

# Finding

# The Road

## Selected Issues in New Jersey Pupil Transportation



**Commission on Business Efficiency of the Public Schools  
February 2006**



# Finding the Road:

Selected Issues in New Jersey Pupil Transportation

A report with recommendations by the

Transportation Task Force  
of the  
Commission on Business Efficiency  
of the Public Schools

February 2006



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# EXECUTIVE SUMMARY OF FINDINGS AND RECOMMENDATIONS

## SCHOOL BUS LIFE

### ***Finding 1***

*Since the adoption of the current limits on the use life of school buses, advances in the design and construction of school buses have greatly improved the longevity of these vehicles.*

### ***Finding 2***

*Given the advances in construction which have narrowed the quality gap among bus types, the growing national consensus supporting a uniform 15 year bus life as well as the arbitrary nature of Gross Vehicle Weight (GVW) as the sole criteria for granting vehicles an extended useful life the practice of granting vehicles with a GVW in excess of 25,000 pounds a retirement age different from other buses must be questioned. While the Task Force does not believe any school buses, currently in use, pose a hazard to riders, the Task Force believes it is not warranted to assign a different life span to school buses of different types.*

### ***Finding 3***

*The current state of the art of verifying the quality and extent of refurbishment, especially as it relates to the structural integrity of the chassis, falls short of providing the necessary level of certainty that these refurbished buses will not negatively affect the safety of children riding these buses.*

### ***Recommendation 1***

*The State should adopt a unified bus life of 15 years for all school buses built with a manufacture date of 2007 and after.*

### ***Recommendation 2***

*School districts and bus contractors should more rigorously review and maintain buses, currently in service, with a use life of 20 years to ensure their safety.*

### ***Recommendation 3***

*If and when an economically feasible and measurable means of determining the quality and extent of refurbishment is developed, appropriate extensions of school bus life should be permitted.*

## BUS SAFETY

### ***Finding: 4***

*It is in the interest of the State to be able to call upon the extensive fleet of school buses in New Jersey in the event of a statewide emergency.*

### ***Finding: 5***

*The ability of school buses to communicate effectively in the event of an emergency is of sufficient value and importance that the State should assure that adequate communication capabilities exist on all school buses in the New Jersey.*

### ***Finding: 6***

*The complexities of determining the appropriate level of communication needed on school buses is beyond the scope of this Task Force.*

**Finding: 7**

*While considerable information regarding school bus safety and discipline is available from numerous sources, it is not effectively distributed to and understood by those who would benefit from this information. Awareness of school bus safety on the part of not only parents, students and school personnel, but the general public as well is insufficient.*

**Recommendation 4**

*The Governor should direct the New Jersey Department of Education, the Motor Vehicle Commission and the Office of Counter-Terrorism to jointly research and determine the appropriate minimum level of two-way communications to be maintained on school buses in New Jersey. The three agencies should develop appropriate recommendations to guarantee the availability of this communications capability on all school buses in New Jersey, including any necessary implementing legislation and/or administrative code. The agencies should complete their work and report the results of their efforts to the Governor and Legislature within six months of beginning this work.*

**Recommendation 5**

*The New Jersey Department of Education should require, through administrative code, school districts and non-public schools to implement uniform minimum bus safety training programs for students, staff and parents in New Jersey Schools appropriate to the type of transportation provided whether regular remote transportation or the transportation of handicapped and/or special education students.*

**Recommendation 6**

*The New Jersey Department of Education should promote school bus safety through advertising in late August and early September of each year to raise public awareness of this important issue prior to and during the start of school.*

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**CONTRACT AND CONTRACTOR ISSUES**

**Finding: 8**

*The renewal process for school transportation contracts, which uses the Consumer Price Index and the accommodation of new students, provides efficient and effective benefits to both school districts and contractors.*

**Finding: 9**

*A contractor, who comes to the aid of a school district following a contract default on the part of another contractor and accepts the terms of the original contract when doing so, should enjoy all the benefits that would have been enjoyed by the original contractor.*

**Finding: 10**

*Healthy competition among school bus contractors is in the best interests of school districts. The ability of school districts to bid school bus routes in multi-route packages has provided cost savings to school districts and simplified the bidding process. At the same time, the size of bid packages has reduced competition by limiting opportunity for small contractors. This situation creates a significant risk that savings, gained through bulk bidding during a period of relatively higher competition, will be lost should the reduced opportunity force small bus contractors out of the market.*

**Finding: 11**

*A registry of pre-qualified bidders for school transportation contracts and a clearinghouse for requests for proposals for school transportation contracts would provide significant benefits to school districts and the qualified contractors alike.*

***Finding: 12***

*Fuel and energy costs affect private industries and governmental entities equally, special tax adjustments favoring one industry from fluctuations in fuel and energy prices, or any other commodity for that matter, would increase budgetary uncertainty for school districts.*

***Finding: 13***

*Allowing the operators of school buses to obtain refunds of State motor fuels taxes paid for the provision of transportation of school pupils cannot be recommended at this time.*

***Recommendation 7***

*Administrative Code should be amended to allow a contractor, who provides a school district with transportation services following a default by another contractor, to extend the contract under the same terms the original contractor would have been able to extend the contract, provided the new contractor accepted the work with the same terms provided in the contract awarded to the defaulted contractor.*

***Recommendation 8***

*The New Jersey Department of Education should promote the use of flexible bidding on the part of school districts in which school districts invite large bulk bids, small package bids and individual route bids to encourage greater competition.*

***Recommendation 9***

*In order to generate greater competition and opportunity, the New Jersey Department of Education should provide a school transportation bidding web site for the advertisement of School Transportation Contracts and allow school districts to advertise such contracts on that site in addition to currently required advertisement in newspapers.*

***Recommendation 10***

*A registry of pre-qualified bidders for school transportation contracts should be developed and maintained by the New Jersey Department of Education (NJDOE). This should be achieved through adoption of administrative code by the Department. Some details, such as the vehicle failure rate, must be determined by the NJDOE. Possible language for this recommendation is contained in the body of this report.*

**DRIVERS**

***Finding: 14***

*Training in the transportation of special needs and handicapped students is not uniformly available, accessible and received by all drivers who do or may need to operate vehicles transporting these students.*

***Finding: 15***

*The creation of a special endorsement for school bus drivers to the National Commercial Drivers License (CDL) has solved a longstanding problem in assuring the speedy removal of drivers who have been convicted of a crime that would disqualify them to operate a school bus.*

***Recommendation 11***

*The New Jersey Department of Education and the Motor Vehicles Commission should develop appropriate training for school bus drivers and aides involved in transporting handicapped and/or special needs pupils.*

### **Recommendation 12**

*The New Jersey Department of Education should modify sample specifications for transportation contracts supplied to school districts to include a requirement that drivers transporting special needs and/or handicapped pupils receive proper training.*

### **NON-MANDATED TRANSPORTATION**

#### ***Finding: 16***

*Hazardous busing is a local issue and the state should not interfere with the management or financing of hazardous busing by local government entities. The state should do nothing that penalizes local government entities for this management, given that the local government entities declare and identify the hazard.*

#### ***Finding: 17***

*Courtesy busing and Subscription busing are matters of local decision-making. Subscription busing, however, should be treated differently in any calculation of efficiency since it has offsetting revenue and should be seen as a good practice at least to the extent that the revenue offsets the actual cost of the service.*

### **NON PUBLIC TRANSPORTATION**

#### ***Finding: 18***

*Due to the potential loss of actual transportation services to students presently served, limits on distance for non-public transportation currently in place should not be changed.*

#### ***Finding: 19***

*The precise though necessary limitation on the cost of transportation for non-public schools creates an unnecessarily inflexible condition, which inefficiently and inappropriately precludes the provision of transportation services to many non-public students. This limits a parent's ability to exercise choice in education decisions involving their children often over very small dollar amounts.*

#### ***Finding: 20***

*The statutes covering the provision of transportation services to non-public school students are difficult to appreciate due to the dispersal of those parts of statute dealing with these services.*

### **Recommendation 13:**

*School districts should have discretion to provide transportation for non-public students when the calculated cost of the transportation exceeds the aid-in-lieu limit by no more than 10 percent by utilizing subscription busing to satisfy the additional cost. The destination non-public school must agree to assure the payment of the total additional cost to the transportation provider whether a contractor, the school district or other agency. The destination non-public school may also collect any appropriate fee from the parents or guardians of the students not to exceed an individual subscribed student's proportional share of the additional cost.*

### **Recommendation 14:**

*The statutes regarding nonpublic transportation should be rewritten, for clarity, into a single statute as detailed in the body of this report.*

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## COOPERATIVE TRANSPORTATION

### ***Finding: 21***

*Earlier attempts by the State to improved service through the coordination of pupil transportation services have been limited in success. The success has been limited, in part, due to the placement of coordinated route design and provision of coordinated transportation services within the same entity. This placement has created a natural incentive to develop routes that produce the greatest level of benefit for route designer rather than the student in need of transportation.*

### ***Finding: 22***

*The potential financial and non-financial benefits to the State and to New Jersey students from the coordination of pupil transportation services are underappreciated by many decision makers involved in determining the design of pupil transportation systems. This untapped potential ranges from cost saving operational efficiencies, such as the overbooking of underutilized routes, to service improvements including reduced travel time improved service coverage.*

### **Recommendation 15:**

*There should be created, in each County Office of the New Jersey Department of Education, the Office of the Regional Transportation Coordinator whose job function will be to improve the delivery of transportation services within the county. In performing this function, the office will analyze all current pupil transportation services, including public, non-public, handicapped and special education, within the county to determine where those services might be improved through coordination efforts. The Office of the Regional Transportation Coordinator shall call upon the expertise of other governmental entities in the execution of its duties including but not limited to county special services school districts or educational services commission that currently provide coordinated transportation services. The office will then attempt to negotiate changes to realize improvements with the concerned schools, districts and other county coordinators wherever feasible. Among the goals of this office will be (1) to realize transportation cost savings for local school districts and (2) reduce the payment of aid-in-lieu for non-public school transportation through better route design and coordination.*

### **Recommendation 16:**

*The New Jersey Department of Education should develop and recommend to the Legislature fiscal efficiency incentives to encourage the cooperation of school districts in the development of coordinated transportation.*



## SCHOOL BUS LIFE

One of the issues facing the State regarding governance of pupil transportation is identifying and placing appropriate limits on the length of time a school bus could be operated to assure safety. While clearly the key determining factor is the safety of children, consideration must also be given to assuring the wise use of public resources. The State has a duty to assure that it realizes full value on the significant investment of public funds placed in school buses by both public entities, through the direct purchase of buses, and private entities, which pass the cost of vehicles back to the public through contracted services.

### GVW vs. GVWR

Currently, the length of time school districts and contractors may use school buses for the transportation of school pupils falls into two groups determined by gross vehicle weight (GVW). Buses with a GVW of 25,000 or greater may be used to transport schoolchildren for up to 20 years. Buses with a GVW below 25,000 can be used for up to 12 years.

The nature of the GVW has raised an issue about the appropriateness of its use for determining bus life. The problem lies in the difference between the GVW and the gross vehicle weight rating (GVWR.)

The GVWR estimates the weight a vehicle is capable of managing while the GVW is simply a measure of what it

does weigh. A vehicle with a GVW of 25,500 lbs and a GVWR of 27,000 lbs is not capable of bearing the same load as one with a GVW of 24,000 lbs but a GVWR of 28,000 lbs. The Task Force recognizes that the Gross Vehicle Weight Rating (GVWR) is a better measurement of determining the quality and longevity of a schools bus. However, this change should not be made arbitrarily without first



obtaining input from the school bus manufacturers' and/or engineers on this issue. In addition, there should be no difference between conventional style buses and transit style buses with regard to this issue. Further, the actual weight of a bus (GVW) is also an important number. The State should categorize school buses by GVW, as well

as GVWR. The GVW affects bridge and road integrity. The actual weight of vehicles traveling on these structures is relevant to the stress placed on them, while the weight the bus can support is not. The change to GVWR for determining the life of a bus would not be necessary, should the State adopt a single bus life.

### DETERMINING SCHOOL BUS LIFE

A number of factors have

combined, over times, which make the decision on the number of years to allow a school bus to operate problematic.

**Varying Terrain.** First is a perennial problem facing New Jersey. School buses in the State must traverse very different terrain, from the flat shore areas to the hills in the

northern part of the State, and they must do this under variable traffic conditions and densities existing in urban, suburban and rural New Jersey. These factors contribute to the wear and tear, which move our school buses toward the end of their useful lives at different rates.

### **Varying School Bus Types.**

Second is the variation in school bus types from small 15 seat buses to behemoth transit buses capable of carrying over 60 passengers (in non-school commercial use. In school use, the maximum passenger occupancy is 54.) Clearly different bus types will hold up better under different conditions.

### **Changing Bus Technology.**

The third factor affecting a decision regarding bus life lies in the improvements in the construction of the buses themselves. Improvements in areas such as chassis design and construction have enhanced the quality of vehicles being purchased for pupil transportation, improving the ability of vehicles to withstand the wear and tear to which these vehicles are exposed. Nationally, this has led to a building consensus for a uniform bus life of 15 years.

### **Changes in Safety Features.**

Finally, over the past 20 years, the State has required a number of new safety improvements for all newly manufactured buses. Care must be taken in making changes to bus life to assure that these improvements in safety are not withheld from pupils on the buses longer than is necessary.

In deliberating this issue, the Task Force considered the opinions of manufacturers, engineers, school bus owners, pupil transportation supervisors, professionals from the New Jersey Motor Vehicles Commission, the Department of Education, and others on the State and local levels actively involved in the provision of pupil transportation services. In discussing the timing of any changes, the Task Force also considered anticipated federal requirements as a result of new air standards expected to come into effect for 2007.

### **REFURBISHING SCHOOL BUSES.**

A separate issue involving school bus life is the idea of reworking a used bus to improve its condition in order to extend its useful life. The Task Force supports the concept of refurbishing school buses to extend their useful lives as a means of realizing significant savings for school districts. However, after discussing this issue with a wide range of transportation experts, the Task Force was unable to identify a method of verifying the quality and extent of refurbishment, especially as it relates to the structural integrity of the chassis, sufficient to overcome the potential risk to student safety extending the life of a school bus represents. These considerations prevent the Task Force from recommending such an extension to the life of school buses. If, however, an economically feasible means of determining the quality and extent of refurbishment were developed, then the Task Force would recommend that the

State extend the use life of properly refurbished buses by a length of time appropriate to the measurable quality of the improvement. It is impossible to determine an appropriate length at this time, without further information on the nature of this technology.

## **FINDINGS AND RECOMMENDATIONS**

### ***Finding 1***

*Since the adoption of the current limits on the use life of school buses, advances in the design and construction of school buses have greatly improved the longevity of these vehicles.*

### ***Finding 2***

*Given the advances in construction which have narrowed the quality gap among bus types, the growing national consensus supporting a uniform 15 year bus life as well as the arbitrary nature of Gross Vehicle Weight (GVW) as the sole criteria for granting vehicles an extended useful life the practice of granting vehicles with a GVW in excess of 25,000 pounds a retirement age different from other buses must be questioned. While the Task Force does not believe any school buses, currently in use, pose a hazard to riders, the Task Force believes assigning a different life span to school buses of different types is not warranted.*

### ***Finding 3***

*The current state of the art of verifying the quality and extent of refurbishment, especially as it relates to the structural integrity of the chassis, falls short of providing the necessary level of certainty that*

*these refurbished buses will not negatively affect the safety of children riding these buses.*

**Recommendation 1**

***The State should adopt a unified bus life of 15 years for all school buses built with a manufacture date of 2007 and after.***

**Recommendation 2**

***School districts and bus contractors should more rigorously review and maintain buses, currently in service, with a use life of 20 years to ensure their safety.***

**Recommendation 3**

***If and when an economically feasible and measurable means of determining the quality and extent of refurbishment is developed, appropriate extensions of school bus life should be permitted.***



## BUS SAFETY

Communications with school buses on the road and safety training are the two school bus safety issues that have created the most discussion within the Legislature during the past several years. The Task Force has considered these issues and formed a position on each.

### COMMUNICATIONS

Currently, two-way communications are required only on buses transporting students with special needs. Administrative Code requires that all buses transporting special needs students have such a system. While most buses have some kind of two-way communication system, not all do. There are those who, for several different reasons, feel that all school vehicles should be equipped with some type of two-way communication. Chief among these reasons are: 1) the safety of children in the event of an emergency, and 2) the need for communications, should the school bus fleet be pressed into service in time of a State emergency.

The Task Force members believe that availability of reliable communications is highly advisable in the event of an emergency involving the school bus, those on board the bus or, an emergency seen from the school bus for which remote assistance should be called. The type of communications devices should be based on the requirements of the area or areas in which the vehicle operates. For instance, some special education routes may

cross four or more counties while some buses may operate in a more closed range. The type of communications device appropriate for these situations may differ. However, given that most buses are equipped



with some form of communication, the Task Force does not see a need to require communication equipment at this time for responding to emergencies of this type.

If, however, it is the intention of the State of New Jersey to utilize school vehicles during a State-wide or National state of emergency, then school vehicles should be equipped with a frequency band that can be accommodated by appropriate emergency services and agencies to assure the continuity of communication during the emergency. However, the technical requirements of such communications and the place of school buses in emergency planning are beyond the scope and expertise of the Task Force.

### SAFETY TRAINING

Safety on and around a school bus is, and should be, a matter of concern to parents and school personnel. This safety includes not only how a bus is

equipped, but also how those on and around the bus conduct themselves. The two principal areas of concern are physical safety related to the bus itself and the behavior of those on the vehicle.

**Discipline.** New Jersey law (N.J.S.A. 18A:25-2) states that the principal of the receiving school is responsible for enforcing discipline on the school bus. However, effective processes for enforcing discipline are either lacking or difficult to administer due to placing a school principal in a difficult position between a driver and the parent of a child with an on-bus discipline problem. To be effective, the bus driver must have the support of the school principal or other designated administrator when reporting discipline problems on the bus.

Some discipline problems could be avoided by better communication between the school and parents regarding the importance to safety of maintaining discipline on school buses.

**Bus Safety.** Bus safety training is provided in the schools, and evacuation drills are mandated. Most schools send material on school bus safety home to the parents. However, limited effort is put into assuring that parents have read, understood and communicated with their children regarding school bus safety. It is vital that parents recognize the potential danger present at school bus stops when children run around and push each other, often close to the road. Many organizations in the State hold the position that school bus safety training for students and parents should be mandatory in the State. Most school districts have no curriculum for student safety on or around the school buses. A mandatory, age-relevant class, held at least once a year, for students has been suggested. A required integrated curriculum for all grade levels regarding bus safety has also been put forward as an effective option.

## **FINDINGS AND RECOMMENDATIONS**

### ***Finding: 4***

*It is in the interest of the State to be able to call upon the extensive fleet of school buses in New Jersey in the event of a statewide emergency.*

### ***Finding: 5***

*The ability of school buses to communicate effectively in the*

*event of an emergency is of sufficient value and importance that the State should assure that adequate communication capabilities exist on all school buses in the New Jersey.*

### ***Finding: 6***

*The complexities of determining the appropriate level of communication needed on school buses is beyond the scope of this Task Force.*

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*While considerable information regarding school bus safety and discipline is available from numerous sources, it is not effectively distributed to and understood by those who would benefit from this information. Awareness of school bus safety on the part of not only parents, students and school personnel, but the general public as well is insufficient.*

### **Recommendation 4**

***The Governor should direct the New Jersey Department of Education, the Motor Vehicle Commission and the Office of Counter-Terrorism to jointly research and determine the appropriate minimum level of two-way communications to be maintained on school buses in New Jersey. The three agencies should develop appropriate recommendations to guarantee the availability of this communications capability on all school buses in New Jersey, including any necessary implementing legislation and/or administrative code. The agencies should complete their work and report the results of their efforts to the Governor and Legislature within six***

***months of beginning this work.***

### **Recommendation 5**

***The New Jersey Department of Education should require, through administrative code, school districts and non-public schools to implement uniform minimum bus safety training programs for students, staff and parents in New Jersey Schools appropriate to the type of transportation provided whether regular remote transportation or the transportation of handicapped and/or special education students.***

### **Recommendation 6**

***The New Jersey Department of Education should promote school bus safety through advertising in late August and early September of each year to raise public awareness of this important issue prior to and during the start of school.***

## CONTRACT AND CONTRACTOR ISSUES

A number of issues regarding contracts and contractors were raised and discussed by the Task Force over time. These issues fell into three categories 1) contracting procedures, 2) technical assistance, and 3) fair competition.

### **CONTRACTING PROCEDURES**

The topics addressed regarding contracting procedures included: a) contract extensions, b) single and multi year contracts, and c) limitations on bulk bidding.

#### **Contract Extensions.**

Currently contracts may be renewed annually if the increase does not exceed the change in the consumer price

the route description; however, the destination school(s) in the original contract must remain for the contract to be renewed. Other changes may be made following the renewal; however, while the contract may continue for the remainder of the school year, it must be bid for the following year.

As long as a district and contractor are satisfied with the contract for services, they have the option of negotiating, up to the CPI, an increase to continue the contract. Neither is “held hostage” in this arrangement, in that both parties must agree to the renewal. Overall, members of the Task Force believe that the current process of contract renewals saves districts both

contractor accepts the route at the rate granted to the original (defaulted) contractor, the new contractor cannot extend the contract. Under the current rules, the route must be rebid. It seems a basic issue of fairness to the Task Force that if a contractor is willing to accommodate the school district at the original cost, then extension of the contract should be allowed. In addition, it is in the districts interest to be able to exercise the ability to extend the contract in this manner, if they have been satisfied with the service, both to retain the able contractor and avoid bidding costs.

#### **Single and Multi-Year Contracts.**

The potential benefit to districts was again a deciding factor in considering the appropriate role of single and multi-year contracts. While there is some limited concern regarding competition, the benefits of multi-year contracts used appropriately outweigh the impact on competition. The benefits include reduced bidding costs as well as predictability and continuity of service. As a result, the Task Force holds that the choice to utilize multi-year contracts should remain with the school district.

**Bulk Bidding.** The practice of bidding pupil transportation routes in packages of two or more routes provides benefits to both districts and contractors. Contractors are able to offer better-coordinated services at a lower price compared to bidding separately on individual routes. They



index (CPI) or, if the increase exceeds the CPI and the increase is directly attributable to a route change to accommodate new students, safety concerns or the addition of an aide and provision for the increase was made in the original contract. Destination (schools) may also be added to

time and expense while providing contractors with some early certainty regarding routes they will be running.

The Task Force also found an anomaly relating to contract extensions. Currently, if a contract is defaulted and the school district is forced to find a new contractor, if the new

know that, if they win the bid, they will be operating a number of buses in a limited area for a single district, which will make the management of both equipment and personnel more efficient. For the school district, bulk bidding provides the opportunity, in the immediate time, to save on the cost of bidding itself as well as the costs of the individual routes. However, the long-term wisdom of bulk bidding must be questioned. Many school districts bid packages exceeding 200 buses while 90% of contractors have fewer than 100 buses. This places the future of many smaller contractors in question. If bulk bidding were to become the de facto method of contracting pupil transportation services, many of the smaller contractors might go out of business. This would result in less competition for school district contracts, and the lack of competition would likely lead to a rise in cost of pupil transportation. One compromise solution discussed by the Task Force is the placing of a limit on the number of routes in a bid pack. It has been suggested that a limit in the neighborhood of 25 or less might allow smaller contractors to remain competitive while still providing significant savings to districts.

It has been suggested that this approach would be difficult to regulate because of the different circumstances in each district. A subcommittee of the Task Force will examine this issue and develop a recommendation for consideration by the full Task Force.

In its discussions, the members of the Commission on Business Efficiency of the Public Schools suggested that districts be encouraged to utilize flexible bidding practices which would involve bidding routes in large packages, small packages and individually. Once bids were opened, the district could choose to go with that combination of full bids that best suits their needs at the best price.

#### **TECHNICAL ASSISTANCE**

##### **School Transportation Handbooks and Manuals.**

The Task Force commends the New Jersey Department of Education (NJDOE) on the work of the Bureau of Pupil Transportation and specifically notes its work on the School Transportation Procedures Manual and the Student Transportation Handbook. The Task Force believes that the DOE should continue to update, improve and distribute these documents as changes become needed and useful to all of those involved in pupil transportation in New Jersey. Many of the documents provided by the DOE may be found on its web site at:

<http://www.state.nj.us/njded/finance/transportation/trans.htm>.

##### **Registry of Pre-Qualified Bidders.**

One useful and cost effective service to school districts that the Task Force believes the NJDOE is uniquely positioned to provide is the creation and maintenance of a registry of pre-qualified bidders for school transportation contracts. Such a registry would provide a valuable tool to school district business and transportation professionals when considering

the quality of bids received. The list would also eliminate redundant work for pre-qualified contractors when preparing bids for submission.

##### **School Transportation Bidding Web Site.**

Once a pre-qualification process is instituted, a natural next step would be to provide a site where all school districts could post requests for bids for transportation services. Such a site would promote competition by providing the opportunity to access a large number of bid advertisements to even the smallest transportation contractor.

#### **FAIR COMPETITION**

Issues rising from recent fuel cost instability raised several issues of concern for school bus contractors that were discussed by the Task Force.

##### **Fuel and Insurance**

**Escalators.** Contractors have no way of predicting the change in price of motor fuel or insurance. In preparing bids, they must estimate these changes. However, if one contractor guesses too high they may lose the contract to another bidder who made lower estimate. If they guess too low, the route may become unprofitable. It has been proposed that bids be permitted that include price escalators and de-escalators for fuel and insurance. This would allow more accurate bids based on predictable costs. When costs go up, the contractor breaks even and the district is assured of uninterrupted service. When costs go down, the contractor breaks even and districts enjoy a reduced cost. However, this then necessitates a formula for

ongoing adjustments given the frequent fluctuation in fuel costs.

In discussion, the members of the Task Force noted that these fluctuations in price are experienced, not only by the pupil transportation industry, but also by every carrier of every type. Office supply companies, for instance, must estimate the cost of delivery when bidding on State supply contracts. Any contract that involves the transportation of goods or people encounters this level of uncertainty. Should all contractors be allowed to adjust bids for fluctuating costs? Barring a clear case of a unique situation being part of the ongoing nature of a particular business, it is difficult to make a case for permanent cost escalators and de-escalators. Further, school districts are also faced with fluctuating insurance and fuel costs of their own. When prices go down, the district would enjoy double savings (the contract adjustment as well as the savings in direct fuel costs). On the other hand, when prices go up, districts would take a double hit. Many districts feel they have sufficient instability in costs without absorbing the risk for bus contractors. For these reasons, the Task Force chose not to recommend fuel escalators.

In fact, it appears to the Commission, that any attempt to ease any fluctuating commodity price for a private contractor providing service to governmental agencies through contract guarantees necessarily leads to the magnification of the impact of the fluctuation on the contracting governmental

agency. This would inappropriately increase budgetary uncertainty for governmental agencies. Further, the tracking and management of price escalators and de-escalators creates unnecessary paperwork. Under the current system, contract renewals occur at sufficiently frequent intervals to allow for adjustments in the cost of services. The continuation of current practice, which allows price fluctuations to be managed through the bidding process, is the best method currently available for managing fluctuating commodity prices.

**Motor Fuels Tax.** Contractors in New Jersey must pay the State motor fuels tax when purchasing fuel for their fleets. They also pay a federal motor fuels tax; however, they can



obtain a refund from the federal government for fuel used to transport students. In New Jersey, contractors are permitted to purchase fuel from a school district for the transportation of the district's students without paying the tax. However, if a vehicle is used for transporting non-school passengers or for pupils from

other districts, then the contractor must purchase fuel for those purposes, separately.

While providing the opportunity to school bus contractors to obtain a refund from the federal government for federal motor fuels taxes provides a basis to track similar taxes on the state level, it does not follow that providing a refund on the state level is in the best interests of the state. Currently, operators can seek to arrange to purchase fuel through school districts to avoid paying the tax, should they so wish. Moreover, while the Commission may wish to provide this benefit to the operators, without a clear benefit to the state the Commission finds it is fiscally imprudent to reduce this state revenue in light of the economic constraints and stresses on the state budget.

## **FINDINGS AND RECOMMENDATIONS**

### ***Finding: 8***

*The renewal process for school transportation contracts, which uses the Consumer Price Index and the accommodation of new students, provides efficient and effective benefits to both school districts and contractors.*

### ***Finding: 9***

*A contractor, who comes to the aid of a school district following a contract default on the part of another contractor and accepts the terms of the original contract when doing so, should enjoy all the benefits that would have been enjoyed by the original contractor.*

**Finding: 10**

Healthy competition among school bus contractors is in the best interests of school districts. The ability of school districts to bid school bus routes in multi-route packages has provided cost savings to school districts and simplified the bidding process. At the same time, the size of bid packages has reduced competition by limiting opportunity for small contractors. This situation creates a significant risk that savings, gained through bulk bidding during a period of relatively higher competition, will be lost should the reduced opportunity force small bus contractors out of the market.

**Finding: 11**

A registry of pre-qualified bidders for school transportation contracts and a clearinghouse for requests for proposals for school transportation contracts would provide significant benefits to school districts and the qualified contractors alike.

**Finding: 12**

Fuel and energy costs affect private industries and governmental entities equally,

special tax adjustments favoring one industry from fluctuations in fuel and energy prices, or any other commodity for that matter, would increase budgetary uncertainty for school districts.

**Finding: 13**

Allowing the operators of school buses to obtain refunds of State motor fuels taxes paid for the provision of transportation of school pupils cannot be recommended at this time.

**Recommendation 7**

**Administrative Code should be amended to allow a contractor, who provides a school district with transportation services following a default by another contractor, to extend the contract under the same terms the original contractor would have been able to extend the contract, provided the new contractor accepted the work with the same terms provided in the contract awarded to the defaulted contractor.**

**Recommendation 8**

**The New Jersey Department of Education should promote the use of flexible bidding on the part of school districts in**

**which school districts invite large bulk bids, small package bids and individual route bids to encourage greater competition.**

**Recommendation 9**

**In order to generate greater competition and opportunity, the New Jersey Department of Education should provide a school transportation bidding web site for the advertisement of School Transportation Contracts and allow school districts to advertise such contracts on that site in addition to currently required advertisement in newspapers.**

**Recommendation 10**

**A registry of pre-qualified bidders for school transportation contracts should be developed and maintained by the New Jersey Department of Education (NJDOE). This should be achieved through adoption of administrative code by the Department. Some details, such as the vehicle failure rate, must be determined by the NJDOE. Below is possible language for this recommendation:**

**Language for pre-qualified bidders**

- a. The State Board of Education shall adopt rules for the qualification of prospective bidders on board of education transportation contracts.
- b. Prior to the submission of bids, and in sufficient time for evaluation, the prospective bidder shall submit a prescribed business prequalification request form to the Commissioner of Education which shall include the following information:
  1. the prospective bidder's name, address, telephone number;
  2. the name and title of the individual authorized to make such application;
  3. a statement as to organization of the prospective bidder which shall demonstrate adequacy of the bidder to provide school transportation services;
  4. a statement from a licensed auditor or accountant stating the financial condition of the prospective bidder;

5. *a statement as to prior experience, which shall indicate the number of years the prospective bidder has been engaged in the school transportation business and an accurate record of any school transportation work performed by the prospective bidder during the previous 3 years;*
  6. *evidence (in the form of drug federal mis audit) of compliance with the drug and alcohol requirements of the Omnibus Transportation Employee Testing Act;*
  7. *evidence of compliance with the Criminal History Background Checks pursuant to NJSA 18A:39-17 through 20;*
  8. *evidence of a safety education program for drivers and aides;*
  9. *a statement that all school transportation equipment meets the requirements of all federal and State laws, rules and regulations;*
  10. *a statement that the vehicle inspection failure rate is below.....;*
  11. *a statement that the prospective bidder complies with applicable law, rules and regulations governing pupil transportation;*
  12. *evidence of adequate liability insurance;*
  13. *affirmative action documentation in accordance with P.L. 1975, c.127(C. 10:5-31 et seq.);*
  14. *an affidavit of non-collusion;*
  15. *a statement as to bonding capacity;*
  16. *if the prospective bidder is a corporation or partnership, a statement setting forth the names and addresses of all stockholders or partners owning 10% or more interest in the corporation or partnership; and*
  17. *any other information required by the Commissioner.*
- c. The Commissioner shall issue a written decision regarding the qualification or renewal of qualification for a prospective bidder. The written decision shall advise the prospective bidder of the right to a hearing on the decision within 10 days of the date of the decision.*
- d. The determination that a bidder is qualified shall expire, unless renewed, five years after the date of the decision.*
- e. The Commissioner shall maintain a registry of all school transportation providers qualified to bid on school district transportation contracts. The registry shall include information on the bidder's qualification status, bonding capacity, insurance coverage, stockholder disclosure statement, if appropriate, and any other information which a board of education may require to evaluate prospective bids on school district transportation contracts. The Commissioner shall ensure that each school district has access to the registry.*



## DRIVERS

During its deliberations, the Task Force visited several issues pertaining to School Bus Drivers. Discussed here are issues rising from the criminal background check process. The need for efficient processing of driver applications is balanced against the overriding goal of assuring student safety. Previously in this report safety training for students and parents was discussed. In this section, training for drivers is covered.

### **CRIMINAL HISTORY CHECKS**

Since the time the State first required criminal background checks for school bus drivers, the implementation of the checks has resulted in bottlenecks in transportation operations for both contractors and school districts. Processing background checks for newly hired and/or newly licensed drivers has created long delays, raised privacy rights issues, and made a timely move to a new job difficult to achieve. The Task force considered recommending that the Office of Criminal Review form a task force to evaluate the Criminal History Background check process and identify changes that would deliver shorter turn around time for the checks themselves as well as allowing for sharing of information between and among state agencies and private contractors. They also discussed the creation of a “hot list” for drivers fired for cause that would be circulated to districts and contractors.

During this discussion, it was noted that improvements in the fingerprinting process has reduced turn around time and the creation of the school bus drivers endorsement (referred to as the “S” endorsement) for the CDL have done much to solve these problems. Prior to the endorsement, violations which would disqualify a driver from operating a school bus had no effect on the drivers general CDL. Now these violations will result in the revocation of the endorsement, no matter where in the nation the violation occurs. The driver will not be able to present a valid CDL with the endorsement and will not be hireable.

The S endorsement should also



make fingerprinting on license renewal unnecessary in the end. However, the task force believes that, to assure that reliance on the endorsement is warranted, this requirement should not be lifted for at least

a full four-year licensing cycle to assure that the system works.

### **DRIVER TRAINING**

In general, the Task Force members believe that school bus drivers, through the CDL process and training provided by schools and contractors, are fairly well trained in the issues of operating a school bus and managing riders as they apply to the general school population. The major problem seen by the Task Force is adequate training for drivers who deal with special needs and handicapped students. While most drivers given primary responsibility for the transportation of these pupils are familiar with the unique requirements of performing this task, unplanned events such as

driver illness, unanticipated attrition or route changes could result in a driver not familiar with these needs operating the route. The Task Force believes that the State should assure that appropriate training is available to drivers and that only

properly trained drivers operate these routes.

## **FINDINGS AND RECOMMENDATIONS**

### ***Finding: 14***

*Training in the transportation of special needs and handicapped students is not uniformly available, accessible and received by all drivers who do or may need to operate vehicles transporting these students.*

### ***Finding: 15***

*The creation of a special endorsement for school bus drivers to the National Commercial Drivers License (CDL) has solved a longstanding problem in assuring the speedy removal of drivers who have been convicted of a crime that would disqualify them to operate a school bus.*

### **Recommendation 11**

***The New Jersey Department of Education and the Motor***

***Vehicles Commission should develop appropriate training for school bus drivers and aides involved in transporting handicapped and/or special needs pupils.***

### **Recommendation 12**

***The New Jersey Department of Education should modify sample specifications for transportation contracts supplied to school districts to include a requirement that drivers transporting special needs and/or handicapped pupils be properly trained.***

## NON-MANDATED TRANSPORTATION

Transporting pupils for reasons other than reasons of State mandate has been deliberated within the Legislature, by local municipalities, local school boards, special task forces, the New Jersey Department of Education, and various other groups across the State for decades. Groups engage in these discussions for various reasons ranging from dangerous conditions between home and school to local citizens who believe that the current definition of remote contained in statute are inappropriate.

Mandated transportation, as used here, includes busing provided by school districts due to a legal mandate, such as the distance from school (remote transportation) or as required under the Federal Individuals with Disabilities Education Act (IDEA.)

Non-mandated transportation includes “hazardous”, “courtesy” and “subscription” busing.

*Hazardous* busing is transportation, paid for in full or in part by the school district, provided to students, not eligible for mandated transportation, which is undertaken to avoid a specific identified hazard along the travel path a student must follow in traveling to and from school.

*Courtesy* busing is transportation, paid for in full or in part by the school district, provided to students, not eligible for mandated transportation, for reasons

other than a specific identified hazard.

*Subscription* busing is any transportation paid for in full or in part on behalf of a student by a parent, guardian or other source other than the school district.

### **HAZARDOUS ROUTES**

Various approaches have been suggested and discarded, from full State funding of “hazardous” routes to eliminating all “courtesy” busing. The major obstacle in bringing about a meeting of the minds on this issue has been the difficulty in developing a definition of “hazard” that satisfies the diversity of conditions experienced by children who are not included in State mandated pupil transportation. Some hazards are related to traffic. Using the volume of traffic to define these hazards would require intense tracking of traffic changes on roads of various sizes and capacities across the State. Then there is the question of evaluating the impact on hazard of the combination of road capacity, traffic volume, traffic control (lights, stop signs, crossing guards, etc...) and road infrastructure (are there sidewalks?). Some hazards are related to the level of crime along the travel path. According to the New Jersey Department of Education, 200,000 students are courtesy bused.

Currently, boards of education may identify criteria for hazardous routes and put courtesy busing in their

budgets, or they can ask voters in a referendum question whether taxpayers should pay for courtesy/hazardous route busing. Boards may seek determination of the hazardous condition by the local municipality drawing on the expertise of the local police department. Towns often provide crossing guards, sometimes using police at dangerous intersections. Some municipalities have sought to eliminate hazards by undertaking capital projects such as sidewalks and controlled crossings.

The Task Force believes that the safety of children is held by the State and its citizens as one of the most important values. The Task Force holds that absent an appropriate statewide definition of hazard, school boards and municipalities should be made as free as possible to manage the issue locally. Local districts and municipalities should have the opportunity to implement busing to protect children from identified hazards, without being penalized or interfered with by the State. By this the Task Force means that the State should, through design in aid or any other means, hold or use choices or expenditures made for these purposes to the financial detriment of the school district or municipality. This does not mean that the expenditures need not be subject to any local approval process (budget process, referendum, votes etc...) to which expenditures are subject. It does mean that once the local decision has been made, that

decision should not have negative repercussion from the State. The above does not apply to courtesy busing, which a school board chooses to do for reasons other than specified hazards.

### **COURTESY BUSING**

As implied by its name, courtesy busing is provided as a convenience to a school student who would not otherwise be eligible for transportation services. The local policy choices behind the decision to provide such transportation when not needed for identified safety reasons, include a local conviction that the limits in Statute are too severe, parental pressure, or the existence of a safety hazard that the local community is unable or unwilling (sometimes for liability reasons) to officially identify. When the arguments seem sufficient to a local school board they may choose to provide this transportation at the school district's expense. This choice may lead to negative consequences under the State's school funding formula. In the Comprehensive Education Improvement and Finance Act (CEIFA) schools, failing to achieve a satisfactory vehicle utilization score may be subject to a loss of school aid. This may occur since courtesy students are not included in the utilization calculation while all of the districts available bus seats are counted, including those used to transport these children.

While some have argued that children who receive courtesy transportation should be included in the calculation of

transportation efficiency in order to get a "true" estimate of efficiency. It is consistent with State law and the Constitutional mandate that the Legislature "provide for the maintenance and support of a thorough and efficient system of free public schools" to disallow the count of students transported for reasons not indicated as necessary in State law. It is also consistent to include in the calculation of efficiency the physical seats on buses used for courtesy transportation since these seats are paid for with public monies.

### **SUBSCRIPTION BUSING**

Subscription busing identical to courtesy busing in all respects except that the expense is offset in whole or part by non-school district funds. Usually this is accomplished through collecting a fee from the parent or guardian of the child receiving the transportation. In discussions on this issue, this difference was given significant importance by the members of the Task Force. Since the cost is being covered by non-school funds, it was suggested that the transportation services these students receive should not negatively affect the utilization calculation, at least to the extent that the fee covers the actual cost of the services. One reason members hold this point of view is that it accomplishes the exploitation of otherwise unused capacity. In many cases, the dispersion of transportation eligible students is such that efficient loading of a vehicle is difficult or impossible resulting in routes with few riders and significant

empty seats. In the operation of this route, it is also nearly inevitable that the bus will pass the homes or travel routes of students not eligible for transportation whose parents might be willing to pay for transportation services. Allowing the sale of the unused capacity is a clear economic benefit to the school budget and is equally clearly an efficient and effective use a valuable public asset that would otherwise go underutilized. The realization of this offsetting revenue stream, to the extent to which it covers the per rider cost, should be recognized in the calculation of efficiency.

### **FINDINGS AND RECOMMENDATIONS**

#### ***Finding: 16***

*Hazardous busing is a local issue and the state should not interfere with the management or financing of hazardous busing by local government entities. The state should do nothing that penalizes local government entities for this management, given that the local government entities declare and identify the hazard.*

#### ***Finding: 17***

*Courtesy busing and Subscription busing are matters of local decision-making. Subscription busing, however, should be treated differently in any calculation of efficiency since it has offsetting revenue and should be seen as a good practice at least to the extent that the revenue offsets the actual cost of the service.*

## NON PUBLIC TRANSPORTATION

In addition to transporting students of public school districts, the State also requires the transportation of students who live in a school district but attend private schools if they live beyond the minimum distance from the private school and the public school district provides such transportation for any of its students. A public school district, in which no students enrolled in the public school live remote from school, is not required to provide transportation to non-public students regardless of how far they live from school. In addition, a district is not required to transport non-public school students who live more than 20 miles from school. Further, the cost of transportation for the non-public student which school district spend to provide this transportation is limited to an amount which changes from year to year based on inflation or the State Budget. If the transportation cost exceeds this amount, the district may not provide the transportation but instead must pay the parent or guardian of the student an amount equal to the limit in lieu of providing transportation.

The three issues of greatest interest to the Task Force regarding non-public transportation were; 1) limits on the distance a school district may transport a non-public student; 2) Bidding Practices and 3) the state of the statutes dealing with non-public school transportation in 18:A:39-1 et seq.

Also of great concern are the more than 40,000 non-public students entitled to transportation services who do not receive these services. This issue is addressed in the section on cooperative transportation.

### **DISTANCE LIMITS**

One of the intricacies of non-public transportation referred to earlier is that of the distance limits that apply to non-public students in different situations.

**Remote.** The definition of remote is the same for both public and non-public students: "...elementary school pupils who live more than two miles from their public school of attendance or secondary school pupils who live more than 2 1/2 miles from their public school of attendance" (N.J.S.18A:39-1) are considered to live remote from school. However, as stated above, in a public school district in which no students enrolled in the public school live remote from school, the district is not required to provide transportation to non-public students regardless of how far they live from school. The pupil transportation community commonly refers to these school districts as "trigger districts." Some hold that there is an inherent inequity involved, in that two citizens state identically situated for a particular need should have similar access to services or benefits. While the Task Force considered this, they also recognize that requiring a small district to engage in the provision of transportation for a limited

need would place an undue burden the district.

**Maximum Distance.** Districts are not required to provide transportation to a non-public student if the school is more than 20 miles from the student's home or, in certain counties with smaller populations, not more than 30 miles. From time to time, various groups and individuals have proposed increasing the limit to 30 miles for more or all of the non-public students in the State. The Task Force discussed this issue several times. While concerns regarding cost were very compelling, the most persuasive argument was that increasing the limit would endanger transportation already being provided. If the limits are increased, existing routes, now serving children, might be lengthened to accommodate new students who reside between the current 20-mile limit and the new limit. At this point, the cost of the route might exceed the aid-in-lieu limit. The result would be that none of the children would receive transportation. For this reason, the Task Force cannot recommend increasing the maximum distance limits. If regional coordination of transportation was sufficiently improved, the potential loss of transportation to students when eligibility was widened might be avoided. However, until that time, the Task Force cannot recommend changing maximum distance limits for non-public transportation.

## BIDDING PRACTICES

Currently over 40,000 non-public school students in New Jersey eligible to receive transportation services do not receive transportation to and from school. There are many reasons for this failure of our system some are discussed later in this document under Cooperative Transportation.

One cause is the limit on the amount a school district may spend to provide transportation to non-public school students. This limit is known as the *maximum cost per pupil* or *aid-in-lieu* amount. When the cost of providing the transportation (determined by dividing the lowest bid amount by the number of students on the route) exceeds the maximum cost, a payment equal to the limit is paid to the parent or guardian of the student in lieu of transportation.

Frequently, bids are received that are only slightly higher than the maximum amount. The Task Force has discussed the possibility of allowing school districts to work with parents and private schools to cover the additional cost as a subscription busing issue. While the members of the Task Force agreed that the State should allow greater flexibility and that subscription busing appeared to offer an answer, two concerns were raised. (1) Several members were concerned about the administrative burden imposed by the collection of fees on the local district. (2) The possibility of setting a subscription cost beyond the reach of some parents, if the route bid was excessively

beyond the aid-in-lieu limit, increases the uncertainty that a subscription proposal would be successful.

Considering these concerns, the Task Force developed a proposal to limit the amount by which the bid might exceed the limit to 10 percent of the current limit and to assign the task of payment and collection of the subscription fees to the destination school. The collection assignment also avoids obvious problems if the subscribed route were to collect students from multiple school districts.

## **REWRITE OF NON-PUBLIC STATUTE**

One of the chief concerns of the Task Force was the difficulty of locating the appropriate sections of Statute, which apply to non-public transportation. For this reason, the Task force has considered consolidating, in one place, all of Statute that applies to non-public transportation.

## **FINDINGS AND RECOMMENDATIONS**

### ***Finding: 18***

*Due to the potential loss of actual transportation services to students presently served, limits on distance for non-public transportation currently in place should not be changed.*

### ***Finding: 19***

*The precise though necessary limitation on the cost of transportation for non-public schools creates an unnecessarily inflexible condition, which inefficiently and inappropriately precludes the provision of transportation*

*services to many non-public students. This limits a parent's ability to exercise choice in education decisions involving their children often over very small dollar amounts.*

### ***Finding: 20***

*The statutes covering the provision of transportation services to non-public school students are difficult to appreciate due to the dispersal of those parts of statute dealing with these services.*

### **Recommendation 13:**

***School districts should have discretion to provide transportation for non-public students when the calculated cost of the transportation exceeds the aid-in-lieu limit by no more than 10 percent by utilizing subscription busing to satisfy the additional cost. The destination non-public school must agree to assure the payment of the total additional cost to the transportation provider whether a contractor, the school district or other agency. The destination non-public school may also collect any appropriate fee from the parents or guardians of the students not to exceed an individual subscribed student's proportional share of the additional cost.***

### **Recommendation 14:**

***The statutes regarding nonpublic transportation should be rewritten for clarity into a single statute as follows.***

**AN ACT** concerning pupil transportation, amending N.J.S.18A:39-1, supplementing chapter 39 of Title 18A of the New Jersey Statutes and repealing parts of the statutory law.

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

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

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

[When any school district provides any transportation for public school pupils to and from school pursuant to this section, transportation shall be supplied to school pupils residing in such school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 20 miles from the residence of the pupil; except that if the district is located in a county of the third class with a population of not less than 80,000 and not more than 120,000 transportation shall be provided to a nonpublic school located outside the State not more than 20 miles from the residence of the pupil, if there is no appropriate nonpublic school within the State located closer to the residence of the pupil; provided the per pupil cost of the lowest bid received does not exceed \$675 for the 1992-93 school year or the amount determined for subsequent years pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), and if such bid shall exceed that cost then the parent, guardian or other person having legal custody of the pupil shall be eligible to receive \$675 for the 1992-93 school year or the amount determined pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a) for subsequent years toward the cost of his transportation to a qualified school other than a public school, regardless of whether such transportation is along established public school routes. It shall be the

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

Matter underlined thus is new matter.

obligation of the parent, guardian or other person having legal custody of the pupil attending a remote school, other than a public school, not operating for profit in whole or in part, to register said pupil with the office of the secretary of the board of education at the time and in the manner specified by rules and regulations of the State board in order to be eligible for the transportation provided by this section. If the registration of any such pupil is not completed by September 1 of the school year and if it is necessary for the board of education to enter into a contract establishing a new route in order to provide such transportation, then the board shall not be required to provide it, but in lieu thereof the parent, guardian or other person having legal custody of the pupil shall be eligible to receive \$675 or the amount determined pursuant to section 2 of P.L.1981, c.57 (18A:39-1a), or an amount computed by multiplying 1/180 times the number of school days remaining in the school year at the time of registration, times \$675 for the 1992-93 school year or the amount determined pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a) for subsequent years, whichever is the smaller amount. Whenever any regional school district provides any transportation for pupils attending schools other than public schools pursuant to this section, said regional district shall assume responsibility for the transportation of all such pupils, and the cost of such transportation for pupils below the grade level for which the regional district was organized shall be prorated by the regional district among the constituent districts on a per pupil basis, after approval of such costs by the county superintendent. This section shall not require school districts to provide any transportation for pupils attending a school other than a public school, where the only transportation presently provided by said district is for school children transported pursuant to chapter 46 of Title 18A of the New Jersey Statutes or for pupils transported to a vocational, technical or other public school offering a specialized program. Any transportation to a school, other than a public school, shall be pursuant to the same rules and regulations promulgated by the State board as governs transportation to any public school.

**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.**

The board of education may make rules and contracts for the pupil transportation provided pursuant to this section.]

Nothing in this section shall be so construed as to prohibit a board of education from making contracts for the transportation of pupils to a school in an adjoining district, when such pupils are transferred to the district by order of the county superintendent, or when any pupils shall attend school in a district other than that in which they shall reside by virtue of an agreement made by the respective boards of education.

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

b. In addition to the provision of transportation for pupils pursuant to subsection a. of this section and N.J.S.18A:46-23, a board of education may provide, by contract or otherwise, in accordance with law and the rules and regulations of the State Board of Education, for the transportation of other public school pupils to and from school at no cost to the parent, guardian or other person having legal custody of the pupil.

c. A board of education which transports pupils to and from school pursuant to subsection a. of this section or a cooperative transportation services agency may enter into a contract for the transportation of public school pupils who are not eligible for transportation services pursuant to subsection a. of this section or any other law and may charge the parent, guardian or other person having legal custody of the pupil in accordance with subsection e. of this section.

d. A board of education which transports pupils to and from school pursuant to subsection a. of this section may provide, on a space-available basis, for the transportation of elementary school pupils who live less than two miles from school and secondary school pupils who live less than two and a half miles from school along an established school bus route and may charge the parent, guardian or other person having legal custody of the pupil in accordance with subsection e. of this section.

e. A board of education or cooperative transportation services agency which provides for transportation pursuant to subsection c. or d. of this section may require that if the

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

Matter underlined thus is new matter.

parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant to these subsections, then the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation, including, but not limited to, the cost of fuel, driver salaries and insurance.

The costs of the transportation shall be paid at the time and in the manner determined by the board of education or the cooperative transportation services agency, as appropriate, provided that the parent, guardian or other person having legal custody of the pupil attending the public school shall pay no more than the per pupil cost of the route for the transportation.

A board of education shall not receive State transportation aid pursuant to section 25 of P.L.1996, c.138 (C.18A:7F-25) for the transportation of pupils pursuant to subsection b., c. or d. of this section; however, the pupils shall be included in the calculation of the district's regular vehicle capacity utilization for purposes of the application of the incentive factor pursuant to that section.

A board of education or cooperative transportation services agency which provides for transportation pursuant to subsection c. or d. of this section may not exclude from this transportation any pupil whose parent, legal guardian or other person having legal custody of the child is unable to pay the cost of that transportation because of financial hardship. In determining financial hardship, the criteria shall be the same as the Statewide eligibility standards established by the State board for free and reduced price meals under the State school lunch program.

A board of education or cooperative transportation services agency shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of subsection c. or d. of this section.

f. The board of education may make rules and contracts for the pupil transportation provided pursuant to this section.

(cf: P.L.1992, c.33, s.1)

2. Section 2 of P.L.1981, c.57 (C.18A:39-1a) is amended to read as follows:

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Matter underlined thus is new matter.

2. For the [2002-2003] 2005-2006 school year, the maximum amount of nonpublic school transportation costs per pupil provided for in [N.J.S.18A:39-1] section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) shall equal [\\$735] \$791 and this amount shall be increased in each subsequent year in direct proportion to the increase in the State transportation aid per pupil in the year prior to the prebudget year compared to the amount for the prebudget year or by the CPI, whichever is greater.

As used in this section, State transportation aid per pupil shall equal the total State transportation aid payments made pursuant to section 25 of P.L.1996, c.138 (C.18A:7F-25) divided by the number of pupils eligible for transportation. "CPI" means the average annual increase, expressed as a decimal, in the consumer price index for the New York City and Philadelphia areas during the fiscal year preceding the prebudget year as reported by the United States Department of Labor.

In the 2002-2003 school year and thereafter, any additional costs incurred by a school district due to the increase in the maximum amount of nonpublic school transportation costs per pupil pursuant to this section shall be borne by the State.  
(cf: P.L.2001, c.437, s.1)

3. (New section) a. When a school district provides transportation for public school pupils to and from school pursuant to subsection a. of N.J.S.18A:39-1, transportation shall be supplied to school pupils residing in the school district in going to and from any remote school other than a public school, not operated for profit in whole or in part, located within the State not more than 20 miles from the residence of the pupil; except that if the district is located in a county of the third class with a population of not less than 80,000 and not more than 120,000 pursuant to the 1980 federal decennial census, transportation shall be provided to a nonpublic school located outside the State not more than 20 miles from the residence of the pupil, if there is no appropriate nonpublic school within the State located closer to the residence of the pupil; provided the per pupil cost of the lowest bid received does not exceed the amount determined

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pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a). If the bid exceeds that amount then the parent, guardian or other person having legal custody of the pupil shall be eligible to receive that amount toward the cost of the transportation to a nonpublic school, regardless of whether the transportation is along established public school routes.

It shall be the obligation of the parent, guardian or other person having legal custody of the pupil attending the nonpublic school to register the pupil with the office of the secretary of the board of education at the time and in the manner specified by rules and regulations of the State Board of Education in order to be eligible for the transportation provided by this section. If the registration of the pupil is not completed by September 1 of the school year and if it is necessary for the board of education to enter into a contract establishing a new route in order to provide the transportation, then the board shall not be required to provide it, but in lieu thereof the parent, guardian or other person having legal custody of the pupil shall be eligible to receive the amount determined pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), or an amount computed by multiplying 1/180 times the number of school days remaining in the school year at the time of registration, times the amount determined pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), whichever is the smaller amount.

b. Whenever any regional school district provides any transportation for nonpublic school pupils pursuant to subsection a. of this section, the regional district shall assume responsibility for the transportation of all such pupils, and the cost of the transportation for pupils below the grade level for which the regional district was organized shall be prorated by the regional district among the constituent districts on a per pupil basis, after approval of such costs by the county superintendent.

c. A school district shall not be required to provide transportation pursuant to this section if the only transportation presently provided by the district is for school children transported pursuant to chapter 46 of Title 18A of the New Jersey Statutes or for pupils transported to a vocational,

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technical or other public school offering a specialized program.

d. Transportation provided pursuant to this section shall be pursuant to the same rules and regulations promulgated by the State board as governs transportation to any public school.

e. The board of education may make rules and contracts for the provision of nonpublic school pupil transportation.

4. (New section) a. In addition to the provision of transportation for pupils pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) and N.J.S.18A:46-23, a board of education may provide, by contract or otherwise, in accordance with law and the rules and regulations of the State Board of Education, for the transportation of other nonpublic school pupils to and from school at no cost to the parent, guardian or other person having legal custody of the pupil.

b. A board of education which transports pupils to and from school pursuant to subsection a. of N.J.S.18A:39-1 or a cooperative transportation services agency may enter into a contract for the transportation of pupils who attend nonpublic schools and who are not eligible for transportation services pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) or any other law or who receive in-lieu-of transportation payments and may charge the parent, guardian or other person having legal custody of the pupil in accordance with subsection f. of this section.

c. A board of education which provides transportation to pupils to and from school pursuant to N.J.S.18A:39-1 may provide, on a space-available basis, for the transportation of elementary school pupils who live less than two miles and secondary school pupils who live less than two and a half miles from any nonpublic school which satisfies the maximum distance requirements set forth in subsection a. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) along an established school bus route and may charge the parent, guardian or other person having legal custody of the pupil in accordance with subsection f. of this section.

d. A board of education or a cooperative transportation services agency may permit nonpublic school pupils who live

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in or outside of the district and who are not eligible for pupil transportation pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) because the distance from the pupil's residence to the nonpublic school is greater than the mileage limit established pursuant to subsection a. of section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) or any other law to purchase transportation to the nonpublic school from the board of education or the cooperative transportation services agency provided that:

- (1) there is available space on the appropriate bus route; and
- (2) the parent, guardian or other person having legal custody of the pupil attending the nonpublic school agrees to transport the pupil to an existing bus stop as determined by the board of education or the cooperative transportation services agency.

A board of education or cooperative transportation services agency may charge the parent, guardian or other person having legal custody of the pupil in accordance with subsection f. of this section for the provision of transportation pursuant to this subsection.

Prior to providing transportation pursuant to this subsection to a nonpublic school pupil who lives within the district, a board of education shall determine if the pupil is eligible for transportation or an in-lieu-of payment pursuant to subsection e. of this section. If the board of education determines that the pupil is eligible for transportation or an in-lieu-of payment pursuant to that subsection, then that subsection shall govern the transportation services provided to the pupil by the board of education.

e. If a school district provides transportation pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) to and from school to a school pupil who resides remote from school and attends a nonpublic school located within the State not more than 20 miles from the residence of the pupil, or in the case of a regional district provides transportation or an in-lieu-of-payment to such pupil, the school district or regional district shall provide transportation,

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when seats are available on existing routes, or an in-lieu-of payment to all nonpublic school pupils who reside within the municipality of that pupil or in the case of a regional district reside within the district, attend that school, and reside more than 20 miles from that school. The school district may require all nonpublic school pupils in the municipality or regional district to use the bus stops which serve the pupils whose residences are not more than 20 miles from the nonpublic school. Any cost incurred by a school district or a regional district in providing transportation or an in-lieu-of payment to a pupil who is eligible for the transportation or an in-lieu-of payment under the provisions of this section shall not exceed the maximum cost per pupil established pursuant to section 2 of P.L.1981, c.57 (C.18A:39-1a), and shall be paid by the State.

As used in this subsection, "regional district" means a regional school district composed of only two constituent municipalities or a consolidated school district composed of only two municipalities.

f. A board of education or cooperative transportation services agency which provides for transportation pursuant to subsection b., c. or d. of this section may require that if the parent, guardian or other person having legal custody of the child elects to have the pupil transported pursuant one of these subsections, then the parent, guardian or other person having legal custody of the child shall pay all or a part of the costs of that transportation, including, but not limited to, the cost of fuel, driver salaries and insurance.

The costs of the transportation shall be paid at the time and in the manner determined by the board of education or the cooperative transportation services agency, as appropriate, provided that the parent, guardian or other person having legal custody of the pupil attending the nonpublic school shall pay no more than the per pupil cost of the route for the transportation.

A board of education shall not receive State transportation aid pursuant to section 25 of P.L.1996, c.138 (C.18A:7F-25) for the transportation of pupils pursuant to this section; however, the pupils shall be included in the calculation of the

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district's regular vehicle capacity utilization for purposes of the application of the incentive factor pursuant to that section.

A board of education or cooperative transportation services agency which provides for transportation pursuant to subsection b., c. or d. of this section may not exclude from this transportation any pupil whose parent, legal guardian or other person having legal custody of the child is unable to pay the cost of that transportation because of financial hardship. In determining financial hardship, the criteria shall be the same as the Statewide eligibility standards established by the State Board of Education for free and reduced price meals under the State school lunch program.

A board of education or cooperative transportation services agency shall notify the Department of Education when it elects to provide transportation for pupils under the provisions of subsection b., c. or d. of this section.

5. The following sections are repealed:

N.J.S.18A:39-1.1;

P.L.1995, c.106 (C.18A:39-1.3 et seq.);

P.L.1999, c.350 (C.18A:39-1.6);

P.L.2000, c.114 (C.18A:39-1.7);

P.L.2001, c.327 (C.18A:39-1.8 et seq.).

6. This act shall take effect on the 180th day after the date of enactment.

## STATEMENT

This bill separates the provisions of law in Title 18A of the New Jersey Statutes concerning public school transportation from those concerning nonpublic school transportation. This bill is designed to establish a more coherent organization and codification of the statutes concerning pupil transportation.

Although the bill repeals certain laws, it recodifies all of these provisions in different statutes.

Reorganizes the provisions in Title 18A regarding public and nonpublic school pupil transportation.

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## COOPERATIVE TRANSPORTATION

As mentioned previously in this report, there are currently over 40,000 non-public school students in New Jersey eligible to receive transportation services who do not receive transportation to and from school. To put that in perspective, New Jersey has 7,419 square land miles. This means there are, on average, 5.5 non-public students in every square land mile in New Jersey who do not receive the transportation to which the law entitles them.

There are many reasons for this failure of our system. As discussed earlier, the maximum allowable cost prevents many routes from being successfully contracted. Additionally, a tendency to route children by common destination, rather than utilizing area collection and transfer points, results in routes having large expensive collection footprints. Attempts to collect all children going to a single destination on a single route may result in an expensive and unsuccessful route if one or two students live far from the rest of the students. A lack of coordinated transportation among school districts yields small expensive routes where a single affordable coordinated route is possible. A lack of coordinated opening and closing times prevents the use of more economical tiered routing.

To illustrate creating a route on a larger school bus for 54 of these students (the maximum capacity of the bus) would require collecting students from a ten square mile area. While it is unlikely that these students are evenly distributed over such an area or are attending the same school and the area appears to be of significant size, the actual geographical collection area would be only 3.2 miles by 3.2 miles with a diagonal distance of 4.5 miles. Using a pickup route of roughly 8 miles with 10 pick up points, and no child having to travel more than 1/2 mile to a pickup point, these children could be transported at a reasonable cost. Or looking at a 100 square mile area (10 miles by 10 miles and 10 times the number of riders but only 3.2 times the border area) 10 buses utilizing transfer points for various destinations, could pick up 54 children each regardless of destination, have more convenient pickup locations and relatively short ride times. Moreover, this assumes an even distribution, which is the most difficult of collection dispersions. Children are probably distributed in clusters, which would reduce the number of necessary pickup points.

The difficulty of providing this transportation rises from two primary sources: (1) the lack of coordination among public and private schools

on a variety of items such as: opening and closing times; maximum ride time policies, and policies on distance from a student's home to pickup and drop off points, and (2) the lack of a locus of authority to coordinate the transportation of these children. A coordinating authority would need to be able to: (a) access and analyze relevant transportation data; (b) negotiate differences between private schools and school districts and (c) develop alternative routing plans.

Successful regional plans, whether countywide as in many other states or local governed as in New Jersey, utilize tiered routing in which a single bus is able to service more than a single to and a single from school trip per day. In most cases, this would involve a high school route, followed by a middle school route, followed by an elementary school route. In New Jersey, many high school districts and feeding elementary districts do not coordinate school times to take advantage of tiered routing. The reasons for not doing so are usually reasons other than educational or practical need. In many instances, a fifteen-minute change could cut cost by as much as 50 percent. For this reason, school districts should be encouraged to coordinate transportation wherever possible. Some of the advantages of

coordinated transportation are:

*1 Reduced insurance costs.* Insurance is the same for a school bus whether it covers one route or six. More routes per bus can reduce the total cost of insurance, which is one of the highest rising costs in education.

*2 Reduced capital costs.* Using tiered transportation requires fewer buses. The ability to retire vehicles without replacement would save money for both districts and contractors.

*3 Reduced driver costs.* Fewer drivers are needed to service tiered routes. Less need for drivers would alleviate the driver shortage. Tiered routes make packages that are more attractive to drivers by providing them with more hours per day, thus you attract a higher quality employee. Fewer drivers would also save on the cost of fringe benefits.

*4 More Competitive Bidding.* Increasing the student pool and decreasing the number of routes allows districts to be more creative in developing flexible and profitable route packages attractive to both large and small contractors, thus encouraging competition that is more spirited.

The Task Force recognizes that the planning and implementation of coordinated transportation requires a unique set of skills. Knowledge of queuing theory, a high level of competence with computerized routing

programs, a thorough understanding of New Jersey Pupil Transportation Statutes and Administrative Code and a real talent for negotiations and sales are a few of the talents needed.

In discussing approaches to this issue, the Task Force recognized recent changes in Statute, which prevent a Coordinated Transportation Service Agency (CTSA) from both designing the routes and providing the service, as a significant disincentive for these agencies to develop new routes. These agencies were created pursuant to the Regionalized Public Transportation Services Act, Chapter 53, P.L. 1997 following a recommendation of this Commission. In the time since their creation, these agencies have helped provide significant transportation services to populations previously left without service, including special education students as well as non-public students. The ability to both design and provide services was viewed, at the time, as an incentive to provide service where service had not previously existed. However, some of these agencies were seen as having shifted focus toward aggressively pursuing business beyond the underserved with what some viewed as an unfair competitive advantage. This statutory change left the Task Force with the practical problem of determining how to promote the development of coordinated transportation

services without infringing on the free market.

Using CTSA's for this function has become problematic at best and certainly not appropriate for a statewide approach. However, in some areas CTSA's may still be able to provide some part of the solution on either the planning side or the provision side. The intent of the Legislature that private business should not be at a disadvantage as a result of seeking to provide services to these children is clear. Further, with 40,000 non-public school children still underserved, it would seem that a system which provides service should be able to do so not only without harming existing private businesses, but in fact while providing them with increased opportunity.

It became clear during the discussions that the key to a solution was in providing for the ongoing coordination of transportation to other than local schools and destinations. To do this, both public school districts and private schools would need to have a neutral point of cooperation, a coordinating body that would not derive primary benefit from the creation of the most profitable routes, but through the coordination of the best transportation solutions for the most students (a possible shortcoming of the CTSA model). This goal of the greatest benefit for the greatest number or the "common good" is a central

tenet of government service. Such goals are often best achieved by government. While the Task Force is hesitant to suggest the creation of a government entity, it would seem that this coordination function is an appropriate function of government. In order to avoid the unnecessary creation of duplicate bureaucracies, the Task Force saw that housing this function in an existing structure would be appropriate. At one point regional school districts were considered as an appropriate locus for this function; however, the possibility of not adequately covering the schools in the State as well as potential reluctance on the part of regional district administrators to take on yet one more additional and significant burden, led the Task Force to consider alternatives. The Task Force ultimately identified the County Offices of the Department of Education as the logical locus for this function.

## **FINDINGS AND RECOMMENDATIONS**

### ***Finding: 21***

*Earlier attempts by the State to improved service through the coordination of pupil transportation services have been limited in success. The success has been limited, in part, due to the placement of coordinated route design and provision of coordinated transportation services within the same entity. This*

*placement has created a natural incentive to develop routes that produce the greatest level of benefit for route designer rather than the student in need of transportation.*

### ***Finding: 22***

*The potential financial and non-financial benefits to the State and to New Jersey students from the coordination of pupil transportation services are underappreciated by many decision makers involved in determining the design of pupil transportation systems. This untapped potential ranges from cost saving operational efficiencies, such as the overbooking of underutilized routes, to service improvements including reduced travel time improved service coverage.*

### **Recommendation 15:**

***There should be created, in each County Office of the New Jersey Department of Education, the Office of the Regional Transportation Coordinator whose job function will be to improve the delivery of transportation services within the county. In performing this function, the office will analyze all current pupil transportation services, including public, non-public, handicapped and special education, within the county to determine where those services might be improved through coordination***

***efforts. The Office of the Regional Transportation Coordinator shall call upon the expertise of other governmental entities in the execution of its duties including but not limited to county special services school districts or educational services commission that currently provide coordinated transportation services. The office will then attempt to negotiate changes to realize improvements with the concerned schools, districts and other county coordinators wherever feasible. Among the goals of this office will be (1) to realize transportation cost savings for local school districts and (2) reduce the payment of aid-in-lieu for non-public school transportation through better route design and coordination.***

### **Recommendation 16:**

***The New Jersey Department of Education should develop and recommend to the Legislature fiscal efficiency incentives to encourage the cooperation of school districts in the development of coordinated transportation.***