existing workers. Indeed, they would prohibit enforcement of such measures. This would raise significant legal questions involving the terms and conditions of existing collective bargaining agreements and federally approved employee protection arrangements which include specific collective bargaining guarantees and provisions limiting and or conditioning management's ability to contract out transit service operations. As written the bills would contravene those provisions and jeopardize the state's eligibility to receive hundreds of millions of dollars in federal transit subsidies.

Minority Employment Threatened

While the measure is touted as providing an opportunity for minority-owned transit operations, we would point out that over 50 percent of the employees of the New Jersey Transit currently are minorities including African Americans, Hispanics and women who have been employed for many years by the transit system and who would be adversely affected by the pending bills. The so-called protection by attrition provision would still compel the relocation of workers and their families in order to keep any available jobs.

Profits for Privatizers — Losses for NJT

We also seriously question the provisions that require the state to continue performing all administrative advertising and other support services, but at the same time allow the private operators to retain any fares generated by increased ridership resulting from these state supported activities. This makes no sense economically and would appear to be an unfortunate drain on state revenues. In addition the bill would give the new contractor the uncontrolled right to provide new service in the geographic area it was operating and keep excess revenues, producing significant control and coordination problems and drawing additional revenue from NJT.

Why Legislate in the Dark?

The bills' sponsors to date have stated they have no idea whether their bills will produce any savings. We note, too, that the state legislature has not in recent years undertaken any careful review of New Jersey Transit's operations to know one way or the other whether its operating costs and expenses are out of line or in need of further constraints. In effect, this would be legislating in the dark. Despite the state's fiscal pressures, we do not believe you should rush head-long into untested waters without full knowledge of the financial, legal, and service problems brought along by the type of legislation. Existing arrangements under which the state operates have enabled it to contract out between five and ten percent of its transit operations in a manner consistent with these legal obligations. In

addition, NJT provides hundreds of millions of dollars in bus purchase subsidies to many of the state's private carriers as well. Further legislation in this area is unwarranted.

History Should Not Repeat Itself

The ATU is, of course, no stranger to transit service changes in the state of New Jersey. It is ironic that less than 15 years after the state wisely chose to improve its state-wide transit operations by taking over a multitude of private operations under the aegis of a public agency, that individuals are now seeking to turn back the pages of history to the era in which private operators provided poor service and were the subject of constant inquiries concerning financial abuses and mismanagement of state subsidies.

We along with others appearing before you are committed to improving the efficiency and effectiveness of transit and other public services in the State of New Jersey. We do not believe this should be accomplished by policies designed to lower the standards, wages and working conditions of NJT's employees — your constituents.

Joint Labor/Management Productivity Solutions Offer Lasting Results

Rather than pursue the "siren" call of privatization, we would urge you to explore ways of improving productivity through joint efforts involving labor and public sector managements throughout the state to improve the quality and efficiency of transit services. We believe this would be the basis for achieving a truly effective long-term solution to the provision of public transit services in the state.

Let me conclude by stating that New Jersey is obviously a transit dependent state with millions of its citizens dependent on a safe and sound transit network to commute to work, visit their families and to shop. The ATU has been a long-term partner working with the state and the legislature in fashioning appropriate mechanisms for improving transit operations. We remain committed to doing so now and in the future. To assist in these deliberations, I have available several reports which document many of the issues raised in my testimony regarding privatization experiences in Colorado and elsewhere.

Thank you for the opportunity to appear today, and we look forward to working with you and other members of the state legislature as you continue to explore these and other related issues.

For further information contact:

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