

Committee Meeting

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of

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS COMMITTEE

ASSEMBLY BILL No. 1175

(Requires New Jersey Transit to contract out
bus routes on a competitive basis)

LOCATION: Committee Room 5
Legislative Office Building
Trenton, New Jersey

DATE: July 13, 1992
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Alex DeCroce, Chairman
Assemblyman Frank Catania, Vice-Chairman
Assemblyman Ernest L. Oros
Assemblyman Jeff Warsh



ALSO PRESENT:

Amy E. Melick
Aide, Assembly Transportation and Communications Committee
Office of Legislative Services

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Committee Meeting

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS COMMITTEE

ASSEMBLY BILL NO. 1173

(Replaces New Jersey Transit in contract and bus routes on a competitive basis)

DATE: July 15, 1975
LOCATION: Legislative Office Building
Room 2000, Trenton, New Jersey



NAME OF COMMITTEE MEMBER

Assemblyman Alan Berman, Chairman
Assemblyman Frank Boncompagni-Ludovisi
Assemblyman Robert J. Hughes
Assemblyman John Water

ALSO PRESENT:

Mr. E. Walter
Aide, Assembly Transportation and Communications Committee
Director of Legislative Services

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ERNEST L. OROS
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JERRY GREEN
DAVID C. KRONICK

New Jersey State Legislature

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

COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY TRANSPORTATION AND
COMMUNICATIONS COMMITTEE

FROM: ASSEMBLYMAN ALEX DeCROCE, CHAIRMAN

SUBJECT: **COMMITTEE MEETING - July 13, 1992**

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

The Assembly Transportation and Communications Committee will meet
on **Monday, July 13, 1992 at 10:00 a.m. in Room 5, Legislative Office
Building, Trenton** to receive testimony from representatives of the New
Jersey Transit Corporation and the Amalgamated Transit Union on the
following bill:

A-1175
DeCroce/Doria

Requires NJT to contract out bus routes
on a competitive basis.

Issued 7/8/92



ASSEMBLY, No. 1175
STATE OF NEW JERSEY

INTRODUCED MARCH 23, 1992

By Assemblyman DeCROCE

1 AN ACT concerning the provision of bus service by the New
2 Jersey Transit Corporation and amending and supplementing
3 P.L.1979, c.150.

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

7 1. (New section) As used in this act:

8 "Corporation" means the New Jersey Transit Corporation.

9 "Private carrier" means a private entity operating motorbus
10 regular route service.

11 "Route package" means two or more regular route bus routes
12 to be operated by a single private carrier.

13 2. (New section) a. The corporation shall implement a system
14 whereby the regular route bus service operated by the
15 corporation on the effective date of this amendatory and
16 supplementary act shall be offered in route packages to qualified
17 private carriers through a competitive process.

18 b. Any regular route motorbus services operated under
19 competitive proposals pursuant to this amendatory and
20 supplementary act shall be subject to a new competitive proposal
21 at least once every five years. Renewal options that extend a
22 contract beyond five years shall be prohibited.

23 c. The corporation shall make all equipment purchased with
24 public funds available to private carriers awarded contracts for
25 the operation of route packages under nominal leases.

26 3. (New section) a. Within three months of the effective date
27 of this amendatory and supplementary act, the corporation shall:

28 (1) Develop and adopt criteria for creating route packages in a
29 manner that will encourage competition between private carriers
30 to operate route packages. The criteria shall include, but not be
31 limited to: balance of profit potential among route packages,
32 homogeneous geographic location of routes, ease of incorporation
33 of the routes into the existing systems of private carriers, and, to
34 the extent possible, combining of routes so that no more than 75
35 buses are necessary to operate the route package.

36 (2) Promulgate reasonable standards with respect to
37 experience, safety records, and financial responsibility by which
38 private carriers can be qualified to provide bus services pursuant
39 to this amendatory and supplementary act. The standards shall
40 be clearly defined in each request for proposals issued by the
41 corporation and shall not be designed to restrict the number of
42 eligible participants in the competitive proposal process.

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

Matter underlined thus is new matter.

- 1 (3) Prepare a standard form of agreement for carriers
2 providing bus services. The contract shall include:
- 3 (a) Reasonable passenger comfort, safety and vehicle
4 maintenance standards;
- 5 (b) Standards for access to bus services for persons with
6 disabilities, which shall be as specified in the corporation's plan
7 for those services;
- 8 (c) Standards for training and safety records to be required of
9 any driver;
- 10 (d) Requirements for reasonable insurance protecting the
11 corporation from liability for the acts, negligence, or omission of
12 private carriers, their agents, and their employees;
- 13 (e) Reasonable penalties for inadequate performance, including
14 the corporation's right to cancel contracts;
- 15 (f) Provisions and standards on the use of the corporation's
16 logo, transfers, transit ways, bus stops, vehicles and other
17 elements as are owned by the corporation and appropriate for use
18 by the private carrier under contract to the corporation.
- 19 (4) Develop reasonable standards for reliability, on-time
20 performance, and other appropriate service quality considerations
21 for each route for which competitive proposals are sought. The
22 standards shall be clearly defined in each request for proposals
23 issued by the corporation.
- 24 b. The corporation may not establish any requirement relating
25 to the wages, benefits, or union organization of employees of any
26 private carrier providing service under this amendatory and
27 supplementary act. All private carriers providing service under
28 this amendatory and supplementary act shall comply with and
29 give adequate certification of compliance with all applicable
30 federal and State labor laws.
- 31 c. No change in contract payment amount to a private carrier
32 shall be made except as specified in the contract. Payment
33 changes in a contract shall be limited to indices, escalators,
34 deflators, changes in service level and other expressly stated or
35 calculable amounts, consistent with the request for proposals and
36 the proposal of the private carrier awarded the contract.
- 37 4. (New section) a. Each request for proposals shall specify
38 the route, service frequency, and fares and exact service level in
39 terms of annual revenue service hours and miles to be assumed in
40 the cost proposal as determined by the corporation.
- 41 b. Each request for proposals shall include, as part of the
42 information provided on route packages, the cost to the
43 corporation for operating the route package. The cost shall
44 include all operating and maintenance costs associated with the
45 route package, an allocation of the costs of bus operations
46 management and support associated with the route package and
47 an allocation of administrative support associated with the route
48 package.
- 49 c. The corporation shall seek the widest reasonable
50 distribution of each request for proposals.
- 51 d. The corporation shall advertise each request for proposals
52 within ten days of issuance, and in accordance with its general
53 procurement policy.
- 54 e. Proposals shall be required not less than 60 days from the

- 1 advertisement date, except in emergency circumstances.
- 2 f. Services shall commence under any request for proposal as
3 soon as reasonably practical within the parameters of the service
4 requirements.
- 5 g. Any qualified private carrier may respond to any request for
6 proposals. The corporation shall ensure that disadvantaged
7 business enterprises, as defined in part 23 of title 49 of the Code
8 of Federal Regulations, as amended, have an opportunity to
9 respond.
- 10 h. Requests for proposals shall include the requirement that
11 any private carrier awarded a route package contract, when
12 filling positions created as a result of being awarded the
13 contract, shall first offer employment to corporation employees
14 who might lose their employment as a result of that contract.
15 The private carrier shall be the sole determinant of the labor
16 requirements necessary to comply with the contract. A private
17 carrier shall not be required to hire any corporation employee
18 who does not meet the private carrier's employment
19 qualifications.
- 20 i. The corporation shall not bid upon route packages offered
21 pursuant to this amendatory and supplementary act.
- 22 j. With respect to each request for proposals, the corporation
23 shall award the contract to the private carrier whose responsible
24 and responsive proposal offers the maximum return or the lowest
25 cost to the corporation based upon a comparison of the cost or
26 return to the corporation under the proposal and the cost or
27 return to the corporation to operate the route package. In
28 determining the return to the corporation from the operation of a
29 route package, the cost of operating the route package shall be
30 calculated as cost is calculated pursuant to subsection b. of this
31 section.
- 32 k. The corporation may reject any proposal it deems to be not
33 in the best interest of the State.
- 34 5. (New section) The corporation shall contract, subject to the
35 approval of the State Auditor, with an independent certified
36 accounting firm, other than the corporation's regular auditor, for
37 a neutral and unbiased performance audit to be completed and
38 reported to the Legislature not later than eighteen months after
39 the effective date of this amendatory and supplementary act.
40 The performance audit shall analyze in a fair and equitable
41 fashion the implementation of this amendatory and
42 supplementary act including, but not limited to, compliance with
43 the competitive proposal process, compliance with fully allocated
44 costing requirements, the level of contract compliance by private
45 carriers, the cost of that compliance and whether those costs will
46 be recurring or may be reduced, application of savings to
47 consumer benefit and taxes paid by private carriers.
- 48 6. (New section) No public transit vehicle purchased or leased
49 by the corporation after the effective date of this amendatory
50 and supplementary act shall be encumbered by any contract,
51 agreement, or assurance which limits its use by private carriers
52 in the operation of public transportation service under contract,
53 subject to the policy control of the corporation.
- 54 7. (New section) Within one year of the effective date of this

1 amendatory and supplementary act, the corporation shall have
2 issued requests for proposals for not less than 25% of the regular
3 route bus routes operated by the corporation on the effective
4 date of this amendatory and supplementary act.

5 Within two years of the effective date of this amendatory and
6 supplementary act, the corporation shall have issued requests for
7 proposals for not less than 50% of the regular route bus routes
8 operated by the corporation on the effective date of this
9 amendatory and supplementary act.

10 8. Section 6 of P.L.1979, c.150 (C.27:25-6) is amended to read
11 as follows:

12 6. a. The corporation may enter into contracts with any public
13 or private entity to operate rail passenger service or portions or
14 functions thereof. Where appropriate, payments by the
15 corporation for services contracted for under this section shall be
16 determined in accordance with the Federal Regional Rail
17 Reorganization Act of 1973 (45 U.S.C. 701 et seq.), the Federal
18 Rail Passenger Service Act of 1970 (45 U.S.C. 501 et seq.), any
19 other applicable Federal law, and any and all rules, regulations
20 and standards, promulgated thereunder and decisions issued
21 pursuant thereto. In all other cases, payments shall be by
22 agreement upon such terms and conditions as the corporation
23 shall deem necessary.

24 b. The corporation may enter into contracts with any public or
25 private entity to operate motorbus regular route, paratransit or
26 motorbus charter services or portions or functions thereof.
27 Payments shall be by agreement upon such terms and conditions
28 as the corporation shall deem necessary. Contracts for the
29 provision of regular route bus service offered and awarded after
30 the effective date of this amendatory and supplementary act
31 shall conform to the provisions of P.L. , c. (C.)(now
32 before the Legislature as this bill).

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

34 9. This act shall take effect immediately.

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STATEMENT

39 This bill would require the New Jersey Transit Corporation
40 (NJT) to offer the operation of its regular route bus routes to
41 private carriers through competitive proposals.

42 The bill requires NJT to establish route packages of two or
43 more regular route bus routes to be offered for competitive
44 proposals. Route packages would be established in a manner to
45 encourage competition between private carriers to operate route
46 packages. Criteria for the development of route packages would
47 include: balance of profit potential among route packages,
48 homogeneous geographic location of routes, ease of incorporation
49 of the routes into the existing systems of private carriers and, to
50 the extent possible, combining of routes so that no more than 75
51 buses are necessary to operate the route package. Service would
52 be required to meet reasonable standards established by NJT.
53 Private carriers awarded bus route packages to operate would be
54 required to first offer employment to corporation employees who

1 might lose their employment as result of that contract when
2 filling positions created as a result of being awarded the
3 contract. However, a private carrier would not be required to
4 hire any corporation employee who does meet the private
5 carrier's employment qualifications.

6 The bill would require NJT to offer not less than 25% of the
7 regular route bus routes operated by the corporation within one
8 year of the effective date of the act and not less than 50% of the
9 regular route bus routes operated by the corporation within two
10 year of the effective date of the act.

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15 Requires NJT to contract out bus routes on a competitive basis.



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ASSEMBLYMAN ALEX DeCROCE (Chairman): Good morning ladies and gentlemen. We're going to start up. I'm sorry to start as late as we are. We're really here today to take testimony on A-1175, which is a bill which would require NJT to contract out bus routes on a competitive basis. But before we start, I'm going to ask Amy to call the roll.

MS. MELICK (Committee Aide): Assemblyman Green, absent. Assemblyman Kronick? (no response)

Assemblyman Warsh?

ASSEMBLYMAN WARSH: Present.

MS. MELICK: Assemblyman Oros?

ASSEMBLYMAN OROS: Here.

ASSEMBLYMAN DeCROCE: Catania is here.

MS. MELICK: Assemblyman Nickles is absent.

ASSEMBLYMAN DeCROCE: Yes, he is.

MS. MELICK: Assemblyman DeCroce is here, so we have a quorum.

ASSEMBLYMAN DeCROCE: Thank you.

We're very fortunate in having Executive Director DeLibero from New Jersey Transit with us this morning. We are going to ask her to be our first speaker. If you'll go ahead, Ms. DeLibero, I'll appreciate it.

S H I R L E Y A. D e L I B E R O: Thank you.

Mr. Chairman, and members of the Committee, I appreciate this opportunity to comment on A-1175, legislation that requires New Jersey Transit to contract out existing bus service to private operators. I sent each of you an information package, but I understand that you didn't get it until this morning, so I apologize for that. I hope you will have a chance to review it.

New Jersey Transit supports the Committee's efforts to involve the private bus industry in the delivery of regular bus service.

I don't think I have this on. (witness refers to microphone)

UNIDENTIFIED MEMBER OF COMMITTEE: It's not an amplifying mike.

MS. DeLIBERO: Oh, okay.

New Jersey Transit supports the Committee's efforts to involve the private bus industry in the delivery of regular route bus service. Private carrier involvement has always increased the ability of New Jersey Transit to maximize efficiencies and promote cost-effective service.

Efficiency and cost-effectiveness is not an inevitable outcome of privatization of service. There are costs that the State would have to bear if too much service is privatized which would actually cause costs to be higher than they are today. There are also questions about continued service quality, if too much service is privatized and New Jersey Transit is no longer able to sustain the infrastructure and organization required for direct operations.

Efficiency and effectiveness in the delivery of bus service is best realized through maximizing competition, and avoiding costly and disruptive State and Federal labor protection provisions. This balance between maximizing competition while minimizing the adverse impacts of Federal and State law, as well as decisions made by the Public Employment Relations Commission and the New Jersey Supreme Court, is the keystone to New Jersey Transit's long-standing policy on private carrier involvement.

Since 1986, the New Jersey Transit Board policy has required that all new service be competitively bid, existing services under contract be competitively bid, and all routes with major restructuring to be competitively bid. The policy also calls for the competitive bidding of 5 percent of New Jersey Transit's routes.

As of today, 10 percent of New Jersey Transit's bus service is provided through contracts with private operators. Service on 46 New Jersey Transit routes is provided by private

operators under contract to New Jersey Transit. New Jersey Transit now relies on private carriers for the provision of service in 10 of the 21 counties.

New Jersey Transit's privatization policy is the most extensive in the nation, and has been the model policy used by other transit agencies. For example, this Committee recently heard testimony from Wendell Cox regarding the successful privatization efforts of the San Diego Transit Corporation. However, an examination of the San Diego Transit policy entitled, "Providing Transit Services," reveals that it is far less comprehensive than the New Jersey Transit policy. The similarities between the New Jersey Transit policy and San Diego's include the competitive bidding of new routes and new special services, existing contracted services, and existing services that have major restructuring, provided it can be accomplished without causing major employee layoffs.

Unlike the New Jersey Transit policy, San Diego Transit does not seek to competitively bid any of its existing bus routes directly operated by the public agency. Further, unlike New Jersey Transit, San Diego Transit contracts out only restructured services when no layoffs occur.

Both the San Diego and New Jersey Transit policies recognize the constraints caused by Section 13(c) of the Federal Transit Act as amended. Section 13(c) protects the interests of employees affected by Federal assistance. The protection offered labor under 13(c) is extensive and includes, "The protection of individual employees against a worsening of their positions with respect to their employment."

Simply put, 13(c) could require New Jersey Transit to continue to pay the wages and benefits of any employee whose condition is worsened through the contracting of service. Should that occur, New Jersey Transit would end up paying for the same service twice. We would be paying the private carrier for the provision of service at the same time we would be

paying our employees for not providing the service. Such an arrangement is not cost-effective or efficient, and should be avoided.

New Jersey Transit also has to be sensitive to other 13(c) issues related to the approval of Federal grants. Section 13(c) requires the United States Department of Labor, based on input from the unions, to sign off on all Federal grants. We need to be aware that the United States Department of Labor could potentially delay or deny New Jersey Transit access to over \$200 million in Federal funds, including up to \$38 million in Federal operating assistance, should they find New Jersey Transit or the laws of the State to be in conflict with Federal labor policy related to 13(c). In short, the Section 13(c) issue is a real constraint that needs to be considered related to privatization.

For the past six years, New Jersey Transit has both privatized bus service, and avoided any successful 13(c) claims by averting any large scale displacement of employees caused by the competitive bidding of service. Employees potentially impacted by contracting out service have filled vacant positions created through the normal attrition of the work force.

As a result, the New Jersey Transit contracting for service policy has achieved cost savings without triggering expensive 13(c) protection payments or delays in receiving Federal grants. This ability to avoid 13(c) claims is not achievable under A-1175 since the percentage requirements for contracting out, far exceed any attrition rate experienced to date.

State labor protection laws also have to be considered in determining whether contracting with private carriers would be cost-effective. State labor protection laws protect employees from being adversely impacted by the contracting of service.

Further, the Legislature should take into consideration recent PERC decisions that have been upheld by the New Jersey Supreme Court. As it relates to subcontracting, which would be the case under any privatization legislation that assumes a public subsidy for the contracted services, PERC has ruled that New Jersey Transit bus employees have the right to negotiate the subcontracting of service when it is solely done for economic reasons. Enactment of privatization legislation would have to reconcile the objectives of that act with the labor provisions contained within the New Jersey Transit enabling legislation.

The impact of Federal and State labor protection provisions are not the only factors that should be considered in assessing the cost-effectiveness of privatization efforts. Another factor to be considered is the fiscal impact of not being able to use part-time bus operators as agreed to in our labor contract.

New Jersey Transit is allowed to use part-time employees to provide up to 10 percent of all hours of service. The use of part-time operators significantly reduces New Jersey Transit's cost primarily because wages are lower than full-time drivers, no benefits are provided, and part-time drivers are not subject to work rules. Part-timers save New Jersey Transit about \$10 million a year. Should New Jersey Transit need to reduce its work force in order to privatize existing service, our labor contract requires that part-time drivers be laid off before full-time drivers. As a result, the overall cost of the remaining service would increase since New Jersey Transit would lose the benefits achieved by the use of the part-timers.

Privatization will not mitigate the need to foster and develop a coordinated, comprehensive and responsive public transportation system. This responsibility and its cost will continue to be borne by New Jersey Transit and its remaining riders. Service planning, monitoring and marketing bus

service, customer relations, procurement and grants management will continue to be the fundamental responsibility of the State and New Jersey Transit. Certain areas, such as the monitoring of private carriers' contracts, would require increases in spending. These costs are unavoidable and should be excluded when comparing public and private operations.

While cost is the paramount concern, other factors should be considered in determining the appropriate balance between public operations and contracted services. The State must maintain its ability to be a direct provider of service in order to ensure cost-effectiveness and responsiveness to the public. Without a continued State role in the direct operation of service, New Jersey would once again become subject to private carriers' demands for increased subsidy payments, and our riders could once again be subject to an uneven level of service quality. Without the ability of the State to step in competition would be weakened, and as competition is weakened the surviving carriers would once again be in the driver's seat.

One of our key concerns with A-1175 is the restriction placed on New Jersey Transit to bid on services. Once again, I must stress that if cost-effectiveness is the issue, competition, not privatization, is the answer.

In conclusion, there are two key issues that influence the overall approach taken regarding the privatization of services. The first issue concerns the most cost-effective means for delivering service and how to achieve this objective in light of Federal and State labor mandates, cost savings achieved through the use of part-timers, and the ongoing responsibility that New Jersey Transit would continue to have.

The second issue concerns competition and how to ensure that the privatization of routes does not, in the long run, undermine the State's options concerning the delivery of service. Cost savings are not achieved simply by contracting with private carriers, but rather by providing a competitive environment in which to select a service provider.

Bill A-1175, which is before this Committee, does not achieve either objective. The contracting out requirements would result in significant Section 13(c) exposure; would undermine our ability to maintain part-time drivers; and would result in many of New Jersey Transit's bus garages being either closed or given to private carriers. Without the infrastructure in place to deliver services, New Jersey Transit would, for all practical purposes, be removed from the marketplace as a direct operator. Competition would suffer and in the long run, prices would increase and the ability to ensure service quality decrease.

I want to emphasize, however, that our concerns with A-1175 should not be equated to a position against competitive bidding. We strongly support competitive bidding, provided it achieves real cost savings and does not undermine the public interest concerning safety, quality of service, and competition. In fact, over the coming years we expect more of our services to be competitively bid -- and we would also be bidding -- particularly services developed in response to the Clean Air Act and the ADA. But like San Diego, there are real world limitations to contracting out existing services.

That concludes my remarks, and I'll answer any questions that the Committee may have.

ASSEMBLYMAN DeCROCE: Thank you very much, Director. First of all, let me commend you on this report. It's extremely good, and it answers a lot of questions we may have had in the beginning.

Let me just go on to say though, that A-1175 is a bill that has been introduced, and it is not necessarily written in stone. This Committee is willing to listen to all sides and possibly, if necessary, amend the bill to make it more amendable. So it is something that is workable. If we find that the bill is unworkable, then it just goes nowhere. But at this time we would like to probably ask a few questions.

I'd like to know from you, frankly, your concerns with regard to why it would cost more if we began to privatize. Since you're saying the PERC has already ruled that should you negotiate with subcontractors, I think, as you stated here--

MS. DeLIBERO: Right.

ASSEMBLYMAN DeCROCE: --you would still have to carry on the provisions of contractual agreements with people who are working for the State of New Jersey under New Jersey Transit?

MS. DeLIBERO: Right. And what we're saying is, the PERC decision-- Your bill says that New Jersey Transit would not be allowed to competitively bid, and the PERC ruling clearly says that they would have the opportunity to do that, especially if it was something you were looking at solely because it's less costly to do that.

As we do our bidding now, any new service that I put out, any reconstructed service that I put out, I put that out to bid, and we also bid. We've won some and we've lost some. In fact, about six months ago, we won one of the bids in the Meadowlands, and after we ran it for a couple of months we saw that we had incorrectly put in the hours. I then-- We have a group that looks at it. It goes to our auditor who reports to the board. He looks at all of our contracting bids, and looks at the validity of the bid against other private carriers. This particular one that we won, we had failed to put in some of the deadhead miles and so, when we did a quarterly review on it, it showed that the miles -- we were using more miles than we had put in the bid. So I had to cancel that bid and then I put that out to bid, and we lost the bid the second time around.

ASSEMBLYMAN DeCROCE: Can you explain to me the term, "deadhead miles".

MS. DeLIBERO: Okay. Deadhead miles are the miles--

ASSEMBLYMAN WARSH: I thought we were talking about rock and roll here for a second.

MS. DeLIBERO: It's the miles that you go when you leave the garage until you actually start picking up passengers and revenue service.

ASSEMBLYMAN DeCROCE: Okay.

MS. DeLIBERO: You have to forgive me the jargon I use.

ASSEMBLYMAN DeCROCE: No, that's quite all right.

Our concern, and part of the reason why in the bill you are precluded from bidding, frankly, is the concern that we feel that private carriers might be concerned about attempting to go through a bid process only to know that your operation would be bidding against them in certain cases, and obviously, since you're subsidized, could obviously bid much lower than a private carrier in a lot of cases.

MS. DeLIBERO: The bid, in that case, which-- The private carriers have said that to me, and I disagree because we do all their marketing, we do all their planning, we do all these costs that they wouldn't have that New Jersey Transit has. So they get use of that subsidy that we get as well, and the only reason that we've won some of these bids is that we have been able to use part-timers, which, as I said, get no fringes. But if they were to be the only ones allowed to bid, then I would have to lose all my part-timers, and some of the routes that I have now that could be run by part-timers would not be able to. They would have to be run by full-timers, and that would create even more of a cost than what we're paying now.

The private carriers saying that we're not on an even playing field, I don't believe that's true.

ASSEMBLYMAN DeCROCE: Wouldn't you see it beneficial to the State of New Jersey if they could unload certain bus lines and get them privatized, since private operators feel they could run them probably more profitably than the State has in the past? Wouldn't it be an advantage to the State of New Jersey?

MS. DeLIBERO: That's why I believe that private -- the bidding-- And that's why I'm not here talking against bidding. I think we ought to be able to bid, too, and whoever can provide the service the cheapest ought to be able to get that.

My experience-- I've been in this business 16 years, and I've been in three other transit properties. In every transit property that I went to, I came in at the tail end of all the privatization, which was at one time the thing to do, and you had these private carriers. At each transit property that I went to-- When I went to Washington, I then took over all the privates who had gone bankrupt. I went to Dallas and did the same thing with the City of Dallas.

Yes, done well, and done with competition, it's definitely the way to go. I think it needs to be supervised, and I think there would still be a very important role for New Jersey Transit.

The experience that I've seen over the years on privatization is, you talk about a route that is-- When you look at mass transit, in my estimation-- There are people out there who don't have cars. Those are the people who we are supposed to be providing the service for. Some of those routes are not profitable routes, but those routes are the only means for people to get to work. Private carriers have the option sometime, if it's not a profitable route, they don't run it, or they run it in times that it still pays a profit to them. Or, as has happened at other transit properties that I've been at, they defer the maintenance, so then the quality of service is affected, and ultimately, you affect the riders.

I'm not saying that there can't be a partnership. I'm not saying that there can't be some privatization, but I get very concerned as to some of the things that's going on, even in Colorado now, when you stop looking at privatization as the end all, catch all. I don't believe that's it.

ASSEMBLYMAN DeCROCE: Well, I don't think we're trying to do that. But I do think what we're trying to say here is that it may help the State to some degree. It may alleviate some of our costs here, and hopefully, it might, even with competition, provide even some better services around the State, hopefully.

The other question I have is that since this bill states up to 75 bus route packages, wouldn't this bill work for those who are trying to get into the bus business? It would not hinder anyone, no matter who they might be -- minority, women, whatever -- to enjoy the same opportunities that present private bus carriers have right now, depending on the bus route packages, which, by the way, would be supervised and provided by New Jersey Transit in accordance with this bill.

MS. DeLIBERO: There are opportunities in the way we bid now to allow that, because we do bid out, and there are some routes where it only needs five buses, and we've had shuttle buses. The Garden State Shuttle is one that has been privatized. The Meadowlands has been privatized. There are opportunities for small entrepreneurs to do that now.

I don't see that the way we're bidding on service now as being a hindrance to private carriers and small minority firms having the opportunity to bid.

ASSEMBLYMAN DeCROCE: But the private carriers sometimes see the fact that the people who prepare your bidding process as sometimes, if they see a good route, they automatically intervene and get themselves lined up for that good route, and frankly, they feel it's somewhat of a hindrance when they are attempting to bid because they lose those routes to you, frankly.

MS. DeLIBERO: We have a private carrier task group -- correct, Ron? -- who looks at all of this. So I mean it's not like we have the one-upsmanship. This group of carriers meets. We meet monthly. We even give a report. When we bid

out a route, a report goes to them on the service. When they bid out a route, we check their report to make sure they are complying with the contractual-- We're committed to do the same thing. That's why, clearly, when we had the first on the Meadowlands, and we had that three-month audit, it was clear to us that the hours were incorrect, and so therefore, we bid it out. We would make any other carrier do that.

So I think there's a fairness and equity. I think there's an openness. We meet with them, I believe it's on a monthly basis, and if they have some concerns, we share it.

There's one thing that you said that I think is important. When you look at the subsidy and you look at what we're subsidizing and you feel that it would be cheaper, you need to look at all the things we give the privates today. I mean, we do subsidize them. We do buy all their capital equipment. We do buy their support equipment -- all the radios, all the fare boxes. So I mean, if you pull that apart and clearly look at someone just coming in and just bidding on the service, that's a whole different process than the way we do our privatization here in the State.

ASSEMBLYMAN DeCROCE: Do the privates that bid on any of the packages that you might have presently, are they allowed use of your maintenance facilities?

MS. DeLIBERO: No, they use their own facilities, but we give them the buses. They get to pick the buses that they want, so they come in and look at our fleet, and we give them the opportunity to select their fleet.

ASSEMBLYMAN DeCROCE: Let me ask you this. From time to time you have -- this is a little off the subject, but -- you have auctions, from time to time--

MS. DeLIBERO: Right.

ASSEMBLYMAN DeCROCE: --unloading equipment?

MS. DeLIBERO: We just had one.

ASSEMBLYMAN DeCROCE: Do you, sometimes, bid at those same auctions?

MS. DeLIBERO: No.

ASSEMBLYMAN DeCROCE: You don't bid at those auctions?

MS. DeLIBERO: No. We do not bid at our auctions.

ASSEMBLYMAN DeCROCE: Okay. Would anyone else like to question the Director? Yes?

ASSEMBLYMAN CATANIA: Director, maybe you can just clear up the picture for me. Privatization as it's now used with New Jersey Transit, it's not the same as if I owned a bus company and had buses and wanted to bid on the same route. Maybe you could just fill me on how--

MS. DeLIBERO: My private carrier expertise.
(indicating Mr. Reisner)

ASSEMBLYMAN CATANIA: Bring him up.

MS. DeLIBERO: This is Ron Reisner, and Ron is Director of the Private Carrier Department.

R O N A L D R E I S N E R: Good morning. Your question again, Assemblyman?

ASSEMBLYMAN CATANIA: Well, my question is that I'm really not too familiar with what you mean by privatization, and I want to compare it with what's meant in this bill by privatization. When a private carrier bids, first of all, what routes are actually biddable? Are we talking only about new routes or expanding old routes?

MS. DeLIBERO: Right now it's all new routes, all expanded routes -- if I restructure, or major restructure, or all bids that are presently out when the contract is up, we bid those all out. Those are the three areas.

ASSEMBLYMAN CATANIA: Now when you're talking about these private companies, do they have their own fleet of buses? You said you provide them with buses?

MR. REISNER: Most private carriers do have their own fleets. However, it's New Jersey Transit's policy, and it has been since its inception, to provide all bidders with the equipment so that all bidders are on as even a playing field as possible.

ASSEMBLYMAN CATANIA: Why is that? Why would you provide the equipment? First of all, where does the equipment come from? Does that come from the Port Authority, the State of New Jersey? Where does that come from?

MS. DeLIBERO: The Federal government pays, I believe it's 80 percent, and 20 percent comes from the State's matching subsidy.

MR. REISNER: Well, there's a long-standing policy in the State of New Jersey which even predates its contracting out policy, that in the interest of creating a public/private partnership and recognizing the significant role played by private bus companies, going back to the 1970s, the State of New Jersey has funded their capital needs. So with each purchase that the State of New Jersey has gone out to bid for for the procurement of vehicles, both public and private sectors have shared in that. And that has been a long-standing policy and has worked to the benefit, we think, to the rider, whether that rider is riding on public or privately owned transportation.

ASSEMBLYMAN CATANIA: Do you lease the buses to them?

MR. REISNER: Yes, we do, at no cost.

ASSEMBLYMAN CATANIA: At no cost. So there's actually no cost. Even if it is privatization, it's costing the State of New Jersey part of the money to buy that, and the Federal government--

MR. REISNER: Right. Local share, usually, since most of it is either federally funded or--

ASSEMBLYMAN CATANIA: What do you mean, "local"?

MS. DeLIBERO: The local share, that's 20 percent, that's paid locally by the State.

ASSEMBLYMAN CATANIA: We're talking about the State of New Jersey?

MS. DeLIBERO: Right, right.

In your material we gave you all this, because I think background is really-- Because it is different than any other privatization I've ever seen in any other state. But when we-- I guess it got delivered to your house. I think you just got a copy today.

ASSEMBLYMAN CATANIA: I just got a copy.

MS. DeLIBERO: But in there we have given you the guidelines, the whole bus allocation, how this whole thing started, how they get buses, the whole private carrier capital improvement, and what they get and why they get it. And then another listing which shows you all the buses that we have given to all the carriers and what their peak period output is, and basically, the whole thing on service providers and how we came to do business the way we do. I think this was very helpful for me when I came here, because having had privatization in Dallas, it was totally different than what it is here.

ASSEMBLYMAN CATANIA: What's the percentage of privatization right now?

MR. REISNER: If you're talking about the percentage of routes or the amount of service, approximately 10 percent of annual hours run in New Jersey by public and private together are run by private carriers running under contract to us, either through competitively bid or through subsidy contracts.

ASSEMBLYMAN CATANIA: That's what I was wondering. Now, these private carriers: They competitively bid these routes with your equipment?

MR. REISNER: That is correct.

ASSEMBLYMAN CATANIA: The only thing they have to do is they have to service them?

MR. REISNER: In effect--

MS. DeLIBERO: Right. They service them. They maintain them. They have to maintain them and we're responsible to make sure, because these buses were bought with

Federal money, because we're the grantee at New Jersey Transit, and responsibility for the equipment, ultimately, is ours. One of the things that we have to do is to make sure that they're doing correct maintenance and on time maintenance. So that's something that my people are supposed to be making sure that that happens.

ASSEMBLYMAN CATANIA: Okay. That's not at your facility though? That's at--

MS. DeLIBERO: No, that's at their facility.

ASSEMBLYMAN CATANIA: --their facility?

MS. DeLIBERO: Yes.

ASSEMBLYMAN CATANIA: Now, you said that 10 percent was the amount that's done right now?

MR. REISNER: The 10 percent refers to the service which is provided under contract for which New Jersey Transit is making operating payments. In addition to that, of course, the private sector is utilizing capital equipment to run in regular route service that is nonsubsidized with operating funds, and the private industry provides, probably, in the 45 percent range, with respect to that service.

MS. DeLIBERO: I think that's important, and this service provider list will really help. We have two different kinds of privatization. One we subsidize, and we actually pay them money to operate. They run about 22 routes in Middlesex, Monmouth, Union, Warren, and Salem. Last year alone, to do that, we subsidized \$5 million to these carriers to run that service.

And then there's another service, that's private carriers that are under contract. That's another \$5.8 million that we paid last year.

ASSEMBLYMAN CATANIA: First of all, I'd also like to say, I think we're as concerned about labor as you were in your speech in your presentation. I think that my concern, and I think that the concern of the Committee is also about labor.

We don't want to be putting people out of jobs. That's not our position right now, to do that. At least it's not mine, and I believe, it's also the position of the Committee.

However, the question I have is: This legislation calls for 25 percent privatization the first year, I believe, and then 50 percent within two years thereafter. Now, you're not in agreement with these percentages I gather?

MS. DeLIBERO: No. I'm not in agreement with the percentages with the restrictions that it has, which says we can't bid on it at all. It's just going to be-- Because I think, ultimately, if you bid out 25 percent, New Jersey Transit is unable to bid. My dilemma, and my responsibility then is the rest of the service that I have is now going to cost me more to run than it does today, because I'm not going to have utilization of part-timers. When you take the 25 percent of the service and you bid it out, there go my part-timers because I have to lay them off before full-timers.

ASSEMBLYMAN CATANIA: Well, let me ask you this: If, as the Chairman said before, this is just the beginning stages of this legislation, if we're talking-- You have this concern, and we were to discuss a percentage, however, maybe have some type of bidding process where it wouldn't look as if private companies are submitting bids to NJT. Instead, it would be an auditor or someone other than NJT, where you would be able to bid on these routes, as well, would you have any objection to that?

MS. DeLIBERO: That's what basically happens now, because even though the auditor--

ASSEMBLYMAN CATANIA: Works for NJT?

MS. DeLIBERO: --reports to the board.

ASSEMBLYMAN CATANIA: I'm not concerned about that. I'm not interested in anything to do with NJT. Would you have a problem with that?

MS. DeLIBERO: Well, I-- Just off the record, I would have to look at what the implications are. If we were allowed to bid, and this was just another third pair of eyes, I don't know where it would make a difference. But that would have to change the statute, because now we're--

ASSEMBLYMAN CATANIA: Well, this is going to change the statute no matter what. I'm just saying to you, if you would be able to live with that?

MS. DeLIBERO: Just off the top of my head, I would probably have to look at the pros and cons to see what difference that would have into the way we're doing today.

ASSEMBLYMAN CATANIA: A big difference it would have, Director, because it would mean that a private company would not feel that New Jersey Transit has the upper hand, as you had said before -- as someone had said before -- in the bidding process. It would present a more fair viewpoint to the people competing for these bids, that it's not going to be New Jersey Transit submitting--

MS. DeLIBERO: I guess my response to that is, you know, everything that we do at New Jersey Transit, because we get an operating subsidy, is not only under the scrutiny of New Jersey Transit, but also the Federal government, as they give us our grants and our operating subsidy. This privatization, and the way we do it, and how we bid, and the whole process has been approved by the feds. In fact, they have taken our model and put it elsewhere. I don't agree that we have any one-upmanship. I don't think there's any difference in the way-- Because when we sit down and go over our bids, we have to go through every hour, how we came up with the bids like everyone else. So, I don't-- We've never gotten accused by the private carriers of--

ASSEMBLYMAN CATANIA: I'm not saying that you have been. I'm just trying to work out some details so that this would be more palatable to all parties. If it's just a matter

of bidding, and there not being any one-upsmanship, as you said, there should be no problem with someone reviewing these bids, a disinterested third party reviewing the bids for all of the bidders, all the competitors.

MS. DeLIBERO: If that was the only issue, I guess I'd agree with you.

ASSEMBLYMAN CATANIA: Well, let me just finish. I also think that you indicated, that you mentioned San Diego, you mentioned Dallas, and these places all using different procedures--

MS. DeLIBERO: Right.

ASSEMBLYMAN CATANIA: --and they're all receiving Federal funds. I think that if we were to check with the Federal government whether or not a system such as this is feasible or whether or not it would jeopardize or not jeopardize any funding, it's something we should look at.

MS. DeLIBERO: I guess if you only look at our ability to bid, I guess my concern is, when I talk about privatization, we need to look at the whole thing. We need to look at what New Jersey Transit's role is going to be, who does all the marketing and planning, because if we're all going to be on an even playing field, then I shouldn't be-- If I'm in charge of all the marketing and scheduling, because that's what happens now--

One of the things that's good about the way we privatize now is, to the average passenger out there it's seemingless. I mean, we have, we're like, all one transit. I get complaints about the No. 1 Bus, or I get complaints about Suburban Transit, because we all run on the same lines, our fares are the same, our planning is the same, our schedules are the same. I'm not sure how-- And that's why I can't, off the top of my head, say how that would work, if we were out of the loop of looking at how we tie in all those things together and audit that.

I can't say that right now, but certainly it would be better. I would like whatever this bill turns in to be that we certainly have an opportunity, because I really believe if you take that the way this bill is to the letter, I think it's going to cost a lot more to run what we have left to run.

ASSEMBLYMAN CATANIA: Well, would you agree that what all of our intent should be is to provide a service at the least cost possible, and to run these buses so that they're efficient for the commuters, the people who use mass transit?

MS. DeLIBERO: I absolutely believe that that should be our very goal, to make sure that the service that we provide is cost-effective, and I think you get that with competition, not necessarily just with privatization. And I also believe that the quality of service needs to be something that we keep straightforward, because in my experiences, not only in other transit properties but here at New Jersey Transit, when I first came here, the first thing we did when you cut, when you get into tight budget constraints, is to cut maintenance. That's what the privates did in the past, and that's why eventually they went bankrupt and the services were then taken over by transit properties. And I saw it starting here when I came here. When you start cutting the budget, they cut mechanics and the very things that you need to provide the quality of service. My background is operations. The first thing I did when I came was to put back maintenance and timely inspections.

But you know, when you're looking for a quick fix and you're looking to save a dollar, maintenance is what they--

ASSEMBLYMAN CATANIA: I don't think anybody is talking about a quick fix here.

MS. DeLIBERO: Right.

ASSEMBLYMAN CATANIA: I think everybody is talking about--

MS. DeLIBERO: But I mean, maintenance needs to be, and the quality of service -- you're right -- needs to be there.

ASSEMBLYMAN CATANIA: We're trying to come up with a long-term solution to a problem that exists. And I think we're all in agreement about our purpose here. So as long as we're all in agreement, I have no further questions.

ASSEMBLYMAN DeCROCE: Assemblyman Oros?

ASSEMBLYMAN OROS: I have a couple of questions. I didn't get the package either. I understand it came to my house, but I was long gone. How many full-time employees do you have in the bus end of it, roughly -- just a rough estimate?

MS. DeLIBERO: About 5000 on the bus side.

ASSEMBLYMAN OROS: Around 5000?

MS. DeLIBERO: Yes.

ASSEMBLYMAN OROS: And part-time?

MS. DeLIBERO: Ten percent of that. We've got about 600.

ASSEMBLYMAN OROS: About 600?

MS. DeLIBERO: Yes.

ASSEMBLYMAN OROS: And how long are the contracts?

MS. DeLIBERO: Three-year contracts.

ASSEMBLYMAN OROS: They are three-year contracts?

MS. DeLIBERO: Right. We would like a 10-year, but we've never been able to get that. You're talking about the labor contract I presume? (no response)

ASSEMBLYMAN OROS: How are the fares set?

MS. DeLIBERO: We have a fare policy group within our planning group, and we look at the fares and the structure of the service and the hours that are provided, and there is a formula that is used, and then it's presented to the board. The board actually has the final say on the fare policy -- on how fares are charged and what fares are. But we give them, we would go through and we look at what it costs -- you take in all your costs to maintain it -- and the ability of the area to pay.

One of the decisions that was made when-- New Jersey Transit has had a history of raising fares double digits over the past five years. This is the second year in five years that we didn't have a fare increase. There's been a 10 percent, a 13 percent, and a 15 percent fare increase. Some of the areas, because of their economic condition of that area, were spared when we put fare increases, like the southern sectors didn't get an increase in fares. Some of the urban areas did not get an increase in fares because the clientele just couldn't afford to pay it.

So all of those equations are taken into consideration when we do actually put the fares on the different routes. And there are zones, so there are different zones on the bus side.

ASSEMBLYMAN OROS: The reason I mentioned that, one of the operations that I happen to know just a wee bit about, several people have mentioned that they thought the fare was high to this particular area, for the short run that it was. But if that fare is set, let's say, at a dollar, and that's subsidized, the subsidization, let's call it, is given to the operator to make sure he makes a profit, not necessarily to reduce the fare. Am I making myself clear? If they're paying a dollar to go--

MS. DeLIBERO: Are you talking about on the private side?

ASSEMBLYMAN OROS: Either side.

MS. DeLIBERO: Basically 55 percent of all of our costs come out of our fare box, so our patrons pay 55 percent of the entire cost of running New Jersey Transit. The rest of that is subsidized either through the State, that this year will get \$251 million, or the rest of it comes from the Federal government, which we get \$38 million -- we pray this year we get \$38 million in operating subsidies.

So those are our three-- That's how we pay for New Jersey Transit. Either through the fare box -- and when I say 55 percent, that's a combination of our bus and rail -- and

then the State subsidy is a third of our budget, and then the operating subsidy. This year as well as last year, there were concerted efforts not to have fares increased just because of the economy. I still think we're about-- Our cost recovery ratio is about that -- 54 or 55 percent. The other thing, it's one of the highest in the country. The cost recovery ratio on transit as a whole has never been a profitable situation. I can give you, in Washington, D.C., with bus and rail, it's probably 51 percent. In Dallas, mine was 33 percent. In Boston, it's about 32 percent.

That's how we measure our efficiencies and effectiveness based on our cost recovery ratio that we're getting out of the fare box.

Now, you can also say that, because of the budget constraints in the past, we have overburdened our folks, when they're paying so much of the costs, which is the other reason we have tried not to have fare increases the past couple of years.

ASSEMBLYMAN OROS: Okay. You mentioned Dallas and these other places. How about some of their ideas? Have they got some good ideas that we're not utilizing?

MS. DeLIBERO: Dallas has great ideas, but you couldn't afford them because they have a dedicated source of funding, and they get 1 cent on every dollar sales tax. So they actually have a dedicated source of funding for their transit. In fact, what we did just before I left, because ridership-- Because the economy was in a downturn, we lowered fares.

ASSEMBLYMAN DeCROCE: Is that a state tax, city tax, or town tax?

MS. DeLIBERO: It's a state tax.

ASSEMBLYMAN OROS: That's interesting.

ASSEMBLYMAN DeCROCE: A state tax? How much is it?

MS. DeLIBERO: Actually it's a city, for the 14 municipalities around Dallas.

ASSEMBLYMAN DeCROCE: How much is that? What is their percentage?

MS. DeLIBERO: We used to get about \$180 million a year.

ASSEMBLYMAN DeCROCE: Five percent?

MS. DeLIBERO: One percent sales tax.

ASSEMBLYMAN OROS: As compared to your operation, the Dallas operation, which one is larger?

MS. DeLIBERO: Oh, this is. New Jersey Transit is the fourth largest in the country. Dallas is probably number 32.

ASSEMBLYMAN OROS: And they get \$180 billion from one percent of the sales tax?

MS. DeLIBERO: Million, right.

ASSEMBLYMAN OROS: What's their sales tax in Dallas?

MS. DeLIBERO: I believe it's 7 percent. I can't remember -- 6 or 7 percent. They are now in the process of building a light rail system, so some of that money will go to that as well as operations.

ASSEMBLYMAN OROS: That's interesting, very interesting.

MS. DeLIBERO: That's the big push with most transit properties now, to try and get a dedicated source of funding that-- Otherwise it's very difficult, as you well know.

ASSEMBLYMAN OROS: One last question, Director, at this time. How many garage or storage facilities do you have in the State, approximately?

MS. DeLIBERO: We have 13.

ASSEMBLYMAN OROS: You have 13 that you operate?

MS. DeLIBERO: Right, from Atlantic City all the way up. We have one in New York. Warwick garage is in New York.

ASSEMBLYMAN OROS: And you share this in some instances with private carriers?

MS. DeLIBERO: No, no. These are all New Jersey Transit.

ASSEMBLYMAN OROS: There are no private carriers allowed?

MS. DeLIBERO: No. Private carriers have their own. Now, we have given private carriers money for facilities through this privatization program.

MR. REISNER: Through our Private Carrier Capital Improvement Program--

MS. DeLIBERO: Right.

MR. REISNER: --we provided funding for improvements to their facilities. But we do not share any facilities with them.

ASSEMBLYMAN OROS: You will even subsidize their facilities that maintain the buses?

MS. DeLIBERO: Right.

MR. REISNER: We provide funding for improvements, garage doors, some heating systems--

MS. DeLIBERO: Washers.

MR. REISNER: --bus washers. That kind of thing that assists them -- ancillary equipment that assists them in the operation and maintenance of their bus fleet.

ASSEMBLYMAN OROS: But in none of these 13 facilities do you share this with any private--

MS. DeLIBERO: No, this is all New Jersey Transit.

ASSEMBLYMAN OROS: Thank you.

ASSEMBLYMAN DeCROCE: Thank you.

Assemblyman Warsh?

ASSEMBLYMAN WARSH: Thank you, Mr. Chairman. Just one quick point: While Dallas may have their 1 percent sales tax, we have a nickel a gallon on every single gallon of gas sold in New Jersey that goes into the Transportation Trust Fund, of which I know you're aware. You get significant funds from the TTF in New Jersey, so we do have a dedicated funding source in New Jersey, it's just--

MS. DeLIBERO: For capital. I need one for operating.

ASSEMBLYMAN WARSH: Oh, for operating. (laughter)

You made frequent mention of an even playing field, that that's what needs to be accomplished in New Jersey and it's competition that's supposed to foster that. And yet, the facts don't reveal an even playing field in New Jersey. Why is it that we provide to our private carriers public equipment? Wouldn't the real incentive behind privatizing be to have them to provide the equipment, so that say you found a very cost-effective, environmentally conscious entrepreneur who decided to run his or her route with ethanol buses as opposed to gasoline buses, to run them cheaper and more efficiently, to provide for more Clean Air Act attainment in New Jersey, whereas you just say, "Here's 50 buses, pick 10 and go for it."

MS. DeLIBERO: Let me just answer that one question, because we're all going to be faced with that. I mean, we're not going to have an option on what kind of equipment we're going to have. If you just look at the types of equipment, we are in the process right now-- We have five compressed natural gas buses. I think I explained that to you. We now have two trap oxidizer buses, which actually traps--

The compressed natural gas is totally different than your diesel buses, which would be very expensive for us. They run about almost \$300,000 per bus, plus a fueling system, to set one up at every garage is another \$1 million. If that's the only way we reach the EPA standard, it's going to be very expensive for us.

We're in the process also of looking at a trap oxidizer. We have two of them. Trap oxidizers are traps that actually go over the intake of the engine, and when the diesel fuel goes through there, it traps the oxidation. We're hoping that that will become a success because it's a lot cheaper. We would be able to retrofit a lot of our buses and not have to go out and spend that kind of money.

But no matter what buses the privates get-- The privates get the state-of-the-art. We, because we are the grantee and we give them the buses, we have to be in compliance with the Clean Air Act. So whatever buses we get, they're going to have to get. There's no question that I can give them the diesel buses and I use the trap oxidizers.

So in that view, we're all going to be running more efficient and effective. I question if-- It certainly will be cleaner air. I'm not sure it will be cheaper to run.

But the way that this program was set up though, to allow them to have all of this equipment and everything, is basically the way it was structured by legislation.

MR. REISNER: Yes, it was promulgated under our rules and regulations. The two points I wanted to add, Assemblyman, again, just to reiterate. The policy to provide private bus companies with capital equipment predates by many years the contracting out of service. It's been a long-standing policy in New Jersey to recognize the importance of private carriers which run, as I said, about 45 percent of the service, that the rider is the beneficiary. It's not the carrier; it's not the company; it's the rider.

What we're seeking to do is to ensure that the riders are getting the benefit of new and safe equipment. And when the Federal program, that was the interest expressed by the private sector in sharing in what was then a considerable amount of Federal dollars that became available, and over the years, expanded--

Again, I point out that that's capital and not operating dollars. It has no effect on the operating budget.

The second point I wanted to make was--

MS. DeLIBERO: The equipment doesn't, but the subsidy does.

MR. REISNER: Yes, correct. Yes, the subsidy--

MS. DeLIBERO: The subsidy comes from our operating.

MR. REISNER: The second point is that while the vast majority of our service that is contracted out is bid with the buses that we own and provide to the carriers, there are exceptions -- smaller services, seasonal services. For example, we currently have a shuttle running Island Beach State Park. That's being provided by a small, local entrepreneur, a first time participant in our program.

This week we will be receiving proposals for service between Cape May Ferry and Cape May. There, too, because of the nature of the service-- Small, 25 passenger vehicles are required, which we don't have anyway, so we're asking for the proposers to submit.

We're open to creative approaches where they are appropriate, recognizing that if you look at the regular route service that's out there, over 75 percent of the peak hour buses run by profitable private companies are owned by the State of New Jersey. It is, in fact, a hybrid system that we have today.

MS. DeLIBERO: And I think, in all fairness, over the years I think that became one of the issues with the private carriers on saying that they weren't on a level playing field, because at one point they felt that transit authorities throughout the nation had the option of getting their equipment from the feds, and yet they had to go out and spend that capital dollar. After that first round of bankruptcies with all the private carriers, I think that's when this program really took its strength and said, "Okay, if we're going to have private carriers, then we've got to give them some of this capital equipment."

I believe in all the stuff that I've read since I've been here in a year-and-a-half, I think that's how it started.

ASSEMBLYMAN WARSH: What is actually the difference between the private carriers that you have and New Jersey Transit? They use your equipment. Do you mean, basically,

it's just they have their own employees? Do you have to monitor them? You monitor their contracts? You monitor-- You determine what their fares are?

MS. DeLIBERO: We monitor their contracts. We don't pay their employees.

ASSEMBLYMAN WARSH: So they're completely, totally regulated? They use your equipment?

MR. REISNER: They're not regulated by New Jersey Transit.

ASSEMBLYMAN WARSH: They're not?

MR. REISNER: The companies that are not under contract to operate service are not regulated by New Jersey Transit.

ASSEMBLYMAN WARSH: But their fares are?

MR. REISNER: No.

ASSEMBLYMAN WARSH: No?

MR. REISNER: The only companies whose fares are determined by New Jersey Transit are those companies under contract for competitively bid or subsidized service. But the vast majority of private carriers and independent companies that operate nonetheless State owned equipment, are operating privately, regulated either by the State Department of Transportation for intrastate service, or the Interstate Commerce Commission for interstate service.

MS. DeLIBERO: But ultimately the quality of the service of all of them, once they get our buses, is supposed to be our responsibility. And the feds have made that clear, in no uncertain terms, that if there's buses out there that don't reach their useful life -- every bus has a useful life of 12 years -- and if we give a bus out and it prematurely fails and someone wants to get rid of it in 10 years, then it would be our responsibility to pay two-years worth of life of that bus back to the feds, because they feel it's our responsibility and we should have been watching it.

ASSEMBLYMAN WARSH: See, you may call it a hybrid, but from my perspective that is an embryonic form of privatization at its best. I mean, it's not truly private. There's a strong mother/daughter relationship going on. It's still between New Jersey Transit--

MS. DeLIBERO: I'm surprised you didn't say father/son.

MR. REISNER: I think it's one, though, that the private sector sought, encouraged, and benefits from considerably. But more importantly, both sectors acknowledge that it's the rider that benefits because what happened was, there are some private carriers who are very profitable and who could probably support their own purchase of equipment. They would amortize their costs. Their fares would go up to pay for those costs, and that would create, again, another problem.

ASSEMBLYMAN WARSH: But your costs would go down as a result of that.

MS. DeLIBERO: Right.

ASSEMBLYMAN WARSH: If they start to purchase their own equipment, if they start to do their own advertising--

MR. REISNER: To a degree.

ASSEMBLYMAN WARSH: --your costs would go down?

MR. REISNER: To a degree.

ASSEMBLYMAN WARSH: Well, not to a degree. There would be an exact ratio, right?

MR. REISNER: Well, I'm not sure that it would be that precise.

ASSEMBLYMAN WARSH: It's one less bus you'd have to buy and one more bus the private sector buys.

MR. REISNER: But there are many companies who are not in those very substantial positions who, over the last decade-and-a-half, would have gone under but for the investment that was made. Those were marginal, and what that accomplished was, it kept those companies in private hands, kept them profitable, and kept them off of the State subsidy program,

which was one of the goals of this Capital Equipment Program: to mitigate their need for fare increases and also to mitigate the pressure on a state to have marginal carriers go under. I believe strongly that the Capital Equipment Program prevented many of those smaller companies from going under, and I think they will tell you pretty much the same thing if they have an opportunity.

ASSEMBLYMAN WARSH: I just have one last question. In Your experience with the other three transit companies, when a bus line goes private, do they continue to use unionized labor?

MS. DeLIBERO: It starts off that they're not unionized, but they get unionized. In Dallas we had a private group that we privatized a section of it, and they're all unionized now. So eventually the salaries and fares get to be pretty much the same.

ASSEMBLYMAN WARSH: Do any of them also start off with union labor?

MR. REISNER: Most of our contract carriers are unionized.

ASSEMBLYMAN WARSH: Thank you, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Thank you.

ASSEMBLYMAN CATANIA: Mr. Chairman?

ASSEMBLYMAN DeCROCE: Yes.

ASSEMBLYMAN CATANIA: I'd like to follow up. Director, do you have Port Authority buses?

MS. DeLIBERO: Originally we got some money from Port Authority to buy buses.

ASSEMBLYMAN CATANIA: Do you still get that money from Port Authority?

MS. DeLIBERO: Yes, we just got some from-- No. No, not for buses.

ASSEMBLYMAN CATANIA: So you don't get any-- There's no funding available from Port Authority for purchasing of buses?

MS. DeLIBERO: No, not for buses.

One other thing that I would like to add. One of the concerns that our board had is on the privatization, because they're very--

We should be monitoring a lot closer than we are, and I haven't, because we don't have the staff to do that. But one of the things the board asked me to do is to start looking at the privatization, and the salaries that the privatization paid to their staffs, especially those that were given subsidy, too, because we have no control on the salaries or the percentage of increase, or the percentages that even the top managers are making, and we're in the process of doing that for our board.

ASSEMBLYMAN CATANIA: The other question I have is with regard to the UMTA regulations, 13(c), the employees are protected. Is that correct?

MS. DeLIBERO: Right.

ASSEMBLYMAN CATANIA: They are protected by this regulation--

MS. DeLIBERO: Right.

ASSEMBLYMAN CATANIA: --so none of the employees, if there was privatization would they-- How would they be hurt?

MS. DeLIBERO: Well, they wouldn't be hurt, but we'd have to pay the cost. Say you're a private carrier and you hired one of my guys who right now is making \$13, and you hired him and you wanted to pay him \$8. New Jersey Transit-- And no fringe, say you had no benefits.

ASSEMBLYMAN CATANIA: You'd pay the five--

MS. DeLIBERO: New Jersey Transit would pay the five and all the benefits and all that.

ASSEMBLYMAN CATANIA: For six years?

MS. DeLIBERO: For six years. So even though we're not running that service, and you hired that guy-- Now, if you didn't hire him and you took his work, then I would have to pay the whole \$13 and all of his benefits for six years.

ASSEMBLYMAN CATANIA: All right. So basically, though, the employee is not going to be hurt. If anything, we may be paying double.

MS. DeLIBERO: Right, right. Absolutely.

ASSEMBLYMAN CATANIA: Thank you, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Okay. Director, just one other question -- two questions, actually.

MS. DeLIBERO: Okay.

ASSEMBLYMAN DeCROCE: One that really doesn't have anything to do with this, but you said that you're doing the advertising and marketing for those who are privatized right now?

MS. DeLIBERO: Well, we advertise just the service, because it's really New Jersey Transit. These buses have our logo on them, they're painted the same as we are, so we market the service.

ASSEMBLYMAN DeCROCE: Not all bus lines have your logo?

MS. DeLIBERO: The lease carriers have their own, but the rest of them do. The ones we subsidize do.

ASSEMBLYMAN DeCROCE: Okay. The lease carriers do not.

MS. DeLIBERO: The contract and subsidized do. We do their marketing-- And we do all their marketing for them.

ASSEMBLYMAN DeCROCE: Not lease carriers, though?

MS. DeLIBERO: No, not the lease carriers.

ASSEMBLYMAN DeCROCE: Okay. The only other thing I would like to ask you is, we kind of lightly, through Assemblyman Warsh, touched on the Trust Fund. I probably would like to speak to you at a later date to find out where you are in the capital program with the dollars that have been allocated into the Trust Fund.

MS. DeLIBERO: Okay.

ASSEMBLYMAN DeCROCE: Okay?

MS. DeLIBERO: Okay.

ASSEMBLYMAN DeCROCE: Probably not until September.

MS. DeLIBERO: Okay.

ASSEMBLYMAN DeCROCE: Just be aware. We'll probably want to talk to you.

MS. DeLIBERO: Great.

ASSEMBLYMAN DeCROCE: The only other thing is, I may want to call you back in connection with this bill--

MS. DeLIBERO: Okay.

ASSEMBLYMAN DeCROCE: --at some later date.

MS. DeLIBERO: I'd be glad to.

ASSEMBLYMAN DeCROCE: Thank you very much for coming this morning. I appreciate that.

MS. DeLIBERO: Okay. Thank you.

ASSEMBLYMAN DeCROCE: If I can, now, Mr. Vito Forlenza and Mr. Robert Molofsky?

V I T O F O R L E N Z A: Good morning, Mr. Chairman.

ASSEMBLYMAN DeCROCE: Good morning. How are you?

MR. FORLENZA: Good morning to the panel.

Mr. Chairman, my name is Vito Forlenza and I serve as Chairman of the Amalgamated Transit Union's New Jersey State Council representing eight ATU locals throughout the State with some 5000 members employed by New Jersey Transit. In addition, the ATU represents employees of many private transit operators in the State of New Jersey. Because of our unique status representing both public and private mass transit workers, I believe we bring an important perspective to the subject of privatization today.

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

Bills currently pending before the Transportation Committees, A-1175 and S-409, have, unfortunately, been premised on misguided assumptions that such efforts can assist

the State in cutting its expenditures while otherwise assuring the maintenance and quality of its service operations. This is not true.

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

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

In each of the states mentioned, these experiments brought with them serious service and maintenance problems, ridership losses, revenue decreases, and surprising increases in operating costs, notwithstanding significant initial reductions in wages and benefits for the replaced workers.

In this regard, the Regional Transit Authority of Denver, Colorado mandated by the state to privatize 20 percent of its services, experienced significant cost increases in the first two years of its operations. It is only after its third year of activity that a slight 3 to 4 percent cost savings appears possible, and even that is questionable as the audits receive closer scrutiny, and the private sector contractors rebid their arrangements. Similar efforts in Miami and New Orleans were canceled after costs rose dramatically and the system experienced severe service and maintenance problems, ridership and revenue losses, and substantial employee turnover.

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

The specific bills pending before the House and Senate committees are unfortunately premised on a misguided accounting assumption requiring the State agency to compare its fully

allocated costs against private sector bids. This procedure, rejected by leading accounting firms -- see letter of February 11, 1991 from the nationally recognized accounting firm of Peat Marwick, criticizing this approach to decision making -- requires the State to include its fixed costs, which are not saved when service is contracted out, as its bottom line for comparisons to the private sector. It is only when marginal or avoidable costs are utilized that the real picture and false savings behind the hype involved with competitive contracting is exposed.

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

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

While the measure is touted as providing an opportunity for minority owned transit operations, we would point out that over 50 percent of the employees of New Jersey

Transit currently are minorities including Afro-Americans, Hispanics, and women, who have been employed for many years by the transit system, and who would be adversely affected by the pending bills.

We also seriously question the provisions that require the State to continue performing all administrative, advertising, and other support services, but at the same time allow the private operators to retain any fares generated by increased ridership resulting from these State supported activities. This makes no sense economically, and would appear to be an unfortunate drain on State revenues.

We note, too, that the State Legislature has not in recent years undertaken any careful review of New Jersey Transit's operations to know one way or the other whether its operating costs and expenses are out of line or in need of further constraints. In effect, this would be legislating in the dark. Despite the State's fiscal pressures, we do not believe you should rush headlong into untested waters without full knowledge of the financial, legal, and service problems brought along by the type of legislation currently under review.

Existing arrangements under which the State operates have enabled it to contract out between 5 and 10 percent of its transit operations in a manner consistent with these legal obligations. In addition, New Jersey Transit provides hundreds of millions of dollars in bus purchase subsidies to many of the State's private carriers as well. Further legislation in this area is unwarranted.

The ATU is, of course, no stranger to transit service changes in the State of New Jersey. It is ironic that less than 15 years after the State wisely chose to improve its statewide transit operations by taking over a multitude of private operations under the aegis of a public agency, that individuals are now seeking to turn back the pages of history

to an era in which private operators provided poor service, and were the subject of constant inquiries concerning financial abuses and mismanagement of State subsidies.

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

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

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

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

ASSEMBLYMAN DeCROCE: Thank you, Mr. Forlenza. We'll ask Mr. Molofsky to go on now, and then we'll ask you questions.

MR. FORLENZA: Thank you.

R O B E R T A . M O L O F S K Y: Mr. Chairman, in my brief comments I want to amplify on a number of things that Mr. Forlenza said to the Committee. Before I do, I want to underscore two points. Our union and its members have a hundred year history of providing transit service in New Jersey. We have always had two goals in mind since we first started running buses and rail in New Jersey. One, that the service we shall provide should be safe, efficient and effective, because we care not only about ourselves and our families, but the communities we serve. And secondly, we remain a union and an organization committed to improving the standard of living of our members. It is the people here today from Elizabeth, Bayonne, and Howell represented in front of you, who have been with our union providing service for decades. As you look and explore the privatization issues before you, we urge you to keep foremost in your minds what we have kept in our minds; that together the ATU, the State of New Jersey, and the private companies are in the business of providing transit service and living in the communities in which we work, as well as those in which we provide service.

We have some real concerns about this bill, and I want to just underscore several of them. First, we continue to ask ourselves questions. We're not yet sure what the ultimate purpose of these bills are. If it is to improve service and the quality of service in New Jersey, the bill as we read it provides no guarantees, and in our minds as I'll outline, raises serious questions that would inevitably lead to a disruption of efficient and effective service, cost increases, management and employee relations disruptions and dislocations, the threat of the loss of Federal dollars, and the threat and the prospect of litigation and legal suits if the terms of the bill as written are implemented.

If it's to save money, here, too, we have real questions. The bill as written relies on fully allocated cost comparisons involving New Jersey Transit and any private sector

bidding. That is not how the bidding goes on today. It is not how the private sector got its work -- 45 percent of the route service now in New Jersey. Yet it is a system, if followed up, that will only cost New Jersey money and not save it. The report that I will discuss for a couple of minutes, based on the experiences in Denver, which chose also to use fully allocated costs, demonstrates if you use it, you are going to privatize yourself into bankruptcy. You are going to lose money as a result, and not save money.

It is a very serious matter. Some of you have businesses and have an accounting or other backgrounds. I cannot impress upon you more forcefully, in addition to the labor relations and 13(c) problems, the fact that you must give serious and careful attention to the kind of structure you are proposing. My friends, it won't work. It hasn't worked in Denver. It hasn't worked in New Orleans, Miami, or San Diego. It hasn't worked in the Los Angeles area. Every property that chose to privatize on that basis lost money. Every property that chose to privatize on that basis lost money.

And indeed, there is no jurisdiction, no transit agency in the country, which is privatized through a legislative mandate which has proven successful. In Colorado, Denver is a failure. These other cities that I mentioned had privatization not by choice, but by imposition, and they retreated -- after a year in Miami, after a year in New Orleans, and after a year in Los Angeles.

So please, be careful and cautious, is one of our key messages.

If the goal is to reduce labor costs, we ask why? There has been no discussion or review among this Committee or between ourselves that that is a goal of the State Legislature. And indeed, our contract stand, as decent arrangements for providing a good and decent standard of living for our members.

You heard several weeks back from Wendell Cox, a self-styled privatizing expert. We think today, and perhaps in the weeks ahead, you should have some real facts behind the hyperbole and rhetoric that he presented to this Committee. Again, his statements were based on cost savings in San Diego that belie imagination; hundreds of millions of dollars he threw out before this Committee. He should be ashamed, because the facts out there and the facts elsewhere just don't support what he is saying. This is too complicated an issue -- too difficult, too complicated and diverse a State to allow those kind of principles to take hold without real and careful examination.

Let me just highlight two other things. Section 13(c) has been mentioned. With all due respect. This is a bill that will cause job losses and harm to workers. Fifty percent or more of our members and employees of New Jersey Transit are minorities; blacks, Hispanics, and women. The way this bill is written, there will be substantial dislocations and job losses. And for what purpose? The public won't be better served, the communities they live in will be harmed, and the transit service we are looking to improve won't get better.

It may be that over time private operators get service, and they're unionized. What about the 4, 5, 6, 8, 10 years that passes when you have decent and good wage earning people have their jobs taken from them so others willing to work for less take them? What happens to those individuals? Where do they go? Where do they work? Your communities will be harmed, and their families will be destroyed. The way this bill is written it will challenge and will cause litigation because we will not be able to enforce the 13(c) provisions that are in place to try and prevent that from happening.

This bill as written prevents-- It only requires the first opportunity of employment for employees laid off. Indeed, it prevents the private carriers from maintaining their

wages, their pensions, their health care program. It prohibits any preset conditions, unless they choose to give it.

Serious questions about the ability of those agreements to be enforced and the flow of Federal funds to continue because of some of those terms exist.

Now, we can make this better. We can offer suggestions as you've indicated in terms of further discussions. I have to say, it's very hard for us to stand here and say we want to make a bad bill better.

We think New Jersey and New Jersey Transit are the king of privatizers. There is not a state in the country that contracts out more service. There is not a transit system in the nation that has a stronger privatization program. They have developed it themselves. They have implemented it through labor/management discussions and cooperation and agreements. And that's why it works. It's well paced; it's cautious. It's done on principles to protect employees, and to allow service to expand where needed through private operations.

This kind of bill would sharply interfere with all of that. I can't emphasize this enough. There is not a jurisdiction, there is not a transit authority nor a state, that contributes more money, more service contracts, and has more route service run by the private sector -- almost 50 percent, almost 50 percent already. And you want to impose maybe 25 or 50 percent more on a system that's going to cost money as it reaches that new goal. We urge caution and careful review of that.

I want to take my last few moments and highlight the study that was just completed in Denver. Colorado, again, is the only state where the Legislature sought to impose a mandate to micromanage a regional transit system. They also run about 2000 buses, roughly the same that New Jersey Transit puts on the streets, separate from what they contract out. In Denver they were mandated to contract out 20 percent over three years

-- and they reached that goal fairly soon -- to nonunion companies, none based in the region. The corporations that bid came from out of state. And by the way, despite our urging, no requirement that the bidders be in-state, no requirement that health insurance, pensions, and wage protections be imposed. They ignored it.

Well, you might say, "Well, that's good. They ignored it. Maybe they ended up saving money." Wrong. They lost their shirts. I don't know if you want to go into the technical details of the study now, but I urge a careful review of the paper that was just completed by Professor Sclar from Columbia University. He took a look at the financial reports from Denver beginning in 1986 through 1991. They privatized in '88. He looked at 1986, '87, and '88 and then compared it to the post privatization experience. There's nothing that more graphically shows what happened in Denver than the chart following page five in that report.

There are a lot of accounting points and financial numbers thrown out in this report, but two key things stand out to me that I would convey to you. First, their operating expenses were declining at a steady rate in the years prior to privatization. They went down almost 10 percent from '86 to '88. From the moment they began privatizing, their costs shot up such that we think the expense to the Regional Transit System in Denver, according to these documents, is that its cost increased anywhere from 12 to 35 percent -- 12 and-a-half to 37 percent -- by privatizing. And I direct your attention to the numbers. If you look quickly at the executive summary, you might get a handle on it.

Essentially it indicates, basically, what I said, that the cost to the system was not reduced. The system's ability to provide better service and more service was not improved by privatization.

When this bill went to the Legislature, Wendell Cox went out there and said the savings will go to help the poorer communities, those that are less served. That's part of the message he carried to the State House, to convince all of us who care about those issues. Not one extra bus was put out because of those privatization savings. The money never came through. It's not there.

Now, there are competing audits that are analyzed quite carefully. The only way that the Denver system has been able to show it saved money is by using the fully allocated cost system. Fully allocated costs assumes that fixed costs, if you contract out 25 percent -- that your fixed costs will be shrunk by that amount, and therefore, it's part of the savings that might incur. Every manager, from Ms. DeLibero here to those down in Denver, can tell you, and perhaps yourselves if you run businesses: It doesn't shrink. It doesn't evaporate. It doesn't disappear. Those fixed costs stay with you.

And that was the only way they could show-- And even then, in the first two years using the fully allocated cost system, Peat Marwick, which did the audits, found cost increases of \$1 million to \$3 million.

It's a serious problem, and I know this is your first effort with us and others to look at the bill. I really think that you have to give some careful review to that requirement.

Let me touch on just three other things in the bill and then close. Perhaps Vito and I can take questions:

The 75 bus segment, very problematic. You are going to fragment a system and cause where you might have one or two companies in the service area to have five, ten, fifteen-- It's a supervision problem; it's an inspection problem; it's a management and control problem that is only complicated by fragmenting in that way.

Two, the bill has specific provisions in it that will prevent, not guarantee, those workers whose jobs might be lost when the work is given away, from having jobs in the future,

and prevent, not allow, for the enforcement of 13(c) provisions which might otherwise argue to protect their pensions, their health care, and indeed, their jobs and benefits.

The fully allocated cost issue which is mentioned in the bill, I also, perhaps, have spoken too much about.

In closing, I just want to say, as we have said before individually to some of you, and look forward to other conversations. We all want better service. We want more people served at as least costly a price as possible. We don't want it done on the backs of our members and those who live in your communities. The way this bill is written, the private operator who gets the contract gets everything. He gets the bus; he doesn't have to put a bus out on the street. The only competitive factor then becomes labor. So you have a \$13 per hour -- whatever the average rate is here on New Jersey Transit. The only way they will bid is with lower wages and benefits, if any, to reduce their operating costs.

Even in Denver when they did that -- and I'll close on this -- the private operators that came in, paid wages of 35 percent less and no benefits. They still didn't save money. Why? It was the system that was imposed that prevented the privatization from being more effective.

Again, I close as Vito and I began: We don't think it is wise to micromanage a situation like this. You can control the macrobudgets. You can discuss suggestions for standards of operations, but to pick a number, an arbitrary number, with the system that's being proposed, we think is going to harm the riding public in the State of New Jersey, not provide the kind of service benefits you all seek, and ultimately, not save the State the kind of money it's thinking about.

And with that we'd love to take questions and answer any comments about out testimony. Thank you.

ASSEMBLYMAN DeCROCE: First of all, let me thank you both for your testimony this morning. Thank you for coming

forward. Obviously, if you have anything you feel should be considered for this bill, we are not opposed to looking at it. We truly mean that.

But I do want to ask you, with regard to the Denver proposal, is there any oversight out there in the Denver area with regard to those people who are receiving the funding who have been privatized?

MR. MOLOFSKY: By our union or--

ASSEMBLYMAN DeCROCE: No, no, no, no. By those they-- From the state or from Denver?

MR. MOLOFSKY: I assume the regional transit administration has--

ASSEMBLYMAN DeCROCE: You assume, but you don't know that.

MR. MOLOFSKY: Well, let me point out that, that's true. There is evidence from their financial statements that initially 8 percent or more of their supervision was devoted to implementation of the privatization. We question whether it's been accurately reported. In last year's, they indicate that it's almost negligible in terms of supervision. So we're not sure what percentage of their budget they would attribute to oversight.

ASSEMBLYMAN DeCROCE: This bill does provide for oversight by New Jersey Transit.

MR. MOLOFSKY: That may be.

ASSEMBLYMAN DeCROCE: It does.

MR. MOLOFSKY: Yes.

ASSEMBLYMAN DeCROCE: With regard to the provisions of 13(c), can you offer anything to help this Committee enhance this bill so that we can work along with the rules and regulations of 13(c)?

MR. MOLOFSKY: Well, first we think that whatever the Committee produces, if anything, it should not in any way interfere with the ability of our union and the Department of

Labor and New Jersey Transit to assure itself that those agreements that have been negotiated in the past remain in place and are allowed to continue in force. Among many things, those provisions prevent and sharply restrict the subcontracting of work, guarantee not only the first opportunity of employment, but a carryover of all terms and conditions, pensions and health benefits, to those employees as they move over, if they do. If they're not moved over, up to six years of full protection are provided. That is why the pace at which you privatize, and the pace at which most agencies have privatized has been cautious. Those are standard protections that apply to every operating agency in the country. If you go ahead of the rate of attrition, for example, or include specific provisions as you have that prevent enforcement of those existing terms, you create problems that need not arise.

Again, I keep coming back to the fact that the system now in New Jersey has allowed, almost, for over 45 percent of the route service to be operated by direct service contracts with substantial bus subsidies. You have a substantial and enormous amount of privatizing that has been done in a way that has not interfered with the 13(c) arrangements, and has allowed a full integration of the public and private sector.

I still come back to why this notion of a mandate, this fixed number, has come up. And I'm sincere in the question. It's not--

ASSEMBLYMAN DeCROCE: A fixed number in what way?

MR. MOLOFSKY: You propose 25 percent -- 50 percent -- and yet you've had presented to this Committee that New Jersey, and indeed, the privates, will readily acknowledge, that they are making money. They are getting the buses from the State at no cost, and the only role the State plays once they get the buses is to make sure they don't compete over the same routes, but they are independent on the fares.

ASSEMBLYMAN DeCROCE: What if they do?

MR. MOLOFSKY: Sorry?

ASSEMBLYMAN DeCROCE: What if they do compete on the same routes.

MS. DeLIBERO: (speaking from audience) We have a clause that says you can't.

MR. MOLOFSKY: You can't.

MS. DeLIBERO: We can't. Once a route is given to them, we can't compete with them. We had a big case that we settled recently on Route 9 where that was happening. What we did on that one was just compromise, and we're both running service on Route 9. But there's language that says we cannot.

MR. MOLOFSKY: They would cannibalize each other.

Just a footnote. In Denver they allowed, unrestricted, any company to come in without subsidy and run over any route in the regional area. You know, if you bought your own equipment and driver, you could run anywhere over the city system, and even those contracted out. Not one -- not one van, let alone one bus -- chose to do that. They can't make money that way, and they know that in the end the way the routes are controlled and structured, it would cannibalize everybody and it wouldn't allow for the proper mix to take place.

ASSEMBLYMAN DeCROCE: Okay. Questions? Assemblyman Warsh?

ASSEMBLYMAN WARSH: I just have a couple of questions. Is there any way to predict the rate of attrition of New Jersey Transit employees so that we would be able to arrive at a more realistic figure to privatize bus routes?

MR. MOLOFSKY: The rate of attrition can vary. It may be an average that you can look at based on history. That's all I can tell you. I don't have the percentage number.

MS. DeLIBERO: (speaking from audience) We can give you an average based on history of what our attrition rate is.

ASSEMBLYMAN WARSH: Would it be a number that would accommodate higher than 10 percent of bus routes that you currently--

MR. MOLOFSKY: It's under 10 percent.

MR. FORLENZA: It would be under.

MS. DeLIBERO: I don't think it would be higher than 10 percent.

MR. MOLOFSKY: It's probably no-- Between 5 and 10 percent. It's in the 5 to 10 percent range.

ASSEMBLYMAN WARSH: The one question that keeps haunting me is, if transit is inherently an unprofitable line of business, and these private carriers in New Jersey are deriving a profit and they are getting a State subsidy, how are they getting a profit?

MR. MOLOFSKY: Their labor costs may be less, or they are running select routes where the efficiencies of scale are in their favor.

Let me give you one example. Think about traffic for a moment, and red lights. If you run your bus on the New Jersey Turnpike, straight in from New Brunswick to New York, there's no traffic, no lights, you get there fairly-- You cover the miles quickly. If you're running on Route 9, or Route 22 or 21 in North Jersey, or any of the cities that are here-- If you run in or around Woodbridge or Edison or Plainfield, and are not on a commuting run but are on a city transit run -- which is a substantial amount of the work that New Jersey Transit provides -- it's stop and go. Productivity in mass transit is a function, substantially, of where you go with the bus and what kind of traffic conditions you're operating.

So they have been self-selective in where they choose to run -- big-ticket runs. If you look at where they go, it is North Jersey to New York City. I tell you, if you factored out

the percentage of the private operators that either do that or subsidize themselves, heavy duty, with charter to Atlantic City, which the public agency is prohibited from doing--

Talk about eliminating competition, New Jersey Transit cannot any longer provide charter service; by Federal statute prohibited, okay? And a lot of the community groups in your area -- Lions Club, Boy Scouts, school groups -- I must tell you, are paying more because of that. You may want to think about that. It may be a separate issue before you today, but that whole range of competition, charter service, has been wiped off the books. There is no longer any competition for charter service in New Jersey because New Jersey Transit can't do it; privates can only do what they choose.

So the answer is, in terms of their cost, they choose the routes that they run, they can control when and how they run them, and fill the buses up -- 35, 40 -- before they run into Manhattan. That is not the kind of service New Jersey Transit provides.

They do that kind of work, but their commitment and the commitment that our members bring to the service is to serve entire communities. You know, we can't just run the choice neighborhoods and run off-peak times. You have to, you know-- You understand, you're running a whole range of service over different conditions.

MR. FORLENZA: Let me follow up, because the Chairman had made reference to the Route 9 corridor. I'm not here to bash the independents, because we represent many of them in the State. But take Suburban for an example. There was court litigation on that for several years. It cost New Jersey Transit many, many dollars to fight Suburban to stay off of the Route 9 corridor. Apparently they caved in and gave Suburban Transit coordinated service on Route 9. So when you talk about how they make profits, New Jersey Transit supplies brand-new

buses for them, does all their scheduling for them, and they only take the peak hours to run. They go into New York. Like Bob said, take 35, go in, and that's it.

Then comes the weekend. They don't have the total commitment that New Jersey Transit has for the people of New Jersey. Friday comes. If they overbook on charters they call New Jersey Transit and say, "We have 10 buses. We're not going to be out there tomorrow. Cover it." And New Jersey Transit goes crazy with our members, calling them at their house to come out and cover the service. This is what exists.

So that's where they make their profit. If they're not making, they abandon it.

The other example is the enormous amount of money New Jersey Transit spent promoting the Garden State Park and Ride. And because of pressures, again, caved in, and gave the private carrier the park and ride. They ran it until they ran it into the ground, and just totally abandoned it -- abandoned it after running the equipment into the ground. You can't even use the equipment any more. Just abandoned. And we have to go out there and service it.

ASSEMBLYMAN WARSH: Isn't it true that New Jersey Transit establishes the actual-- When they bid out a route, they will determine the level of service that that route will have to get?

MR. MOLOFSKY: The same as under the proposed bill.

ASSEMBLYMAN WARSH: So that if they don't provide off-peak service, that nonprovision of off-peak service was bid out that way.

MS. DeLIBERO: (speaking from audience) We do that now. They did it a little different in year's past, but we do now. We bid it out. We bid to monitor. We put all the provisions in there how-- And we monitor them, and if they don't do it, they would have to-- We would cancel their contract and rebid it.

ASSEMBLYMAN WARSH: So, if they don't provide off-peak service, it's a result of the route not involving off-peak service.

Thank you, Mr. Chairman.

MR. MOLOFSKY: The other thing, under this proposed bill, the privates get the buses and they keep the fares. Yet New Jersey Transit and its employees are still responsible for advertising, supervision, maintenance, oversight, inspection, the whole range of fixed services that don't disappear. Quality control, complaints, customer issues, and service operations--

ASSEMBLYMAN DeCROCE: But they have the oversight?

MS. DeLIBERO: Yes.

ASSEMBLYMAN DeCROCE: They have the oversight.

MS. DeLIBERO: We have the oversight.

MR. MOLOFSKY: But to the extent--

ASSEMBLYMAN DeCROCE: They have something to go with it.

MR. MOLOFSKY: But to the extent that that works and more people ride the buses, the privates keep the fares. New Jersey Transit gets no benefit. So it's kind of-- It just strikes us as odd. You talk about a fixed cost contract, and yet they keep any excess fares.

ASSEMBLYMAN DeCROCE: But New Jersey does get-- They do get a benefit. If it's better service and they can help to improve that service, that's a benefit to the State of New Jersey.

MR. MOLOFSKY: But they don't get the revenue.

ASSEMBLYMAN DeCROCE: They may not get the revenue.

MR. MOLOFSKY: And they lose a substantial amount of revenue--

ASSEMBLYMAN DeCROCE: But their job is to provide the best possible service for the people using that facility.

MR. MOLOFSKY: That is true, we just don't think it's the job of the State Legislature to create a system that benefits the private operator.

ASSEMBLYMAN DeCROCE: That's where we differ.

MR. MOLOFSKY: You know, it's the public and the ridership that's really important.

ASSEMBLYMAN OROS: Listening to this testimony, it appears to me that given the fares that are being used throughout the State, it doesn't appear that any company can operate at a profit without subsidization. Is that a fair statement?

MR. MOLOFSKY: I think the only answer to that is, in the charter business.

ASSEMBLYMAN OROS: In other words, most of your buses that are running in the State of New Jersey, that fare is set at a certain figure that without subsidization, they're going to lose money. Is that a fair statement?

MR. MOLOFSKY: I think it's substantially fair.

MR. FORLENZA: That's a fair statement. You're correct.

ASSEMBLYMAN DeCROCE: I'm not so sure.

MS. DeLIBERO: (speaking from audience. It depends on the type of service and depends on-- We have some routes that actually make money.

MR. MOLOFSKY: The heavy duty commuters.

MS. DeLIBERO: But then we have some routes that don't even cover 20 percent of their costs. So that's why a mix of good routes and bad routes is what gives us this 55 percent cost recovery ratio. If I just had the routes -- some of my routes that are marginal-- I mean, our coming to you to ask for subsidy would be even more than it is today.

ASSEMBLYMAN OROS: Well, using a business standard here, if you were to raise the fare, would you lose all the riders; if you try to be profitable? Let's put it that way.

MS. DeLIBERO: What the elasticity shows when you plan fares is that if you increase your fare beyond the cost of inflation, you start to lose riders. And if you look at New Jersey Transit's history, we have always raised our fares because our subsidy has been so big. We've always had to raise our fares double digits, and it clearly shows the pattern that we've lost riders. So you do.

And the other thing with privatization in my experience is, when you put routes out different than New Jersey Transit-- I mean, we have to run everything whether we want to or not. I mean, I would love to just run all the service that isn't stop and go, because that's less wear and tear on my brakes, less maintenance and those costs, but the privates have that advantage because they look at what it costs to run, and the running time, and that whole thing. And that's what makes the real difference in picking and choosing when you privatize your service.

MR. MOLOFSKY: Mr. Catania, there's a provision in the bill that says that the corporation may not establish any requirement relating to the wages, benefits, or union organization of employees, and that all private carriers, etc.-- I just wanted to come back to that 13(c) issue again for a moment, because it's a serious concern we have with the bill. Even Denver didn't do it in that way.

That's one, among many provisions in the bill, that I could point to, and I would be happy to spend time now or with Committee staff, itemizing where that is juxtaposed, where there are provisions in the bill. Again, the first opportunity of employment, the inability of the corporation to control what happens to the workers in terms of their benefits and their 13(c) protections. With all due respect, that would likely mean people will lose jobs and will lose their health and pension programs that they've built up with the State. This

would prevent us from enforcing existing conditions in our labor agreements -- 13(c) agreements -- which would tend to prevent that from happening.

It's a serious problem. And because of that, that's why if you privatize-- I mean, we can't legislate the elimination of 13(c), you know. It just can't happen. So it's a constraint in what you choose to do in operating the system. It's a commitment that the Congress, the country, and the states have made to the workers and to the system. And it does impose costs. That's why this kind of a mandated system as opposed to all that has taken place--

Again, I can't underscore-- New Jersey is the king of privatization compared to any state in the country in terms of buses, service, and contracts. That's something that the State, I know, has directed; the system itself has taken on itself. We just keep coming back to this question of why mandates now, and what's wrong with the system that you're looking to cure?

We still have yet to understand that

ASSEMBLYMAN DeCROCE: Well, the whole thing is cost, the cost to the State of New Jersey.

MR. MOLOFSKY: But are you trying to reduce costs out of the blue? Has there been any representation that costs have gone out of sync, or that the system -- the privatization, the public/private partnership that's in place now -- is not working to put controls on costs? We just don't understand that. We think it is. We think there are substantial cost controls. The State has taken care of some in the last couple of months in terms of budget issues. And you have along with that, New Jersey's privatization policy, federally approved, that's better than any system in the country where the private operators have benefited enormously in terms of the buses that they have received and the service contracts that they have obtained.

MR. FORLENZA: I think, just to follow up, I think we have approximately 10 percent of our existing lines that are profitable, so you have 90 percent that don't make a profit. I'm curious as to who would want to bid on a line that doesn't make a profit, unless we now intend to, when they operate at a loss, start to give them-- That's our concern.

ASSEMBLYMAN DeCROCE: Well, if you have one in operation that's operating at a loss and the State of New Jersey is subsidizing that outfit to the tune of a half million dollars, and a private carrier comes in and says, "Look, I can do it for \$350,000," the State of New Jersey saves \$150,000.

MR. MOLOFSKY: That's possible, that's exactly right. But the question is, who makes the choice, and under what conditions--

ASSEMBLYMAN DeCROCE: New Jersey Transit, according to this bill.

MR. MOLOFSKY: No, no, no. There are two--

ASSEMBLYMAN DeCROCE: Oh, yes, yes, yes, yes. They prepare the bus route packages.

MR. MOLOFSKY: But they're mandated to achieve -- to reach a fixed percentage of--

ASSEMBLYMAN DeCROCE: Okay.

MR. MOLOFSKY: --service contracting under a system that is skewed against the kind of savings that you are looking to attain. That's the continued problems that we have.

ASSEMBLYMAN DeCROCE: Okay. Anything further? Frank?

ASSEMBLYMAN CATANIA: Can I ask, are there any other states, municipalities, or districts that use, basically, the system that New Jersey uses with regard to privatization?

MR. MOLOFSKY: In terms of distributing buses?

ASSEMBLYMAN CATANIA: Well, in terms of our general procedures that we use at the present time.

MR. MOLOFSKY: There are other-- Indeed, every transit system in the country privatizes something to one degree or another.

ASSEMBLYMAN CATANIA: No, you're misunderstanding my question. You're saying that we have San Diego; we have Denver; we have all of these that are variations. Is there any other transit authority that uses what we use in New Jersey?

MR. MOLOFSKY: Well, as I understand New Jersey's system-- You're asking if others use it? As I understand New Jersey's system, they have determined that a certain percentage of their operating routes are going to be bid out, and they evaluate those bids, and I believe they do that on a marginal cost basis. They don't do that on a fully allocated cost basis.

Other systems contract out percentages of their route service and make the decisions based on marginal costs. We don't know any that use fully allocated costs.

ASSEMBLYMAN CATANIA: What's the percentages that are privatized? What's an average percentage around the country?

MR. MOLOFSKY: Well, I'll tell you. Nationally, of all the total operations that are privatized, it's less than 12 percent when you add up all that the private operator has on bid service out there. But everybody has some--

ASSEMBLYMAN CATANIA: It's 12 percent.

MR. MOLOFSKY: Of service.

ASSEMBLYMAN CATANIA: That means 12 percent of service. So that means that we're below that right now at 10 percent?

MR. MOLOFSKY: No, no, no. You're way above it. You're four times higher.

ASSEMBLYMAN CATANIA: I thought I was told before 10 percent?

MR. MOLOFSKY: No, no. You have 10 percent by direct subsidy, and another 40 percent or more through provision of the buses that the privates get. I don't know any other system, and maybe Ms. DeLibero does, where a system gives, at no cost, buses to the private operator and then has minimal, if

any, restrictions on how they use the equipment, and still retains the responsibility for service quality, and oversight, and all those other things.

ASSEMBLYMAN CATANIA: This is the only district that does? This is the only transit authority that does it?

MR. MOLOFSKY: I believe-- I think it's a matter of inquiry, but I don't know of anybody.

ASSEMBLYMAN CATANIA: This is the only one. You talked before of these routes and, you know, they would come in and more or less pick the better routes. Are you aware that this bill is discussing packaging of routes and that someone can't just come in and say, "I want the Paterson to New York. I want the Hackensack to New York. I don't want the Newark to Belmar." Are you aware that this does not allow that?

MR. MOLOFSKY: The question had come up as to how the privates make money. We think they make money because, independent of this bill, they pick their own service.

Again, 75 is an arbitrary number. We don't understand the background behind it. And when you take a look at the kind of service requirements that routes require, there are routes that are-- There are "X" number of buses that are needed to run on your street; you need reserve buses. You know, if buses break down, you need a reserve fleet and parts, so I don't-- There are a lot of complicated issues in terms of what you mean, even, by 75. Is it 75 fresh buses every day, or 75 plus fares, and what that means to a community?

Take any community in which you live, in Hawthorne or others, you have service out there that buses, "X" number of buses--

ASSEMBLYMAN CATANIA: I don't think we have a bus in Hawthorne.

MR. MOLOFSKY: And to carve it up--

ASSEMBLYMAN DeCROCE: Because you're a loser.

MR. MOLOFSKY: --you might end up with three or four companies, and the question is, why? Why? Because when you set a percentage rate of 50 percent with a 75 bus cutoff, you are going to have a contractor attempting to operate in a particular community.

ASSEMBLYMAN DeCROCE: I don't think that's factual. I don't think it says in here, specifically, that it has to be minimum of 75.

MR. MOLOFSKY: Up to 75.

ASSEMBLYMAN DeCROCE: It says not more than 75.

ASSEMBLYMAN CATANIA: If I could go into some factual-- You indicated that New Orleans had gone ahead with a privatization.

MR. MOLOFSKY: Yes.

ASSEMBLYMAN CATANIA: How many-- In reading your article, I only read that they had a problem with one private transit operator.

MR. MOLOFSKY: New Orleans privatized five bus routes, and Greyhound got the contract through a bidding procedure, came in under RTD's costs, and the results are as we portrayed them. The service was miserable. The costs were not saved.

ASSEMBLYMAN CATANIA: You mean there's only one--

MR. MOLOFSKY: There were only five routes.

ASSEMBLYMAN CATANIA: Five routes, one operator?

MR. MOLOFSKY: One company. There were others that bid, but one contractor got the contract. And that was true in Miami. They bid and Greyhound got it there. Greyhound got it in New Orleans. This was not affected by the strike at the time. A litany of difficult problems arose.

Now, we're not here saying that all the privates -- certainly those in Jersey, and we represent many of them -- are going to be out there putting bad and unsafe service on the streets. We have, in our union, members working for good private sector companies.

ASSEMBLYMAN CATANIA: That's what I'm hearing. I'm hearing that from you today. I'm hearing that the privates--

MR. MOLOFSKY: I'm portraying to you--

ASSEMBLYMAN CATANIA: --that the privates aren't going to be able to provide the services that New Jersey Transit can.

MR. MOLOFSKY: It's a question of choice, and the system for making those choices, and the cost issues that arise when you make them in terms of employee costs, and in terms of evaluations if you rely on fully allocated costs. You don't want to make an economic decision on a myth like Denver did, that you are going to save \$30 million, and then find a few years later that there's \$3 million less in your pocket, which is exactly what happened in Denver. So that's what I'm arguing about.

ASSEMBLYMAN CATANIA: I thought that Denver was going to realize a 3 to 4 percent of cost savings in the third year?

MR. MOLOFSKY: We thought. Now we're looking at the numbers--

ASSEMBLYMAN CATANIA: Who?

MR. MOLOFSKY: The final audit report just came out about a month ago, and then Professor Sclar took that report, along with the prior six years, and did an analysis of the costs to the system of privatizing and the system's overall cost and found that their operating deficits had gone down preprivatization and have only risen since.

ASSEMBLYMAN CATANIA: Was he commissioned by the Regional Transit District in Denver?

MR. MOLOFSKY: That's a good question. The reports that he examined that are publicly available were prepared by Peat Marwick, and Coopers and Lybrand, accounting firms. They were commissioned at the state's direction to do performance audits.

They did, now, three or four of these audit reports. The first two that they did-- The first one they did -- the

very first one which had the rosiest picture -- used a fully allocated cost system and showed -- I mean used an incremental cost system, and showed losses. Wendell Cox went out there with big press, "Can't be, can't be."

Okay, so then Peat Marwick went back and did a second audit, and they shrunk the costs. The first report said they lost \$3 million; they changed the underlying assumptions; the second report that came out said they only lost a million dollars. Then they continued to do their annual audit reports based on the revised system, okay, a fully allocated as opposed to the marginal or incremental, which produces real costs savings or losses, and magnified in terms of their printed reports the kind of savings -- that weren't great, even under the new system they didn't save that much. Then Professor Sclar went back and looked at all the audit reports and provide -- used Peat Marwick's initial methodology based on incremental costs or marginal costs and applied that to all of the numbers over the six-year period, assuming that the fixed costs do not disappear.

You see, Peat Marwick and RTD were assuming that the fixed costs attributed to the system were saved, and they're not. But if you apply Peat Marwick's original methodology -- marginal or incremental costs, which even the Federal Transit Administration says should be used in evaluating cost issues for competitive bidding purposes -- you find, as this latest report indicates, that the operating expenses increased since they privatized. The cost of the their privatization services went up in the last two years \$800,000, and they overall did not save the kind of money--

ASSEMBLYMAN CATANIA: Let's not go into their financial. "You won't often get what you want," by Elliott D. Sclar, Ph.D.?

MR. MOLOFSKY: Right.

ASSEMBLYMAN CATANIA: Who commissioned him to do this? Did you?

MR. MOLOFSKY: We did.

ASSEMBLYMAN CATANIA: You did?

MR. MOLOFSKY: We had asked him to look at the audit reports and to study the audit reports.

ASSEMBLYMAN CATANIA: Oh, all right.

MR. MOLOFSKY: And the audit reports are based on-- Now the initial report that he did--

ASSEMBLYMAN CATANIA: So this is your expert? This is your expert testimony coming in. It's not anybody else.

MR. MOLOFSKY: This is Professor Sclar's testimony based on the--

ASSEMBLYMAN CATANIA: I thought that you-- Up until this point I thought that Dr. Sclar was just someone who did this with regard to--

MR. MOLOFSKY: He did initially. The first three studies that he did that are cited in here--

ASSEMBLYMAN CATANIA: Mr. Chairman, I might suggest that--

MR. MOLOFSKY: --were based on the--

ASSEMBLYMAN CATANIA: Excuse me.

I might suggest that what we do is, in order to find out some of the discrepancies that are here with regard to some of these transit authorities, maybe we should contact those transit authorities and find out--

ASSEMBLYMAN DeCROCE: We may do that.

ASSEMBLYMAN CATANIA: It may be a good idea to get the information direct from them.

MR. MOLOFSKY: Excellent. We don't hide from that. We encourage you to do it. We think that you will find what these outside economists have found.

ASSEMBLYMAN CATANIA: I have no further questions.

ASSEMBLYMAN DeCROCE: This is a deliberative process, so it may be done that way.

MR. MOLOFSKY: We welcome it.

ASSEMBLYMAN DeCROCE: Thank you. Anyone else have questions? (no response) Thank you both for coming. We appreciate your testimony.

MR. MOLOFSKY: Thank you.

MR. FORLENZA: Thank you.

ASSEMBLYMAN DeCROCE: Now, Mr. Frank Couzo?

F R A N K A. C A I A Z Z O: Caiazzo, sir.

ASSEMBLYMAN DeCROCE: Caiazzo. I'm sorry. Come on up. I hate to tell you, being Italian, I really blew that one.

MR. CAIAZZO: Mr. Chairman, if I may.

ASSEMBLYMAN DeCROCE: Your name, sir?

G E O R G E E. L E I T Z: My name is George Leitz. I'm the International President of the Transport Workers Union.

ASSEMBLYMAN DeCROCE: Thank you for coming.

MR. LEITZ: I got a very short notice, so I came here.

ASSEMBLYMAN DeCROCE: Okay.

MR. LEITZ: I'm also a resident of New Jersey and I'm an employee of New Jersey Transit.

ASSEMBLYMAN DeCROCE: Okay, thank you.

MR. CAIAZZO: I'm Frank A. Caiazzo, sir, President of Local No. 225, Transport Workers of New Jersey. I'm also involved with two divisions of New Jersey Transit, and I have a multiple number of private carriers under my jurisdiction, too, as a labor representative.

If I may preface my testimony here, I'd like to make a candid remark. Sitting here in the audience makes me mindful of history. I sat in 1979 and in 1978 when both sides of the question of organizing and directing that a corporation be formed -- New Jersey Transit -- and the irony of it all is that if you and I were to go to the library to check the minutes of all those sessions that were held in public, we would find that

some of the answers we hear are the same, including some that I may give. However, the difference was where it emanated from. You're interested in privatization. Back in those days we were interested in forming this corporation. And those people who are interested in it today, and we've got A-1175, or are supportive of it, are those same people who were in our position in the 70s for the formation of this corporation.

The key interest if I recall, the goal of the Commissioner and Mr. Gambaccini and his team, was to establish a corporation, and so the legislative body listened and they determined that the interests of the public were first at hand, to give the quality service, and if I may add -- and remember I entered the fact that I am a representative of the private sector, two bus companies of this State -- I will say this: When it comes to quality service, New Jersey Transit has kept that commitment. They have given quality service. Periodically some form of complaint may emanate from some disgruntled passenger, or even a disgruntled contracted employer, or one who has leased the route.

By and large, management control is what I'm precisely trying to say. It has been a good management control for the 12 years that they have been in business. And we in labor, although we've probably brought them to task on questions of one nature or another, but basically the fact remains, the position I take as one who is well-versed -- and I've been, by the way, in transportation, this is my 45th year in one form or another. And I truthfully and honestly enter into the record that I'm pleased, very much so as a labor leader, with the management and the administration of New Jersey Transit, up to this very time.

Whether or not it can be enhanced by some form of legislation or whatever, or be cost-effective-- Even the cost-effectiveness is questionable in my mind. However, that's enough of preamble. Let me get down to the entry of the record.

By the way, it was very interesting to hear Mr. Sclar's name mentioned. Mr. Sclar was likewise called upon as an expert to give position papers for Transport Workers also. But we have an addendum on the back of our record. We'll tell you all the reference factors so if you should challenge our credibility on what the entry is, all you have to do is to go and check out the reports. They're all bonafide. All right, sir?

And if I talk a little loud, please, excuse me. I'm an old man.

ASSEMBLYMAN DeCROCE: That's quite all right. That's all right, so am I.

MR. CAIAZZO: We like to classify privatization as a private means of profits at the public's expense. And so in keeping with it, we're going to enter a summary that we made, and then a follow-up.

Contracting out for transportation services, also known as privatizing, is touted by proponents as a way for public agencies to save money by hiring private operators.

But a review of several efforts to privatize urban bus systems shows that inaccurate accounting methods are often used to exaggerate expected cost savings, and that true savings are less, or even nonexistent. In addition, these reports show that quality of bus service diminishes, accident rates increase and ridership falls.

The main reason elected officials are misled into accepting privatization efforts is the accounting method used to compare the cost of operating the public service with the contract bid from the private operator. Federal regulations require the public agencies to use the fully allocated cost model, which overstates the potential savings of contracting out by including in budget projections a fixed percentage of overhead costs, even though many of those costs are not reduced when service is contracted out.

A far more accurate method of accounting is the incremental cost model, which compares the direct out-of-pocket costs of running routes in-house with the direct costs of contracting out service. A private operator bidding on the contract is not required to use the fully allocated cost model, but can bid for the route cost only, excluding the overhead.

Two recent examples of this type of accounting discrepancy are illustrated in this report. In November 1990, consultants with KPMG Peat Marwick, using another accounting method that more fully considers the costs of privatization, found that the cash loss to Denver for the first year of its privatization effort would be \$3.7 million. Six weeks later, after political pressure, KPMG released a second report, this one based on a fully allocated cost model. It reduced the cash loss to \$1 million. The Economic Policy Institute after analyzing the two reports concluded that the actual cash loss to Denver could be as high as \$9.1 million, depending on which of KPMG's in-house cost files were used. After these reports came out, the Colorado Legislature rejected a plan to privatize an additional 20 percent of Denver's transit routes.

In July 1991, Coopers and Lybrand consultants released a report analyzing the first fiscal year costs of contracting out 14 lines of the Southern California Rapid Transit District to a private firm in the San Gabriel Valley. It found that the per hour cost of the two transit operators were about the same. The private operator had only a 0.8 percent cost advantage. A further analysis showed that when the comparison was adjusted to reflect that all of the private operator's buses were brand-new, while SCRTD's were an average of 6.9 years old, the cost savings of the private operator disappeared, and the SCRTD came out \$6.62 per hour less expensive.

These reports show that anticipated savings often fail to materialize. Other reports document declines in safety,

reliability, and service in areas where privatization has been tried.

In New Orleans, where a privatization experiment began in 1989, the private operator's passenger and traffic accidents doubled what they had been under the Regional Transit Authority during the first quarter of operation.

Price Waterhouse consultants, reviewing the first six months of a privatization effort in Miami concluded in a 1989 report that the contract with the private operator, "has also witnessed an apparent degradation in service quality, service reliability, and ridership." The private operator had an accident rate of 4.87 per 100,000 miles, versus the public transit system's much lower 1.32 rate. Service cancellation rates were also much higher on the private operator's lines, which also had double the number of customer complaints. The private operator abandoned the project the following year, leaving 30 of the 40 buses leased from the public agency in such poor condition they could not be rehabilitated.

Finally, this report raises a number of other questions public officials should consider when reviewing privatization proposals. How much will it cost to construct and monitor the contract? How will the two systems be coordinated? Who will get the fare box revenue? If it is the private operator, as was the case in Denver, is that cash loss considered in the cost comparison evaluation? If the fares are to be turned over to the public agency, who will supervise? Will the public buses be used by the private operator? Who will maintain the buses, and to what quality standard? Will training standards of drivers be similar?

We believe the answers to these questions will clearly show that privatization should be opposed. Privatization doesn't make sense economically. And it will fail to provide the quality, safety, and reliability that New Jersey residents deserve and demand from their transit system.

A closer look at privatization: Proponents of privatization are claiming that New Jersey Transit could save money by contracting out some of its State bus lines. They claim that such a move would cut costs but not lower service. Upon closer examination, however, those claims don't hold up. The cost savings of privatization are exaggerated, and the hidden costs to taxpayers, employees, and the general public are ignored.

A number of techniques, including lowball bidding and accounting methods that inflate potential cost savings, are used by proponents to bolster their claims. But when the true expenses are calculated, when the second contract comes around, that's when public officials learn that the so-called cost savings aren't there.

Officials in Denver are learning about accounting methods that made their privatization project look good on paper, but not so good in actual fact. And in the Los Angeles suburb of San Gabriel, a new report shows that the public transit system may actually be far cheaper to operate than a much ballyhooed private effort.

What it comes down to is that privatization is private profiteering at the public's expense. For profit companies get public subsidies, while the community loses the "public" from its transit system. Their commitment is to turning a profit, not serving the public. Those profits, in turn, go to corporate headquarters, not the community. Public accountability is lost. Working men and women suffer when their decent, union jobs are replaced by nonunion, low wage and benefit jobs.

Everyone suffers when workers don't receive fair wages. Low salaries means there is less money put back into the local economy. Fewer qualified, experienced job applicants come forward. With less qualified workers, safety, reliability, and service suffer.

"Where it has been tried, privatization does not save costs. It shifts costs from general public to the transit-using public in the form of an inferior product and to transit employees through lower wages." This quoted from the Economic Policy Institute report titled, "The Emperor's New Clothes: Transit Privatization and Public Policy," dated 1989.

ASSEMBLYMAN DeCROCE: Mr. Caiazzo, let me just say for the record, you have entered this for the record, haven't you?

MR. CAIAZZO: Yes, sir.

ASSEMBLYMAN DeCROCE: We could go over this whole booklet, okay, if you don't mind?

MR. CAIAZZO: I don't mind.

ASSEMBLYMAN DeCROCE: Rather than have you read right through the whole thing, I mean, each one of the members have it.

MR. CAIAZZO: That's all right with me, sir. If you so choose to do that, as long as it's entered into the record.

ASSEMBLYMAN DeCROCE: It will be entered into the record.

Let me say this, though. We do intend to look at both incremental and allocated methods of accounting.

MR. CAIAZZO: Methods of formularization of the cost factors, the bidding.

ASSEMBLYMAN DeCROCE: Yes.

MR. CAIAZZO: I think you should put some effort into that because that's a very important part of the bidding system. As I've said, I've seen some of these things take place, and I would not want to see it happen here in New Jersey.

ASSEMBLYMAN DeCROCE: If it's going to be done, it has to be done in the right way, or it won't be done at all.

MR. CAIAZZO: All right, sir. I appreciate that. For a moment, if I may?

ASSEMBLYMAN DeCROCE: Yes.

MR. CAIAZZO: Somebody who is well versed and exposed to the Dade County, Miami privatization program is my International President. George, if you would like to say a few words?

MR. LEITZ: All right. Just on my experience in Dade County: We had to negotiate with the Department of Labor, and also with the UMTA Department. I believe we started out with Ralph Stanley, who was the administrator, and a New Jersey resident at that time. They called it a PEP project. They gave Dade County some 40 brand-new buses for them to contract out seven routes. It took two years to work out the 13(c) provisions so there wouldn't be any violations.

We certainly were against the project from the start, but the project did go forward and Greyhound bid the seven routes and got the 40 buses. They were unable to keep a steady work force because they paid the employees there \$6.25 an hour against the Dade County rate of pay of approximately \$13, and they provided no benefits for the employees.

The first 60 applicants who went for those particular jobs had to be discharged because of drug related incidents. As you can see by the record, the accident rate went up more than three times that of the normal experienced people.

To make a long story short, in a period of less than two years, the Greyhound Corporation had to give it up. They went bankrupt on the lines. They were supposed to be in competition with other lines. And now they had to bring the work back in-house.

Out of the 40 buses that were given to them, all no less than one-year old, all in perfect condition, only three of those buses were usable, to bring back in-house.

ASSEMBLYMAN DeCROCE: What was the bottom line of the 13(c) provisions in that particular case?

MR. LEITZ: What we worked out? That no one would be adversely affected by contracting out the work. They started new routes in another area where they could transfer their

employees over to that area so they could contract out the seven routes. Actually, the seven routes were what we called "cherry picked."

Let's not kid yourself, everything-- When you bring all figures up, buses all cost the same. The fuel all costs the same. The only saving there is in privatization is labor costs. That's basically what it is.

But where they're at a disadvantage, the contractor has to make a profit, and he has to make a profit on the labor force. That's where they have the difficulty. Trying to get cheap labor costs, whether it's here or in San Francisco or anywhere else, you get the lowest of the low.

If we're all concerned about the quality of service and safety, you know, one bad accident, you're talking about \$300 million. Well, one bad accident can cost you \$300 million today.

ASSEMBLYMAN DeCROCE: What do you mean by, "the lowest of the low"? I don't understand that.

MR. LEITZ: Well, they get people with green cards to take -- can't even speak English-- These are the kind of people that they get at these lower rates of pay.

ASSEMBLYMAN DeCROCE: Don't you have to have a certain particular type of license to operate one of these buses?

MR. LEITZ: You've got a CDL, sure. You can get a CDL.

ASSEMBLYMAN DeCROCE: Someone that doesn't understand English can get a CDL?

MR. LEITZ: Yes, they get them. Unfortunately, they do get them.

ASSEMBLYMAN DeCROCE: They can't read or write English, or can't speak English, and they get--

MR. LEITZ: Oh, they can read enough to pass the test.

ASSEMBLYMAN DeCROCE: Do they get them in the State of New Jersey, or do they get a national license? What do they get?

MR. LEITZ: Well, they can get it in another state and come here -- a CDL.

MR. CAIAZZO: A national license.

ASSEMBLYMAN DeCROCE: I see.

MR. LEITZ: It's a national license.

ASSEMBLYMAN DeCROCE: I didn't know that.

MR. LEITZ: They can get it down in New Mexico and come here, and they have a CDL license.

ASSEMBLYMAN DeCROCE: Let me ask you one question.

MR. CAIAZZO: Yes, sir.

ASSEMBLYMAN DeCROCE: Where was your union when Gambaccini formulated the New Jersey Transit?

MR. CAIAZZO: Where was our union?

ASSEMBLYMAN DeCROCE: Yes. Which side were you on?

MR. CAIAZZO: When Gambaccini was in the process of formulating and getting it through the Legislature, we were with Mr. Gambaccini. We supported the Transit Corporation formation.

ASSEMBLYMAN DeCROCE: I wondered. I didn't know.

MR. CAIAZZO: There was only one point in time that we ever had a difference of words regarding something that was taking place. We sat down at the table at a building in Newark and we settled it up. But all unions involved were supportive of the formation. And mind you, again, I come from the private sector.

ASSEMBLYMAN DeCROCE: Okay.

MR. CAIAZZO: If you want to talk about abuses sometime, out of public, I'll sit and talk with you about abuses of privatization. I can tell you a lot about the old system when it was initiated.

ASSEMBLYMAN DeCROCE: Well, we know of certain ones that are going on now.

MR. CAIAZZO: And if we don't have central control of a situation involving such vast amounts of money that emanate, basically, from tax dollars, then there's something wrong.

ASSEMBLYMAN DeCROCE: Questions for Mr. Caiazzo or Mr. Leitz? (no response)

MR. LEITZ: One other comment. You know that years ago, I started out driving a trolley car in the State of New Jersey, so I've been around transportation quite long. The local that I represented here had approximately 12 private companies. Let me tell you. Those companies, by hook or by crook, tried every imaginable thing in the book to remain in business.

You're saying public transit is not profitable. It isn't on a system wide basis. Sure you can cherry pick a line here and there which is profitable, but the overall, if you're going to run a coordinated service, it's not going to be profitable, and it will never be profitable. The only time it is ever going to be profitable, when you pull up at a gas pump and you can't get no gas, then it will be profitable. In 1973, when the gas shortage was in, it was profitable. You couldn't go three blocks and that bus got full. You couldn't carry another passenger. It became profitable then.

One other thing that was mentioned here about charters: By the legislation where New Jersey Transit can't do any more charters, it created about 100 gypsy bus companies. Well, we call them gypsy bus companies, five employees, six employees. They're the ones who want to bid on your particular work, because on any given line in the State of New Jersey there's a peak and there's a lull. They may have to run 10 buses in the peak, but when the lull comes in, maybe they only run four. Now, they've got six buses. They go out and do charter work, and that makes up the difference.

New Jersey Transit can't do that by regulation. If they-- You're talking about an even playing field. They've got a lot better playing field than New Jersey Transit does.

ASSEMBLYMAN DeCROCE: By regulation or by statute?

MR. LEITZ: By regulation.

MS. DeLIBERO: (speaking from audience) The Federal Transit Authority does not allow you to use any buses purchased under the feds, so the privates can use their other buses for that and use the buses that we give them for regular service.

MR. LEITZ: I'll say this. If New York City can't make a profit riding people -- because they ride 50 percent of everybody who rides in this whole United States every day -- if they can't make a profit, nobody is going to make a profit.

ASSEMBLYMAN DeCROCE: Thank you very much for coming. I do appreciate it.

MR. LEITZ: Thank you for your time.

ASSEMBLYMAN OROS: I just have one question.

ASSEMBLYMAN DeCROCE: Oh, I'm sorry.

ASSEMBLYMAN OROS: How much does a bus cost?

MR. LEITZ: Today, about \$120,000.

ASSEMBLYMAN OROS: That they supply?

MS. DeLIBERO: With a wheelchair lift it's about \$200,000.

MR. LEITZ: That's a lot of nickels.

ASSEMBLYMAN DeCROCE: Thank you very much. The hearing will recess until next week.

(MEETING CONCLUDED)

APPENDIX



NJ TRANSIT

FACT SHEET

ABOUT NJ TRANSIT

NJ TRANSIT is New Jersey's public transportation corporation. It is among the nation's largest — providing bus, rail and light rail services to and from major points in New Jersey, New York and Philadelphia.

Approximately 273,000 customers ride with NJ TRANSIT daily accumulating more than 161 million passenger trips each year. To accommodate these riders, NJ TRANSIT provides 574 trains each weekday on 12 different rail lines to and from 159 communities, and more than 1,840 buses on 152 bus routes throughout the state.

More important than the number of vehicles and service locations provided is what public transit means to New Jersey. For individuals using the NJ TRANSIT system, public transit means access to jobs, shopping, schools, hospitals, and recreation both within and between cities and regions in the state and to areas outside its borders as well. Public transit also means mobility to thousands of elderly and disabled residents who rely solely on the agency for their transportation needs.

NJ TRANSIT also provides support and capital equipment to privately-owned and subsidized bus companies operating within New Jersey. The agency administers several federal- and state-funded transportation programs for elderly and disabled residents and a federally funded program for rural transportation.

219.6 million

NJ TRANSIT AT A GLANCE

Daily Passengers	273,000
Annual Passenger Trips	161.2 million
Annual Bus Passenger Trips	119.6 million
Annual Rail Passenger Trips	41.6 million

18.9% Private Carrier Annual Passenger Trips

BUS OPERATIONS

Routes Operated in New Jersey	152
Annual Route Miles Operated	72 million
Buses Operated by NJ TRANSIT	1,843
Carriers Subsidized	5
Private Carriers Receiving Buses	130
Buses Leased to Private Carriers	1016

RAIL OPERATIONS

NJ Counties Served by 12 lines	14
Annual Passenger Miles	911.3 million
Route Miles Operated	390.5 miles
Rail Cars in Service	887
Daily Revenue Trains Operated	574
Locomotives Operated	98
Rail Stations With Service	159

HISTORY

NJ TRANSIT was created by the Public Transportation Act of 1979 — legislation designed to provide the state with a coordinated public transportation network. The newly formed agency was authorized to acquire, operate, subsidize and/or contract for transit service in the public interest.

In 1980, NJ TRANSIT purchased Transport of New Jersey/Maplewood Equipment Co. — the largest private bus company in the state. Between 1981 and 1985, several other bus companies were acquired and incorporated into the agency's first operating subsidiary, NJ TRANSIT Bus Operations, Inc.

In 1982, when Congress required Conrail — which was operating commuter rail service in the state under contract to NJ TRANSIT — to cease its passenger operations, the agency moved to begin direct operation of commuter rail service in New Jersey. On Jan. 1, 1983, NJ TRANSIT launched its second subsidiary, NJ TRANSIT Rail Operations, Inc.

A third subsidiary, NJ TRANSIT Mercer, Inc., was added in 1984 when the agency assumed operating control of the bus system in Trenton/Mercer County.

STRUCTURE AND ORGANIZATION

The agency is structured to encourage broad-based public participation in the formulation of transit policy for New Jersey and to be responsive to the state's many public transit constituencies.

New Jersey's residents, as NJ TRANSIT shareholders, are represented by a seven-member Board of Directors. All board members are appointed by the Governor, four members are

chosen from the general public and three are state officials. The state transportation commissioner serves as the Board's chairperson.

To further assure citizen representation, two transit advisory committees, one serving North Jersey and another South Jersey, regularly advise the Board on riders' opinions and concerns.

THE RAIL SYSTEM

On an average weekday, NJ TRANSIT operates 574 trains on 12 rail lines. Across New Jersey, and in portions of New

York, 159 communities are home to NJ TRANSIT train stations and service.

1X

The rail system includes three main groupings of lines: the Hoboken Division, which includes the Morris & Essex, Main/Bergen, Boonton and Pascack Valley lines, all running to and from Hoboken Terminal; the Newark Division, including the Northeast Corridor, North Jersey Coast and Raritan Valley lines, all of which run service to and from Newark Penn Station, with several trains also running to and from New York Penn Station and Hoboken Terminal; and the Atlantic City Rail Line, serving South Jersey. NJ TRANSIT also runs service to and from points in New York State on the Pascack Valley and Port Jervis lines under contract with New York's Metropolitan Transportation Authority.

In addition to providing direct service to both urban and suburban business and employment centers, NJ TRANSIT also provides connections to other transit systems. Connections to NJ TRANSIT-operated or subsidized bus lines are provided at 94 rail stations. At New York Penn Station, connections are available to Amtrak, the Long Island Railroad and

New York City subways. At Trenton, riders can transfer to the Southeastern Pennsylvania Transportation Authority (SEPTA) and Amtrak trains.

Hoboken Terminal and Newark Penn Station are transfer points to the Port Authority Trans Hudson (PATH) trains to Jersey City and New York City. Hoboken Terminal also features ferry service to midtown Manhattan. Newark Penn Station is a transfer point to the Newark City Subway.

At Lindenwold in Camden County, the Atlantic City Rail Line connects with PATCO rapid transit service to Camden and Philadelphia and with Amtrak trains.

NJ TRANSIT trains also transport people to major college campuses, theaters and museums as well as events at Madison Square Garden, the Jersey Shore and Monmouth Park Race Track.

THE BUS SYSTEM

NJ TRANSIT operates an extensive bus network that provides service throughout the state. The agency operates a total of 132 bus routes, ranging from lines in urban areas to long distance commuter runs to and from Newark, Jersey City, Atlantic City, Camden, New York and Philadelphia.

No matter where you are in the state, you are bound to see NJ TRANSIT buses en route between local stops and/or across state lines. NJ TRANSIT operates 1,843 buses which leave from 17 different bus garages all across New Jersey to transport residents to work, schools and hospitals and to recreational spots such as shopping centers, the Jersey Shore, Atlantic City, the Meadowlands, Great Adventure and more.

The agency offers three major categories of bus service:

- **Cruiser** — Trips originating a minimum of 12 miles from a major point of destination, with express service offered for at least the last four miles to the destination.

- **Suburban** — Short-haul commuter service usually originating and/or ending at a terminal.
- **Transit** — Intracity service with frequent stops.

NJ TRANSIT also offers passengers non-stop shuttle service between Newark International Airport and both Newark Penn Station and Manhattan's Port Authority Bus Terminal. Connections to dozens of rail stations are also available and, in most cases, originate from one of the agency's more than 1,750 bus shelters.

In addition to road travel, NJ TRANSIT Bus Operations operates the Newark City Subway, a 4.3-mile light rail system that runs between the Central Business District in Newark and the Newark/Belleville border. Almost 11,000 people use the subway daily. Many of its 11 station stops intersect with the extensive local bus service network within the Newark and Essex County areas.

PRIVATE PARTICIPATION

Since its inception, NJ TRANSIT has successfully developed a working partnership with the private sector, implementing transit programs that recognize and encourage the benefits of a solid public/private relationship in transporting New Jersey residents.

NJ TRANSIT's private partners serve a large population of bus riders in 19 counties throughout the state. More than 130 private carriers operate 1,233 buses. In total, private carriers provide 52.6 million passenger trips per year. The agency works with a Private Carrier Advisory Committee, composed of representatives of private bus companies,

to discuss issues and to assist NJ TRANSIT in the development of mutually acceptable policies.

NJ TRANSIT's program of support for private sector transit operations includes:

- Subsidizing the operations of five private carriers.
- Contracting for the operations of 24 routes with private bus companies.
- Leasing 1016 buses at no cost to more than 130 private carriers.
- Providing other capital support, including heavy maintenance equipment and computers, to 45 private carriers.

SPECIAL SERVICES

The agency's Office of Special Services administers programs designed to help meet the transportation needs of senior and disabled citizens and provide public transportation in rural areas of the state.

Casino Revenues

In 1981, New Jersey voters approved a constitutional amendment to permit Atlantic City casino tax revenues to be used for senior citizens and disabled residents transportation services. In 1984, the Transportation Assistance Act was signed, and 7.5 percent of casino taxes were apportioned: Counties receive 75 per-

cent of casino tax funds for capital, operating and/or administrative expenses to provide locally coordinated para-transit services for senior and disabled citizens; the remaining 25 percent is used by NJ TRANSIT to make the state's bus and rail systems accessible for elderly/disabled residents, providing technical assistance to counties, and administering the program.

The 16 (b)(2) program involves purchasing transportation vehicles — modified vans, mini-buses or mid-sized conventional school-type buses — for lease to private non-profit agencies serving senior and disabled citizens. UMTA provides 80 percent

2x

of the project cost, with NJ TRANSIT providing a 20 percent match. Since the program started in 1975, 623 vehicles were purchased.

Under the Rural Transportation Assistance Program, UMTA

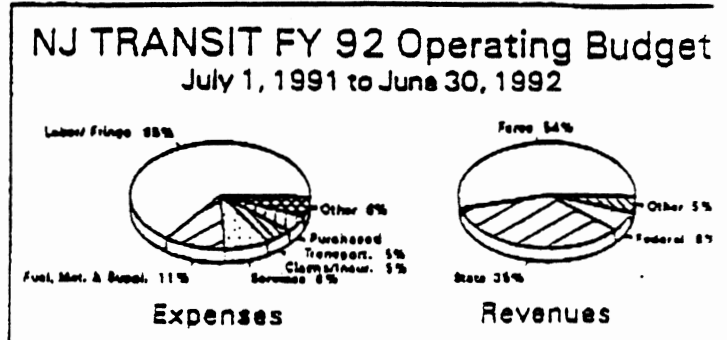
provides 50 percent of the operating costs, and 80 percent of the capital costs for transportation services in rural areas. The remaining costs are shared by NJ TRANSIT and each participating county. Sixteen rural areas at present participate in the program.

FUNDING

NJ TRANSIT is funded by a combination of revenues from fares and public sources. Revenues and expenses fall into two broad categories, each of which has its own separate budget: operating and capital.

The agency's operating budget includes those monies associated with the daily running of buses and trains, maintenance and administration. Funding for operating expenses comes from farebox revenues from riders, state assistance, federal assistance, and income generated from advertising, leases/permits and contract services.

Capital expenses, on the other hand, are associated with the purchase of equipment and construction/repair of facilities. Capital funding comes primarily through federal UMTA grants with local matching grants from state and/or regional sources.



In recent years, the State Transportation Trust Fund has provided the bulk of the local match for federal UMTA grants.

CAPITAL PROGRAM

NJ TRANSIT has invested more than \$2.4 billion in the state's public transit infrastructure. The products of this investment include new and rebuilt buses, rail cars and locomotives; new and rebuilt passenger facilities; new and rebuilt bus garages; a state-of-the-art rail maintenance facility; and a new rail line to and from Atlantic City serving South Jersey.

This program of planned, coordinated capital investment has transformed New Jersey's public transit system. Highlights of the program include:

- The purchase and/or rehabilitation of 3,172 buses.
- The construction of new bus maintenance facilities in Howell in Monmouth County, Washington Township in Gloucester County, and Camden in Camden County, and the rehabilitation of existing bus garages in Orange and Maplewood; planning for the construction of several new bus maintenance facilities over the next several years.
- The rehabilitation of bus terminals in Paterson, Hackensack and Lakewood; the modernization of the Newark Penn Station bus lanes.
- Implementation of a statewide bus fare collection system and

statewide bus radio system.

- Installation of more than 1,750 bus shelters and more than 3,235 bus stop signs.
- The purchase of 212 new rail cars.
- The overhaul of 217 existing rail cars with the overhaul of 10 more cars contracted; the restoration to service of 30 former electric M.U. cars as push-pull coaches.
- The purchase of 70 locomotives.
- The overhaul of 54 locomotives.
- The extension of electrification on the North Jersey Coast Line from South Amboy to Long Branch.
- The re-electrification of the Morris & Essex Lines.
- The rehabilitation of 60 rail stations.
- Construction of nine new station buildings.
- Construction of the Meadows Maintenance Complex in Kearny, a central rail equipment maintenance facility.
- Phase I construction of the Waterfront Connection, linking Newark Penn Station and Hoboken Terminal — Northern New Jersey's first new rail extension in 25 years.
- Installation of over 185 miles of continuous welded rail since 1983.

COMMUNICATIONS

A dialogue between NJ TRANSIT and its riders and other constituencies is crucial to the success of the state's transportation system. The agency provides riders and nonriders alike with many opportunities to express their views and offer suggestions about the state's transit system, and provides a wide variety of information about the state's transit system and how to use it.

Residents receive immediate transit information through NJ TRANSIT's Transit Information Center (TIC), a telephone link to transit information. Operating seven days a week, the TIC provides callers with detailed route information to get just about anywhere in the state.

NJ TRANSIT also makes bus and rail timetables available at major terminals and station stops. Rail schedule cards with complete schedules of trains from most stations supplement rail timetables.

As part of its commitment to listen to riders and other members of the public, the agency has developed a postage-paid Customer Comment Card. Available at bus and train stations, Comment Cards provide NJ TRANSIT with suggestions about how to do its work better.

NJ TRANSIT regularly publishes a series of customer newsletters aimed at specific segments of ridership, providing riders with information about their transit service and answering common questions about how the system works.

The agency encourages one-to-one communication with riders through such programs as Customer Forums and Roundtable Sessions. Forums offer customers an opportunity to meet with management and present ideas/questions about service, while Roundtable Sessions invite customers to meet with management in small group discussions of day-to-day experiences on the transit system. In addition, through the agency's Customer Call-

3X

Back Program, top NJ TRANSIT executives call passengers directly in response to service concerns — ensuring that complaints are resolved and generating a more positive, more personal relationship with riders.

Communicative ties to New Jersey's business community are enhanced through NJ TRANSIT's Business Transit Alliance (BTA). Through the partnership, thousands of public and private sector employees have been introduced to sensible and cost-saving public transit alternatives to the automobile.

MARKETING

Another crucial component of NJ TRANSIT's communication efforts is its marketing program. The agency's marketing initiatives are designed to increase awareness of NJ TRANSIT and its services throughout the state, attract new riders, keep current riders informed of service options and changes, and educate all residents about the importance of public transportation to the state's environment, economy and way of life.

With the goal of increasing awareness among residents, marketing efforts focus on a statewide audience through

mass media, as well as targeted outreaches to potential local and regional markets.

Campaigns are developed based upon market research which include demographics, commutation trends, market profiles, service options and economic factors, as well as marketing and communication techniques. Print, radio and television advertisements, brochures, direct mail, and posters are just some of the ways NJ TRANSIT promotes commuter services and off-peak ridership as "The Way to Go."

FUTURE

In addition to NJ TRANSIT's focus on today's transportation needs, the agency is building the base for New Jersey's future mobility.

With the passage of the Intermodal Surface Transportation Efficiency Act (ISTEA), NJ TRANSIT is proceeding with the Urban Core Project, a series of major, long-awaited transit improvements that will change the face of public transportation in New Jersey.

The agency's Urban Core Project includes: the Kearny Connection, which will link the Morris & Essex Line to the Northeast Corridor, giving passengers from Morris, Essex, Somerset and Union counties direct access to midtown Manhattan; the Secaucus

Transfer, which will allow Manhattan-bound Main/Bergen and Pascack Valley commuters to transfer to Northeast Corridor trains rather than going to Hoboken and transferring to PATH and will provide more open access to Bergen and Hudson counties and Central New Jersey; major Northeast Corridor signal improvements; a rail link between Newark International Airport to points in downtown Newark and Elizabeth; and a new Hudson River Waterfront light rail line and bus system from Bayonne to Edgewater.

Passage of the ISTEA was a tremendous boost to NJ TRANSIT. By more closely linking New Jersey's public transportation services, it is also a boost to the state's economy, its environment, and its residents' quality of life.

NJ TRANSIT

Jim Florio, governor

Board of Directors

Thomas M. Downs, chairman

Martin Brody, vice chairman

Samuel F. Crane

James C. Kellogg

Eva Lemer-Lam

John L. McGoldrick

Carl Van Horn

Shirley A. DeLibero, Executive Director

244-7824

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AMALGAMATED TRANSIT UNION

Fact Sheet

Section 13(c) of the

URBAN MASS TRANSPORTATION ACT (UMTA)

Labor Protections

5X

AMALGAMATED TRANSIT UNION

FACT SHEET

Background on Section 13(c) of the
Urban Mass Transportation Act (UMTA)
Labor Protections

Origins of the Protections

The origins of the Federal mass transit grant program lie in the Urban Mass Transportation Act of 1964. The Act was a direct and much needed response to the rather dismal condition of the U.S. transit industry in the early 1960's. In the decade just prior, 243 transit companies were sold and another 194 were abandoned. The impact upon labor was obviously profound. Between 1945 and 1960, transit employment had dropped from approximately 242,000 to an estimated 156,000 workers. With passage of the Act, Congress made funds available for local public bodies to acquire the financially troubled private transit companies and to continue the operation of viable and meaningful transit services.

Continued Application in all Subsequent Federal
Transit Grant Legislation

Section 13(c) is properly understood as one of the conditions which Congress attached to its funding, similar to its planning, environmental, and alternatives analysis requirements. Congress made a policy judgment that Federal transit funds should not cause harm to, or otherwise come at the expense of, individual transit workers and their families.

Since 1964, these protections have been applied to every subsequent Federal grant program including the 1968, 1974, 1978, 1982 and 1987 amendments to the original bill. On each occasion, Congress affirmed the continued application of these protections. They apply to all grants issued under Section 3, 6, 9, 16(b)(2), and 18, involving capital, operating assistance, rural, elderly and handicapped projects, and all specialized transit and privatization grants distributed under the program.

The only substantive vote on these protections occurred in 1987 when the U.S. Senate by a vote of 70 - 30, rejected an amendment offered by Senator Phil Gramm (R-TX) to limit the application of Section 13(c) to certain privatization grants.

The one labor issue which elicited detailed legislative history and Congressional debate during the passage of the Act in 1964, concerned the potential impact that could be wrought on collective bargaining rights if transit services were converted to public ownership through Federal

6x

funds. Other desired employee protections were essentially borrowed from precedent established under the railroad employee protection provisions adopted by Congress to address potential labor issues arising from mergers, acquisitions and other ICC-approved transactions.

What the Protections Include

Under Section 13(c), potential recipients of Federal transit funds must, as a precondition to any grant contract, make "fair and equitable" employee protective arrangements. The Congress decided that these arrangements be the product of negotiations among the affected parties Mandating that the arrangements must provide protections no less beneficial than those established under the railroad employee program, Congress specifically required that the necessary provisions include, "without being limited to,"

- 1) Preservation of rights, privileges and benefits established under existing collective bargaining agreements or otherwise.
- 2) Continuation of any existing collective bargaining or similar rights.
- 3) Protections for individual workers against harms as a result of the grants.
- 4) Assurances of employment upon a Federally assisted acquisition and priority of reemployment opportunities for workers losing their job as a direct or indirect result of a grant; and
- 5) Paid training and retraining programs.

Before a grant can be released, the Secretary of Labor must certify that employee protections have been developed that satisfy these specified requirements and are otherwise appropriately deemed "fair and equitable." The arrangements are then incorporated into the grant contract.

Section 13(c) Grant Approval Procedures

The procedures under which a grant application are processed for Section 13(c) purposes is after 25 years of DOL administration firmly established. After determining that the application documentation is in order, the Department of Transportation provides DOL with a copy of such and requests a Section 13(c) certification action. If there are no unionized transit employees in the area of the services to be assisted, the arrangements obviously cannot be a product of any negotiations. Accordingly, the Department applies a generic set of "warranty" protections to such grants. If the potentially affected employees

include ones represented by a union, copies of the application are forwarded to the interested labor organizations.

If the grantee has not previously received Federal transit funds, the Department directs that Section 13(c) negotiations be commenced. If the applicant previously received a grant and thus has a prior Section 13(c) Agreement, then DOL merely seeks an agreement of the parties to extend the prior arrangements to the more current grant application.

For any number of reasons, either party may propose a new and different Section 13(c) Agreement. Once 13(c) bargaining has been initiated, DOL monitors the status of the negotiations and offers any technical assistance or advice that may be needed as well as mediation services. If a consensus cannot be developed, the Department, through its 13(c) certification action, issues a determination resolving any disputes, usually after seeking position statements from those involved.

Recent Case Processing History

Over the 15 month period ending March, 1990, the ATU was involved in over 458 transit grant applications involving the processing of Section 13(c) protective arrangements. Over 86 percent (397) of those cases were processed within one month of our receipt of the grant applications. These projects involved both capital and operating assistance, special transit technology, privatization components, alternative fuel arrangements, entrepreneurial and suburban mobility initiatives. The average processing time was only 13 days. Clearly, this record demonstrates our commitment to achieving a fair measure of equitable protection for our members while ensuring a timely distribution of much needed grant assistance.

In our view, the Administration of the Section 13(c) program has worked well and should remain within the Department of Labor. We do not believe that it is wise or necessary to modify in any way the current statutory framework which has allowed this program to respond to changing transportation needs while protecting the collective bargaining and job rights of the industry's employees. Proposals to limit the scope of negotiations or the parties' choice of response to privatization issues raised by specific grants are not needed nor justified. When Congress first initiated these protections it emphasized that the arrangements would be the product of negotiations among the affected parties. Nothing in the history of the program justifies a change in this procedure or a narrowing of the grants to which they are applied.

The Failure of Transit Privatization

False Hopes — Costly Promises

Advocates of transit privatization defend their proposals as rational efforts to cut transit bus expenditures while assuring the maintenance and quality of their service operations. This is false.

Experience throughout the United States indicates that forced privatization, as proposed under pending state bills A-1175 and S-409, have produced significant cost increases, serious service and maintenance problems, ridership and revenue losses, along with significant employee dislocations and reductions in wages and benefits for replaced workers.

These examples clearly demonstrate that the touted savings of transit privatization as proposed under the pending state bills would not materialize and would likely jeopardize the maintenance and quality of bus service now provided by NJT.

We do not believe a mandated approach is wise public policy, nor is it in the best interest of the riding public in the state of New Jersey.

Studies and State Law Use Faulty Analysis

The leading federal transit studies on privatization have attempted to justify expected savings from privatization by comparing the private sector bid costs to the public system's operating expenses. These studies use a flawed comparison between a public system's fully allocated costs (FAC) and the private sector bids.

FAC analysis requires state and public agencies to include their fixed costs (which are not reduced when service is contracted out) as part of their bottom line, in addition to incurred costs for buses and employees.

Yet nationally recognized economists and accounting firms including *Peat-Marwick, Elliott Sclar, Professor, Columbia University, the Economic Policy Institute* and belatedly the *Federal Transit Administration* have recognized the flaws in relying on comparisons on this basis.

Costly Experiences and Service Failures

Denver, Colorado

In 1988, the Regional Transit District in Denver, Colorado, began contracting out 20 percent of its transit service as mandated under state law. Careful reviews of the District's audit reports indicated that this professional scam produced cost increases ranging from \$1-9 million in the first two years of the private sector service. Significant service, maintenance and ridership problems arose during the first two years of the system's operations.

While the third year audit report indicates savings of about 3 - 4 percent (remarkably less than the predicted 30 - 40 percent), even these slight improvements are being questioned as the private sector operators re-bid their contracts.

New Orleans, Louisiana

On February 6, 1990, the New Orleans Regional Transit Authority terminated its subcontract with a private transit operator because of significant cost increases and poor service performance. After one year the system experienced annual cost increases approaching \$500,000, revenue and ridership losses, and a remarkable increase in reported accidents. Bus break-downs were six times greater than those of the local public operator. The contractor, operating over five routes previously provided by the city transit system was terminated after the first of a three-year experiment. The service was returned to the regional transit system.

Miami, Florida

The Metropolitan Dade County Transit Authority experienced similar problems after one year of a three-year privatization experiment and terminated its service contracts for the same reasons. A litany of adverse effects including ridership and revenue losses, poor service and maintenance and substantial employee turn-over justified the canceled contract. Indeed, the system experienced an almost 20 percent loss in ridership and 100 percent increase in passenger complaints.

Los Angeles, California

Audit reports conducted by the Southern California Rapid Transit District (SCRTD) following two years of private sector operation of former public routes by the Foothill Transit Zone (FTZ) have indicated increased costs to the public operator of some 7.6 percent.

The FTZ is a private company which, in 1989, began operating 14 lines formerly served by the SCRTD in the San Gabriel and Pomona Valleys. As with the Denver case, an initial FAC cost analysis overstated the potential savings.

An *Ernst and Young* study reported that FTZ generated a 43 percent cost savings. However, a careful follow-up study prepared by *Coopers and Librandt* using a marginal cost analysis found that, in fact, the SCRTD and FTZ costs were almost identical. When the figures were corrected for differences in the age of the fleet of the two operators SCRTD, the public operator, was actually 7.6 percent less expensive. □

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**Private
Profit
AT THE
Public
Expense**

*Why New Jersey
Should Oppose
Privatization of NJ Transit*

Transport Workers Union of America, AFL-CIO
80 West End Ave.
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PRIVATE PRACTICES AT THE PUBLIC'S EXPENSE

EXECUTIVE SUMMARY

Contracting out for transportation services, also known as privatizing, is touted by proponents as a way for public agencies to save money by hiring private operators.

But a review of several efforts to privatize urban bus systems shows that inaccurate accounting methods are often used to exaggerate expected cost savings, and that true savings are less, or even non-existent. In addition, these reports show that quality of bus service diminishes, accident rates increase and ridership falls.

The main reason elected officials are misled into accepting privatization efforts is the accounting method used to compare the cost of operating the public service with the contract bid from the private operator. Federal regulations require the public agencies to use the "fully allocated cost" model, which overstates the potential savings of contracting out by including in budget projections a fixed percentage of overhead costs, even though many of those costs are not reduced when service is contracted out.

A far more accurate method of accounting is the incremental cost model, which compares the direct out-of-pocket costs of running routes in-house with the direct costs of contracting out service. A private operator bidding on the contract is not required to use the "fully allocated cost" model, but can bid for the route cost only, excluding the overhead.

Two recent examples of this type of accounting discrepancy are illustrated in this report:

✓ In November 1990, consultants with KPMG Peat Marwick, using another accounting method that more fully considers the costs of privatization, found that the cash loss to Denver for the first year of its privatization effort would be \$3.7 million. Six weeks later, after political pressure, KPMG released a second report, this one based on the fully allocated cost model. It reduced the cash loss to \$1 million. The Economic Policy Institute, after analyzing the two reports, concluded that the actual cash loss to Denver could be as high as \$9.1 million, depending on which of KPMG's in-house cost models was used. After these reports came out, the Colorado Legislature rejected a plan to privatize an additional 20 percent of Denver's transit routes.

✓ In July 1991, Coopers & Lybrand consultants released a report analyzing the first fiscal year costs of contracting out 14 lines of the Southern California

Rapid Transit District to a private firm in the San Gabriel Valley. It found that the per-hour cost of the two transit operators were about the same (the private operator had only a 0.8 percent cost advantage). A further analysis showed that when the comparison was adjusted to reflect that all of the private operator's buses were brand new, while SCRTD's were an average of 6.90 years old, the cost savings of the private operator disappeared and the SCRTD came out \$6.62 per hour less expensive.

These reports show that anticipated savings often fail to materialize. Other reports document declines in safety, reliability and service in areas where privatization has been tried:

✓ In New Orleans, where a privatization experiment began in 1989, the private operator's passenger and traffic accidents doubled what they had been under the Regional Transit Authority during the first quarter of operation .

✓ Price Waterhouse consultants, reviewing the first six months of a privatization effort in Miami, concluded in a 1989 report that the contract with the private operator "has also witnessed an apparent degradation in service quality, service reliability and ridership." The private operator had an accident rate of 4.87 per 100,000 miles, versus the public transit systems much lower 1.32 rate. Service cancellation rates were also much higher on the private operator's lines, which also had double the number of customer complaints. The private operator abandoned the project the following year, leaving 30 of the 40 buses leased from the public agency in such poor condition they could not be rehabilitated.

Finally, this report raises a number of other questions public officials should consider when reviewing privatization proposals. How much will it cost to construct and monitor the contract? How will the two systems be coordinated? Who will get the fare box revenue? If it is the private operator, as was the case in Denver, is that cash loss considered in the cost comparison evaluation? If the fares are to be turned over to the public agency, who will supervise? Will the public buses be used by the private operator? Who will maintain the buses and to what quality standard? Will training standards of drivers be similar?

We believe the answers to these questions will clearly show that privatization should be opposed. Privatization doesn't make sense economically. And it will fail to provide the quality, safety and reliability that New Jersey residents deserve and demand from their transit system.

Privatization - A Closer Look

Proponents of privatization are claiming that New Jersey Transit could save money by contracting out some of its State bus lines.

They claim that such a move would cut costs, but not lower service. Upon closer examination, however, those claims don't hold up. The cost savings of privatization are exaggerated --and the hidden costs to taxpayers, employees and the general public are ignored.

A number of techniques, including low-ball bidding and accounting methods that inflate potential cost savings, are used by proponents to bolster their claims. But when the true expenses are calculated, when the second contract comes around, that's when public officials learn that the so-called cost savings aren't there.

Officials in Denver are learning about accounting methods that made their privatization project look good on paper -- but not so good in actual fact. And in the Los Angeles suburb of San Gabriel, a new report shows that the public transit system may actually be far cheaper to operate than a much ballyhooed private effort.

What it comes down to is that privatization is private profiteering at the public's expense.

For-profit companies get public subsidies, while the community loses the "public" from its transit system. Their commitment is to turning a profit, not serving the public. Those profits, in turn, go to corporate headquarters, not the community. Public accountability is lost. Working men and women suffer when their decent, union jobs are replaced by non-union low-wage and benefit jobs.

And everyone suffers when workers don't receive fair wages. Low salaries means there is less money put back into the local economy. Fewer qualified, experienced job applicants come forward. With less qualified workers, safety, reliability and service suffer.

"Where it has been tried, privatization does not save costs: it shifts costs from the general public to the transit-using public in the form of an inferior product and to transit employees through lower wages." (*Economic Policy Institute, report: "The Emperor's New Clothes: Transit Privatization and Public Policy."* 1989)

ACCOUNTING FOR COSTS: THE DENVER AND LOS ANGELES EXPERIENCES

Two recent studies underscore the need for public officials to demand that accurate accounting methods be used to weigh the true costs of privatization.

The accounting method most commonly used is called the "**fully allocated costs**" model (FAC). Federal regulations require that public transit agencies use this method, but do not require the private operator bidding on a contract to use it, creating an uneven playing field.

Under FAC analysis, the direct cost of providing the transit service, such as driver pay and fuel, is combined with an estimated reduction of the organization's fixed overhead, which includes administration and depreciation of fixed assets. This method overstates savings by including the percentage of the overhead, even though many of those costs are not reduced when service is contracted out.

FAC accounting is an example of "theoretically maximum savings," which depend on tenuous budget projections, according to Elliott Sclar, a privatization expert with the Economic Policy Institute.

A far more accurate method is called "incremental cost" analysis, which compares the direct out-of-pocket costs of running routes in-house with the direct costs of contracting out for these services. It compares savings on fuel, lower wages, etc., with the needed outlays for equipment, facilities, contract administration and oversight that contracting out requires.

Contracting out increases rather than decreases the system costs of planning, coordinating schedules, marketing and reporting to UMTA. It is these incremental cost differences that translate into real cash savings or losses.

THE DENVER EXPERIENCE

The problems with the fully allocated costs model are illustrated by the recent privatization effort in Denver.

In November 1990, consultants with KPMG Peat Marwick released a report they presented as their "final report" on the costs of privatization in Colorado's Regional Transportation District. Using an incremental cost analysis model for

expenditures up through June 30, 1990, the consultants reported that contracting out would result in a cash loss to the RTD of \$3.7 million.

Six weeks later, after political pressure and criticism from a leading proponent of privatization, the consultants released another report, in which the incremental cost analysis was removed and replaced by an analysis of future budgets. Using this analysis, KPMG concluded that the cash loss would be \$1 million. The Economic Policy Institute, using the figures from both reports, determined that the actual cash loss to Denver could be as high as \$9.1 million, depending on which of KPMG's estimates of in-house costs are used. Following the publication of these reports, the Colorado Legislature rejected a plan to privatize an additional 20 percent of Denver's transit routes.

The Economic Policy Institute report on the Denver experience concludes that: *"the difference between the original final report and the revised one has been to modify the cost data to downplay and obscure analytic conclusions unfavorable to privatization and to overstate program benefits. A comparative analysis of the two documents reveals significant evidence for concluding that the intention of the revision was to cause the fiscal benefits of privatization to be grossly overstated and to obscure significant and serious current cash losses to the taxpayers of Colorado as a result of the privatization experiment."*

TROUBLES IN LOS ANGELES

Meanwhile, in Los Angeles, another cost comparison has been released examining an experiment authorized by the Los Angeles County Transportation Commission. The transit experiment allowed a private company, the Foothill Transit Zone, to take over 14 transit lines formerly served by the public Southern California Rapid Transit District (SCRTD) in the San Gabriel and Pomona valleys.

After Foothill's first year in operation, the accounting firm Coopers & Lybrand analyzed the savings in a report prepared for the SCRTD. Using a cost comparison that included incremental costs, Coopers & Lybrand found that the public and private transit services operated at about the same cost. For fiscal 1990, Foothill's cost was \$80.47 per hour, while SCRTD's was \$81.14, a savings of .8 percent. That's far from the 43 percent savings the Foothill Transit Zone had promised before the experiment began.

A further analysis showed that if the cost comparisons are adjusted to reflect that all Foothill's buses are brand new, while SCRTD's are, on average, 6.9 years old, and more expensive to maintain, the cost savings of Foothill completely disappear. In fact, using an age/cost correction factor provided by a

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Los Angeles County Transportation Commission consultant, the SCRTD found that it was actually \$6.62 per hour less expensive than Foothill, a 7.6 percent cost advantage.

None of the figures cited above consider the approximate \$4 million in start-up costs for Foothill, money that was used primarily to lease buses and to fight lawsuits filed by SCRTD's bargaining units. The SCRTD also contends that subsidies given to Foothill - including \$1,8 million toward the start-up costs -- could have been used to provide more transit service through the SCRTD.

SAFETY, RELIABILITY, SERVICE

Whether a transit system is public or private, costs for buses, tires, maintenance and fuel are about the same. That leaves private operators with three ways to produce the types of savings they claim to provide: **cut wages, reduce service, and skip on maintenance.**

When those shortcuts are taken, safety, reliability and service suffer.

The main way that private operators shrink costs is to cut the wages and benefits they offer their operators. In many cases, private transit employees earn half as much as employees of public transit systems.

Attracting employees to jobs with much lower wages means that private operators have to accept less experienced and qualified applicants. What guarantee is there that private operators will require the same high standards as NJT, provide proper training, or be able to attract experienced drivers?

The driver is responsible for the lives of passengers and the safety of others on the streets. A driver's own safety is also at risk. Increasingly, drivers are threatened or assaulted by passengers.

Decent wages are simply just compensation for employees who are entrusted with the lives of hundreds of passengers a day, and who are also faced daily with risks to their own safety.

Lower wages often mean less qualified drivers and mechanics. Coupled with the skimpy maintenance often provided by private operators, contracting out can result in higher accident rates, decreased service, more customer complaints and a drop in ridership.

16 x (a)

In New Orleans, where an UMTA-financed privatization experiment began in 1989, Greyhound's passenger and traffic accidents doubled what they had been under the Regional Transit Authority during the first quarter of operation, according to an Economic Policy Institute report.

Greyhound was also experiencing an average of 1,101 vehicle miles per mechanical road call for the five lines they operated. For the same period, RTA system experienced an average of 6,254 miles per mechanical road call.

In Miami, an UMTA-financed privatization experiment ended in failure after Greyhound abandoned the project in November 1990 - a year before the three-year project was scheduled to end. Officials found that maintenance of the 40 buses leased to Greyhound was so bad that only 10 of the returned coaches could be rehabilitated.

Trouble had been brewing since the onset of the experiment. After the first six months, a Price Waterhouse evaluation of the project found a loss of ridership on the Greyhound lines, an increase in accidents, and a doubling of customer complaints.

The Price Waterhouse study found that the public agency's "service quality, as measured by customer complaints and vehicle appearance is uniformly better than Greyhound's services." Routes run by Greyhound experienced an 18 percent drop in ridership, and had twice as many complaints from riders as the public agency. The accident rate for Greyhound was 4.87 per 100,000 miles. For the public agency, the rate was 1.32 per 100,000 miles. A second report looking at the entire first year of operations found similar problems.

Contracting out to private operators that promise to cut costs often results in cuts to maintenance, reliability and safety.

SERVICE CUTS LIKELY

Another potential area for cuts is in service. Private operators often want to bid on only those routes that are most profitable. If they are granted those routes, what will happen to the less-profitable routes? Will service be halted on those lines? If the less-profitable routes are kept by the public transit agency, where will that agency find the funding to cover their costs? Currently, public agencies can take profits earned on one line and use them to bolster less-profitable lines. If the profitable lines are contracted out, NJT will lose this ability to spread costs and may be forced to reduce service.

16 x (6)

If the public cannot count on the safety or reliability of the buses, ridership will drop. It has been shown that they often cannot count on their transit service once it is contracted out to private for-profit operators. Between lost rider revenue, the costs of lost work time to the local economy and the additional operating costs generated by higher accident and breakdown rates, the public costs of unreliable private transit can run into millions of dollars.

Finally, if questions are raised by the public about accident rates, route service, bus reliability or driver qualifications, where will those concerns be addressed? Unlike a public transit service, a private operator has no public accountability. The public will be left out in the cold.

IMPACT ON MINORITY COMMUNITIES AND OTHER HIDDEN COSTS OF PRIVATIZATION

Ethnic minorities, who have historically been shut out of decent jobs with good benefits, make up a high percentage of NJT jobs. They will suffer disproportionately if work is contracted out to lower-paying private operators. Minority communities are already suffering job losses and economic disaster because of the recession. For New Jersey officials to now take away more decent jobs during a time of national recession and despair would be unconscionable.

SOCIAL COSTS OF LOWER WAGES

Economically, what will be the impact on the cities and counties of New Jersey from having more workers earning less? Lower wages paid to private transit operators means less money will be spent in the local economy. If, in turn, the private operator proves to be less reliable than NJT, there will be many workers who fail to get to their jobs on time, resulting in more lost wages and work time in the local economy.

Another hidden cost falls squarely on the state and county. Some private transit companies pay wages so low that their full time workers qualify for aid, such as food stamps or medical care. In Colorado, for example, a full time worker for one of the Regional Transit District's contractors still makes sufficiently low gross wages to qualify for food stamps. For a family of three, that can cost the public \$277 per month.

Most private operators offer little or no health insurance for workers. Each medically uninsured or underinsured individual puts the public at risk for \$2,400 per year in health care costs, according to the Economic Policy Institute.

WHY THE "PUBLIC" IS IN PUBLIC TRANSIT

Public officials need to ask themselves why transit went public in the first place. One reason was that private companies were not accountable to the public they served. Another was that competition didn't always mean that all areas of a city or county were covered. It certainly didn't create a coordinated system of transit. Voters began to see that a coordinated transit system was necessary for the public goals of economic growth, traffic congestion relief, and environmental protection. And finally, it was clear that private companies were failing because they could not make a profit.

Transit operators cannot survive without subsidies. They knew it then and they know it now. Other public services, such as police and fire must be subsidized. They must be provided for the public's good.

CONCLUSION

There are other costs hidden within the notion of privatization.

- Will public agencies have to hire people to detail and monitor the contracts? Some economists say contract oversight can add 8 to 10 percent to the cost of contracting out. Those oversight costs are borne by the public agency, but often are not considered when the costs between public and private transit are being weighed.

- What would be the cost to re-gain control of routes if the contractor fails or drop out, as Greyhound did in Miami? What would prevent the private operator from raising fares or coming in with an inflated contract bid in the second or third year that would wipe out any savings to the public agency? Who will get the fare box revenue? If it is the private operator, as in Denver, the cash loss to the public agency should be considered in the initial cost comparisons. If the fare box revenue is to go back to the public agency, who will oversee its collection? What will the costs to the agency to oversee its collection?

- Who will supervise the coordination of buses on the streets? This work is now done by NJT supervisors. Will the private operators employ their own supervisors, or will NJT be asked to oversee the operations of the private sector as well? Is this cost included in the initial analysis?

- What type and quality of security will be provided on the private system? Will the public agency's buses be used by the private operator? If so,

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who will maintain the buses? What kinds of guarantees are there that the buses will be maintained adequately by the private operator? Miami officials learned the hard way that leased buses often are not cared for properly. Thirty of their 40 leased coaches can no longer be used.

Privatization just doesn't make sense. It doesn't make sense economically. It doesn't make sense practically. And it certainly doesn't make sense from a human point of view. Improving the lives of working men and women, their families, and our community at large makes much more sense than lining the pockets of for-profit companies that have no accountability to the public they will be asked to serve.

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You Won't Often Get What You Want:
An Updated Analysis of the Costs of Colorado's Experiment with Transit Privatization

by

Elliott D. Sclar, Ph.D.
Professor of Urban Planning
Columbia University

July 1992

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Executive Summary

This report examines the latest cost audit of the Denver area's transit privatization for the State of Colorado's Regional Transportation District (RTD). In 1988, the State of Colorado passed legislation mandating that twenty percent of the bus routes operated by the RTD be put out for competitive bid (privatization). One legislative provision called for "a neutral and unbiased performance audit." The international management consulting firm of KPMG Peat Marwick (Peat Marwick) was selected to carry out the performance audit. Since November 1990, Peat Marwick has issued three reports.

In November, 1990 they issued their first privatization audit, indicating that the system was, at the time of their analysis (June 1990), losing over \$3 million as a result of the privatization effort. In reaction to criticism from a nationally known transit privatization advocate, Peat Marwick hastily rearranged their cost data and issued a "Revised" report one month later. Using simple data manipulations, it became possible to suggest that they had seriously overstated the current loss. The June 1990 loss was revised down by two-thirds to about \$1 million.

In November 1991, the third audit report was released. It covered the period from July 1990 to June 1991.

1. It reported a cost savings of \$2.5 million.
2. When the data was recalculated along the lines of the original Peat Marwick model, the estimated savings fell to \$654,000.
3. That savings only exists because the costs of contract supervision have been greatly reduced from 8% of invoices to less than 1%.
4. Had the same level of supervision occurred, the savings of \$654,000 would have been a loss of \$339,000.

In order to get a better understanding of the actual system costs and savings, this report examined the audited annual RTD financial statements. A different picture emerges.

1. In the two years prior to privatization system operating costs were falling about 2% per year. From 1986 to 1988 costs fell from \$103 million to \$99 million.
2. After 1988, the start of privatization, costs have been rising. They have risen about 10% to \$109 million.
3. Between 1990 and 1991 total operating costs fell by \$3 million from \$112 million to \$109 million. During that year direct privatization costs rose by over \$800,000. The audited reports did not account for the hidden costs of privatization such as labor attrition costs and decreased contract supervision.
4. Eighty percent of the drop in operating costs for 1991 over 1990 are attributed to a one time drop in salaried employees due to a concerted early retirement program. Given the one time nature of the drop, that is not likely to repeat in 1992.
5. In order to have achieved the kind of savings in 1990-1991 through privatization which the Peat Marwick study found, between 1989-1990 and 1990-1991 internal costs due to

privatization would have had to reverse between \$3.5 million and \$5.5 million. Such a large magnitude of change is not demonstrated in the audit financial statements.

6. More reasonably, costs have remained about the same. In the three years prior to privatization, (1986, 1987, and 1988) operating costs averaged about \$100 million per year. In the three years of privatization (1989, 1990 and 1991) operating costs have averaged \$108 million. Thus using the original Peat Marwick loss estimate of \$1 million to \$3 million per year, between 12.5% and 37.5% of the RTD's cost increase can be attributed to privatization.

Programs like privatization which promise costless savings must be examined far more carefully in tight fiscal times.

Background:

In 1988, the State of Colorado passed legislation mandating that twenty percent of the bus routes operated by Denver's Regional Transportation District (RTD) be put out for competitive bid (privatization).¹

One legislative provision called for "a neutral and unbiased performance audit." The international management consulting firm of KPMG Peat Marwick (Peat Marwick) was selected to carry out the performance audit. In November, 1990 they issued their first privatization audit, indicating that the system was, at the time of their analysis (June 1990), losing over \$3 million as a result of the privatization effort. However they suggested that, on the basis of an accounting technique known as full allocated cost (FAC) accounting, the privatization could be expected to save as much as \$20.5 million by 1995. In reaction to criticism from a nationally known transit privatization advocate, Peat Marwick hastily rearranged their cost data and issued a "Revised" report one month later. Using simple data manipulations, it became possible to suggest that they had seriously overstated the current loss. The June 1990 loss was revised down by two-thirds to about \$1 million and, on an FAC basis the expected 1995 savings estimate was increased by about 50 percent to \$29.3 million.

In response to this hasty methodological shuffle, the Economic Policy Institute of Washington DC which had been monitoring transit privatization efforts since 1988, undertook an analysis of these two reports.² Using standard incremental costing (IC) procedures, along lines originally suggested, but never fully implemented by Peat Marwick, the data were re-analyzed. The results indicated that the June 1990 Peat Marwick data might indicate a loss as high as \$9 million and that the future savings, if any, would be

¹ A more complete discussion of this effort is contained in Sclar, et al. (1989)

² Elliott Sclar, "Less Than Meets the Eye: Colorado's Costly Experiment with Transit Privatization". Economic Policy Institute: Washington DC. January 1991

in the neighborhood of \$2.9 million, one-tenth of the number suggested by Peat Marwick's "revised" FAC analysis.

In a letter to the Chairman of the RTD, Peat Marwick conceded that "There are convincing arguments that ... a fully allocated approach is not appropriate in the context...of privatization. ... Incremental cost analyses yield hard "out-of-pocket" estimates of savings that are useful in real world decision-making." ³

Despite this admission, in November 1991, Peat Marwick issued a follow-up audit for the 12 month period from July 1990 to June 1991, *using exactly the same methodology as contained in its "revised" December 1990 report.*⁴ Their cost conclusion was that on an FAC basis, in the 12 month period examined, the RTD "saved" \$5.1 million or 25 percent of total direct operating costs, excluding charges for depreciation. As with its December, 1990 report, Peat Marwick performed what it called, a "fiscal impact analysis," but implied that it was equivalent to an incremental cost accounting. In this "analysis", they attribute any internal organizational savings to privatization and estimate the overall balance of what they term as favorable vs. unfavorable impacts of privatization on the system. On the basis of this poorly described analysis they concluded that savings due to privatization were on the order of \$2.5 million or 12.5% of operating costs. The consultants never claimed that either estimate was the actual savings. However if the incremental cost analysis had been done on their data using the model they originally suggested, the savings estimate would have been on the order of \$654,000 or about 3 percent. As will be shown, in the next section, even that number probably overstates the actual impact of privatization on the RTD's cost structure.

Although costs are not the only factor to consider in evaluating transit privatization, nonetheless it is generally presented by privatization proponents as the major reason to

³ Letter dated February 11, 1991 from Robert Peskin-Peat Marwick to Jack McCroskey-RTD Chairman

⁴ KPMG Peat Marwick "Denver RTD Privatization Performance Audit Update July 1990 - June 1991." Final Report, November 1, 1991.

privatize public transit service. The Denver RTD privatization represents the only time to date in which a state legislature has stepped in to micro manage a transit agency to promote privatization as a cost savings measure. However in these tight fiscal times other states are tempted to consider similar steps. Consequently it is important to carefully evaluate the costs as well as the purported savings.

The Peat Marwick Data Revisited

Table 1 derives from the latest Peat Marwick data. It has been rearranged to conform to the original November 1990 Peat Marwick model in which the net cost of in-house operation was compared with the net cost of contracted operation.⁵ The difference between the \$5.1 million which the consultant reports as FAC savings and the \$3.4 million shown here as FAC savings reflects the fact that we followed the original Peat Marwick evaluation scheme. They did not. That model compares the net operating cost (cost minus fare revenues) of in-house service with the net cost of contracted service. That \$1.7 million difference is thus the impact of netting the beneficial impact of fares out of the cost if in-house service; Peat Marwick's original procedure.

The second column evaluates the same data, but on the basis of incremental or avoidable cost. Since, administrative costs are unavoidable overhead which does not disappear as a result of privatization, we have deducted that from the incremental cost calculation. The result of that one change is that all but \$654,000 of the reported savings disappears from the result.

⁵ The model is fully discussed in Sclar. 1991.

Table 1
Comparison of Fully Allocated & Incremental Cost of RTD Privatization, July 1990 - June 1991
(in Millions)*

Line Num	Cost or Revenue Item	FAC Cost	IC Cost
Cost of In-House Operation			
1	Administrative Cost	\$ 2.760	
2	Direct Operating Cost	\$17.193	\$17.193
3	Total Operating Cost	\$19.953	\$17.193
4	Less Operating Fares	(\$ 1.730)	(\$1.730)
5	TOTAL In-House Cost	\$18.223	\$15.463
Cost of Contract Service			
<i>Direct Contract Costs</i>			
6	Contractor Invoices	\$12.412	\$12.412
7	Retained Op Fares	\$ 1.730	\$ 1.730
8	Less Lease Income	(\$ 1.334)	(\$ 1.334)
9	Net Contractor Cost	\$12.808	\$12.808
<i>Internal Contract Cost</i>			
10	Contract Supervision	\$.092	\$.092
11	Contract Start-Up Cost	\$.207	\$.207
12	Vol. Separation Cost	\$.483	\$.483
13	Underutilized Labor	\$ 1.219	\$ 1.219
14	Total Internal Cost	\$ 2.001	\$ 2.001
15	Total Contract Cost (In 9+In 14)	\$14.809	\$14.809
16	Savings From Privatization (In 15-In 5)	\$ 3.414	\$.654

* Source: KPMG Peat Marwick, Denver RTD Privatization Performance Audit Update: July 1990 - June 1991, pg. 10.

The Peat Marwick data is troubling in another regard. Supervision costs (line 10) are only \$92 thousand. That is seven-tenths of one percent of contractor invoices. In a footnote, Peat Marwick reports this number as representing the salary and fringe cost of two full time managerial employees. It is noteworthy that in its previous evaluations, Peat Marwick reported supervision costs which amounted to more than ten times that sum or approximately 8 % of invoices for supervision. This finding suggests one of two possibilities. For purposes of accounting, supervision of contractors is being understated in costing out the privatization. Or, more ominously, it suggests that the \$654,000 savings is generated, not by lower privatization cost, but by less rigorous RTD supervision. To the extent that this is true, it does not augur well for the long run performance of the privatized system.

If the supervision level of the initial effort had been maintained, then supervision costs would have been closer to \$ 1 million (\$993,000). In which case the savings for the year would have been transformed into a loss of approximately \$ 339,000.

Audited Financial Reports

Given the high degree of sensitivity to unreported assumption upon which the Peat Marwick report rests, it is difficult to place much faith in its validity as an audit of actual cash expenditures and savings. However, if in fact actual costs have been falling by the order of magnitude suggested by Peat Marwick, as a result of privatization, then the annual financial reports prepared by independent outside auditors should show approximately the same results.

Table 2 below contains data on the operating expenses of the RTD for the years from 1986 through 1991. It is derived from the agency's audited financial reports. The data is also presented in graphic form in chart 1 on the following page.

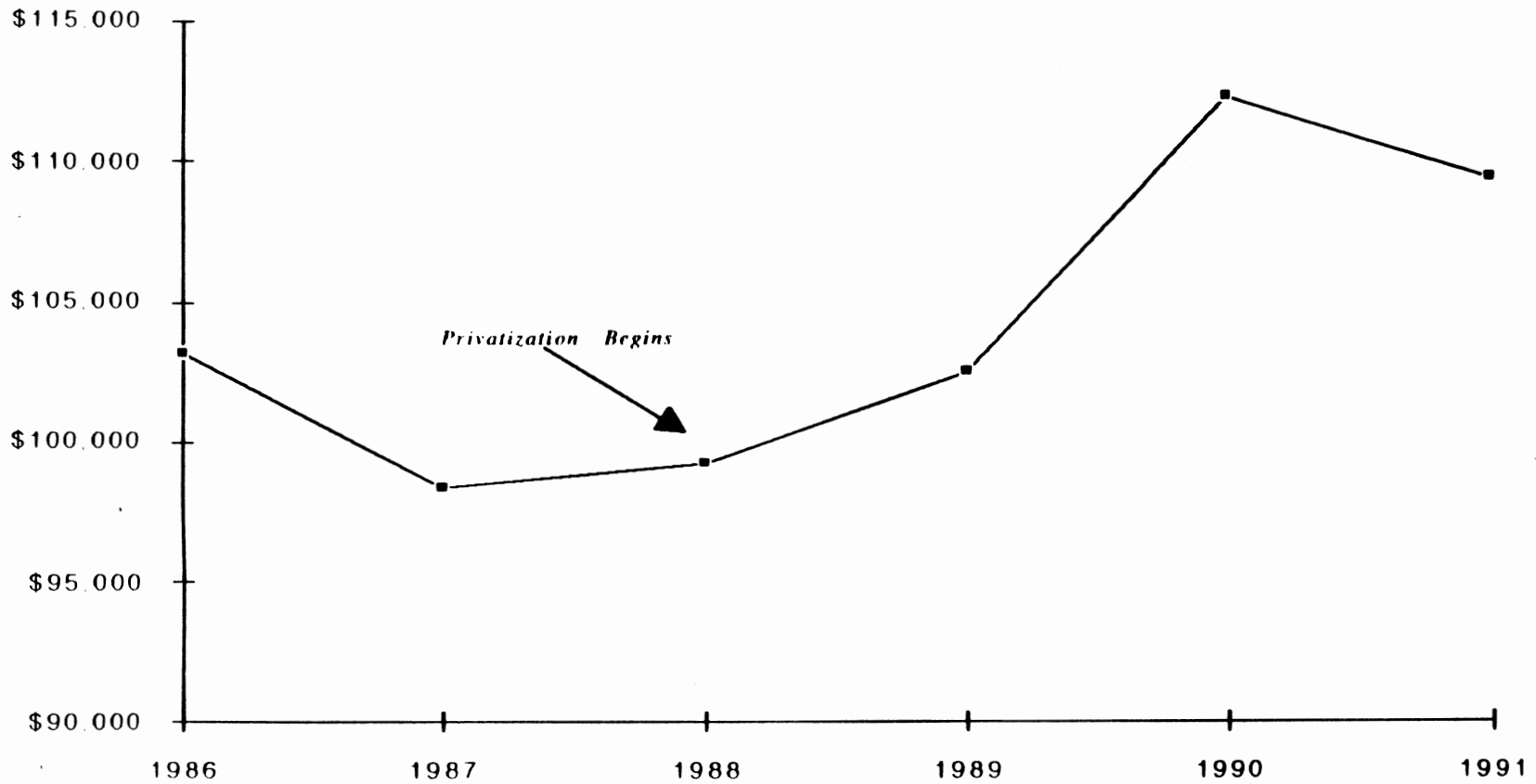
Table 2
RTD Operating Expenses
1986 - 1991*

Year	Amount (\$ 000s)
1986	\$103.138
1987	\$98.330
1988	\$99.198
1989	\$102.468
1990	\$112.270
1991	\$109.307

*Source: RTD Annual Reports

Two facts are clear from this data. The first is that system operating expenses were actually falling between 1986 and the inception of privatization in 1988. Operating expenses had fallen by almost 4% in that time period. By 1990, two years into the privatization effort, operating costs had risen by over \$13 million or about 13%. Hence contrary to the

Regional Transportation District
Operating Expenses
1986 to 1991



Source: Annual Financial Reports

argument of its proponents privatization is not automatically a cost saving proposition. In the case of the RTD we have a system which was running with decreasing operating costs which turned into one with increasing costs after the introduction of privatization.

The second observation relates to the downturn in costs in 1991. *What is noteworthy about that drop is that it occurred not because of privatization, but despite it.* The only element of cost which rose between 1990 and 1991 was the cost of "Purchased Transportation" (privatization). This point is illustrated in Table 3 which reproduces data from the most recent RTD Annual Report⁶

Table 3
Comparison of 1990 and 1991 RTD Operating Expenses
(\$ 000s)

Operating Expenses	1991	1990	% Change
Labor	\$ 66,151	\$ 68,579	-3.5%
Materials & Supplies	\$ 13,508	\$ 13,696	-1.4%
Services, Utilities & Insurance	\$ 13,361	\$ 13,646	-2.1%
<i>Purchased Transportation</i>	\$ 14,701	\$ 13,912	5.7%
Miscellaneous	\$ 1,586	\$ 2,437	-35.0%
Total Op. Exp.	\$ 109,307	\$ 112,270	-2.6%

Between 1990 and 1991 total operating expenses fell by almost \$3 million. Eighty percent of that drop or \$2.4 million was the result of "a voluntary separation plan instituted in June 1990 which resulted in the retirement of 124 out of 381 salaried employees." (emphasis added) This was not a cost savings resulting from employing less hourly wage workers such as drivers and mechanics, the source of privatization savings according to Peat Marwick. Rather it was in line with the kinds of savings which the RTD had been making before the privatization effort began. The costs of privatized bus services ("Purchased Transportation") rose by 5.7%. In the words of the RTD's auditors:

Part of the cost to the District from these (private) contracts results from the loss of fares which the private carriers are able to retain. The contracts also

⁶ "Comprehensive Annual Financial Report" Regional Transportation District, December 31, 1991.

⁷ *Ibid.* pg. 11.

contain some automatic cost inflators. Combined with the annual contract increases, the increased ridership (system wide) and concomitant fares resulted in higher purchased transportation costs to the District⁸

The contracts allow the private operators to keep all the fare revenue which the privatized routes generate. Consequently any increase in ridership due to RTD marketing efforts or just windfall gains go to the private operators and are effectively a cost to the RTD.

Similarly, the operators are granted automatic annual cost increases regardless of the actual costs of service provision. Thus it is not surprising that privatization creates upward rather than downward pressure on the RTD's operating budget. This too is contrary to the arguments made by privatization proponents.

Conclusions

Peat Marwick claimed, based upon its "fiscal impact analysis" that the RTD saved \$2.5 million over what it would have cost to operate its privatized routes in-house from July of 1990 to June of 1991. Peat Marwick is thus claiming that over 80% of the system wide savings reported by the external auditors results from privatizing 20% of the routes. However when a conventional and straight forward incremental cost analysis was performed using essentially their earlier, but discarded, model, on their data, the savings fell to \$ 654,000. Furthermore in comparison to the findings in their older reports, it appears that even this saving may be the result of either under reporting true contract supervision costs or, worse, cutting back on supervision. If supervision costs were accounted for at the same 8% rate used in their previous reports, even these savings would have turned to a loss of approximately \$ 339 thousand.

In order to get a better picture of the situation, we examined the annual reports of the RTD. For comparative purposes we looked at the audited financial results for the RTD for three years prior to the start of privatization (1986, 1987, and 1988) and the three years

⁸ *Ibid.* pg. 11

of privatization (1989 - 1990 and 1991). Taken as a whole these reports suggest that the operating cost performance of the system was better in the period prior to privatization than in the subsequent period. In fact, as table 4 below indicates, for the three years prior to privatization average operating costs were approximately \$100 million per year. For the three years since privatization average operating costs rose 8% to an average of \$108 million. To be sure there are inflation and extremely modest inflation induced wage increases impacting the RTD's cost structure. However from 1988 to 1991 costs rose by far more than either of these. They rose about 10%. The major operating cost item of a transit system is wages. In the period since 1988 there were no changes in the basic wage structure and total wage increases for drivers and mechanics totaled only about 3.5% (or about 2% of total operating costs) in this time period. Despite these factors, the RTD's auditors pointed out in their 1991 report that the only general area of the operating budget which increased over 1990 was the cost of purchased transportation service (privatization). It rose by close to 6%. Based on this evidence, it seems reasonable to conclude that, at least as of the end of 1991, at minimum privatization is not saving the RTD money on an actual cash basis. More likely it is costing the system money.

Table 4
Average RTD Operating Costs
Three Year Intervals
1986 - 1988 and 1989 - 1991

Average Operating Costs 1986 - 1988	\$ 100.2
Average Operating Costs 1989 - 1991	\$ 108.0

Absent direct access to the RTD's books, we can only speculate on the magnitude of the cost. At the start of privatization in 1988 the system was running at an operating cost of just under \$100 million. In 1991 the operating cost for the system was about \$109 million. The original Peat Marwick report estimated that the system lost about \$3 million as a result of privatization for the 1989-1990 time period. Their "revised" estimate brought that down to \$1 million. The Economic Policy Institute study found the loss to be between \$3 million and \$9 million.

In the report released a year later, Peat Marwick essentially announced that any prior losses had been completely reversed to generate savings of between \$2.5 million and \$5 million. If we merely use the Peat Marwick loss estimates for the prior year, that reported savings implies that in a one year period of time privatization had to have a drastic impact on the internal structure of the RTD. In order to go from loss to savings, the RTD had to gain between \$3.5 million and \$8 million of additional savings from privatization, depending upon which of their previous loss estimates one accepts. Such tidal shifts in internal cost structure due not appear in the audited financial statements.

Based upon the financial reports and absent evidence to the contrary, it is more reasonable to infer that 1990-1991 was not much different from 1989-1990. Thus if we used Peat Marwick's earlier estimate of the range of operating loss, somewhere between \$1 million and \$3 million of the average annual increase in costs can be attributed to privatization. Indeed the 1991 financial report directly attributed around \$800 thousand of increased cost to privatization. However unstated in that estimate were the hidden costs of attrition and contract supervision. Put slightly differently, it seems likely that somewhere between 12.5 % (\$1 million) and 37.5% (\$3 million) of the average \$8 million annual increase in RTD operating costs in the three years since privatization began could be reasonably attributed to the privatization effort.

Whatever the true amount, the important point, from a policy perspective is that change is not costless. Not only must programs be evaluated against their own long term benefits, but also against the alternative short term opportunities forgone when we pursue a new public policy path. In tight fiscal times, these costs must be carefully weighed.

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