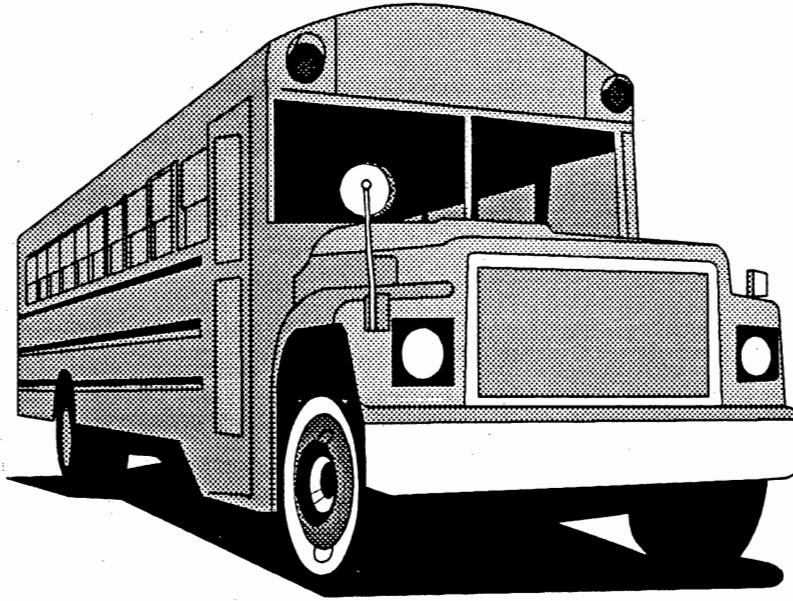


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Plans for Change

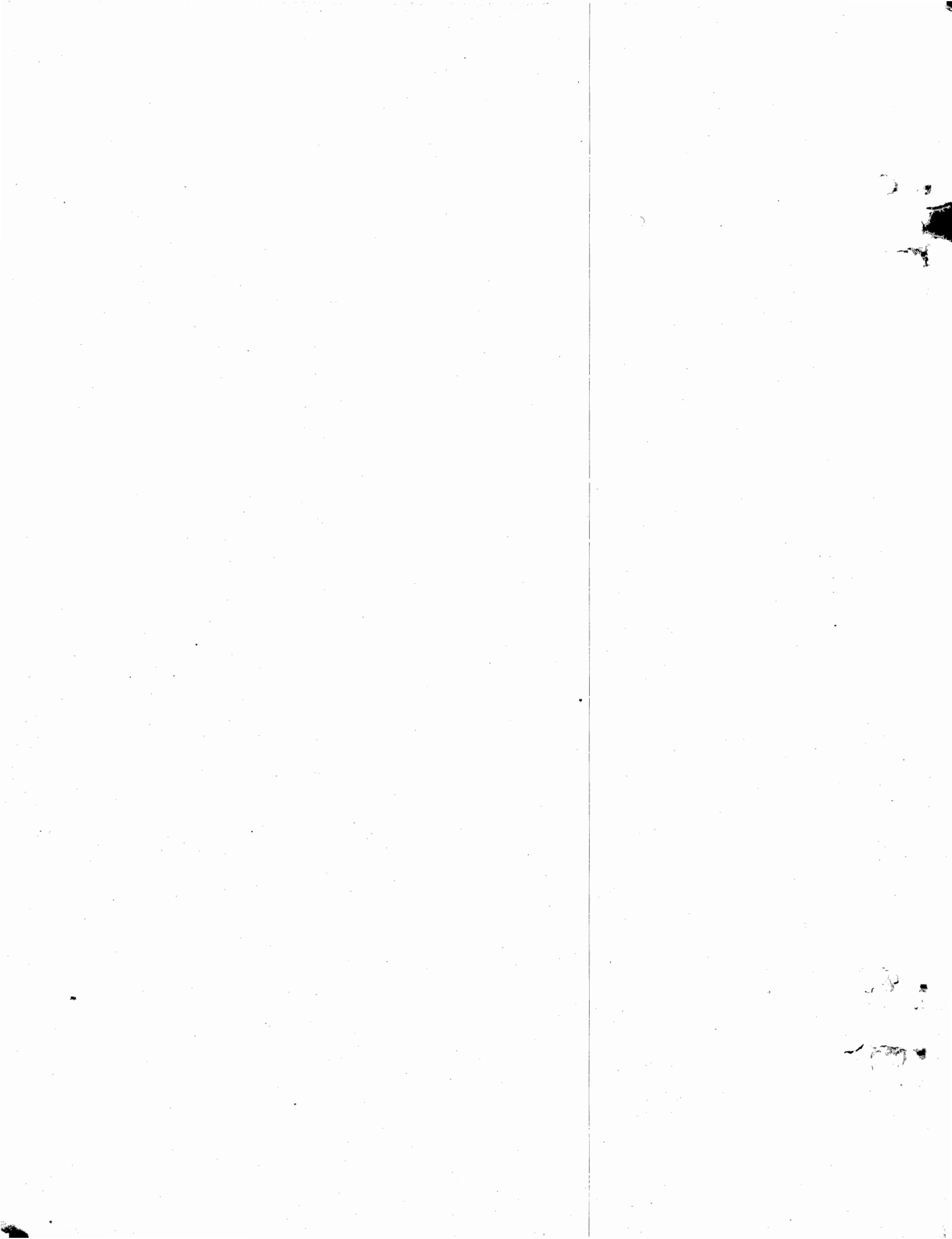


A report of the

New Jersey
Commission on Business Efficiency
of the Public Schools

March 1994

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PUPIL TRANSPORTATION

Plans for Change

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New Jersey
Commission on Business Efficiency
of the Public Schools

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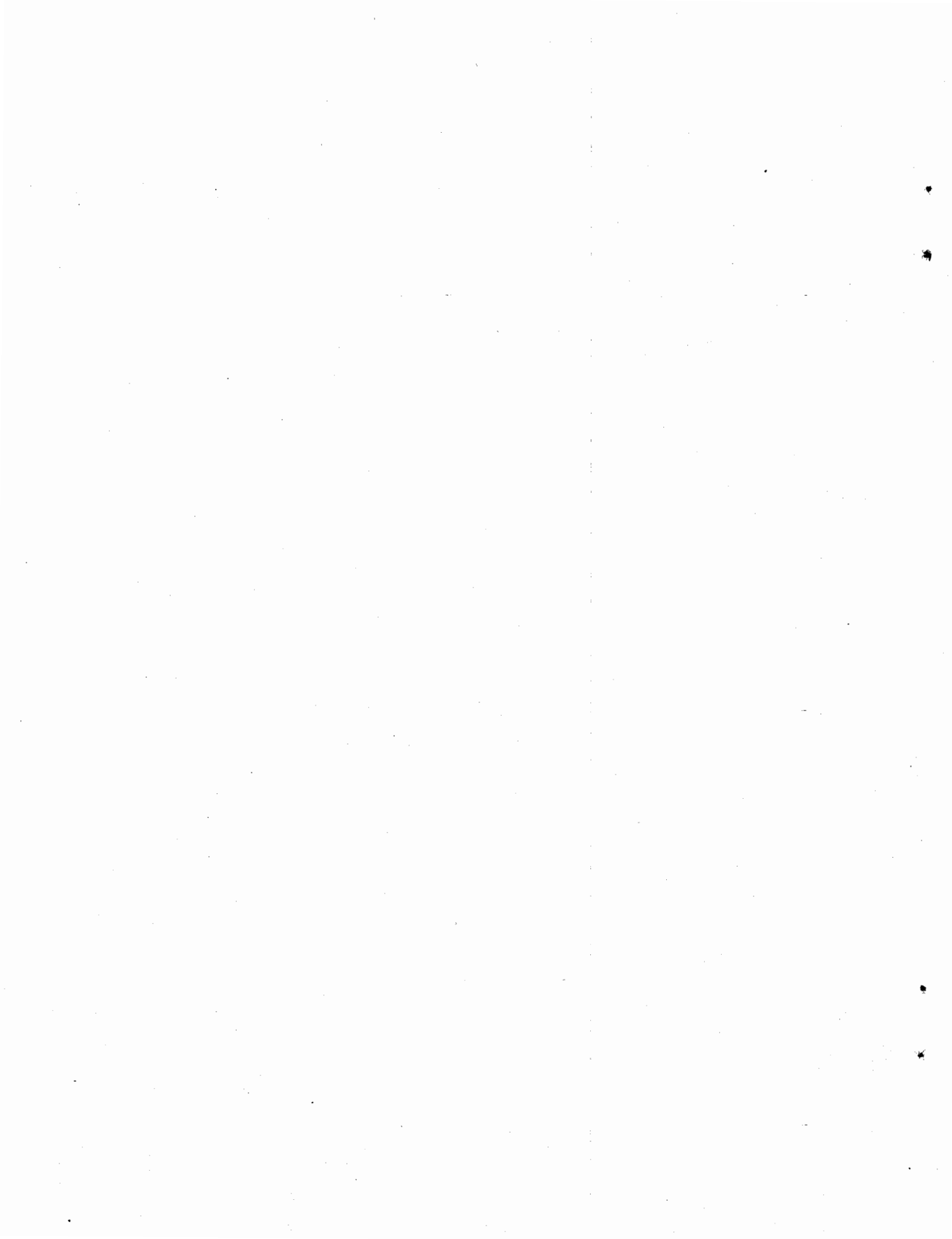
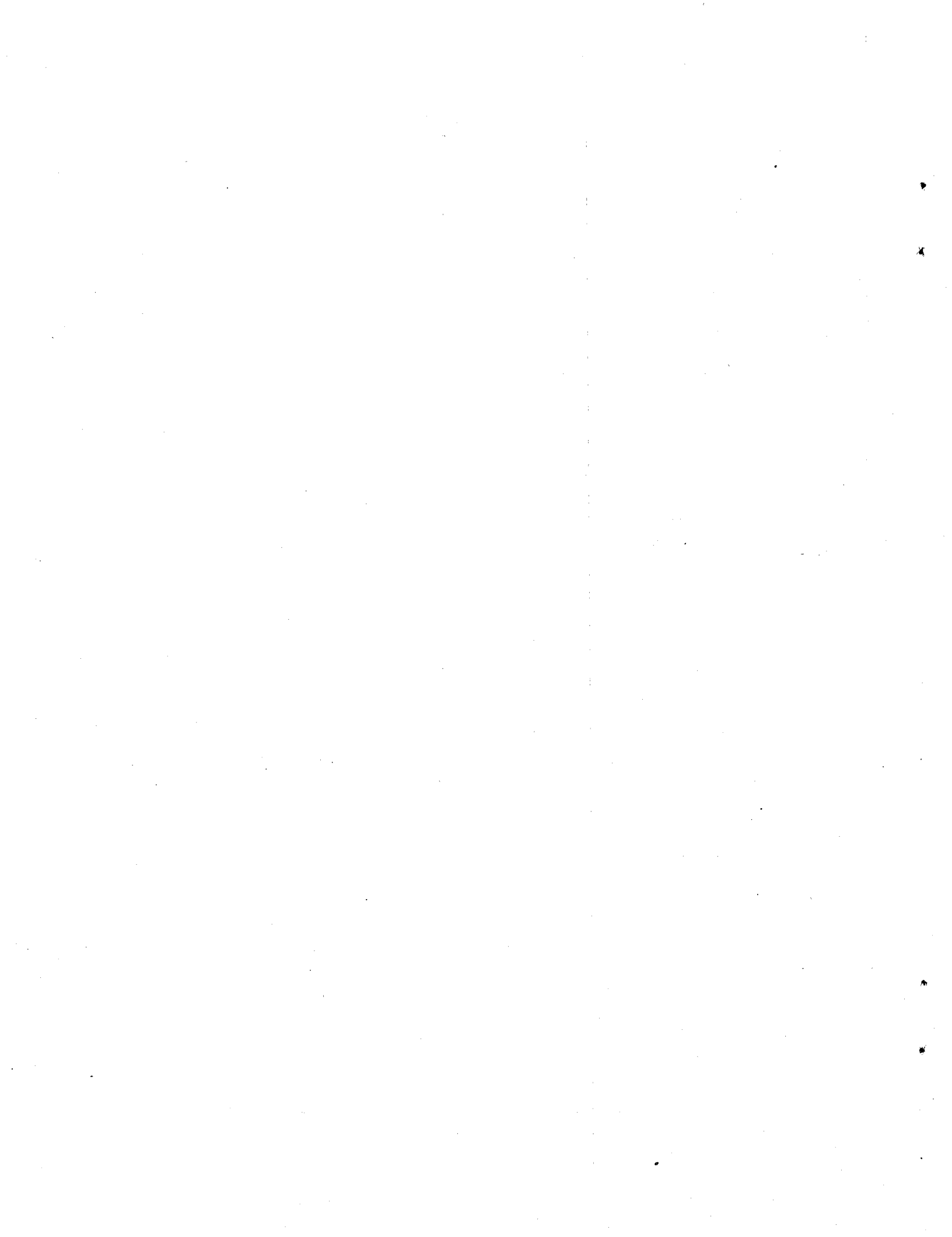


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PUPIL TRANSPORTATION

Plans for Change

AN EXAMINATION OF POLICY ISSUES RAISED BY
LEGISLATION INTRODUCED DURING THE 1992 AND 1993 SESSIONS OF THE
205TH LEGISLATURE OF THE STATE OF NEW JERSEY
WITH RECOMMENDATIONS

EXECUTIVE SUMMARY

The Commission on Business Efficiency of the Public Schools and its Pupil Transportation Task Force believe that an efficiently run pupil transportation system is vital to the success of New Jersey's education system. It is consistent with Governor Whitman's view that "*...as we face spending constraints we need to spend dollars smarter and as effectively as possible.*" It is also consistent with the State's goal that all students arrive at school ready to learn. However, the Commission has found that several aspects of the current system impede the efficiency of this operation.

This lack of efficiency is particularly evident in the way our system deals with children who attend schools not operated by their local school district, children who travel over hazardous conditions on their way to or from school and children who are in child care before or after school. While the Commission believes that the New Jersey's school buses are among the safest in the world it believes that safety can be improved at relatively low cost.

In the years since New Jersey's laws governing pupil transportation were first enacted, many changes have occurred in the State. We are the most densely populated state in the nation. The two parent family with a parent always available at home is no longer the typical situation for a school age child. The education community has seen the need for greater specialized education for some children greatly increase. Our knowledge of what makes a school bus safe has changed dramatically. The character and background of individuals responsible for the safety of our children has become a greater concern to the public in light of what is seen as an increase in crimes against children. Increased homelessness has further complicated the transportation issue as children in these families move from place to place. These things and others have come together to change the landscape in which pupil transportation policy is considered.

The Commission believes that the basic structure of our pupil transportation laws is sound. However, some changes should be made to accommodate the changing environment. The Commission here makes recommendations to improve the manner in which we provide for the transportation of pupils. The recommendations cover how to identify the children, how to transport them, on what kind of bus, the destinations and who is doing the driving.

This summary represents some of the findings and recommendations of the Commission on Business Efficiency of the Public School based on its study of Pupil Transportation .

BACKGROUND

Senator John H. Ewing, Chairman of the Senate Education Committee, and Assemblyman John A. Rocco, Ed.D., Chairman of the Assembly Education Committee, recognized that a large number of bills concerning the transportation of pupils to and from school were introduced during the first session of the 205th Legislature of the State of New Jersey. Seeing this as an indication of widespread concern, they asked the Commission on Business Efficiency of the Public Schools to review these bills as they relate to broad problems in pupil transportation with the aim of identifying solutions applicable across the State. This report details the recommendations of the Commission regarding the problems surfaced by the examination.

PROCESS

The Commission began this assignment through the use of its Pupil Transportation Task Force, which the Commission formed four years ago. The members of this group come from organizations with an active interest in pupil transportation (see Appendix IV for the task force membership). Beyond the bills referred, the task force included other legislation related to the problems the bills addressed. This was done to assure the broadest possible legislative perspective on the issues involved.

The task force divided the bills into categories and the bills were addressed during meetings structured around these topics. Prior to meeting on a topic, the sponsors of the legislation to be discussed were informed and invited to participate or send a representative. As the task force completed its study of a problem, it sent its findings to the full Commission for consideration. The Commission then considered these findings and crafted recommendations which were forwarded to the two Chairmen in two reports during 1993.

In this report the policy questions generated during the proceedings of the Task Force are the focus of the discussion rather than the individual bills. Here the issues are discussed at greater length than they were in the reports to the chairmen.

FINDINGS AND RECOMMENDATIONS

Chief among the findings and recommendations of in this report are:

- 1) Increasing the availability of transportation to children who attend schools not operated by their local school district and decreasing the use of "in-lieu-of" payments to the parents of these children. This could be accomplished by providing transportation on a regional basis to non-public school students, special education students and vocational education students attending county vocational school. This would also be accomplished by providing for more timely receipt of attendance information by local districts.
- 2) Giving greater consideration for elementary school children with working parents in pupil transportation routing by providing a remedy at the local level which adds little or no cost to local budgets. The Commission would direct districts to use excess capacity on existing routes for this purpose.
- 3) Providing more options for transporting children over hazardous walking conditions. The Commission recommendation would permit local municipalities, which have the

expertise in public safety issues which local school districts lack, to identify hazards and negotiate a price with the school district to provide transportation until such time that a remedy for the hazard can be identified and implemented. Further the recommendations would allow the use of specific Transportation Trust Fund moneys for the purpose of eliminating hazards when that end can be accomplished through road improvements.

- 4) Improving the safety of students on buses and drivers. This would be accomplished by requiring (1) safety instruction for students and drivers, (2) new buses be equipped with crossing control arms and improved exits, (3) all buses transporting school pupils be painted yellow, (4) improved licensure requirements and (5) that drivers check buses at the end of a run for students who have not left the bus. Further, the Commission's recommendations would improve a school district's ability to monitor drivers through drug testing and through improved notifications procedures when a bus driver's license is suspended for any reason.

PUPIL TRANSPORTATION IN NEW JERSEY

Before going into the detail of issues considered by the Task Force on Pupil Transportation and the Commission on Business Efficiency of the Public Schools in developing the recommendations, it would be useful to give a brief description of pupil transportation in New Jersey.

The State has defined school districts' responsibilities for transportation in two parts: (A) the transportation of students who live remote from school, that is, two miles for elementary students and two and one-half miles for secondary students referred to hereafter as "*remote transportation*", and (B) transportation for handicapped children. Any transportation beyond this is what is commonly referred to as "*courtesy transportation*" and is done at the option and expenses of the local district.

Courtesy transportation seems to fall in two categories as well: (A) Transportation for children who live less than remote as a convenience for parents and not a necessity for children. This includes (1) transportation when a district applies local community standards indicating the distance limits set by the State are too far for a child to walk and (2) special circumstances such as accommodating before or after school care, and (B) Transportation of pupils who must traverse hazardous walking conditions when traveling to or from school.

When providing courtesy transportation, districts must provide whatever service it chooses to provide to all district students in the same situation. A district may not, for example, provide courtesy transportation to elementary students who live between one and two miles from and attend school "A" but not to elementary students who live between one and two miles from and attend school "B".

When a district offers transportation to its resident students it must provide similar transportation to resident students attending private schools within limits set by Statute and Administrative Code.

Districts providing transportation must provide it on safe vehicles and in a safe manner as defined by Statute and Administrative Code.

The transportation of primary and secondary school students in New Jersey is a large undertaking costing approximately \$500 million in the current 1993-94 school year.

EFFICIENCIES IN PUPIL TRANSPORTATION

The transportation of children who attend schools outside of their district of residence is currently the least efficient operation in school transportation. This is not the fault of the local districts, the children or the school which they attend. Primarily, the problem arises from a lack of coordination of these transportation services.

Local school districts have the responsibility of providing transportation to students residing in the district but attending school at a location other than a district operated school. A significant number of New Jersey's school children attend such schools, approximately 20 percent, including non-public, special education and vocational education students. The cost of this transportation, including in-lieu-of payments to the parents of non-public school students, is over \$200 million for the 1993-94 school year or in excess of 40 percent of the total pupil transportation expenditure.

Over 180,000 children in New Jersey attend non-public schools at a cost to the State of approximately \$100 million. This is over 11 percent of the all children attending primary and secondary schools in the State. Both to provide this choice to parents and to avoid the full cost to the State of educating these children (approximately \$1.5 billion in state aid and local taxes), it is in the State's interest to provide transportation to ensure that these children are able to attend these schools. However, the parents of approximately 38 percent of non-public school students eligible for transportation receive payments of \$675 in-lieu-of transportation. While providing a parent with a cash payment when actual transportation is unavailable is a reasonable option, its use should be for the rare exception. These payments are made for over 33,000 students State-wide. The Commission believes this number, and the associated \$22 million cost to be too high.

Some students attending the public school system must be transported to locations outside of the district. These students include special education and handicapped students as well as children enrolled in a vocational school. Frequently a local district does not have the facilities or staff to provide the range of services needed by these children and must place them in non-district schools. These children must be provided transportation to attend these out-of-district placements.

The Commission has identified an absence of coordination of regional transportation as the chief cause of inefficiencies in the delivery of transportation services to students attending class outside of their district of residence. Local districts, operating without assistance from a coordinating agency, can not be expected to always develop the most efficient regional routes. Local districts do not have the data on other districts' transportation needs necessary to develop a coordinated transportation system. Regional coordination (as presently provided by some Educational Services Commissions) has demonstrated an ability to provide area wide

transportation services at substantial savings along with an increase in services through coordination. The Commission believes that this type of coordination should be expanded.

A further problem in providing transportation exists in the timely receipt, by local school districts, of information regarding the need for transportation by non-public school students. Under current law and administrative code, time lines exist for the submission of transportation need information by parents and non-public schools to local school districts. Unfortunately these time lines have limited impact since there is no penalty for failure to meet them. The local district must still provide transportation or in-lieu-of payments regardless of when the information is received. The Commission is concerned that the failure to meet time lines makes it difficult for districts to provide non-public school children with transportation. This would occur when a district is aware of a limited number of children needing transportation when the district goes to bid for bus services. The bid would come back with a cost per pupil higher than the in-lieu-of payment amount. The school would, properly, opt to pay the in-lieu-of amount rather than transportation. Subsequently, the district would receive information on additional students eligible for transportation who would have to be paid the in-lieu-of amount even though they would have been able to provide transportation if they had the information on these students prior to going to bid.

The Commission recognizes that this failure to provide timely receipt of information to school districts may have led to habitual lateness of submission on the part of some parents and non-public schools. However, this habit is one which the State, school districts and non-public students in need of transportation cannot afford.

The Commission has determined that the Department of Education does not have the resources to provide technical support for regional transportation to local school districts seeking to provide more effective transportation through jointures. The cost of the technology necessary to perform sophisticated transportation modeling is now much lower than a decade ago. Startup costs, including software, hardware and training for one staff person, are estimated to be approximately \$25,000. The greatest expense for such a system is data development. The Department of Environment and Energy (DEPE), in performing its work on mapping hazardous sites, has already done much of the data development needed to implement a useful transportation modeling system. Rutgers University has also been heavily involved in developing data for Geographical Information Systems (GIS). Further, such a system could save money on the State level by reducing the need for field work in verifying distances reported by school districts.

RECOMMENDATION NJSA 18A:39-11 should be amended to:

- A direct the Commissioner of the Department of Education to identify a local education agency, educational services commission or other independent organization to provide and/or coordinate regional transportation services for all districts in each county.
- B direct school districts responsible for transporting students to destinations outside the local district to submit a request for transportation of these students to the agency responsible for coordinating services. Before providing transportation by other means, a board of education must demonstrate that the local district will provide transportation at a lower

cost. In the case of transportation for which in-lieu-of payments were made in the pre-budget year, the district must provide transportation through the use of the coordinating agency if the agency can provide the transportation for less than the in-lieu-of amount.

- C direct the County Superintendent to seek the coordination of calendars and start times of the public schools to promote jointures.

RECOMMENDATION The Legislature should amend NJSA 18A:-39 so that the deadline for submission of applications for transportation by non-public schools to the local school district for students attending a non-public school must be met. In the event that the deadlines are not met, the local school district may provide transportation for the pupil covered by the late application, if possible, but shall not make in-lieu-of payments to the parents of the child for that school year in the event that transportation cannot be provided except in the case of; (1) a student recovering from a long term illness which was expected to prevent attendance from school for the year, or (2) if residency in the district was not established until after the cut-off dates contained in code. The Department of Education should be directed to promulgate rules and regulations to implement this proposal.

RECOMMENDATION In order to facilitate the promotion of regional transportation and to increase the auditing abilities of the Bureau of Pupil Transportation in the Department of Education, the Legislature should appropriate \$25,000 in the FY 1995 State Budget for the Department of Education to (1) equip the Bureau of Pupil Transportation with computerized mapping and bus routing equipment and software capable of: (A) analyzing local routing plans for out-of-district cooperative transportation and (B) verifying eligibility of students for State aided transportation and (2) to provide initial training to a member of the Bureau staff in the use of the equipment and software.

The implementation of these recommendations would give local school districts the support and information necessary to increase the quality and capacity of transportation services. Further, there exists a very real possibility of saving local property taxpayers more than \$10 million annually.

COURTESY TRANSPORTATION

Courtesy transportation, as mentioned above, falls in two categories: (A) Transportation for children who live less than remote as a convenience for parents and not a necessity for children. This includes (1) transportation when a district applies local community standards indicating the distance limits set by the State are too far for a child to walk and (2) special circumstances such as accommodating before or after school care, and (B) Transportation of pupils who must traverse hazardous walking conditions when traveling to or from school.

In its review of courtesy transportation the Commission developed recommendations on two primary issues: (1) children having problems with transportation because they are not at home in the morning and unable to wait at the school bus stop near their home or children who regularly go to a destination other than home after school for purposes of receiving appropriate adult supervision. We refer to this issue as transportation for children in *before and after school care*, and (2) Children who do not qualify for remote transportation and whose safety is compromised because no less than remote walking route exists on which they would not encounter some recognized hazard. These children must walk *hazardous routes*.

Before and After School Care.

Due to the increasing number of single parent homes and homes in which both parents work, many children travel to or from a place other than their home to attend school. Frequently, the other location involved is located remote from school. School districts are required to provide transportation only to and from school and home. As a result, transportation of these children may not be effectively provided. It is time that the State and local districts begin to face this changing demography. The current system was not designed to take these children into account. Therefore, the system must be changed to accommodate their needs.

Parents may need to leave their transportation eligible child at a day care facility in the morning before the scheduled school bus pick-up time. If the nearest available day care provider is remote from the pick-up point and remote from school, the child might have to walk an excessive distance either to school or to the bus stop. While walking, the child is likely pass other school bus stops where other classmates are waiting for the bus.

The parent is placed in the position of hiring transportation, quitting a job or allowing the child to be home without supervision for extended periods before and after school. This last option could be classified as neglect. Any of these options may leave the child unprepared to learn when finally arriving at school.

The members of the Task Force and the Commission agreed that the State has an interest in the provision of transportation to these children. However, the Commission believes that local districts should not be forced to accommodate these children if it adds significant expense to the budget unless the State is prepared to assist financially. A resolution to the problem facing parents and children in these situations should be structured within the current transportation

structure. This is important due to the fiscal constraints which face districts at this time. These constraints are likely to continue into the near future.

In the long term, school districts and the State need to become more involved in the provision of before and after school care in order to assure that all children are ready to learn and able to study. Children who must travel to day care, to school, to day care again and finally home may not be able to focus properly on school and homework. However the Commission recognizes that requiring that day care be available at the school site is not feasible at this time.

RECOMMENDATION. N.J.S.18A:39-1 be amended to read as follows:

18A:39-1. Whenever in any district there are elementary school pupils who live more than two miles from their public school of attendance or secondary school pupils who live more than 2 1/2 miles from their public school of attendance, the district shall provide transportation to and from school for these pupils. When providing this transportation, a school district shall permit a parent or guardian of a public school student, eligible for this transportation, who receives day care services, to specify an alternate bus stop for the student, at least once each school year, provided the alternate stop is on an established school bus route, and provided that there is space available on the route.

The proposal gives districts defined limits on the service. Without State direction some districts might feel unable to limit the transportation to available seating. Further, the proposal expresses the State's concern and recognition of the needs of working families. In a large portion of the families in the State both parents or the only parent works full time. In order to insure that every child arrives at school ready to learn, it is in the State's interest to see that the children are not unduly burdened with arrangements for care. Finally the recommendation does not impose additional costs on school districts or the State.

Hazardous Walking Routes

Since the time that the current definition of remote from school was established, traffic and congested roadways have changed the nature of the conditions encountered by pupils when walking to and from school in New Jersey. Some of these conditions are beyond the ability of children to travel safely without assistance. In some cases the conditions are correctable. It is important to the safety of children, as well as to the public at large, that hazardous conditions are corrected when it is possible to do so. Further, it is important that transportation be provided to pupils who do not qualify for transportation based on distance from school but must walk through an area with an uncorrected "hazardous condition" in order to travel to and from school within the remote limits.

Ideally a definition of hazardous condition including consistent and clear criteria covering the differing safety issues in urban, suburban and rural situations could be developed and applied in all school districts in the State. Unfortunately no such suitable definition was found during the Commission's work. However, several municipalities, most notably Middletown, have been reviewing this issue as it pertains to their local situations. If such local decision

making processes were implemented in a wider range of school districts, a basis for a State-wide definition might evolve.

One option is to put forth a definition and require districts to provide hazardous route transportation. Several issues make this approach problematical. (1) the lack of an acceptable definition to use State-wide as mentioned above; (2) some small school districts which currently provide no transportation would be forced to absorb exorbitant costs if required to transport for hazardous routes. Some of this cost would be incurred as a result of requirements to transport non-public school pupils out of district, and (3) a lack of sufficient funds on either the State or local level.

The Commission found that the reason many districts reduce courtesy transportation targeted for relieving hazardous route concerns is the constraint of the budget cap limitations. Since hazardous route transportation is classified as "courtesy" transportation, and therefore not "mandated", the Commissioner of Education must cut that expenditure if the budget comes before the Commissioner as the result of either a cap waiver request or a budget defeated by the electorate. This does not allow districts flexibility in dealing with a public safety concern.

The Commission believes that public safety is the responsibility of municipal government and the ability to remedy a hazardous condition lies in the hands of the municipality. Given the lack of a State-wide definition of hazard and the trained public safety personnel in the employ of municipalities, it would appear that the municipal government is the appropriate locus for hazardous route management. However, municipalities may be unwilling to help support the costs of hazardous routes transportation if no means of raising revenues for them is made available.

RECOMMENDATION Legislation should be proposed to modify 18A:39-1.2 to permit the governing body of a municipality to contract with any school district in its jurisdiction for the transportation of pupils when it finds, for safety reasons, that this is desirable. Further, 40A:4-45.3 subsection J should be amended to exempt such expenditures from the municipal cap. The Commission further recommends that municipalities contracting with districts for such service be permitted to charge parents of transported students to help defray expenses, as long as the charge does not disadvantage children of parents who cannot afford such fees. A sliding fee schedule should be permitted.

RECOMMENDATION The statutes governing the discretionary funds in the Transportation Trust Fund should be amended to give priority to applications for projects which are intended to remedy hazardous conditions for school pupils.

This proposal provides the maximum in flexibility for school districts and municipalities to develop and implement plans for dealing with hazardous walking conditions. By requiring municipalities to identify the hazards for which they are providing services, the possibility of developing a future comprehensive definition of hazardous route is enhanced. Further, since the current pupil transportation aid formula does not track actual expenditures it would be difficult to isolate that part of a school district's transportation budget which is related to hazardous

condition transportation. Allowing the school and the municipality to negotiate creates a check and balance in determining the cost of this transportation.

Since safety is the responsibility of municipal government and the ability to remedy a hazardous condition lies in the hands of the municipality, it is appropriate that the cost of the transportation also is focused there. Placing the cost with the municipality can add incentive to remedy the condition. Prioritizing the assignment of funding from the Transportation Trust Fund provides both a means and opportunity to correct the condition and avoid future costs.

SCHOOL BUS SAFETY

It is clearly a responsibility of the State to insure a reasonable degree of safety to all children traveling in the care of the school systems of the State. Numerous suggestions to improve the quality of safety have been made by a wide range of individuals. Each of those ideas is examined in this report. The following issues, concerns, findings and recommendations were expressed by the Task Force and the Commission during their deliberations:

Seat Belts

The Legislature has determined that all school buses should eventually be equipped with seat belts, it is appropriate to expect the local boards of education to concern themselves with the appropriate behavior of students on buses in respect to the seat belts and to enforce local policy regarding their use. However, amending the law to provide them with this power is not necessary. Such a change might serve to reinforce the intent of the Legislature, though an administrative code change would appear to be the more direct route toward this end. The Commission believes that appropriate policies and procedures should be developed for assuring the proper use of seat belts.

RECOMMENDATION The State Board of Education should adopt code in NJAC 6:21 directing the board of education of each school district which provides transportation services to develop and adopt policy detailing (1) disciplinary action to be taken against students who engage in inappropriate behavior on school buses including refusal to wear seat belts and (2) duties of school bus drivers to report such inappropriate behavior.

Safety Training

Perhaps the most important safety devices on a school bus are drivers and passengers who know how to behave in the event of an accident. The Department of Education has prepared considerable training materials on the topics of (1) kindergarten to third grade school bus and pedestrian safety and (2) school bus safety training for school bus drivers. Use of these materials would increase safety on school buses and help establish an awareness of safety issues in the next generation of school children.

RECOMMENDATION NJS 18A:39 should be amended to require local school districts to provide school bus and pedestrian safety instruction for pupils in kindergarten through third grade.

RECOMMENDATION NJS 18A:39 should be amended to require the employer to ensure licensed school bus drivers complete a minimum of 10 hours of training in school bus safety. The Department of Education should develop model training, content and procedures to implement this recommendation, which should be effective for the 94-95 school year.

School Buses and Equipment

Throughout the nation the color "school bus yellow" is the only consistent indication of a school bus to the driving public. Some states use different lighting arrangements, some use different vehicle types; however, all use school bus yellow to indicate a school bus. However, because of a loophole in New Jersey law, some school buses, without being painted this distinctive color, may transport school children. The Commission finds that this constitutes a significant safety threat for the children transported on non-yellow buses.

While Commission members determined that crossing control arms on buses could avoid future accidents, such devices are not appropriate in all situations and should not be mandated for all buses. In more densely populated communities, buses are frequently forced to stop in traffic conditions which prohibit the opening of a crossing control arm. In some such school districts, bus routes have been developed so that all stops are on the same side of the street as the child's home. On such routes, no children need to cross in front of the bus on a regular basis. On routes so designed, the control arm may be more of a problem than a benefit. While an over-ride switch has been suggested, the Commission finds that this would be counter to effectiveness of the arm in those situations where it is appropriate to always use the arm. The override switch would tend to encourage its use. In instances where the opening of the arm is only an occasional problem, the mechanics of the arm allow for a "soft touch" override in which the arm, on making contact with resistance, would stop. This is also a feature important in the detection of children in front of the vehicle.

The Commission has determined that windows which allow an opening large enough for a child's body to pass represent both a hazard issue and a safety benefit. The evidence that the opening is a greater hazard than a safety benefit is not convincing. Recent accidents in which a number of children were able to escape from burning or submerged vehicles through such openings while other children perished speaks to the importance of additional exits. Although both recent changes in New Jersey Statutes as well as recommendations elsewhere in this report require increased exits, the current statewide school bus fleet includes a high proportion of buses in which the windows are among the more important exits in certain emergency situations. At this time, the Commission finds it would be unwise to eliminate these exits by restricting the opening to six inches. However, the Commission believes that other means can be developed to protect children from the danger of a window opening greater than six inches without eliminating the emergency egress provided by the window.

Recent school bus accidents have shown the need for improved means of egress in certain accident situations (bus fires and submersions.) Federal regulations require additional exits on buses beyond a size which is larger than buses used in New Jersey. However, the additional exits, as indicated in recent accidents in other parts of the nation, are important even for the buses not large enough to be covered by the federal regulation.

The Commission recognizes the need of local school districts to control costs in transportation. The Commission finds that, where child safety is not endangered, statutory change which allows for savings should be encouraged. Further, allowing an increase in

capacity of buses above the current limit of 54 would allow districts to design more productive routes in some cases. The National Minimum Standards for School Bus Specifications and Operations Committee maintains that for safety reasons a school bus should be no longer than 40 feet.

Having discussed the issue of effective dates in legislation in relation to several bills, the Commission has found that in requiring new vehicle equipment for school buses, the choice of effective date creates problems for manufacturers, school districts and the Division of Motor Vehicles (DMV). Manufacturers may be unsure about what vehicles are covered by an act since various parts of the bus are stamped with different manufacture dates. Districts, for the same reason, may be confused regarding retrofitting at resale. The DMV may be at a loss to determine what requirements apply to a vehicle at the time of inspection. Following discussion with representatives of all the above groups, the Commission has determined that the chassis manufacture date is the most consistent and accurate date available. Further, the Commission believes that a six month period is generally sufficient for manufacturers to accommodate changes in bus specifications.

The Commission recognizes the importance of providing rapid care to children on school buses in the event of an emergency. However, liability issues aside, the Commission agrees with the American Red Cross that the most important action in such an emergency is the timely arrival of trained emergency personnel. This can best be accomplished by rapidly contacting the emergency service unit in the area nearest the emergency.

RECOMMENDATION NJS 18A:39 should be amended to require all type I or type II school buses with capacity in excess of 10 used for pupil transportation to be painted school bus yellow, and this should be effective for the 94-95 school year

RECOMMENDATION NJS 18A:39 should be amended to require a crossing control arm on school buses used on routes where children are required to cross in front of the bus.

RECOMMENDATION The Department of Education and the Division of Motor Vehicles should investigate the feasibility of alternative window mechanicals which would restrict children on school buses from placing portions of their bodies outside the bus while the vehicle is in motion, while still maintaining the use of the window area as a potential emergency egress. Further, the Commission recommends that the Department of Transportation be directed to review rules and regulations regarding utility pole set back requirements on public rights-of-way to ensure that poles do not encroach on the roadway.

RECOMMENDATION NJS 18A:39 should be amended to require a side emergency exit door in the rear half of a bus with a capacity of more than 35 with access aisle no less than 24 inches and crash barrier immediately forward of the seat to the rear of the side exit.

RECOMMENDATION NJS 39:3B should be amended to allow an increase of bus capacity within the following limitations: (1) 15 inches of seat space and a 15 inch aisle shall be maintained; (2) seat spacing shall not be less than 27 inches center to center; (3) bus length shall

not exceed 40 feet and (4) the overhang of the bus behind the rear wheel shall not exceed 1/3 of the total length of the bus.

RECOMMENDATION The Senate and Assembly Education Committees should adopt a policy that all bills requiring new buses to be equipped in any new fashion should use as the effective date of the legislation the "chassis manufacture date of the sixth month after enactment or later."

RECOMMENDATION The Commission encourages school districts to place communications equipment on all buses so that emergency services personnel may be quickly contacted in the event of an emergency.

SCHOOL BUS DRIVERS

The current commercial drivers license (CDL) requirements for school bus drivers are excessive. Knowledge of hazardous waste disposal, handling of large trucks and similar issues involving truck driving are not germane to the operation of a school bus, but required for the CDL. These requirements place an undue burden on school bus drivers.

The current commercial drivers license (CDL) requirements for school bus drivers are helpful in guaranteeing the qualifications of school bus drivers and the security of knowing that a driver's school bus license has not been revoked in another state.

The process for notifying school districts when a bus driver's driving privileges have been suspended or revoked is slow and inadequate. An unlicensed driver may place a school district in a dangerous liability situation but, more importantly, place children in unnecessary risk.

School bus drivers are entrusted with the physical safety of many children. It is reasonable to grant a school district the ability to take reasonable action to guarantee that drivers are not under the influence of controlled substances when entrusted with such a charge.

The frequency of a child being left on a bus at the end of a route unattended is not great enough to institute a long and complicated attendance taking procedure. However, it is not unreasonable to expect that steps to avoid such a situation should be taken by school districts and bus drivers.

The fingerprinting and criminal history checks of bus drivers at the time of license renewal is a reasonable and efficient way to monitor individuals given sole charge of children. It is unreasonable, however to expect relatively low paid drivers to bear the expense of such checks.

RECOMMENDATION NJSA 39:3 should be supplemented to require a restricted commercial drivers license (CDL) for school bus drivers.

RECOMMENDATION NJSA 39:3-10.11 should be amended to include drivers of small vehicles (15 or fewer capacity) used to transport public school students under the requirement to hold a Commercial Drivers License with the exception of parents transporting their own children.

RECOMMENDATION NJSA 39:3 should be supplemented to require the Division of Motor Vehicles to notify the Department of Education whenever the license of a school bus driver has been suspended or revoked and to require that the Department of Education inform the local district or other employer of the school bus driver. Reporting to the Department of Education should be within five days of the suspension or revocation. Reporting to the school district should be within five days of receipt of the information by the Department of Education.

RECOMMENDATION NJSA 18A:39 should be supplemented to permit local boards of education to test school bus drivers for drug use in three cases: (1) prior to employment, (2) upon reasonable suspicion that the driver is using controlled substances and (3) on a random basis during employment.

RECOMMENDATION The State Board of Education should adopt code in NJAC 6:21 to require school bus drivers to check all seats on the bus at the end of a route to assure that all children have left the bus.

RECOMMENDATION NJS 18A:39-11 should be amended to require that local boards of education and school bus contractors be required to pay all fees required for fingerprinting and criminal history checks required for license renewal for school bus drivers in their employ.

TRANSPORTATION OF HOMELESS STUDENTS

The number of homeless people in New Jersey has increased in recent years. This has created many problems for social service agencies of all types. The schools have not been untouched by these problems. In order to provide consistency of education for homeless students, the State has determined that the last district of residence should retain the responsibility to educate the child. Frequently, homeless children are moved to new locations several times during a school year. This has placed an excessive burden on district transportation budgets. While the State Department of Education does not have the ability to track and transport all homeless students itself or to fully fund the cost incurred by local districts, the Commission has found that some financial recognition of the increased cost of transportation for homeless students should be made.

RECOMMENDATION The transportation funding formula should be amended to apply the same weight given to transportation of special education students to transportation of homeless students.

APPENDIX I

RECOMMENDATIONS TO THE LEGISLATURE With Legislative Language

RECOMMENDATIONS WITH LANGUAGE FOR IMPLEMENTATION

This appendix contains all recommendations in this report followed by any legislative language appropriate or needed for their implementation. Recommendations regarding Administrative Code are also listed here; however, since the Commissions statutory responsibility is to advise the Legislature, the wording for code changes will be left to the Executive Branch. Where appropriate, bills filed for the 1994-1995 session of the 205th Legislature with similar language are noted along with the name of the prime sponsor.

In instances of a bill which amends current statute, matter enclosed in bold-faced brackets [thus] in the bill is not recommended and should be omitted in the law. Matter underlined thus is new matter.

RECOMMENDATION NJSA 18A:39-11 should be amended to:

A direct the Commissioner of the Department of Education to identify a local education agency, educational services commission or other independent organization to provide and/or coordinate regional transportation services for all districts in a county.

B direct school districts responsible for transporting students to destinations outside the local district to submit a request for transportation of these students to the agency responsible for coordinating services. Before providing transportation by other means, a board of education must demonstrate that the local district will provide transportation at a lower cost. In the case of transportation for which in-lieu-of payments were made in the pre-budget year, the district must provide transportation through the use of the coordinating agency if the agency can provide the transportation for less than the in-lieu-of amount.

C direct the County Superintendent to seek the coordination of calendars and start times of the public schools to promote jointures.

AN ACT concerning the transportation of school pupils and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey.*

1. a. The Commissioner of Education shall authorize a local school board of education, educational services commission, other established organization providing cooperative services or an organization established through the county office for this purpose to coordinate, and where appropriate, provide transportation to and from school for pupils in each county or other defined region determined by the commissioner.

b. Any school district responsible for the transportation of pupils to and from a school other than a local district school pursuant to N.J.S. 18A:39-1 shall have the transportation of these pupils provided by the organization designated by the Commissioner except when the local district can provide transportation at a lower cost than the regional organization.

c. Any school district that has in the prior year provided payments in-lieu of providing transportation for any non-public student pursuant to N.J.S. 18A:39-1 shall attempt to provide transportation through the organization designated by the Commissioner prior to determining to pay aid in-lieu of providing transportation. If the costs to provide transportation by the organization designated by the Commissioner is less than the in-lieu payments the organization shall provide transportation.

d. The county superintendents shall undertake to coordinate the calendars and schedules of the public schools to facilitate the coordination of transportation of pupils to and from school in their respective county or other region defined by the commissioner.

2. This act shall take effect immediately and shall first apply to the 1995-1996 school year.

STATEMENT

This bill requires the coordination of districts providing transportation of students to and from school within a county or other defined region to produce the efficient transportation of students throughout the State

This bill would require the Commissioner of Education to designate local school boards of education or education service commissions to coordinate and, where appropriate,

provide transportation for students within a county or other defined region. This bill would require the coordinating agency rather than a local school board of education to provide the transportation of students attending a nonpublic school outside a school board's district, pursuant to N.J.S. 18A:39-1, if at a lower cost than the school board could provide transportation or pay in-lieu of providing transportation.

This bill would also require each county superintendent to seek to coordinate the calendars and schedules of the public schools in their respective counties or other region defined by the commissioner to facilitate the coordination of transportation of pupils to and from school throughout the State.

Requires the development of regionalized pupil transportation.

This Legislation is new legislation for the 206th Legislature and has been drafted and is pending introduced by Assemblyman Wolfe.

RECOMMENDATION The Legislature should amend NJSA 18A:-39 so that the deadline for submission of applications for transportation by non-public schools to the local school district for students attending a non-public school must be met. In the event that the deadlines are not met, the local school district may provide transportation for the pupil covered by the late application, if possible, but shall not make in-lieu-of payments to the parents of the child for that school year in the event that transportation cannot be provided except in the case of; (1) a student recovering from a long term illness which was expected to prevent attendance from school for the year, or (2) if residency in the district was not established until after August 15. The Department of Education should be directed to promulgate rules and regulations to implement this proposal. Further, for the purpose of clarity, it is recommended that 18A:39-1 be rewritten. The following is desired state of 18A:39-1 after rewriting and making changes recommended here

18A:39-1 Transportation of pupils remote from school.

18A:39-1. When in any district there are elementary school pupils who live more than two miles from their public school of attendance or secondary school pupils who live more than 2 1/2 miles from their public school of attendance, the district shall provide transportation to and from school for these pupils.

When any school district provides any transportation for public school pupils to and from school pursuant to this section, transportation to and from a school, other than a public school, shall be supplied to nonpublic school pupils residing in the school district provided that the nonpublic school is not operated for profit in whole or in part, and is located within the State more than two miles from the elementary school pupil's residence or more than 2 1/2 miles from the secondary school pupil's residence but not more than 20 miles from the residence of the pupil. Nonpublic elementary school students who live more than two miles from their school of attendance or secondary nonpublic school students who live more than 2 1/2 miles from their school of attendance and reside in a district located in a county with a population of not less than 80,000 and not more than 120,000 which is designated as a third class county, may be provided transportation services to a nonpublic school which is not operated for profit in whole or in part, and is located outside the State not more than 20 miles from the residence of the pupil.

The maximum expenditure for nonpublic school transportation shall not exceed \$675 per pupil for the 1993-94 school year, or the amount determined pursuant to section 2 of P.L.1981, C.57 (C. 18A:39-1A). If the per pupil cost of the lowest bid received exceeds the maximum permitted per pupil expenditure, the parent, guardian or other person having legal custody of the pupil may be eligible to receive that amount toward the cost of transporting the nonpublic school pupil pursuant to this section.

It shall be the obligation of the parent, guardian or other person having legal custody of the nonpublic school pupil to submit an application for transportation to the nonpublic school at the time of registration for enrollment or by May 1 preceding the school year in which transportation is requested, whichever is later, in order to be eligible for transportation services or aid in lieu of transportation provided by this section. It shall be the obligation of the nonpublic school administrator to forward the application for transportation to the resident district board of education in the manner specified by the rules and regulations of the State Board of Education, within five (5) days of the time of registration for enrollment

or by May 15 preceding the school year in which transportation is requested, whichever is later, in order to be maintain eligibility for transportation services or aid in lieu of transportation provided by this section. If the application for transportation is not received by the resident district Board of Education by September 1, of the school year in which transportation is requested, and if it would be necessary for the Board of Education to enter into a contract establishing a new route in order to provide the transportation, then the Board may but shall not be required to provide transportation and shall not provide aid in lieu of transportation. However, if the application for transportation is not received by the resident district Board of Education by September 1 of the school year because the pupil is recovering from a long-term illness and was not expected to attend school for the year or if residency in the district was not established until after August 15 of the school year in which transportation is requested; and transportation can not be provided on an existing route; then the parent, guardian or other person having legal custody of the pupil shall be eligible to receive \$675 in lieu of transportation or the amount determined pursuant to section 2 of P.L.1981, C.57 (C. 18A:39-1A), or an amount computed by multiplying 1/180 times the number of school days remaining in the school year at the time the application for transportation is received by the resident district Board of Education, times \$675 or the amount determined pursuant to Section 2 of P.L.1981, C.57 (C. 18A:39-1A), whichever is the smaller amount.

Whenever any regional school district provides any transportation for pupils attending schools other than public schools pursuant to this section, the regional district shall assume responsibility for the transportation of all nonpublic school pupils of the constituent districts of the regional. The cost of transportation for pupils below the grade levels for which the regional district was organized shall be prorated by the regional district among the constituent districts on a per pupil basis. This section shall not require school districts to provide any transportation for pupils attending a school other than a public school, where the only transportation presently provided by the resident district is for school children transported pursuant to Chapter 46 of Title 18A of the New Jersey Statutes or for pupils transported to a vocational, technical or other public school offering a specialized program.

All transportation to and from school shall be provided pursuant to the rules and regulations promulgated by the State Board of Education.

Boards of Education may make rules and contracts for pupil transportation pursuant to this section.

Nothing in this section shall be so construed as to prohibit a Board of Education from making contracts for the transportation of pupils to a school in an adjoining district, when these pupils are transferred to the district by order of the County Superintendent, or when any pupils shall attend school in a district other than that in which they shall reside by virtue or an agreement made by the respective Boards of Education.

Nothing herein contained shall limit or diminish in any way any of the provisions for transportation for children pursuant to Chapter 46 of this Title.

This Legislation is new legislation for the 206th Legislature and has been drafted and is pending introduced by Assemblyman Wolfe.

RECOMMENDATION In order to facilitate the promotion of regional transportation and to increase the auditing abilities of the Bureau of Pupil Transportation in the Department of Education, the Legislature should provide funds for the agency to be equipped with computerized mapping and bus routing equipment capable of: (1) analyzing local routing plans for out-of-district cooperative transportation and (2) verifying eligibility of students for State aided transportation.

The Commission recommends that the 1994-95 State Budget contain an allocation of \$25,000 for the purpose of this recommendation.

RECOMMENDATION. N.J.S.18A:39-1 be amended to read as follows:

18A:39-1. Whenever in any district there are elementary school pupils who live more than two miles from their public school of attendance or secondary school pupils who live more than 2 1/2 miles from their public school of attendance, the district shall provide transportation to and from school for these pupils. When providing this transportation, a school district shall permit a parent or guardian of a public school student, eligible for this transportation, who receives day care services, to specify an alternate bus stop for the student, at least once each school year, provided the alternate stop is on an established school bus route, and provided that there is space available on the route.

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

1. N.J.S.18A:39-1 is amended to read as follows:

18A:39-1. Whenever in any district there are elementary school pupils who live more than two miles from their public school of attendance or secondary school pupils who live more than 2 1/2 miles from their public school of attendance, the district shall provide transportation to and from school for these pupils. When providing this transportation, a school district shall permit a parent or guardian of a public school student eligible for this transportation who receives day care services to specify an alternate bus stop for the student, at least once each school year, provided the alternate stop is on an established school bus route, and provided that there is space available on the route.

2. This act shall be effective for the first full school year following enactment.

This Language is based on Legislation from the 205th Legislature sponsored by Senator Zane as Senate Bill No. 323 and by Assemblyman Stuhltrager as Assembly Bill No. 1556. Assemblyman Stuhltrager has prefiled his bill for the 206th legislature as Assembly Bill No. 558. This bill could be amended to be identical to the Commission recommendation.

RECOMMENDATION. Legislation should be proposed to modify 18A:39-1.2 to permit the governing body of a municipality to contract with any school district in its jurisdiction for the transportation of pupils when it finds, for safety reasons, that this is desirable. Further, 40A:4-45.3 subsection J should be amended to exempt such expenditures from the municipal cap. The task Force further recommends that municipalities contracting with districts for such service be permitted to charge parents of transported students to help defray expenses, as long as the charge does not disadvantage children of parents who cannot afford such fees. A sliding fee schedule should be permitted.

AN ACT concerning pupil transportation and amending N.J.S. 18A:39-1.2 and P.L.1976, c.68.

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

1. N.J.S.18A:39-1.2 is amended to read as follows:

18A:39-1.2. Whenever the governing body of a municipality[, which is a constituent district of a regional school district,] finds that for safety reasons it is desirable to provide transportation to and from a [regional] school for pupils living within the municipality, other than those living remote from the school or those physically handicapped or mentally retarded, the governing body and the board of education of the [regional] district are authorized to enter into contract under the terms of which the [regional] board shall provide such transportation at the expense of the municipality and the funds so required shall be appropriated by the governing body and paid to the custodian of school moneys of the [regional] district. The governing body of the municipality may charge the parents or guardians of children who are transported for safety reasons in order to help defray expenses, provided that the governing body may not exclude from the transportation any child whose parent or guardian is unable to pay the cost because of financial hardship.

(cf: N.J.S. 18A:39-1.2)

2. Section 3 of P.L.1976, c.68 (C.40A:4-45.3) is amended to read:

3. In the preparation of its budget a municipality shall limit any increase in said budget to 5% or the index rate, whichever is less, over the previous year's final appropriations subject to the following exceptions:

a. (Deleted by amendment, P.L.1990, c.89.)

b. Capital expenditures, including appropriations for current capital expenditures, whether in the capital improvement fund or as a component of a line item elsewhere in the budget, provided that any such current capital expenditure would be otherwise bondable under the requirements of N.J.S.40A:2-21 and 40A:2-22;

c. (1) An increase based upon emergency temporary appropriations made pursuant to N.J.S.40A:4-20 to meet an urgent situation or event which immediately endangers the health, safety or property of the residents of the municipality, and over which the governing body had no control and for which it could not plan and emergency appropriations made pursuant to N.J.S.40A:4-46. Emergency temporary appropriations and emergency appropriations shall be approved by at least two-thirds of the governing body and by the Director of the Division of Local Government Services, and shall not exceed in the aggregate 3% of the previous year's final current operating appropriations.

(2) (Deleted by amendment, P.L.1990, c.89.) The approval procedure in this subsection shall not apply to appropriations adopted for a purpose referred to in subsection d. or j. below;

d. All debt service, including that of a Type I school district;

e. Upon the approval of the Local Finance Board in the Division of Local Government Services, amounts required for funding a preceding year's deficit;

f. Amounts reserved for uncollected taxes;

g. (Deleted by amendment, P.L.1990, c.89.)

h. Expenditure of amounts derived from new or increased construction, housing, health or fire safety inspection or other service fees imposed by State law, rule or regulation or by local ordinance;

i. Any amount approved by any referendum;

j. Amounts required to be paid pursuant to (1) any contract with respect to use, service or provision of any project, facility or public improvement for water, sewerage, parking, senior citizen housing, transportation of school pupils for safety reasons pursuant to N.J.S. 18A:39-1.2 or any similar purpose, or payments on account of debt service therefor, between a municipality and any other municipality, county, school or other district, agency, authority, commission, instrumentality, public corporation, body corporate and politic or political subdivision of this State; (2) the provisions of article 9 of P.L.1968, c.404 (C.13:17-60 through 13:17-76) by a constituent municipality to the intermunicipal account; (3) any lease of a facility owned by a county improvement authority when the lease payment represents the proportionate amount necessary to amortize the debt incurred by the authority in providing the facility which is leased, in whole or in part; and (4) any repayments under a loan agreement entered into in accordance with the provisions of section 5 of P.L.1992, c.89.

k. (Deleted by amendment, P.L.1987, c.74.)

l. Appropriations of federal, county, independent authority or State funds, or by grants from private parties or nonprofit organizations for a specific purpose, and amounts received or to be received from such sources in reimbursement for local expenditures. If a municipality provides matching funds in order to receive the federal, county, independent authority or State funds, or the grants from private parties or nonprofit organizations for a specific purpose, the amount of the match which is required by law or agreement to be provided by the municipality shall be excepted;

m. (Deleted by amendment, P.L.1987, c.74.)

n. (Deleted by amendment, P.L.1987, c.74.)

o. (Deleted by amendment, P.L.1990, c.89.)

p. (Deleted by amendment, P.L.1987, c.74.)

q. (Deleted by amendment, P.L.1990, c.89.)

r. Amounts expended to fund a free public library established pursuant to the provisions of R.S.40:54-1 through 40:54-29, inclusive;

s. (Deleted by amendment, P.L.1990, c.89.)

t. Amounts expended in preparing and implementing a housing element and fair share plan pursuant to the provisions of P.L.1985, c.222 (C.52:27D-301 et al.) and any

amounts received by a municipality under a regional contribution agreement pursuant to section 12 of that act;

u. Amounts expended to meet the standards established pursuant to the "New Jersey Public Employees' Occupational Safety and Health Act," P.L.1983, c.516 (C.34:6A-25 et seq.);

v. (Deleted by amendment, P.L.1990, c.89.)

w. Amounts appropriated for expenditures resulting from the impact of a hazardous waste facility as described in subsection c. of section 32 of P.L.1981, c.279 (C.13:1E-80);

x. Amounts expended to aid privately owned libraries and reading rooms, pursuant to R.S.40:54-35;

y. (Deleted by amendment, P.L.1990, c.89.)

z. (Deleted by amendment, P.L.1990, c.89.)

aa. Extraordinary expenses, approved by the Local Finance Board, required for the implementation of an interlocal services agreement;

bb. Any expenditure mandated as a result of a natural disaster, civil disturbance or other emergency that is specifically authorized pursuant to a declaration of an emergency by the President of the United States or by the Governor;

cc. Expenditures for the cost of services mandated by any order of court, by any federal or State statute, or by administrative rule, directive, order, or other legally binding device issued by a State agency which has identified such cost as mandated expenditures on certification to the Local Finance Board by the State agency;

dd. Expenditures of amounts actually realized in the local budget year from the sale of municipal assets if appropriated for non-recurring purposes or otherwise approved by the director;

ee. Any local unit which is determined to be experiencing fiscal distress pursuant to the provisions of P.L.1987, c.75 (C.52:27D-118.24 et seq.), whether or not a local unit is an "eligible municipality" as defined in section 3 of P.L.1987, c.75 (C.52:27D-118.26), and which has available surplus pursuant to the spending limitations imposed by P.L.1976, c.68 (C.40A:4-45.1 et seq.), may appropriate and expend an amount of that surplus approved by the director and the Local Finance Board as an exception to the spending limitation. Any determination approving the appropriation and expenditure of surplus as an exception to the spending limitations shall be based upon:

1) the local unit's revenue needs for the current local budget year and its revenue raising capacity;

2) the intended actions of the governing body of the local unit to meet the local unit's revenue needs;

3) the intended actions of the governing body of the local unit to expand its revenue generating capacity for subsequent local budget years;

4) the local unit's ability to demonstrate the source and existence of sufficient surplus as would be prudent to appropriate as an exception to the spending limitations to meet the operating expenses for the local unit's current budget year; and

5) the impact of utilization of surplus upon succeeding budgets of the local unit;

ff. Amounts expended for the staffing and operation of the municipal court.

(cf: P.L.1992, c.89, s.6)

3. This act shall take effect immediately.

Authorizes municipality to fund school busing for safety reasons and excludes cost from municipal budget cap.

This Language is based on Legislation from the 205th Legislature sponsored by Assemblyman Azzolina as Assembly Bill No. 1541. Assemblyman Azzolina has introduced new legislation for the 1994-95 session as Assembly Bill No. 1514

RECOMMENDATION. The statutes governing the discretionary funds in the Transportation Trust Fund should be amended to give priority to applications for projects which are intended to remedy hazardous conditions for school pupils.

AN ACT concerning aid to municipalities for certain transportation projects and amending P.L.1984, c.73.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey.*

1. Section 27 of P.L.1984, c.73 (C.27:1B-25) is amended to read as follows:

25. a. Notwithstanding the provisions of subtitle 4 of Title 27 of the Revised Statutes and P.L.1946, c.301 (C.27:15A-1 et seq.), the commissioner may, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law, allocate to counties and municipalities funds for the planning, acquisition, engineering, construction, reconstruction, repair, resurfacing and rehabilitation of public highways and the planning, acquisition, engineering, construction, reconstruction, repair, maintenance and rehabilitation of public transportation projects and of other transportation projects which a county or municipality may be authorized by law to undertake. In the case of a county or municipality for which an allocation has been made for the federal fiscal year beginning October 1, 1983, of an amount of federal aid for the federal aid urban system, as defined in 23 U.S.C. §103, the amount of State aid allocated under this section in any fiscal year shall not be less than the amount of federal aid so allocated, together with the amount of matching funds required under federal law. No allocation shall be made to a county or municipality without certification by the commissioner: (1) that there exists with respect to that county or municipality a comprehensive plan, or plans, which he has approved, for the effective allocation, utilization and coordination of available federal and State transportation aid, and (2) that the county or municipality has agreed that State aid provided under this section is provided in lieu of federal aid for the federal aid urban system program and that any federal aid for the federal aid urban system program attributable to the area will be programmed by the Department of Transportation for projects of regional significance. In any year in which insufficient funds have been appropriated to meet the minimum county allocations established in this section, or if no appropriation is provided, the commissioner shall determine on a prorated basis the amount of the deficiency for each county having a minimum allocation and allocate from funds available under the federal aid urban system program sufficient funds to meet the minimum allocations.

b. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of subsection d. of this section, allocate at his discretion State aid to municipalities for public highways under their jurisdiction and for emergency transportation projects, except that the amount to be appropriated for this program shall be 15% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section.

c. The commissioner shall, pursuant to appropriations or authorizations being made from time to time by the Legislature according to law and pursuant to the provisions of subsection d. of this section, allocate State aid to municipalities for public highways under their jurisdiction, except that the amount to be appropriated for this purpose shall

be 85% of the amount appropriated pursuant to the provisions of paragraph (2) of subsection d. of this section. The amount to be appropriated shall be allocated on the basis of the following distribution factor:

$$DF = \frac{P_c}{P_s} + \frac{C_m}{S_m}$$

where, DF equals the distribution factor

P_c equals county population

P_s equals State population

C_m equals municipal road mileage within the county

S_m equals municipal road mileage within the State.

After the amount of aid has been allocated based on the above formula, the commissioner shall determine priority for the funding of municipal projects within each county, based upon criteria relating to volume of traffic, safety considerations, growth potential, readiness to obligate funds and local taxing capacity and shall give the highest priority to projects which are intended to remedy hazardous conditions as identified for purposes of providing transportation pursuant to N.J.S.18A:39-1.2 for school pupils.

For the purposes of this subsection, (1) "population" means the official population count as reported by the New Jersey Department of Labor; and (2) "municipal road mileage" means that road mileage under the jurisdiction of municipalities, as determined by the department.

d. There shall be appropriated at least \$30,000,000.00 in each fiscal year for the purposes provided herein and in subsections b. and c. of this section. (1) Of that appropriation, the commissioner shall allocate \$5,000,000.00 as State aid to any municipality qualifying for aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.). The commissioner shall allocate the aid to each municipality in the same proportion that the municipality receives aid under P.L.1978, c.14. (2) The remaining amount of the appropriation shall be allocated pursuant to the provisions of subsections b. and c. of this section.

(cf: P.L. 1991,c.40,s.7)

2. This act shall take effect immediately.

This Legislation is new legislation for the 206th Legislature and has been introduced by Assemblyman Azzolina as Assembly Bill No. 1395.

RECOMMENDATION NJSA 18A should be supplemented to require local school districts to provide school bus and pedestrian safety instruction for pupils in kindergarten through third grade.

RECOMMENDATION NJSA 18A should be supplemented to require the employer to insure licensed school bus drivers complete a minimum of 10 hours of training in school bus safety. The Department of Education shall develop model training, content and procedures to implement this recommendation, which should be effective for the 94-95 school year

RECOMMENDATION NJSA 39:3B-1 should be supplemented to require all type I or type II school buses with capacity in excess of 10 used for pupil transportation to be painted school bus yellow, and this should be effective for the 94-95 school year

AN ACT concerning school bus safety and supplementing P.L.1965, c.119 (C.39:3B-1 et seq.) and chapter 35 of Title 18A of the New Jersey Statutes."

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

1. This act shall be known and may be cited as the "Comprehensive School Bus Safety Act."
2. Each board of education shall provide instruction in school bus and pedestrian safety for pupils in kindergarten through the third grade in conjunction with the curriculum in health, safety and physical education prescribed pursuant to N.J.S.18A:35-5. Guidelines for the instruction shall be developed by the State Board of Education and distributed to local school districts for their use.
3. A commercial driver who is licensed for the purposes of driving a school vehicle shall complete during the initial year of employment a minimum of 10 hours of training in accordance with guidelines to be established by the State Board of Education in consultation with appropriate representatives of the school bus industry. The training may include, but shall not be limited to, passenger control, accidents and emergencies, emergency driving techniques, first aid, field trips and transporting handicapped pupils. Up to three hours of pre-licensing training may apply to this requirement.
4. Every type I or type II school bus with a capacity of 10 or more passengers which transports pupils on a regular route to and from school shall be painted National School Bus Yellow.
5. The State Board of Education, in consultation with the director of the Division of Motor Vehicles in the Department of Law and Public Safety, shall promulgate or amend any rules or regulations necessary to effectuate the provisions of this act pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).
6. This act shall take effect immediately and sections 2 through 4 shall be operative on July 1 of the year following the year of enactment.

This Language is based on Legislation from the 205th Legislature sponsored by Senator Bassano as Senate Bill No. 663 and by Assemblyman Pascrell as Assembly Bill No. 413. Assemblyman Pascrell has prefiled his bill for the 206th legislature as Assembly Bill No. 478. This bill is identical to the Commission recommendation.

RECOMMENDATION NJSA 18A:39 should be amended to require a crossing control arm on school buses used on routes where children are required to cross in front of the bus.

AN ACT concerning the installation of crossing control arms on school buses and supplementing P.L.1965, c.119 (C.39:3B-1 et seq.).

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

1. Every school bus used to transport pupils pursuant to N.J.S. 18A:39-1 shall be equipped with a crossing control arm at the right front corner of the bus. The arm shall open and extend out from the front of the bus at least 5 1/2 feet each time the bus door is opened. The use of a crossing control arm shall not be required on school bus routes where no pupil need cross a street prior to boarding or upon leaving the bus.
2. The State Board of Education shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.
3. This act shall take effect immediately but section 1 shall only apply to school buses with a chassis manufacture date on or after the first day of the sixth month following the enactment of this act.

This Language is based on Legislation from the 205th Legislature sponsored by Senator Rand as Senate Bill No. 38 and by Assemblywoman Derman as Assembly Bill No. 2173. These bills have been prefiled for the 206th legislature as Senate Bill No. 105 and Assembly Bill No. 680. These bills have been amended to be identical to the Commission recommendation.

RECOMMENDATION NJS 39:3B should be supplemented to require a side emergency exit door in the rear half of a bus with a capacity of more than 35 with access aisle no less than 24 inches and crash barrier immediately forward of the seat to the rear of the side exit.

RECOMMENDATION NJS 39:3B should be amended to allow an increase of bus capacity within the following limitations: (1) 15 inches of seat space and a 15 inch aisle shall be maintained; (2) seat spacing shall not be less than 27 inches center to center; (3) bus length shall not exceed 40 feet and (4) the overhang of the bus behind the rear wheel shall not exceed 1/3 of the total length of the bus.

AN ACT requiring certain equipment for school buses and supplementing chapter 3B of title 39 of the Revised Statutes.

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

1. All school buses with a passenger seating capacity of more than 35 shall be equipped with a second emergency exit door in the rear half of the school bus positioned between the front and rear axles which shall be constructed in compliance with regulations promulgated by the State Board of Education.
2. When the existing emergency door is situated at the rear end of the school bus, the second emergency exit door shall be placed on the left side of the bus. When the existing emergency exit door is situated on the side of the bus, the second emergency exit door shall be placed on the side opposite.
3. An access aisle of no less than 24 inches in width shall be provided from the center aisle to the second exit door.
4. A crash barrier conforming to Federal Motor Vehicle Safety Standard No. 222 (49 C.F.R. 571.222) and regulations promulgated by the State Board of Education shall be placed immediately forward of the seat next rearward of the second emergency exit.
5. For the purposes of this act, the maximum permissible capacity of the Type "C" and Type "D" school buses as defined in regulations promulgated by the State Board of Education shall be increased to 71 passengers, and the permissible length of those buses extended to accommodate the additional rows of seats.
6. The maximum overall length of the bus shall not exceed 40 feet and the maximum overhang of the body to the rear of the rear axle shall not exceed one-third of the total length of the bus.
7. A minimum of 15 inches of seat space shall be provided for each passenger.
8. This act shall apply to school buses built on chassis manufactured on or after the effective date of this act.
9. This act shall take effect] on the first day of the sixth month¹ following enactment.

This Language is based on Legislation from the 205th Legislature sponsored by Senator Bassano as Senate Bill No. 1507 and by Assemblywoman Derman as Assembly Bill No. 2311. Senator Bassano's and Assemblywoman Derman's bills have been filed for the 206th legislature as Senate Bill No 694 and Assembly Bill No. 684 respectively. S694 satisfies the recommendation. A684 should be amended to be identical to S694.

RECOMMENDATION The Senate and Assembly Education Committees should adopt a policy that all bills requiring new buses to be equipped in any new fashion should use as the effective date of the legislation the "chassis manufacture date of the sixth month after enactment or later."

This recommendation does not require Legislative language.

RECOMMENDATION NJSA 39:3 should be supplemented to require a restricted commercial drivers license (CDL) for school bus drivers.

AN ACT requiring a restricted commercial driver's license for school bus drivers and supplementing chapter 3 of Title 39 of the Revised Statutes.

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

1. a. In accordance with the provisions of P.L....., c..... (C.....)(now pending before the Legislature as Senate, No. 2549 of 1990 and Assembly, No. 3258 of 1990), the Director of the Division of Motor Vehicles in adopting and administering a program for testing and ensuring the fitness of persons to operate commercial motor vehicles pursuant to the standards established under the federal Commercial Motor Vehicle Safety Act of 1986, Pub.L.99-570 (49 U.S.C.§2701 et seq.), shall develop a knowledge and skills test designed exclusively for school bus drivers. The knowledge and skills tests shall not include questions or require the demonstration of skills not directly relevant to the safe operation of a school bus.

An applicant for a commercial driver's license restricted to the operation of a school bus, as provided for in subsection b. of this section, shall apply to the director for such a license. The director shall permit the applicant to take the knowledge and skills tests designed exclusively for the restricted license.

b. In accordance with the provisions of P.L....., c..... (C.....)(now pending before the Legislature as Senate, No. 2549 of 1990 and Assembly, No. 3258 of 1990), the Director of the Division of Motor Vehicles in adopting and administering a classified licensing system for the operation of commercial motor vehicles pursuant to the standards established under the federal Commercial Motor Vehicle Safety Act of 1986, Pub.L.99-570 (49 U.S.C.§2701 et seq.), shall develop a commercial driver's license restricted to the operation of a school bus. An applicant for such a restricted license who successfully completes the knowledge and skills tests described in subsection a. of this section shall be issued a commercial driver's license restricted to the operation of a school bus.

2. This act shall take effect immediately but shall remain inoperative until the enactment into law of P.L., c.(C.)(now pending before the Legislature as Senate, No. 2549 of 1990 and Assembly, No. 3258 of 1990).

This Language is based on Legislation from the 205th Legislature sponsored by Assemblyman Arnone as Assembly Bill No. 138. This bill should be reintroduced to accomplish the Commission recommendation.

RECOMMENDATION NJSA 39:3-10.11 should be amended to include drivers of small vehicles (15 or fewer capacity) used to transport public school students under the requirement to hold a Commercial Drivers License with the exception of parents transporting their own children.

AN ACT concerning the licensing, testing and regulation of drivers of certain commercial motor vehicles and amending P.L.1990, c.103.

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

1. Section 3 of P.L.1990, c.103 (C.39:3-10.11) is amended to read as follows:

3. For purposes of this act, a term shall have the meaning set forth in R.S.39:1-1 unless another meaning for the term is set forth in this act, or unless another meaning is clearly apparent from the language or context of this act, or unless the meaning for the term set forth in R.S.39:1-1 is inconsistent with the manifest intent of the Legislature in this act.

For purposes of this act:

"Alcohol concentration" means:

- a. The number of grams of alcohol per 100 milliliters of blood; or
- b. The number of grams of alcohol per 210 liters of breath.

"Commercial driver license" or "CDL" means a license issued in accordance with this act to a person authorizing the person to operate a certain class of commercial motor vehicle.

"Commercial Driver License Information System" or "CDLIS" means the information system established pursuant to the federal "Commercial Motor Vehicle Safety Act of 1986," Pub. L. 99-570 (49 U.S.C. § 2701 et seq.) to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

"Commercial motor vehicle" or "CMV" means a motor vehicle or combination of motor vehicles used or designed to transport passengers or property:

- a. If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or displays a gross vehicle weight rating of 26,001 or more pounds;
- b. If the vehicle has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- c. If the vehicle is designed to transport 16 or more passengers including the driver;
- d. If the vehicle is designed to transport eight or more but less than 16 persons, including the driver, and is used to transport such persons for hire on a daily basis to and from places of employment; or
- e. If the vehicle is designed to transport 15 or fewer passengers and (1) is owned by a school district and used to transport public school students to and from school, or (2) is used to transport for hire public school students to and from school; or

[e.] f. If the vehicle is transporting or used in the transportation of hazardous materials and is required to be placarded in accordance with Subpart F. of 49 C.F.R. § 172, or the vehicle displays a hazardous material placard.

The director may, by regulation, include within this definition such other motor vehicles or combination of motor vehicles as he deems appropriate.

This term shall not include recreation vehicles.

"Controlled substance" means any substance so classified under subsection (6) of section 102 of the "Controlled Substances Act" (21 U.S.C. § 802), and includes all substances

listed on Schedules I through V of 21 C.F.R. § 1308, or under P.L.1970, c.226 (C.24:21-1 et seq.) as they may be revised from time to time. The term, wherever it appears in this act or administrative regulation promulgated pursuant to this act, shall include controlled substance analogs.

"Controlled substance analog" means a substance that has a chemical structure substantially similar to that of a controlled dangerous substance and that was specifically designed to produce an effect substantially similar to that of a controlled dangerous substance. The term shall not include a substance manufactured or distributed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 355).

"Conviction" means a final adjudication that a violation has occurred, a final judgment on a verdict, a finding of guilt in a tribunal of original jurisdiction, or a conviction following a plea of guilty, non vult or nolo contendere accepted by a court. It also includes an unvacated forfeiture of bail, bond or collateral deposited to secure the person's appearance in court, or the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

"Disqualification" means either:

- a. The suspension, revocation, cancellation, or any other withdrawal by a state of a person's privilege to operate a commercial motor vehicle;
- b. A determination by the Federal Highway Administration under the rules of practice for motor carrier safety contained in 49 C.F.R. § 386, that a person is no longer qualified to operate a commercial motor vehicle under 49 C.F.R. § 391; or
- c. The loss of qualification which automatically follows conviction of an offense listed in 49 C.F.R. § 383.51.

"Domicile" means that state where a person has a true, fixed, and permanent home and principal residence and to which the person intends to return whenever the person is absent.

"Driver license" means a license issued by this State or any other jurisdiction to a person authorizing the person to operate a motor vehicle.

"Endorsement" means an authorization to a commercial driver license required to permit the holder of the license to operate certain types of commercial motor vehicles.

"Felony" means any offense under any federal law or the law of a state, including this State, that is punishable by death or imprisonment for a term exceeding one year. The term includes, but is not limited to, "crimes" as that term is defined in N.J.S.2C:1-1 et seq.

"Foreign jurisdiction" means any jurisdiction other than a state of the United States.

"Gross vehicle weight rating" or "GVWR" means the value specified by a manufacturer as the loaded weight of a single or a combination (articulated) vehicle, or the registered gross weight, whichever is greater. The GVWR of a combination (articulated) vehicle, commonly referred to as the "gross combination weight rating" or "GCWR," is the GVWR of the power unit plus the GVWR of the towed unit or units. In the absence of a value specified for the towed unit or units by the manufacturer, the GVWR of a combination

(articulated) vehicle is the GVWR of the power unit plus the total weight of the towed unit, including the loads on them.

"Hazardous material" means a substance or material determined by the Secretary of the United States Department of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and so designated pursuant to the provisions of the "Hazardous Materials Transportation Act" (49 U.S.C. § 1801 et seq.).

"Motor vehicle" includes all vehicles propelled otherwise than by muscular power, except such vehicles as run only upon rails or tracks. The term "motor vehicle" includes motorized bicycles.

"Out of service order" means a temporary prohibition against operating a commercial motor vehicle.

"Recreation vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family or personal conveyance.

"Representative vehicle" means a motor vehicle which represents the type of motor vehicle that a commercial driver license applicant operates or expects to operate.

"Serious traffic violation" means conviction for one of the following offenses committed while operating a commercial motor vehicle:

- a. Excessive speeding, involving any single offense for a speed of 15 miles per hour or more above the speed limit;
- b. Reckless driving, as defined by state or local law or regulation, including, but not limited to, offenses of driving a commercial motor vehicle in willful or wanton disregard of the safety of persons or property, including violations of R.S.39:4-96;
- c. Improper or erratic traffic lane changes;
- d. Following a vehicle ahead too closely, including violations of R.S.39:4-89;
- e. A violation, arising in connection with a fatal accident, of state or local law relating to motor vehicle traffic control, other than a parking violation; or
- f. Any other violation of a state or local law relating to motor vehicle traffic control determined by the Secretary of the United States Department of Transportation in 49 C.F.R. § 383.5 to be a serious traffic violation.

This term shall not include vehicle weight or defect violations.

"State" means a state of the United States or the District of Columbia.

"Tank vehicle" means any commercial motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. Such vehicles include, but are not limited to, cargo tanks and portable tanks as defined by the director. However, this definition does not include portable tanks having a rated capacity under 1,000 gallons.

"Vehicle group" means a class or type of vehicle with certain operating characteristics.
(cf: P.L.1990, c.103, s.3)

2. This act shall take effect immediately.

This Language is based on Legislation from the 205th Legislature sponsored by Senator Ewing as Senate Bill No. 105. This bill has been prefiled for the 206th legislature as Senate Bill No. 369. This bill should be enacted to accomplish the Commission recommendation

RECOMMENDATION N.J.S.A. 39:3-10.1 should be amended to require the Division of Motor Vehicles to notify the Department of Education whenever the license of a school bus driver has been suspended or revoked and to require that the Department of Education inform the local district or other employer of the school bus driver. Reporting to the Department of Education shall be within five days of the suspension or revocation. Reporting to the school district shall be within five days of receipt of the information by the Department of Education.

AN ACT concerning the revocation or suspension of school bus driver's special licenses and amending R.S.39:3-10.1.

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

1. R.S.39:3-10.1 is amended to read as follows:

39:3-10.1. No person shall drive any motor vehicle or trackless trolley with a capacity of more than six passengers used for the transportation of passengers for hire or for the transportation of passengers to or from summer day camps or summer residence camps or any bus as defined by the director used for the transportation of passengers, except vehicles used in ride-sharing arrangements, taxicabs, or any bus used to transport children to and from school pursuant to N.J.S.18A:39-1 et seq. or when being used by a private school to transport children to and from school, unless specially licensed so to do by the director or in the case of a nonresident, licensed pursuant to the laws of his resident state with respect to the licensing of bus drivers. Such license shall not be granted by the director until the applicant therefor is at least 18 years of age and has passed a satisfactory examination in ascertainment of his driving ability and familiarity with the mechanism of [said] the vehicle and has presented evidence, satisfactory to the director of his previous experience (including proof that he has had at least three years of driving experience), good character and physical fitness. [Said] The license shall be effective until suspended or revoked by the director; provided, the special licensee is also the holder of a license as provided for in R.S.39:3-10.

Every holder of a special license issued pursuant to this section shall furnish to the director satisfactory evidence of continuing physical fitness, good character and experience once in every 24 months after the issuance of the special license. In addition, any person applying for a special license pursuant to this section for the transporting of children to and from schools, pursuant to N.J.S.18A:39-1 et seq., shall comply with the provisions of section 6 of P.L.1989, c.104 (C.18A:39-19.1).

The director may suspend or revoke a license granted under authority of this section for a violation of any of the provisions of this subtitle, or on other reasonable grounds, or where, in his opinion, the licensee is either physically or morally unfit to retain the same. Where the licensee is a school bus driver, notice of the suspension or revocation shall be given by the director to the Department of Education, which shall notify local boards of education or other employers of school bus drivers of the notice of suspension or revocation of driving privileges. Notwithstanding the provisions of any law to the contrary the director shall, upon notice of disqualification from the Commissioner of Education pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1), immediately revoke the special license granted under authority of this section without the necessity of a further hearing.

The director may make such rules and regulations as he may deem necessary to carry out the provisions of this section.

Any rules and regulations adopted pertaining to the program of notification of suspension or revocation of school bus driver's special licenses pursuant to this section shall be made in cooperation with the Department of Education.

(cf: P.L.1989, c.104, s.5)

2. This act shall take effect immediately.

This Language is based on Legislation from the 205th Legislature sponsored by Assemblyman Garrett as Assembly Bill No. 454. This bill should be reintroduced to accomplish the Commission recommendation.

RECOMMENDATION NJSA 18A:39 should be supplemented to permit local boards of education to test school bus drivers for drug use in three cases; (1) prior to employment, (2) upon reasonable suspicion that the driver is using controlled substances and (3) on a random basis during employment.

AN ACT concerning drug testing of school bus drivers and supplementing chapter 39 of Title 18A of the New Jersey Statutes.

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

1. Every board of education or contractor which employs school bus drivers within the State may test its school bus drivers for usage of controlled dangerous substances as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.) and in chapters 35 or 36 of Title 2C of the New Jersey Statutes:

- a. prior to employment;
- b. upon reasonable suspicion that an employee is using or has used a controlled dangerous substance. There is created a rebuttable presumption that the employer had reasonable suspicion to test for controlled dangerous substances if the specimen provided by the employee tested positive in a confirmed test;
- c. on a random basis during the course of employment based upon neutral selection criteria. For the purposes of this subsection the term "neutral selection criteria" shall mean criteria for selecting employees for tests that (1) results in an equal probability that any employee from a group of employees subject to the mechanism will be selected and (2) does not give an employer discretion to waive the selection of any employee selected under the criteria.

The collection of specimens under this act shall be performed during or immediately after the regular work period for current employees.

2. A refusal to submit to a test or a positive confirmed test for controlled dangerous substances under this act may serve as the basis for a refusal to hire a prospective employee or the discharge of a current employee unless the employee was using the substance pursuant to a valid prescription or order form.

3. The collection of specimens and testing under this act shall be performed in accordance with the regulations and guidelines issued by the Department of Education pursuant to section 7 of this act.

4. All information, reports, statements and test results, written or otherwise, received by the employer through its drug testing program shall be deemed confidential communications and may not be used or disclosed except as may be necessary to effectuate the purposes of this act.

Any information obtained by an employer pursuant to this act shall be the property of the employer.

5. Any employer who in good faith implements a drug testing program or procedure pursuant to this act shall not be liable for civil damages arising therefrom except to the extent the complaint establishes a cause of action for defamation of character, libel, slander, or damage to reputation arising from a violation of section 4 of this act.

Nothing in this section is intended to preclude the protection provided in section 2 of P.L.1971, c.414 (C.2A:62A-4) or otherwise provided by law.

6. The provisions of the "New Jersey Clinical Laboratory Improvement Act," P.L.1975, c.166 (C.45:9-42.26 et seq.) shall not apply to drug testing performed pursuant to this act.

7. The State Board of Education, in consultation with the State Attorney General, shall promulgate rules and procedures pursuant to the "Administrative Procedures Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to effectuate the provisions of this act. The Commissioner of Education shall within 60 days following enactment issue guidelines to serve as temporary procedures for effectuating the provisions of this act until such time as the State board promulgates regulations.

8. This act shall take effect immediately except that sections 1 through 5 shall remain inoperative for a period of 120 days following the release of guidelines by the Department of Education pursuant to section 7 of this act.

This Language is based on Legislation from the 205th Legislature sponsored by Senator Ewing as Senate Bill No. 1675 and by Assemblyman Bagger as Assembly Bill No. 2166. Assemblyman Bagger's bill has been prefiled for the 206th legislature as Assembly Bill No. 308. This bill is identical to the Commission recommendation. . However, federal code more exceeding these requirements is now under consideration and may make this issue moot.

RECOMMENDATION NJSA 18A:39-19.1 should be amended to require that local boards of education and school bus contractors be required to pay all fees required for fingerprinting and criminal history checks required for license renewal for school bus drivers in their employ.

AN ACT concerning the fingerprinting of school bus drivers and amending P.L.1989, c.104.

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

1. Section 6 of P.L.1989 c.104 (C.18A:39-19.1) is amended to read as follows:

6. Prior to employment as a school bus driver, and upon application for renewal of a school bus driver's license or commercial driver license, a bus driver shall submit to the Commissioner of Education his or her name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency. No criminal history record check shall be furnished without his or her written consent to such a check. The board of education which employs the bus driver shall pay all fees required for the fingerprinting and criminal history record check when the driver is renewing the school bus driver's license or commercial driver license. A bus driver employed by a board of education shall not suffer a loss of compensation as a result of the scheduling of the fingerprinting. A school bus contractor shall pay all fees required for the fingerprinting and criminal history record check when an employee is renewing the school bus driver's license or commercial driver license.

Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation and the Division of State Police, the Commissioner of Education shall notify the applicant, in writing, of the applicant's qualification or disqualification as a school bus driver. A school bus driver shall be disqualified from employment or service if the individual's criminal history record reveals a record of conviction of any of the following crimes and offenses:

a. A crime or offense bearing upon or involving a sexual offense or child molestation or endangering the welfare of children or incompetents, as specified in section 1 of P.L.1986, c.116 (C.18A:6-7.1).

b. A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a "controlled dangerous substance" as defined in the "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.).

c. A crime or offense involving the use of force or the threat of force to or upon a person or property including: armed robbery, assault, kidnapping, arson, manslaughter and murder.

A school bus driver shall also be disqualified if the individual's bus driver's license or commercial driver license is currently revoked or suspended by the Division of Motor Vehicles in accordance with R.S.39:3-10.1.

The applicant shall have 30 days from the date of the written notice of disqualification to petition the Commissioner of Education for a hearing on the accuracy of the criminal history record information or to establish the applicant's rehabilitation under subsection c. of section 1 of P.L.1986, c.116 (C.18A:6-7.1). If the applicant is disqualified, the convictions which constitute the basis for disqualification shall be identified in the written notice with copies forwarded to the Division of Motor Vehicles. The local board of

education, the school bus contractor and the County Superintendent of Schools shall also be notified of the disqualification. Notwithstanding the provisions of any law to the contrary, the Director of the Division of Motor Vehicles shall, upon notice of disqualification from the Commissioner of Education, immediately revoke the applicant's special license issued pursuant to R.S.39:3-10.1 without necessity of a further hearing. Candidates' records shall be maintained in accordance with the provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).

(cf: P.L.1989, c.104, s.6)

2. This act shall take effect immediately and shall apply to applications for renewal of licenses submitted on and after the date of enactment.

This Language is based on Legislation from the 205th Legislature sponsored by Senator Haines as Senate Bill No. 1009 and by Assemblyman DeCroce as Assembly Bill No. 2171. Senator Haines' bill has been prefiled for the 206th legislature as Senate Bill No. 435. Senate Bill 1009 was substituted by the Senate Education Committee in the last session as shown in the above language. The same substitute should be made for Senate Bill 435 in the current session.

RECOMMENDATION The transportation funding formula should be amended to apply the same weight given to transportation of special education students to transportation of homeless students.

This should be accomplished within the framework of the next funding formula

