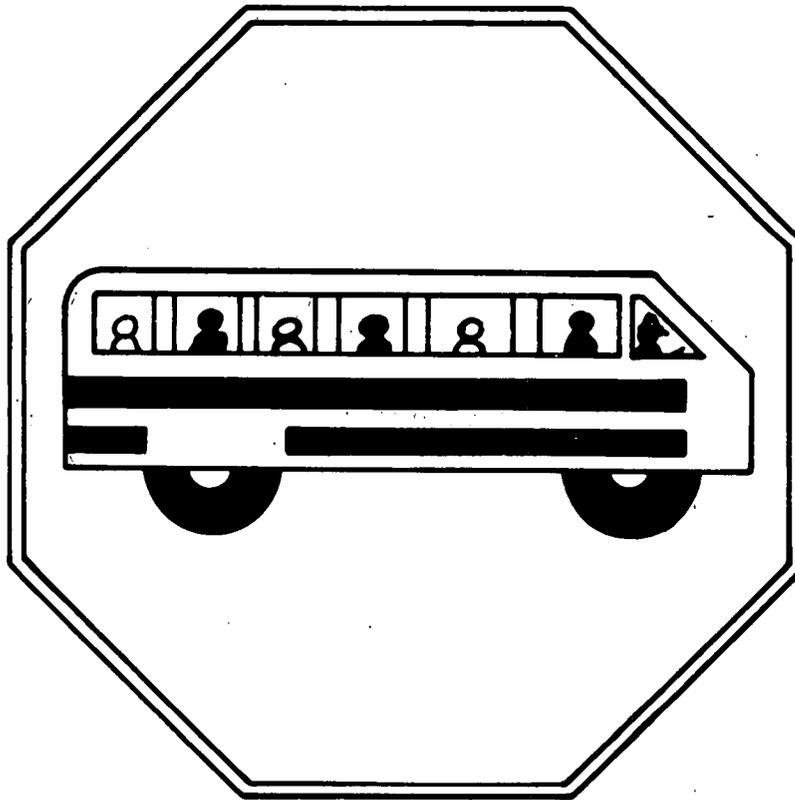


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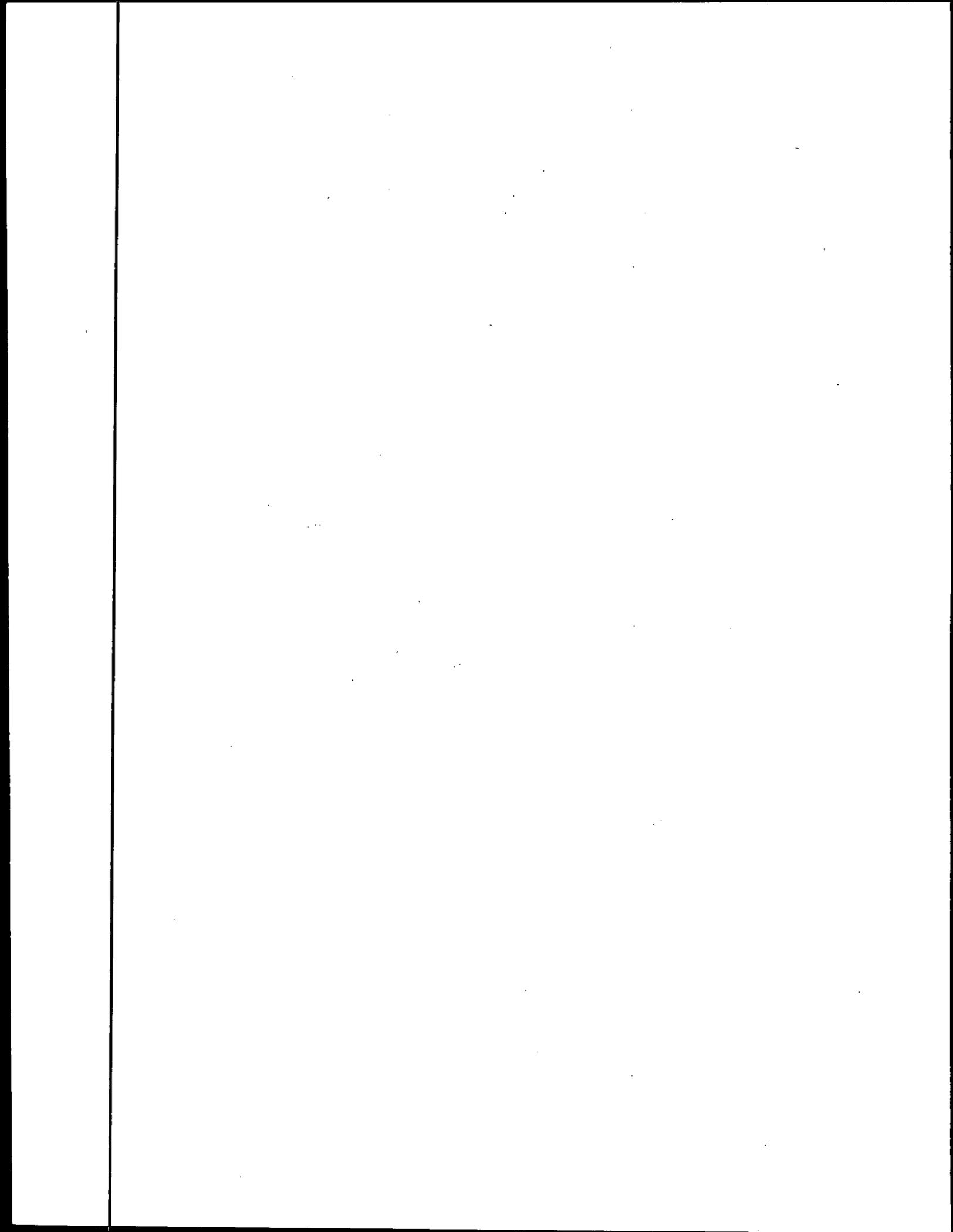
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Report of the Task Force
to Review the Public School
Pupil Transportation Program.



Presented to the
Maryland State Board of Education
October 16, 1975



JAMES A. SENSENBAUGH
STATE SUPERINTENDENT



MARYLAND STATE DEPARTMENT OF EDUCATION
P.O. BOX 8717, BWI AIRPORT
BALTIMORE, MARYLAND 21240

October 16, 1975

Mr. Jerome Framptom, Jr., President
Maryland State Board of Education
P. O. Box 8717, BWI Airport
Baltimore, Maryland 21240

Dear Mr. Framptom:

It is my pleasure to submit to you the report of the Task Force to Review the Public School Pupil Transportation Program. Included in the report are recommendations which will assist the Board in its attempt to improve the overall operation of pupil transportation in this state.

Since many of the policies concern State funds which are appropriated by the State for pupil transportation services, several recommendations are made in regard to the source of those funds and how they should be distributed.

At your request, the members of the Task Force have agreed to continue to serve in order to study the transportation needs in Maryland relative to handicapped pupils. The findings and recommendations on that topic will follow as a separate report.

I thank you for the opportunity to serve and hope that you find the results of the endeavor helpful in improving what we found to be an adequate, well organized, and safe pupil transportation system.

Sincerely yours,

A large, stylized handwritten signature in black ink, reading "William M. Perkins".

WILLIAM M. PERKINS
Task Force Chairman

WMP:sg

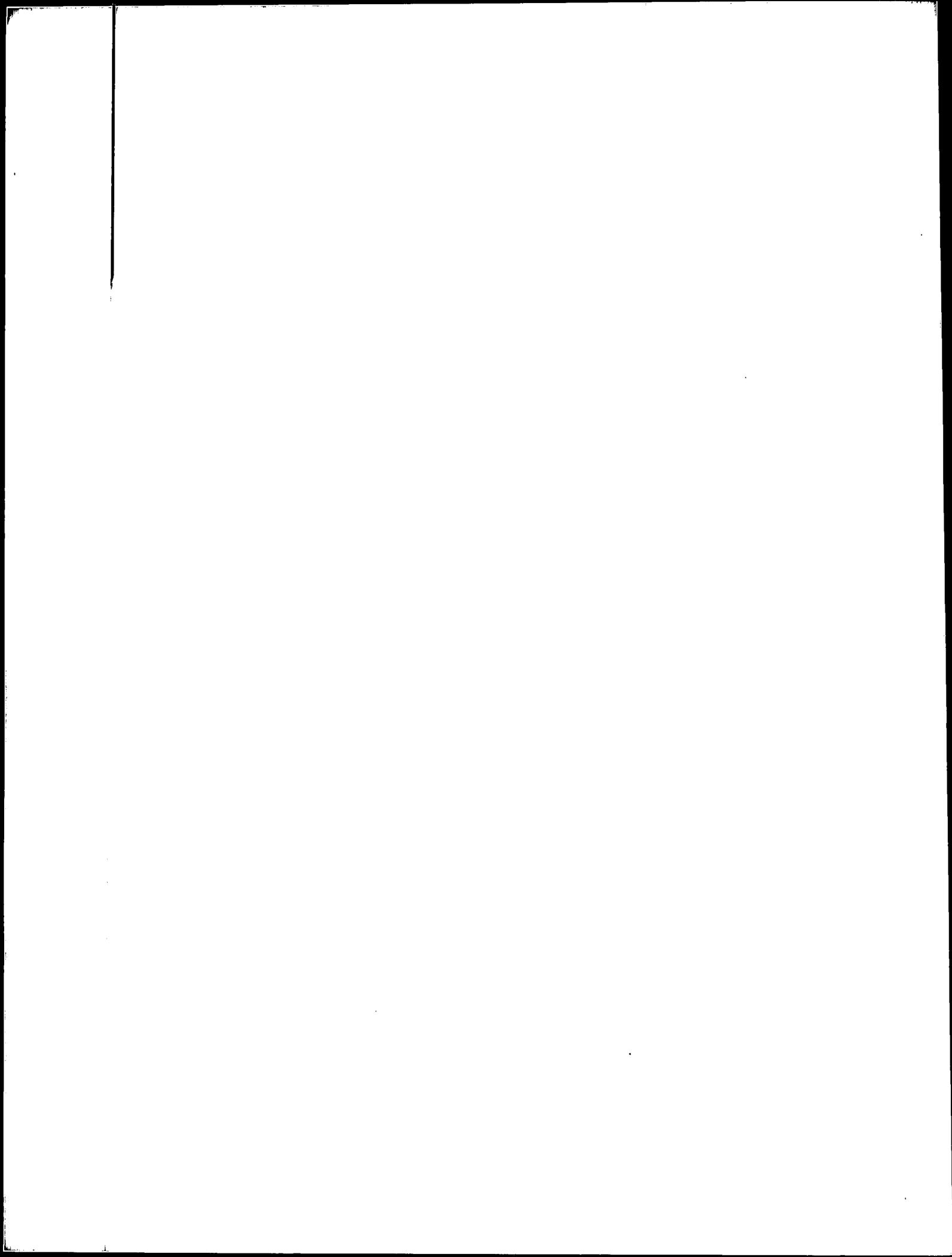


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BRIEF SUMMARY OF THE TASK FORCE REPORT

The Task Force to Review the Public School Pupil Transportation Program carefully considered the written policies and the bylaw concerning pupil transportation and made the following recommendations.

These policies and the bylaw are related to the expenditures of public funds. During the consideration of the Task Force, six objectives were listed which should govern the development of any policies, regulations, and provisions for funding this program in Maryland. They are listed in the order of their importance:

1. SAFETY OF CHILDREN.
2. PAYMENT OF ALL NECESSARY COSTS BY THE STATE.
3. REDUCTION OF OVERALL COSTS WHERE POSSIBLE.
4. BUDGET PREDICTABILITY—STATE AND LOCAL CONTROL.
5. MAINTENANCE OF LOCAL CONTROL.
6. SIMPLIFIED REPORTING.

In order to attain these objectives, the Task Force recommends:

1. That the State Department of Education develop a system of computerized routing of school buses as soon as feasible.
COST TO DEVELOP AND OPERATE FOR THE FIRST YEAR - \$2,000,000
PROJECTED ANNUAL SAVINGS - \$1,200,000
2. That the State Department of Budget and Fiscal Planning

and the Maryland Legislature be requested to provide adequate amounts to fund the program in the future and to pay the present budget deficiencies as necessary.

3. That until a system of computerized routing can be developed, a system of funding be used based on a simplified formula. That formula would reduce the 68 factors presently used to eleven. There would be a per vehicle amount derived by using average bid prices for the past ten years. The driver's salary would be based on the appropriate step of the State salary scale and the other cost would be determined by the cost of gasoline as certified by the State.

4. That in order to be eligible for State funds, each local school system is expected to stagger the opening time of schools to the degree most economical for the transportation of pupils. The maximum amount of the staggered time is to be one and one-half hours.

PROJECTED ANNUAL SAVINGS - \$800,000

5. That all pupils in schools housing grades seven and higher exclusively, be excluded from State funded transportation if they live one and one-half miles or less from school.

PROJECTED ANNUAL SAVINGS - \$785,000

6. That safe walking conditions and the nearness to the major portion of the pupil population be a key criterion for selection and approval of school sites by the Interagency Committee on School Construction.

IT IS IMPOSSIBLE TO PREDICT ANNUAL SAVINGS.

7. That the State pay for pupil transportation only for the required number of days of school (180 days).

PROJECTED ANNUAL SAVINGS - \$619,500

8. That the State Department of Education and each local school system study the cost effectiveness of the present scheduling of kindergarten and other midday pupil transportation.

IT IS IMPOSSIBLE TO PREDICT ANNUAL SAVINGS.

9. That all required school bus insurance be put out on bid by the State.

PROJECTED ANNUAL SAVINGS - \$60,000

10. That the State Department of Health and Mental Hygiene conduct the annual school bus driver physical examination.

PROJECTED ANNUAL SAVINGS - NONE AT PRESENT. APPROXIMATELY \$50,000 PER YEAR WILL BE TRANSFERRED FROM THE DEPARTMENT OF EDUCATION BUDGET TO THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE BUDGET.

11. That the cost effectiveness of pupil transportation be considered when assigning handicapped pupils to schools.

IT IS IMPOSSIBLE TO PREDICT ANNUAL SAVINGS.

12. That a request be submitted to fund the transportation cost associated with Judge Raine's decree concerning the education of handicapped pupils.

COST FOR THIS PROGRAM - \$235,300

13. That the Maryland State Board of Education and the Board of School Commissioners of Baltimore City cooperatively appoint a task force to study pupil transportation in Baltimore City.

The members of the Task Force agreed to consider the needs of pupil transportation for handicapped children and will submit a separate report.

4:00

4:00

REPORT OF THE TASK FORCE TO REVIEW THE PUBLIC SCHOOL PUPIL TRANSPORTATION PROGRAM

I. Organization of the Task Force

The Maryland State Board of Education appointed a Task Force to study pupil transportation policies and funding at its regular meeting on May 28, 1975. The resolution¹ charged the Task Force to study the written policies which govern eligibility for reimbursement from the State and method of funding transportation services. The charge further called for a report of findings and recommendations to be presented at the regular meeting of the State Board of Education on August 27, 1975. A delay was granted for presentation of the report on October 16, 1975.

Members were selected to include a wide cross section of persons who were directly affected by pupil transportation and its funding. There were some substitutions to the original list which were made with the approval of the Maryland State Board of Education. The list of those who served on the Task Force and the organizations which they represented is provided below.

William M. Perkins, Chairman
Maryland State Department of Education

Pat D. Abrunzo
Maryland Association of Elementary Principals

George E. Baker
Supervisor of Transportation of Montgomery County

John F. Burke
Maryland State Teachers Association, Inc.

William L. Carson
Maryland Department of Transportation

William J. Coviello
Maryland State Department of Education, Division of Special Education

¹Maryland State Board of Education, Resolution No. 1975-29, May 28, 1975.

Leonard W. Dayton
Maryland Association of Counties

Robert F. Diehl
Public School Pupil Transportation Liaison Advisory Committee

Dr. Richard A. Dumais
Maryland Association of Secondary Principals

Richmond M. Keeney
Montgomery County Council of Parents and Teachers Association

James E. Kelly, Jr.
Supervisor of Transportation of Allegany County

Dr. Franklin R. Langsner
Maryland Association of Health, Physical Education, and Recreation

Honorable Alfred J. Lipin
Maryland State Senate

Norman J. Moore
Superintendents Advisory Committee on Pupil Personnel

Honorable J. Hugh Nichols
Maryland House of Delegates

A. Orrell Saulsbury, Jr.
Member-at-Large

Honorable Lorraine M. Sheehan
Maryland House of Delegates

Honorable James C. Simpson
Maryland State Senate

Laurie Whalen
Maryland Association of Student Councils

John Wilson, Jr.
Maryland School Bus Contractors Association

Dr. Charles W. Willis
Maryland Association of Boards of Education

The first meeting of the Task Force was held in the Board Room at the State Department of Education on June 23, 1975. Mr. William Perkins, who was appointed as temporary chairman, delivered the charge from the State Board of Education. Following that charge, he entertained motions to nominate a permanent chairman, and the group voted by acclamation that he should remain as chairman. Mr. Morris W. Rannels, Coordinator of the Safety and Transportation Section, named Mr. Bennie C. Hartmann as the liaison from that section to the Task Force. Mrs. Sandy S. Gedeik was appointed as secretary for the Task Force.

II. Methods and Procedures

Realizing the need for frequent meetings in order to complete the task within the specified time, meetings were scheduled to be held each Monday from 10 a.m. to 3 p.m.

Prior to the first meeting, each member was presented with a copy of *Policies Which Govern Approval of Pupil Transportation Costs for Inclusion in the Minimum Program* and *Standard Rules and Regulations Governing Pupil Transportation for the State of Maryland*. These two items were explained by Mr. Bennie C. Hartmann at the first meeting.

Mr. Samuel Dixon, Safety and Transportation Section, presented written copies of three items which had been prepared for State Board of Education consideration. Included were: *Areas of Pupil Transportation Requiring Evaluation Data and Decisions - FY 1971 to 1981*, *Possible Methods to Reduce the Cost to the State of Maryland for Pupil Transportation Service*, and *Possible Savings by Increasing Walking Distance to Two Miles*. Also presented were materials prepared to provide the necessary background information needed by members of the Task Force. The titles are: *History and Background*, *Reimbursement in Maryland and Other States*, *The Liaison and Reimbursement Committees*, *Supervision and Administration of the Pupil Transportation Program*, *How Pupil Transportation Reimbursement is Calculated*, *Maryland Public School Bus Accident Report for 1973-74 School Year*, *Legislative Audit Report*, and a copy of the State school bus contract.

There was some discussion concerning the responsibility of the State to fund transportation costs and whether or not the contract with school bus owners could be broken. Letters were forwarded to the appropriate representatives of the Maryland Attorney General requesting a ruling. Copies of the letters and the responses appear as Appendixes A to D.

Having completed the orientation and general discussion, the policies were considered item by item. A summary of findings and recommendations is contained later in this report.

During the course of the proceedings, representatives of the Safety and Transportation Section; Mr. Ronald Meyers of the Division of Research, Evaluation, and Information Systems; and Mr. Robert A. Stagmer of the Budget and Financial Planning Unit were available to answer the questions of the group. Mr. David G. Ricker of the Department of Budget and Fiscal Planning was available on several occasions and discussed the procedures for funding as they related to that Department.

Dr. David S. Jenkins, Maryland School Bus Contractors Association, asked to address the group and requested that the service rendered by Maryland school bus contractors be given consideration and that adequate money to repay them be provided.

Mr. Elliott B. Robertson, Assistant Superintendent for Prince George's County Public Schools, addressed the group concerning the requirement that Prince George's County retain a two-hour differentiated opening time when other school systems were not required to do so.

Dr. John C. Murphy, representing the Howard County Board of Education, requested consideration for making available a definite sum of money which the local school system would use to provide pupil transportation service. If all was not needed to pay pupil transportation costs, it could be expended for other programs. A copy of the presentation appears as Appendix E.

Mr. James Cuthbert and Mr. William Green were given an opportunity to answer questions concerning the Lockwood, Kessler, and Bartlett, Inc., program of computerized school bus routing.

Delegate Frank C. Robey, Baltimore City, was granted an opportunity and presented some of the facets of pupil transportation in Baltimore City as they relate to the use of Mass Transit Administration (MTA) buses. Delegate Robey asked the members of the Task Force to assist in securing for Baltimore City a transportation system other than MTA. The Task Force asked that a summary of his remarks be made a part of this report, and they can be found as Appendix F.

When considering alternative methods of funding, members of the Maryland State

Department of Education staff were asked to present proposals. Mr. Robert A. Stagmer, Specialist in State Aid, presented a program of per pupil allocation based on prior year per vehicle costs and prorated over the 24 local school systems. Mr. Ronald Meyers, Specialist in Research, and Mr. Samuel Dixon, Specialist in Transportation, presented methods which were adaptations of the existing formula. Delegate J. Hugh Nichols presented a program based on density of population similar to the procedure in use in Florida. Mr. George E. Baker, Montgomery County Public Schools, presented a proposal using a differentiated per pupil transported allotment. He and Mr. Stagmer developed a hypothetical set of budget allocations based upon that method. Summaries of these proposals can be found in Section IV.

III. Funding of Pupil Transportation

Early in its discussion, the Task Force indicated that the responsibility for funding was the item of paramount importance. It was the consensus of the members that Section 19, Article 77, Annotated Code of Maryland, placed the responsibility on the State Superintendent of Schools to determine what constituted the necessary costs of transportation and to recommend the inclusion of that amount in the State budget. It was then the responsibility of the Governor and the State Legislature to make available that amount of money. Thus, the program was mandated; and members of the Task Force could attest to the fact that it had been treated as such for at least 25 years. Such terms as *totally State funded* and *State responsibility* were used to describe the program by various members.

It was recommended by the Governor's Committee to Study Pupil Transportation in 1971 that the local governmental agencies be required to pay a portion of the costs. Governor Mandel did not request that this be done. In fact, it was one of only two recommendations which he did not ask to be implemented.

Several persons have expressed concern recently about the increased cost of governmental service and, specifically, about the increased cost of pupil transportation. The State Legislative Auditors used percentage increases which they felt

showed that the increased costs were out of proportion. Figure I on page 7 shows a comparison of the growth of several education areas over the past 13 years. It is true that pupil transportation costs have increased at a slightly faster rate than the total State aid to education or the pupil enrollment. There are many factors which contribute to this difference. Before 1968, kindergarten pupils were not eligible for State transportation funds; and there were very few vocational-technical centers which requested additional transportation during the school day. Also, prior to 1970, costs to ride the public transportation facilities in Baltimore City were paid by pupils or their parents; and there was no reimbursement by the State. Pupil transportation is a petroleum-related operation, and those costs have nearly doubled in less than two years. Safety requirements in school bus design, which are required by the federal and State Department of Transportation, have also added to the costs.

The Task Force readily accepted the fact that, as in most operations, there was perhaps some way that costs could be reduced; and the members proceeded to search for those ways and recommended improvements. Several of those recommendations are included in this report.

Perhaps the most important aspect of the deliberations was the effect that any change might have on the safety and well being of children. The safety record of Maryland pupil transportation compares favorably with that of other states, especially when a majority of that transportation service is performed on roadways with such traffic volumes that they are classified as high risk areas. The Maryland system under full State funding has shown that it is capable of adjusting to increased safety hazards and increased pressures from many groups and agencies and has done so with only a small deviation in the percentage of increased costs shown by other segments of education. One reason for this is the safety and savings which is brought about by uniform regulations and uniform specifications.

Maintaining the State funding concept also allows the local governments to continue their funding procedures without adding one additional cost item to be

FIGURE I

A COMPARISON OF ENROLLMENT, KINDERGARTEN ENROLLMENT, STATE TRANSPORTATION COSTS AND TOTAL STATE AID TO EDUCATION - 1962 TO 1974

Year	Sept. 30 Enrollment Total	Kindergarten and Pre- kindergarten	Cost Per Pupil	Total State Aid In Millions*	Transporta- tion Aid In Millions
1962	667,528	25,731	385.83	99	6
1963	704,693	28,268	407.14	105	6
1964	735,242	30,221	418.91	111	7
1965	762,636	32,562	442.74	113	13
1966	790,928	34,574	494.60	141	15
1967	825,892	42,391	562.97	152	16
1968	860,604	53,260	627.75	199	19
1969	891,981	60,186	712.33	214	21
1970	913,196	63,926	782.45	237	28
1971	922,051	64,282	875.06	276	31
1972	920,896	62,490	948.56	312	34
1973	911,097	61,695	1012.06	323	36
1974	894,209	62,287	1117.44	376	42

*Does not include Department services.

Source: Facts About Maryland Schools, 1967-68 through 1974-75 editions
Annual Report, Department of Education, 1962 through 1974

borne by the real estate tax. In order to maintain the concept, it appears necessary to develop a more reasonable method to adjust costs in relation to the fluctuation of the economy and changes in the need for transportation service.

There is also a need to more accurately predict the costs to the State and, conversely, the amounts each local school system will receive from the State prior to actual budget approval. Believing that all of these goals could be achieved, the Task Force recommended that adequate funds to pay immediate deficits and to support the program in the future be provided by the State fiscal authorities and included in the State budget.

Computerized Routing

The Task Force showed enthusiasm for a method of determining the necessary funds needed to provide pupil transportation by using data processing equipment and electronic computers. The program has double potential in that it could provide all of the normal benefits of a computerized routing program with the savings which are normally associated with this operation and, in addition, could provide a superior method of determining reimbursable amounts.

The home location of all pupils in a school system would have to be secured and translated into a machine readable language. The location of all of the schools in the school system would also be needed and likewise coded. Next, the roadways would be developed into a matrix and that matrix placed in the machine. It would be necessary to determine all of the idiosyncrasies of those roadways and include them in that matrix. It would then be necessary to develop a set of parameters which would regulate the movement of buses on those roads and limit all aspects of the program. Thus, it would be possible to control such practices as designating which category of roads are such that they warrant picking up children on both sides and, therefore, not allowing children to walk across the highway; determining the required walking distance; setting the maximum time a child would be required to ride; establishing limits of the differentiated opening times for schools; equalizing the time a child could be expected to wait at school morning and afternoon; and the

number of pupils expected and allowed on each size bus.

Given this data and a suitable program to process the data, a computer could develop the most efficient routes to be used. It could first schedule the available vehicles and then could simulate the use of vehicles of other sizes. It would be able to produce a set of routes using existing vehicles and, using a formula similar to the one presently in use in Maryland, could compute the cost. The routing could be done at any time the pupil home location is available. Once the pupil data is collected and made machine readable, it is usually possible for the machine to simulate future year projections. It is also possible to accurately and rapidly make changes when a new school is opened or an old school is closed.

Observations of school systems that are utilizing computerized routing have shown that it can be successful. Like any other computerized operation, it is essential that all of the data input into the machine be accurate. It is also essential that one not expect a machine to solve all of the problems inherent to a pupil transportation system. It can take data which is supplied to it and manipulate that data in many ways.

To use this method to compute budget estimates and, thus, reimbursement of the estimated amount would require addition of those costs other than vehicle operating expenses. As these costs presently average 15 percent of the overall costs, they could be estimated. As most of these costs are somewhat static in nature, it would be possible to project them.

This method has many concomitant values for any school system. Among them would be the ability to produce and project data of pupil density and racial makeup for school plant planning, school district lines, and racial balance. There would be automated printing of school lists, school class lists, bus rosters, sibling listings, bus assignments, routes and schedules, which would allow very accurate information for new school registrants.

The routes would be offered to the local school system and the amount of money to operate them would be guaranteed. Should a local system wish to change some of the parameters, they would be permitted to do so but could not expect

additional funds from the State to do so. This would provide the minimum amount of money necessary to operate the program and would separate the concept of funding and the control of the school system. The State would fund the minimum program and local governmental agencies could provide whatever additional service they wish and are willing to fund.

The Task Force then recommended that the State of Maryland conduct computer routing studies in each of the local school systems of the State and that the State be responsible for the funding of these studies. The actual computer routing would be funded in any instance where the study indicated such a program would be cost effective and feasible.

IV. Alternative Methods of Funding

Looking at possible methods to allocate State funds to local units, it is possible to find numerous methods which are in use today. Most of the differences in these methods relate directly to the objective which one wishes to attain. First, does the State wish to pay the total cost, the minimum cost, or only a portion of the cost. Secondly, is it desirable to relate the amount paid to the ability of the local school system to pay, the number of pupils enrolled, the number of pupils transported, or the actual cost to provide that service. Entwined in these considerations is the amount of local or State autonomy which is associated with each method and the difficulty of administration. A more recent concern is whether or not a particular method is free from administrative discretion. This latter concern developed as the result of the Attorney General's ruling that State funding for the existing program of pupil transportation is not required by statute.

After receiving the Attorney General's ruling to the contrary, it was the feeling of the group that the necessary costs of pupil transportation are or should be the responsibility of the State. It was necessary, therefore, to find a formula or method which paid the total necessary costs. The amount of money provided should be related to actual transportation costs. Several possible methods were presented.

Delegate J. Hugh Nichols presented data from the State of Florida which uses a density factor to allocate State funds for this purpose. That formula uses two factors to determine density—the number of adjusted miles and the number of approved passengers. The adjusted mileage is the total mileage with children on board in the trip to school in the morning, plus one-half of the miles without children on board. The mileage for trips of one and one-half miles or less which deviate from the main route is then subtracted from this amount. The approved number of passengers is the number who actually ride one trip or more during a given week. By dividing this number of pupils by the number of adjusted miles, a density factor is developed. This density factor is then placed into a formula to determine eligibility. The other numbers in the formula have no meaning and are artificial constants used to arrive at a predetermined sum, which was the amount accepted as actual cost for each local school system when the formula was developed. In 1974 the State of Florida paid 56 percent of the eligible amount to each local school system, and in 1975 it paid 83 percent.

Mr. Robert A. Stagner, Specialist in State Aid, was requested to develop a possible formula using a hypothetical factor based on number of pupils transported. That formula used the actual expenditures per pupil transported in Fiscal 1974 and adjusted the factor upward to reflect the inflationary trend of the economy.

Mr. George E. Baker, Supervisor of Transportation for Montgomery County, presented a similar proposal. In Mr. Baker's formula, the cost of transporting handicapped children was excluded with the understanding that some other method would have to be developed to ascertain those costs. This method would use the approved cost of transporting pupils by each local school system, divided by the number of pupils reported to be transported that year. This would become the base per pupil cost for that school system. Each year that per pupil cost would be multiplied by the Consumer Price Index for Transportation as of July 1 of the previous year. This adjusted per pupil cost would be multiplied by the actual number of pupils transported. It would be necessary to develop an acceptable method to project and/or report the actual number of pupils transported.

Mr. Ronald Meyers, Specialist in Research, and Mr. Samuel Dixon, Specialist in Transportation, were asked to submit formulas to be used for the allocations of State funds for pupil transportation. Both used a simplified version of the existing formula and then produced a joint formula. The combined version would make aid allocations predictable, would allow for annual review and adjustments of costs as economic conditions change, would maintain the concept of full funding, and would reduce reporting requirements.

The simplified formula would maintain the three main categories which relate directly to pupil transportation costs and would reduce the present 68 factors to 11.

The large number of factors presently used to compute the per vehicle allowances would be reduced to five. There would be one for each of five bus sizes—66 passenger and larger, 60 to 65 passenger, 30 to 59 passenger, 13 to 29 passenger, and 12 passenger or less. The fixed amount for each size range would be determined by computing the average cost for that size bus each year as shown by actual accepted bids to local school systems and averaging that cost with the average of each of the nine preceding years. The average bid cost would then be multiplied by .195. Existing amounts would be averaged until these bid prices are formally collected. These factors would be multiplied by the approved number of each size vehicle for each local school system.

The driver's salary would be determined by the previous year's salary for a Maryland State employee at Grade 7, Step 3. This salary multiplied by the actual hours the previous year adjusted for changes would provide the amount for driver's salary to which would be added 12 percent for additional benefits paid by the employer.

A third factor based on actual route mileage would be determined by dividing the average commercial user bulk tank price for gasoline as of September 1 of the previous year by the average miles per gallon for school buses of this size as certified by the State Superintendent of Schools. The cost of gasoline per mile would be multiplied by 2.5 to get the approved maintenance and operation costs. A sum equal to 12 percent of the three above costs would be added to cover administration,

Although there was general consensus of the members on each of the recommendations, Delegate J. Hugh Nichols asked that his overall views be expressed. These appear as Appendix G. Delegate Nichols does, however, concur with the recommendations of this Task Force.

V. Possible Ways to Save Money and Control State Expenditures

Very much aware of the need to spend wisely each dollar of State money which is expended, the Task Force searched diligently for methods to save money. They weighed carefully the probable results of any changes. The safety of children was given primary attention in the deliberations.

Assuming that the enrollment, school configurations, or other factors remain the same, the recommendations which follow would remove \$2,259,000 from the annual cost of pupil transportation without adversely affecting the program of education. The discussion which follows is broken into the general area when the Task Force found it possible to recommend changes to reduce costs. These areas include: increased requirements in walking distance, differentiated school opening times, coordinated scheduling of certain programs, self-insurance, and physical examination of school bus drivers by the Department of Health and Mental Hygiene.

Walking Conditions

Pupil transportation began in America as a result of compulsory attendance laws and the consolidation of schools. Public opinion and court action led to the premise that, if you require a child to attend school, you cannot expect him to travel an unreasonable distance to get there. One of the first responses was to excuse from the law those children who resided a specified distance from a school. The other, and more natural response, was to provide transportation at public expense for those children who lived more than that reasonable distance from the school. Compulsory attendance laws did not appear to cause any demand for publicly funded pupil transportation in Maryland until the consolidation of schools began. It is interesting to note that the first law appears to have been written to correct a concern about the legality

of spending public money for pupil transportation.²

Many states included a distance limit in the legislation; thus, participating in the cost of only those pupils who lived a prescribed distance from school. These distances range from one to three miles with the average being two miles. In some of these states there is generally no provision whereby transportation may be funded under any condition other than to make an exception for handicapped children.

Maryland's legislation began as a permissive law and has never specified a minimum mileage limitation. Prior to 1965, there was only a vague, unwritten understanding that one mile for elementary school pupils and one and one-half miles for high school pupils was a normal walking distance. Most of the school systems gave tacit approval to the principle and made exceptions when they felt the need to do so. Some of the local boards of education had adopted policies requiring walking distances at or greater than the verbal State limits.

In 1965, the State Department of Education developed, printed, and disseminated a policy which made the transportation of pupils, who reside less than a mile, ineligible for State reimbursement unless there was a hazardous condition. The local school system was to determine when a hazard existed.

The number of pupils for whom this exception was granted grew, and boards of education which had adopted greater limits began to relax their requirements and lower the limits to the State limit. As the budgetary implications of this increased, the State Department of Education and the State Board of Education began to develop procedures which would place reasonable restraints upon this increased cost.

Local school systems and parents of children who would lose the riding privilege objected strenuously, citing safety and hardship as the justification of their objection. In 1971, the objections reached the State Legislature where the House of Delegates passed a resolution³ calling for a retention of the status quo. As the Legislature made no

²Annotated Code of Maryland, Article 77, Section 61, 1967 Edition.

³House Joint Resolution No. 53, General Assembly of the State Legislature, Annapolis, 1973.

additional funds available, the status quo could only be interpreted to mean no change in the number of pupils residing less than one mile from school for whom State funding was provided. The proposal of the Maryland State Department of Education to increase that distance for high school pupils to one and one-half miles was held in abeyance, and necessary funds to transport them were included in budget estimates. In the budget for Fiscal 1976, these funds were not approved, and the walking distance for high school pupils was increased to one and one-half miles in the policies.

Maryland State Department of Education auditors and Maryland State legislative auditors have found excessive use of State funds to pay for the exceptions and have recommended State approval of the hazards. Since 1971, the State Department of Education has attempted to develop an approval procedure, but there has not been sufficient manpower to conduct the necessary observations and evaluations statewide. Attempts have been made to have other qualified State personnel assist with the evaluation, but they have been unsuccessful.

The auditors have also recommended that the local government designate the hazardous condition and fund the transportation of those affected.

In response to a request to submit recommendations to the State Board of Education, the staff of the Maryland State Department of Education recommended a procedure which would both lower and make more uniform the age at which the walking distance would be increased from one mile to one and one-half miles. This recommendation would have required pupils from the beginning of middle school or the beginning of junior high school to walk one and one-half miles. It was at this point that the State Board moved to appoint this Task Force. At the same time, they requested additional data relative to increasing the walking distance to two miles.

When that data was presented, it showed savings that were not as great as were produced by increasing the distance from one mile to one and one-half miles. In rural areas, the population is often sparse at that distance from school; and in densely populated urban areas, that distance often brings one to another school attendance area. There were also many places where a two mile distance reaches a

river or some other unpopulated area. The projected savings was \$375,000 for the State.

At the present time, the Maryland State Police and the Maryland Department of Transportation are cooperating with the Pedestrian Safety Unit and the Transportation Unit of the State Department of Education to evaluate all hazardous conditions requested by the local school systems. A part of that evaluation would determine the most cost effective means to remove the hazardous condition. If the hazard can be corrected at a reasonable expense, State funding would only continue for an adequate time for the hazard to be removed.

Research confirms the contention that children on a bus are relatively safe. However, when one compares the dangers involved while walking directly from home to school with those encountered while walking from home to a bus stop, waiting for the bus and boarding the bus, there is evidence to indicate that walking a mile directly to school is safer. The danger is generally compounded by children arriving at the bus stop too early and playing near or on the roadway until the bus arrives.

A third positive effect of longer walking distances is the saving of valuable fuel and the lessening of exhaust pollution.

After a deliberation of the positive and negative aspects of specified walking limits, the Task Force recommended:

1. That eligibility for State funding be based on one mile for elementary and middle school pupils, and one and one-half miles for junior high school and senior high school pupils. Exceptions for hazardous walking conditions would be granted when so judged by a committee representing a cross section of those affected. In administering such a requirement, the present practice of defining school ages should be used. Therefore, any child enrolled in a school where there were only children in grades seven or above would be classified as junior or senior high school students and would be excluded

from State funding for transportation if they reside one and one-half miles or less from school. Any child enrolled in a school where children in grade six or less were enrolled would be eligible for State funds for school transportation if his residence is one mile or more from the school.

2. That, where it is cost effective to correct the hazard, State funding would continue a reasonable time to allow for correction. When judged by the committee named above that it was not cost effective to correct the hazard, State funding of transportation of the pupils involved would continue and the hazard would be evaluated only once each five years. One situation discussed by the Task Force was the correction of conditions where it is hazardous for children to walk to school. In many cases, it was reported that the cost to correct the hazard was less than the cost of transporting pupils. It was recommended that when the surveys reveal that the correction of the condition would cost no more than the transportation of the children projected over the next five years, the State should make available the funds through the State Highway Administration or school construction bonds, whichever is applicable.
3. That transportation costs and hazardous conditions be included in the criteria used by the State to approve school sites.

Staggered School Openings

One proven technique used to lower the overall cost of pupil transportation is using a differentiated opening and closing time for the various schools in a system. This procedure is more commonly called *staggered starting times*. Its use allows

one bus to make several trips each day and still be on time at each school. Several of the local school systems have used this system in Maryland, and it has proved to be less expensive.

There are several reasons why this system has been less expensive. It would decrease the number of buses needed. This involves both the capital investment and the maintenance and operation costs. Having less buses should also somewhat decrease the driver's hours both through shortening the time expended for bus preparation each day and the amount of time paid due to minimum hour payments. The State policies presently require the payment for a minimum of three hours per day. Bus contractors and drivers do not object to the scheduling of the full three hours.

Staggered opening times offer a greater potential for savings in densely populated areas where a complete bus load of children can board the bus near their home and get to school in a short time. The length of the trip determines the amount of time between school openings, and in these areas an ideal stagger will have schools opening at a great number of different times. In more sparsely populated areas, the stagger may simply be one time for secondary schools and another for elementary schools. The time between the two openings is much greater.

The use of a one and one-half hour differentiated opening time should not be construed to mean that all systems would be required to schedule their school opening times to this extent. First, there are probably some local school systems where it is not necessary to vary the opening times this much to achieve maximum efficiency. Secondly, there may be local school systems which decide that they do not choose to vary the times that much even if it is more efficient. In these cases, the State would pay the calculated cost using the maximum usable differentiated opening time up to one and one-half hours, and the local government would pay the remaining cost.

The policies require that opening times should be staggered as much as two hours when costs could be reduced. Actual practice showed that two school systems utilized approximately that length of stagger, and the remaining school systems less than two hours with several opening all schools at the same time.

Aside from the saving of money, there are several additional values to the stagger method. It places children of similar ages, who are assigned to one school, on the bus together. Experience has shown an improvement in the conduct of pupils when this type of separation occurs. Should there be discipline problems, only one school is involved in solving these problems.

There is also a reduction in the number of vehicles on the roads at any given time. School buses are a factor in traffic congestion and motor vehicle pollution. By proper scheduling, the amount of waiting time at school in the morning and afternoon can be decreased. Most schools are able to utilize the added daylight hours after school closes for athletic contests and other student activities without shortening instruction time.

Perhaps the greatest concern is the early hours for those who go to school on the first shift. This concern was most evident when daylight savings time caused pupils to be picked up by buses before daybreak. Although there is no evidence to indicate any increased incidence of accident or injury to pupils in Maryland at that time, parental concern is still a factor. Most people just do not like to leave home in the dark or have their children do so. Some express concern for children leaving home at different times, especially in situations where both parents are working.

After discussing the issue, the Task Force compromised by recommending a limit which would avoid the real darkness in the morning. It concluded that each school system should be reimbursed for the most economical and efficient school bus routing using a school opening time differential of as much as one and one-half hours.

Coordinated Scheduling of Kindergarten and Similar Programs

The scheduling of kindergarten, head start, and other programs which do not conform to the normal to-and-from school schedule at the beginning and ending of the school day is an idea whereby costs could be controlled without adversely affecting the educational program.

Presently, pupil transportation of kindergarten and preschool programs is approved for State funding. The inclusion of kindergarten transportation costs in

1970 added a sizeable amount to the transportation costs borne by the State. This cost greatly exceeds the cost which could be projected by multiplying normal per pupil costs by the number of kindergarten pupils. Aside from the practice of counting only one-half of the kindergarten pupils based upon their one-half day attendance, one must take into consideration the added cost when buses must be placed in service at midday to transport only kindergarten enrollment—one-half from home to school and one-half from school to home.

There is some serious consideration for the need for a full-day kindergarten program. Experience with full-day kindergarten in Garrett County and full-day programs for prekindergarten-age children in Washington, D. C., and several Maryland counties has shown that these children can operate in a learning process during a regular school day.

There is some evidence to indicate that programs could be adjusted throughout the State in such a manner that transportation costs could be reduced. This, however, would need to be weighed against the possible need for employment of staff to take care of pupils on a full-day schedule.

It is recommended that the State study the steps which it could take to improve the scheduling of kindergarten and other similar programs to evaluate possible savings of transportation costs and that local school systems be encouraged to do likewise.

180 Day School Year

In the search to find ways to reduce the cost of pupil transportation, a discussion developed concerning eliminating those costs which were associated with providing an educational program which was in excess of the standard or foundation program. One item considered was the length of the school year.

Since 180 days is the required number of days, it is logical to assume that, when children attend school more days, the program is in excess of State minimums. In actual practice, the number of approved days of transportation service is now determined by the number of days in the school calendar. Under certain conditions,

reimbursement is approved for days when there is no program of education. Most of the concern centers around payment of costs when buses or bus drivers may have performed some part of their duties on a day when school is cancelled due to inclement weather.

The Task Force recommended that beginning with Fiscal Year 1977, reimbursement be based upon 180 days. A school system which chooses to operate more than 180 days could do so with transportation at local expense.

School Bus Insurance

Certain liabilities are assumed by the local school systems for pupil transportation. There is also a need to meet moral obligations to see that all pupils are afforded adequate medical treatment irrespective of liability and/or ability to pay for that treatment. To guarantee adequate provision for these needs, the State policies require as a condition of eligibility for reimbursement that each vehicle used to transport pupils have adequate insurance coverages. It further stipulates that the insurance be provided by a blanket policy in the name of the local school system. This insurance should either be provided by competitive bidding or by an approved system of self insurance.

The State policies specify that minimum insurance in the following amounts will be judged to be adequate:

Bodily Injury Liability Each Accident	\$1,000,000
Bodily Injury Liability Each Person	500,000
Property Damage Liability Each Accident	50,000
Personal Injury Protection Each Person	2,500

In 1974, the cost per vehicle ranged from a low of \$35.71 per vehicle to a high of \$424.09 per vehicle. The total reimbursed cost for that year was \$581,031.13. These wide variations in costs have caused the State Department of Education to study alternate methods of securing this protection.

In its study, the State could identify differences in prices for publicly owned vehicles as opposed to contract operation. Insurance underwriters have reported that it is their practice, based upon experience, to allow a percentage discount for government fleets. The State Department of Education staff has recommended to the State Board of Education that the State provide the insurance by self insurance administered by an insurance company or insurance provided by a single bid to cover this liability.

Such a program would provide equal coverage statewide and would possibly result in some financial savings. It would take from the local school system some of the local control and would transfer to the State some of the responsibilities for additional State staff time.

The Task Force recommended that such a study be continued and that the study be expedited by the State Department of Education.

Annual Physical Examination of School Bus Drivers

Prior to 1973, the cost of the annual school bus driver physical was funded by the State but included under the Division of Administration and Finance, State Department of Education Headquarters Budget. The examination has been required for at least the last 25 years and has always been conducted under the supervision of a licensed physician. Although it has often been confused with the physical examination required of all local board of education employees, it differs both in the thoroughness of the required physical and the purpose for which it is required.

Generally speaking, the purpose of the periodic physical examination of all local board of education employees is to prevent the spread of disease to children who have direct contact with them. This purpose is applicable to school bus drivers, but they must also be examined to determine if there is any recognizable illness or physical impairment which might render them incapable of operating a school bus safely.

The present Department of Education policy requires that the examination be conducted annually by a medical doctor approved by the local school system. The

State approved repayment of fees of ten dollars or less. There is a general response from many of the local school systems that the funding is not adequate though there is compliance with the requirement.

Throughout the State, there is a wide variety of ways which physicians are selected and a variety in the amount of assistance which is provided by the State Department of Health and Mental Hygiene. In one school system, the local health department conducts the entire examination and submits the required report. The service provided is considered excellent, and the school system is assured of an unbiased and uniform examination. The local school system is able to assist in the scheduling and provides these examinations at the most appropriate time. The present annual cost is approximately \$60,000.

Concerns have been raised by the Medical and Chirurgical Faculty of the State of Maryland that the fee is inadequate and that all examinations should be conducted by the person's family physician.

After a thorough discussion, it was recommended that the State Department of Health and Mental Hygiene, through the local health department, assume the responsibility for conducting the annual physical examinations of all public school bus drivers.

VI. Transportation for Handicapped Pupils

The education of handicapped persons has recently been granted the attention it justly deserves. Educators, legislators, and the judiciary have each shared a part in giving leadership, legislation, and legal authority to meet this need. The task of assessing the needs of the handicapped and developing the program to meet those needs is under way. Getting these pupils to and from school poses a problem which requires the utmost cooperation of those who can project where the appropriate program will be as well as assisting in the development of the best method to transport them.

In many cases, the transportation program for regular pupils will not be adequate. The experience to date indicates that in many cases it will be expensive. Reaching a place of importance at the exact time that every effort is being made to reduce costs poses a serious dilemma. Realizing the immensity of the problem, the

Task Force agreed to complete its charge and then to accept a second charge of studying the transportation needs of handicapped children and recommending some appropriate action. Prior to that decision, it had considered the effects of the Raine Decree and had made several recommendations.

Raine Decree

A suit brought by the Maryland Association for Retarded Children against the State of Maryland and several other agencies responsible for the education of children ended in May 1974 with a decree from Judge John Raine, Jr.

Briefly summarized, it declared that the State of Maryland must provide a free education program for all persons between age five and twenty including handicapped and, particularly, mentally retarded children regardless of the severity of the retardation. He further stated in the decree that local school systems must determine that the program provided is appropriate, must provide the facilities and service necessary, and must arrange for daily transportation. If weekly transportation is provided to the Maryland School for the Blind and the Maryland School for the Deaf, it must be provided for children at Rosewood, Great Oaks, and any other facility of the Mental Retardation Administration. He further stipulated that this transportation be provided under Section 99, Article 77, of the Annotated Code of Maryland. As transportation provided under Section 99 has been determined to require State funding, it is logical to assume that this transportation will require State funding.

Judge Raine also specified that, for the education of children in State institutions, the State must insure that an appropriate educational program is offered.

There are several implications for pupil transportation. First, the arrangement whereby one school system has been reimbursed for the cost of transporting the children of other school systems has required the State Department of Education to become more concerned with the administration of the program. In doing so, the Department has considered this as a contract with one school system and has guaranteed to pay the total approved cost. The addition of Rosewood, Great Oaks, and any State institution could greatly expand that responsibility. This could lead to increased

administrative costs at the State Department of Education level as well as increased costs to be repaid to the various school systems providing the service. Secondly, the connotation that children in day care centers will be placed under the local school systems will change the funding for pupil transportation from the State Department of Health and Mental Hygiene to the State Department of Education.

Since many of these children are not able to use the standard transportation now being provided, it will be necessary to learn of the specific needs, develop equipment, formulate procedures, and train personnel to conduct the transportation service. It will also be necessary to determine the type and amount of service which is necessary in order to specify what will be provided through State funding.

Many persons and agencies have been working to comply with the deadline of September 1975 set forth in the decree, and the funding for those children in day care centers is a specific and immediate concern.

The Task Force recommended that a letter be sent to the State Executive Department asking that the necessary funds be made available. A copy of that letter is included as Appendix H.

VII. Other Considerations and Recommendations

Task Force to Study Pupil Transportation in Baltimore City

The Task Force discussed pupil transportation in Baltimore City. After some study, it was evident that some parts of the program are unique, particularly that service supplied by the Mass Transit Administration. Recognizing that difference and the size of the undertaking, it was recommended that the State Board of Education and the Board of School Commissioners of Baltimore City jointly appoint a task force to address this problem.

Driver's Salary Rate for Training

The present policies provide for paying with State funds a minimum of two dollars per hour for time spent by school bus drivers at inservice training meetings. The intent of the provision was to pay for expenses of getting to and from these

meetings, but the policy did not specify how the money was to be paid.

After it was reported that many participants—both drivers and local school personnel—interpreted the payment to be wages, it was felt that such a procedure circumvented the minimum wage laws and was not acceptable by personnel who enforce the Social Security laws.

It was recommended that school bus drivers be paid their regular approved wage for time spent in safety meetings and inservice training.

Examples of Daily Driving Time

Having experienced some difficulty in securing uniform interpretation of the approved method of computing driving time, a series of examples were proposed for the policies under study by the Task Force.

When it was found that the examples were not able to dispel all of the uncertainties and, because of the concern that such material was out of place in policy documents, it was recommended that these examples be deleted.

Supervision and Administration

Prior to 1959, only eight school systems employed a specific person to administer and supervise their pupil transportation operation. These were primarily the school systems in the urban areas around Washington and Baltimore which maintained publicly owned vehicles. There was a wide disparity in the background and training of these individuals, and they often had assignments giving them responsibility for other areas of school operation. In the remaining school systems, the administration and supervision was often a minor responsibility of a staff member, or the duties were assumed by the school superintendent. There were very few formal education programs to prepare a person for the job.

Unfortunately, it took a very serious train accident to focus the attention of the people and the officials of the State on the need for a person to supervise the pupil transportation operation. A special investigative panel recommended among other things that increased and adequate supervision and administration be provided.

In answer to that request, the State Board of Education adopted a bylaw designating that there be a State Supervisor of Pupil Transportation and a supervisor in each of the 24 local school systems. That bylaw further set forth the certification requirements for the positions and provided that the salary of these local supervisors should be considered an approved cost and reimbursable by the State.

Mr. Morris W. Rannels was appointed by the State Board of Education as the State Supervisor of Transportation. Mr. Rannels had previously served as the Supervisor of Transportation in Anne Arundel County and as Superintendent of Schools in Cecil County.

There were not a sufficient number of acceptable applicants to fill the local supervisory positions, and one of the first tasks of the State Supervisor was to organize the appropriate academic program. That program was conducted by the University of Maryland with two of the outstanding leaders in pupil transportation serving as instructors. Since that time, programs have been developed in most of the Maryland State-supported colleges and in many private colleges and universities.

The original State Department of Education bylaw included assistant supervisors, and they were funded at the ratio of one supervisor or assistant for each 100 buses operated.

The State Committee to Study Reimbursement recommended in 1964 that the ratio be changed to include one supervisor for each local unit and an assistant when the number of pupils transported reached 7,000. When that number reached 14,000, and for every 10,000 pupils transported thereafter, an additional assistant would be approved. Secretarial help would also be approved at a ratio of one-half person for the first 7,000 pupils transported, one full person for 7,000 to 14,000 pupils transported, and one-half additional for each 10,000 thereafter. In 1965 when the recommendation was adopted, the ratio was appropriate.

In the interim from 1965 to 1975, there have been many changes which have added to the duties and responsibilities of pupil transportation personnel, and staffing is no longer adequate. Among the changes which have increased responsibility is the enactment in 1967 of Section 99, Article 77, Annotated Code of Maryland, which has added the responsibility of transporting many handicapped children to public

and private schools. This transportation is not routine. The schools are often not associated with the school system; and supervisors find themselves checking air and train fares, providing buses on Friday nights and Sundays, and devising means to transport handicapped children. The standard means of transportation of children is inappropriate.

The development of vocational-technical centers, planetariums, outdoor education programs, and other similar additions brought about the need to move pupils from one location to another, often miles apart, during the school day. These schedules are far more fluid and require more changes. Not only was the routing and scheduling an addition; but midday time, which could be used for administrative duties, now required some supervision of moving vehicles.

The addition of State auditors has been helpful, but it has added to the duties of local supervisory personnel in keeping the many records required by auditors. A final time consideration is the general awareness of the public domain and, particularly, the increased emphasis on negotiations. The real and quasi negotiations of those who provide the total education program have added generally to the responsibilities of administrators and supervisors.

In 1974, a new category of personnel was approved. School bus driver trainers were added and are now being trained by the State to fill this responsible position.

Another concern was the level of financial participation of the State. The State's contribution toward the salary of the supervisor has not changed since 1959. The State approved for Fiscal 1974 only 53 percent of the salaries paid to local supervisors, assistants, and secretarial and clerical persons.

The certification requirements for supervisors and assistants were discussed and the general consensus was that the requirements for the supervisor are appropriate and those for the assistant are appropriate if the position is considered as preparation for becoming a supervisor. There were some members who felt that a diversity of assistance skills were needed in a larger system, and perhaps some deviation from the academic requirements should be considered.

It was recommended that the policy relating to approved staff be studied by the Maryland State Department of Education with specific emphasis on the ratio and type of personnel needed, the appropriateness of compensation levels, and a review of the certification requirements of assistants with consideration given to accepting certain experiences in lieu of academic achievement.

VIII. Summary and Recommendations

In carrying out its charge, the Task Force identified four major areas of concern. All of these areas relate to cost. Although the existing system has served the pupils and the schools well and has attained a coveted record of safety and service, changes in society, changes in the process of education, and problems and uncertainties in methods of meeting the greatly increasing costs led the Task Force to conclude that there must be changes or clarification in these four major areas.

The first area is the responsibility for funding. Historically, the cost of pupil transportation has been paid by the State as a part of the equalization program or through a program which has been uniformly accepted as a mandated program. The ruling of the Attorney General disputes that interpretation. The Task Force still maintains that the responsibility for funding the cost of an approved minimum program of pupil transportation should rest with the State, and the local school system should support any expenditure for programs in excess of that minimum. The local school systems and the State Department of Education should work cooperatively to reduce the present deficit. If a major effort cannot eradicate the deficit, the Governor and the Legislature should provide the necessary funds to do so.

Secondly, the Task Force found a need for a system to be developed by the State Department of Education and the Department of Budget and Fiscal Planning which would more accurately predict the cost of the transportation program. The problem has been present for the past five years and has become more acute with recent rapid changes in the financial situation. A program should be developed which will provide accurate estimates in time for State budget preparation and presentation. Likewise, each local school system should have accurate and firm projections of the amount of financial assistance they can expect to receive from the Maryland State Department of Education in time for their budget preparation and presentation.

The third area of concern was the need to reduce and control the overall cost of the program. Well aware of the fact that reducing costs often reduces service, the Task Force, through many recommendations, asserted its belief that there must be

realistic limits placed in order to keep the costs within reasonable bounds.

The fourth area of concern dealt with the need to better understand the requirements for transporting handicapped pupils. The complexity of the problem and the fact that another Task Force was addressing the problem of providing an adequate program of education for handicapped children led to the decision to continue the work of this Task Force so that it could more adequately address the problem. There are, however, preliminary recommendations included in this report.

The Task Force carefully studied the *Policies Which Govern Approval of Pupil Transportation Costs for Inclusion in the Minimum Program* and *Standard Rules and Regulations Governing Pupil Transportation for the State of Maryland*. The Task Force made recommendations which would amend them and then found them to be adequate to serve the purpose for which they were developed. It was recommended that the rules and regulations be revised and updated as long as the recommendations are not in conflict with the Motor Vehicle Administration requirements.

Recommendations

- A. Responsibility for Funding. Funding pupil transportation is a complicated procedure which affects the overall operation. Cognizant of these effects, the Task Force enumerates six desired outcomes of any change in the reimbursement procedure. These objectives are listed in the order of their importance. (a) Safety of Children. The Task Force felt strongly that no action should be taken which would adversely affect the safety of children and placed this item in the prime position. (b) Full State Funding of Approved Costs. Believing that the system should continue as it has in the past, it is recommended that this continue. (c) Cost Reduction and Economic Use of Funds. Recognizing that inflation has caused a strain by rapidly increasing pupil transportation costs while making it more important to reduce State expenditures, the economic use of funds and the search for means to reduce costs were placed in the third position. (d) Budget Predictability. Having budget estimates which are accurate and in time for necessary action by the State and the local school systems to make the

necessary provisions to secure the necessary funds is an important item. It is hoped that a system of allocations could be so accurate that it would provide the necessary costs without major adjustments during any fiscal year. (e) Local Control. Believing in the importance of the local control of education, the Task Force recognized the need to place emphasis on this item in any consideration. (f) Simplified Reporting. Aware of the burden which reporting procedures can create, the Task Force felt that any procedure should be structured to create the need for a minimum number of reports and that they be in as simplified a form as is possible.

1. **Computerized Routing.** The prime recommendation of the Task Force in the area of funding is that an electronic data processing system be used to determine the most efficient routes and schedules for the buses in each local school system. It is recommended that the Maryland State Department of Education begin immediately to develop a set of criteria which would be applicable for computerized routing of public school buses. It is further recommended that the Maryland State Department of Education begin as soon as possible to develop a method to secure the data processing program necessary to determine pupil transportation funding and to conduct feasibility studies in each of the local school systems. A portion of the feasibility should be the probable cost effectiveness of such a program. The cost of the computerized program is to be paid by the State. The estimated cost to develop the program and implement it into all of the public schools in the State is \$2,000,000. The savings each year are estimated to be \$1,200,000 plus a portion of the \$800,000 projected for staggered openings. The full savings from staggered openings will probably not be possible until routes are computerized. There are other potential values of this data for other educational uses not necessarily associated with pupil transportation.
2. **Immediate and Full Funding.** It is further recommended that the Department of Budget and Fiscal Planning and the Maryland Legislature provide sufficient money to operate the program and to assist, if necessary, by providing any

budgetary deficiency which cannot be eradicated by diligent effort during Fiscal 1976.

3. Interim Method of Funding. Beginning Fiscal 1977, the projected cost would be funded by the State using a simplified formula as discussed below.
- B. More Accurate Method of Projecting Costs. The method of determining the most accurate estimates or actual expenditures received much consideration by the Task Force as they attempted to select a method which would allow the State and the local school systems to budget the appropriate funds. It was agreed that the recommendation above concerning the use of computerized routing and scheduling would ultimately be able to do this most accurately. As an intermediate step, it recommended that for the next three years a State financing program be used which reimburses each school system a sum calculated by using a simplified formula. That formula provides a fixed amount for each approved bus in five category sizes, adjusts the driver's salary to that of a Maryland State employee at Grade 7, Step 3, on the previous year's salary scale, and pays a per mile amount based upon the bulk price of gasoline and the average miles per gallon for each size vehicle. As gasoline accounts for approximately 40 percent of maintenance and operation costs, the cost per mile as computed above would be multiplied by 2.5. The driver's hours and miles operated the previous year, adjusted for changes, would be used to derive an allocation amount for each local school system. A proposed bill to add this method to the Maryland Code appears as Appendix I.
- C. Reduction and/or Control of Costs. By far, the major portion of the recommendations of the Task Force were directed at the control of expenditures as manifested in the policies.
1. One and One-Half Hour Stagger. In order to receive maximum utilization from each bus, it is recommended that local school systems open schools each day at a time prescribed by the most efficient routing of buses. To the extent that cost savings can be effected, the difference between the first opening

and the last opening time is to be as much as one and one-half hours. As a corollary, it is recommended that those school systems now being required to maintain a two-hour differential be absolved of that requirement. The potential annual savings for this item is \$800,000.

2. One and One-Half Mile Walking Distance. In order to reduce the number of persons transported at State expense, it is recommended, to be eligible for State funding, that a pupil in junior high school as well as senior high school reside one and one-half miles of walking distance from the school he or she attends. The potential annual savings for this item is \$780,000.
3. Proper Site Selection. It is recommended that those responsible for approving the site of each new school—the local school system staff, the local board of education, and the Interagency Committee—make safe walking distance and nearness to the greatest possible percentage of the pupils who will attend that school an important criteria when selecting new school sites. Cooperation with highway departments to improve the walking conditions is included as a part of the recommendation.
4. 180 Day School Year. To be consistent with the minimum education program in the State, the maximum number of days of pupil transportation should be a uniform 180. The potential saving to the State would be \$619,500.
5. Kindergarten Schedule. Because transportation service, other than regular to and from school transportation, is disproportionately expensive, it is recommended that the State and each local school system evaluate carefully the transportation for kindergarten, head start, and other programs at other than normal hours to see if costs can be reduced. Since this change could add costs for instructional service and school facilities construction and operation, it is not possible to determine the savings, and no savings have been included in the totals. There is more than \$1,000,000 expended annually for noontime transportation. Efficient scheduling should save some of this amount.

6. Insurance. The cost of liability and personal injury protection varies greatly throughout the State. In order to be more uniform and to reduce the overall cost, it is recommended that the Maryland State Department of Education and the Maryland Department of General Services pursue the possibilities of self-insurance administered by an approved insurance company. The potential annual savings for this item is \$60,000.

7. Bus Driver Physical Examination. The physical examination of school bus drivers is an important and expensive activity to guarantee that all school bus drivers are free from contagious diseases and physical defects which impair their ability to drive. In order to conserve money and provide a more uniform examination, it is recommended that they be conducted by the Maryland Department of Health and Mental Hygiene. No savings of State funds is projected. The recommendation changes the agency and should provide improved physical examinations.

D. Economic and Adequate Program of Transportation for Handicapped Pupils. The transportation of handicapped children deserves careful consideration by this Task Force. Therefore, the Task Force will continue its deliberations in the area of transportation for handicapped children and will submit a second report at a later date. The following recommendations are made at this time:

1. Additional Funds for Raine Decree. Insufficient funds have been provided to carry out the decree of Judge Raine concerning the education of handicapped children. This Task Force recommends that a letter be sent to the Governor requesting his assistance in securing the necessary funds.
2. Most Cost-Effective Assignment of Pupils. In order to secure maximum value for money expended, it is recommended that transportation cost effectiveness be given careful consideration in the location of learning centers for handicapped pupils and the placement of children without interference with professional judgments regarding appropriate service delivery.

E. Other Recommendations. The Task Force made several recommendations concerning

the policies.. They were not related to the main emphasis of the deliberations but would improve the content and understanding of the policies.

1. **Transportation Study in Baltimore City.** Recognizing that some of the concerns of pupil transportation are unique, it is recommended that the Maryland State Board of Education and the Board of School Commissioners of Baltimore City cooperatively create a Task Force to study pupil transportation in Baltimore City.
2. **Hazardous Conditions.** In considering hazardous conditions, when it is determined that it would not be cost effective to correct the hazard and State approval is granted, it is recommended that future evaluation of this condition be done once each five years.
3. **Regular Wage for Driver Training Program.** It has been ruled that employees be paid their regular wage for the entire time at work. Therefore, it is recommended that drivers be paid their regular hourly rate for the entire period they are engaged in a regular driver training program.
4. **Supervisors and Assistant Supervisors.** The rate of reimbursement and the qualifications for supervisors of transportation and assistant supervisors of transportation should be studied to determine if the ratios should be changed to reflect additional time and work involved in new transportation activities.
5. **Administrative Experiences for Academic Requirements.** It is recommended that consideration be given to allowing appropriate administrative experiences be substituted for the academic degree requirements for assistant supervisors. No change was recommended in the certification of supervisors.
6. **Examples to Compute Driver Time.** The policies contain some examples of methods to compute driver time. As they are not effective or necessary, the Task Force recommends their deletion.



MARYLAND STATE DEPARTMENT OF EDUCATION
P.O. BOX 8717, BWI AIRPORT
BALTIMORE, MARYLAND 21240

June 27, 1975

The Honorable Francis B. Burch
Attorney General of Maryland
1 South Calvert Street
Baltimore, Maryland 21202

Dear Mr. Burch:

The State Board of Education has appointed a Task Force to conduct an in-dept study of pupil transportation in the State of Maryland. The major emphasis of this study is the review of two documents:

Policies Which Govern Approval of Pupil Transportation Costs For Inclusion In The Minimum Program; and

Standard Rules and Regulations Governing Pupil Transportation For the State of Maryland.

To proceed properly with this study, the members of the Task Force are desirous of obtaining from your Office, a legal opinion clarifying the statutory authority to support the abovementioned documents.

To the best of our knowledge, the appropriate sections of law are Sections 19 and 99 of Article 77 of the Annotated Code of Maryland.

Section 19 provides that, "The State Board of Education shall transmit to the Governor an annual State public school budget including . . . necessary costs of transporting pupils to public schools as approved by the State Superintendent of Schools."

Section 99 provides that ". . . these facilities and services shall include transportation during the regular school year for handicapped children properly enrolled . . . if the enrollment and transportation have been approved by the State Superintendent of Schools."

June 27, 1975

Page 2

We respectfully request that your Office render an opinion as to the following:

1. Is the transportation of pupils to public schools a mandatory program?
2. Is the State Superintendent of Schools the public official charged with the responsibility to determine the costs of pupil transportation?
3. Does the Executive, through the Department of Budget and Fiscal Planning, have the authority to revise the State Superintendent's determination of pupil transportation costs either upward or downward?

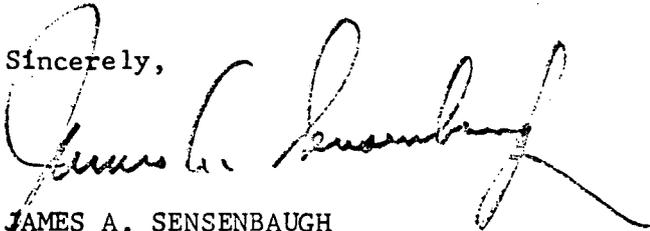
It is the position of the State Department of Education that pupil transportation is a mandatory program and that the State Superintendent has the sole responsibility under the statutory provisions, to determine transportation costs. However, since these questions have been raised during the past two budget cycles, we would appreciate the clarification of these issues.

The Task Force To Review The Public School Pupil Transportation Program has been directed to complete its final report by August 13, 1975, in order that the recommendations contained therein may be considered in the preparation of the Maryland State Department of Education, Fiscal 1977, budget.

Fully aware of the demands placed upon your Office, we would appreciate your expeditious response.

Kindest personal regards!

Sincerely,



JAMES A. SENSENBAUGH
State Superintendent of Schools

JAS:db

cc: Task Force Members



APPENDIX B

BUDGET-EDUCATION-PUPIL TRANSPORTATION
(ART. 77, §§ 19 & 99) IS NOT A
MANDATORY BUDGET ITEM UNDER ART. III,
SECTION 52 OF THE CONSTITUTION BECAUSE ITS
AMOUNT IS NOT FIXED BY STATUTE

THE ATTORNEY GENERAL

ONE SOUTH CALVERT STREET

14TH FLOOR

BALTIMORE, MARYLAND 21202

301-383-3737

August 21, 1975

Dr. James Sensenbaugh
State Superintendent of Schools
P. O. Box 8717
BWI Airport
Baltimore, Maryland 21240

Dear Dr. Sensenbaugh:

You have recently posed several inter-related legal questions pertaining to the State's involvement in the funding of public school transportation provided by or through the various local boards of education:

1. Is the transportation of pupils to public schools a "mandatory program"? In other words, does the Governor have the authority to alter the annual pupil transportation budget requests submitted to him for inclusion in the Budget Bill under Article III, Section 52, of the Constitution of Maryland, and does the General Assembly have the power to revise that item as included in the Governor's Budget Bill?*

2. Is the State Superintendent of Schools the public official charged with the responsibility to determine the costs of pupil transportation?

Article III, Section 52, of the Constitution, commonly known as the Budget Amendment, is the necessary point of beginning in dealing with your inquiries. The Budget Amendment sets forth the basic constitutional system for proposing and enacting the annual Budget Bills and other appropriation bills from year to year. Section 52(4) requires that each Budget Bill submitted by the Governor "shall embrace an estimate of all appropriations in such form and detail as the Governor shall determine or as may be prescribed by law as follows" Item (f) as set forth in the list of items to be included

*As the discussion below indicates, the use of the term mandatory is somewhat misleading since even mandatory items may be questioned and revised if their factual underpinnings are not supportable.

in the Budget requires the inclusion of appropriations "for the establishment and maintenance throughout the State of a thorough and efficient system of public schools in conformity with Article VIII of the Constitution and with the laws of the State." Section 52(11) empowers and directs the Governor, for the purpose of making up his Budget, to require the proper State officials to furnish to him "such itemized estimates and other information, in such form and at such times as he shall direct" and provides that the estimates for certain mandatory items, including "the public schools as provided by law, shall be submitted to the Governor, in such form and at such times as he shall direct, and shall be included in the Budget without revision." Section 52(12) empowers the Governor to hold public hearings on the estimates submitted and, thereafter, in his discretion to revise "all estimates except those for the legislative and judiciary departments, and for the public schools as provided by law." The authority of the General Assembly to modify the Budget Bill as submitted is spelled out in Section 52(6) which includes within its limitations a prohibition against the General Assembly amending the Budget Bill so as to affect the provisions made by the laws of the State for the establishment and maintenance of a system of public schools"

In essence, the answers to your questions turn on whether the public transportation of school children constitutes a provision "made by the laws of the State for the establishment and maintenance of a system of public schools" (to use the language of Section 52(6)), thus constituting what is known as a "mandatory" appropriation.

The response of the General Assembly to the command of Article VIII of the Constitution to establish a thorough and efficient system of free public schools is embodied in the various provisions of Article 77 of the Annotated Code of Maryland. Article 77 contains only three directly pertinent provisions dealing with the public transportation of school children, all of which are short and lacking in substantial detail. Section 19 of Article-77 (1975 Repl. Vol.) provides as follows:

"The State Board of Education shall transmit to the Governor an annual State public school budget including, subject to existing laws, the appropriation for the State Department of Education; State aid to the counties and Baltimore City for current expenses and for the construction of school buildings; and necessary costs of transporting pupils to public schools as approved by the State Superintendent of Schools. The said budget shall be certified to by the State Superintendent of Schools prior to transmittal to the Governor."

Section 99 of Article 77 provides that when local boards of education identify certain handicapped children in need of special education services and provide or arrange for appropriate educational facilities and services for them, those services

"... shall include transportation during the regular school year for handicapped children properly enrolled in any public school or school maintained by any State agency or in any nonpublic educational facility which nonpublic educational facility is approved as a special education facility by the State Department of Education; if the enrollment and transportation have been approved by the State Superintendent of Schools."

Section 99 then goes on to provide that if such public educational facility is located outside of the State or the political subdivision in which the child resides and if State aid is provided for that child's education, then the local subdivision shall "certify and pay the cost of his daily or other reasonable transportation ... during the regular school year, and the State shall reimburse the subdivision for providing this transportation from the general funds of the State."* Finally, Section 124(a) of Article 77 provides that, with one exception, all money appropriated in support of public schools shall constitute the General State School Fund; and Section 124(b), in describing the various appropriations which together comprise the General State School Fund, includes "the necessary costs of transporting pupils to public schools when such transportation is approved by the State Superintendent of Schools."

Taking your questions out of order, we turn to your second question and advise you that the State Superintendent of Schools is unquestionably the public official charged with the initial responsibility of determining the reimbursable costs of pupil transportation. Section 9 specifies that the portion of the annual State public school budget which consists of the necessary costs of transporting pupils to public schools shall have been approved by the State Superintendent of Schools prior to certification and transmission to the Governor. The transportation aid provided for by Section 99 is also conditioned upon approval of the enrollment (in a special educational facility) and transportation by the State Superintendent of Schools.

Your first inquiry can be rephrased as follows: Does the State Superintendent in essence have the final say as to the costs of pupil transportation which will be paid for or reimbursed by the State out of funds provided in the annual State public school budget?

*Reflects amendments made by Chapter 702 of the Laws of 1975.

At 36 Opinions of the Attorney General 109 (1951) we had occasion to consider the meaning of the constitutional provisions preventing either the Governor or the General Assembly from altering what have come to be known as mandatory public school budget items. In concluding that the mandatory expenditures for State aid to public libraries then required by Section 167 of Article 77 come within these constitutional provisions, we set forth certain underlying tests to be applied in dealing with the issue:

"It is conceivable that neither the Governor nor the General Assembly has the constitutional power to reduce any of these items [the items listed in Art. 77, § 23 - the predecessor of current § 19 - itemizing the component parts of the annual State public school budget]. We think, however, that the words 'the provisions made by the laws of the State for the establishment and maintenance of a public school system,' found in Section 52(6) of Article III of the Constitution, refer only to those 'provisions' in Article 77 which admit of no administrative discretion. Likewise we think that the words 'the estimates for the public schools, as provided by law' found in Section 52(11) mean only those estimates the amount of which is made mandatory by law. Such, we are told, has been the construction of these constitutional provisions at least since 1922.

"To hold that the Department of Education has uncontrolled power over all appropriations for the public school system would give that Department indirect control over the entire State budget. Yet the Governor and the General Assembly are by Section 52 of Article III of the Constitution charged with responsibility for the over-all fiscal program of the State."

In essence, under that opinion two conditions must be satisfied before an educational budget item will be treated as a mandatory public school appropriation: (1) it must have been determined by the General Assembly to relate to or provide for "the establishment and maintenance of a system of public schools"; and (2) it must be an item which has been made mandatory by law and which admits of no administrative discretion in determining the amount to be submitted as a budget estimate.

We should hasten to add that even otherwise "mandatory" public school items require a basis in ascertainable facts except in the unusual situation where the law specifies a fixed or minimum dollar amount. Almost any legislatively specified formula aid program, for example, necessarily requires the ascertainment of certain underlying facts before the formula can produce a dollar amount. To

use the example cited in our 1951 opinion, if aid is to be provided on the basis of "X" dollars per pupil enrolled, the number of pupils enrolled must be determined and that number may be the subject of some factual disagreement. In such cases, as was noted in this office's 1951 opinion, the facts upon which the estimates are based must be correct and, if their accuracy cannot be demonstrated, then the estimates based upon them may be revised. Such revisions, based on factual inaccuracies, may be made by the Governor either upward or downward prior to submission of the Budget Bill or by the General Assembly prior to passage of the Budget. In this sense, while these items are properly described as "mandatory" in that they must be included in the Budget Bill, nonetheless their factual support or basis is subject to objective scrutiny and analysis.

We have no difficulty in concluding that the provision of pupil transportation pursuant to Sections 19 and 99 of Article 77 satisfies the first condition. Obviously pupils cannot be educated unless reasonable arrangements are made to transport them to and from the schools when they are otherwise unable to reach the school building. The importance of pupil transportation in the overall system is reflected in the General Assembly's specific inclusion of this item in Section 19's listing of the components of the annual State public school budget. The transportation item was first included by Chapter 17 of the Laws of 1964 as a part of Article 77, Section 33, the predecessor of what is now Section 19.

We do not believe, however, that pupil transportation as presently provided for in Article 77 satisfies the second condition of a mandatory appropriation item because it does not involve "estimates the amount of which is made mandatory by law." The precise wording of Section 19 on the subject is that the budget shall include "necessary costs of transporting pupils to public schools as approved by the State Superintendent of Schools." There is no provision in Article 77 or any other enactment of the General Assembly which remotely resembles the kind of statutory aid formula which is typically included within the category of mandated educational items.

*At the time of our 1951 opinion the component items of the annual State public school budget were described in Section 23 of Article 77. Transportation reimbursement was, at that time, included in the Equalization Fund, which in turn was one of the items listed in Article 77, Section 196, as comprising the General State School Fund. The Equalization Fund was cited in our opinion as a mandatory item. To the extent that this indication that the Equalization Fund, including transportation expense reimbursement, was a mandatory item is inconsistent with the text of our opinion, we believe that the text should prevail.

No minimum dollar amount, either on an aggregate or unit basis, is specified anywhere in the Code. The statute clearly commits to the State Superintendent the authority to determine, at least in the first instance, what shall constitute necessary costs of transporting pupils. It should be observed that he is not required to include all costs of transporting pupils but only those which are found by him to be necessary. There is nothing in Article 77 which directly precludes a local board of education from providing, at its own non-reimbursable expense, forms of pupil transportation not found to be necessary by the State Superintendent. In fulfilling his mandate under Section 19 to determine or approve necessary costs of pupil transportation, the Superintendent has promulgated elaborate Rules and Regulations and a series of policies and formulae embodied in a document entitled "Policies Which Govern Approval of Pupil Transportation Costs for Inclusion in the Minimum Program". This latter document includes a "Pupil Transportation Formula for Maryland" which lies at the heart of the system of State reimbursement for local pupil transportation expenses. While the net result of the Rules and Regulations, Policies and the Formula is clearly to substantially reduce or eliminate the need for further administrative discretion, these documents themselves are the product of administrative discretion exercised by the State Superintendent. The 1951 opinion of this office correctly indicated that for an item to qualify as a mandatory item, administrative discretion must have been eliminated by Article 77 itself. In other words, the estimates must have been made mandatory by the General Assembly and not by the Superintendent's administrative action.

We should not be understood as expressing in any way any disapproval of the Rules and Regulations, Policies and Formula which have been promulgated with respect to pupil transportation reimbursement. They represent proper administrative responses to the provisions of Article 77 calling for reimbursement of necessary pupil transportation expenses. We mean only to conclude that the mandatory feature of the appropriation item must derive directly from an act of the General Assembly in order to place it in the mandatory category, thus insulating it from further revision by the Governor or the General Assembly when they act on the budget. In short, we do not believe that the Department of Education or the State Superintendent of Schools presently has uncontrolled power over the annual appropriations for pupil transportation.

The General Assembly may, of course, establish a pupil transportation formula or otherwise amend Article 77 so as to place pupil transportation in the mandatory category. Should the General Assembly adopt such an approach, it would still not be entirely correct to say that the dollar amount which would ultimately emerge in the budget bill would necessarily be the same as the dollar amount submitted by the State Superintendent and the Department of

Education. As we noted at 49 Opinions of the Attorney General at 112, "the facts upon which the estimates are based must be correct, and we think the Department of Education ought to be compelled to show their accuracy.

The views expressed herein are entirely consistent with and supported by other opinions of this office which have dealt with the issue of mandatory educational items and which have followed the basic reasoning of our 1951 opinion. See, e.g., 37 Opinions of the Attorney General 117 (1952); 42 Opinions of the Attorney General 98 (1957); and 44 Opinions of the Attorney General 155 (1959).

We believe that the same result must obtain with respect to transportation expenses incurred for handicapped children pursuant to Section 99 of Article 77. There is no statutory formula or legislatively specified dollar amount and such transportation (and enrollment) is subject to the approval of the State Superintendent of Schools. Thus, as in the case of Section 19 transportation monies, there is a distinct element of administrative discretion and, accordingly, the budget estimates submitted in this area are not binding on the Governor or the General Assembly.

We have been advised that it has been the view of the Department of Education for at least a number of years that pupil transportation is a mandated item. In light of our view of the meaning of the constitutional and statutory provisions with respect to mandated items and in the absence of a more consistent and long standing administrative practice, we do not think it possible to reach a different result based on principles of long standing administrative interpretation.

At this point we should hasten to add that the underlying issues which your inquiry raises are extremely important ones, particularly in light of the relative size of the educational component of the annual State Budget, and that they have never before been dealt with by the Court of Appeals of Maryland. While the Court has decided a number of cases dealing with the Budget Amendment and the budgetary process generally, none of those cases touches upon the provisions of the Budget Amendment which accord a special status to the public school part of the budget. This observation is even more appropriate where, as here, the proper construction of the constitutional provisions raises extremely close questions upon which reasonable minds may differ.

The closeness of the question is perhaps best illustrated by a consideration of the consequences which would follow if the statutory provisions of Article 77 called for reimbursement of all expenses incurred in connection with the pupil transportation expense rather than "necessary costs". If the statute called for reimbursement of all costs, then an argument could be made that no

administration discretion is lodged in any administrative official in determining the amount of that particular budget estimate. The estimate would turn solely on facts or, more precisely, on factual projections. In our view it is the use of the term "necessary costs" which confers upon the Superintendent the power to exercise administrative discretion, by determining what is and what is not necessary, and thus takes the item out of the mandatory category. But this is admittedly a close distinction.

Our relatively strict view of the scope of mandatory public school items is consistent with and supported by the general philosophy of the Budget Amendment. Maryland's Executive Budget System, as its name suggests, places primary responsibility on the Governor, permitting the General Assembly to share in that responsibility subject to careful limitations. See generally, Panitz v. Comptroller, 247 Md. 501 (1967); McKeldin v. Steedman, 203 Md. 89 (1953); Dorsey v. Petrott, 178 Md. 230 (1940); and Baltimore v. O'Connor, 147 Md. 639 (1925). To adopt a liberal view of the scope of mandatory public school items would eventually give to the Department of Education the power to be the primary and ultimate determinant of each annual budget. As the Goodnow Commission said in its 1915 report leading to the adoption of the Budget Amendment, the heart of the executive budget system is

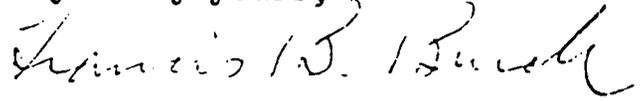
"to impose upon the Governor the sole responsibility *** of presenting to the legislature a complete and comprehensive statement of the needs and resources of the State ***; to make it impossible for the legislature so to change the plans proposed by the Governor as to produce a deficit; but, to permit the legislature to make provision for any purpose not included in the Governor's plan on the condition that it provide for the revenue which the accomplishment of its purpose necessitates."

See "The Maryland Budget System", First Report of the Commission on the Administrative Organization of the State (1951); N. S. Miles, "The Maryland Executive Budget System" (1942); McKeldin v. Steedman, supra, at 97. Appropriations for education at the State level constitute far and away the biggest single element of the budget today. To hold that the Department of Education's estimates are binding as to all items which go toward financing the public schools would confer upon it a power which we do not believe was contemplated by the framers of the Budget Amendment. We think that the more limited view expressed in our 1951 opinion and reiterated above is far more consistent with the spirit and intent, as well as the plain words, of the Budget Amendment.

August 21, 1975

We trust that the foregoing fully answers your various inquiries.

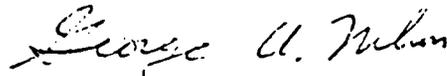
Very truly yours,



Francis B. Burch
Attorney General



Henry R. Lord
Deputy Attorney General



George A. Nilson
Assistant Attorney General

FBB/HRL/GAN:ipb



MARYLAND STATE DEPARTMENT OF EDUCATION
P.O. BOX 8717, BWI AIRPORT
BALTIMORE, MARYLAND 21240

August 13, 1975

The Honorable Francis B. Burch
Attorney General of Maryland
1 South Calvert Street
Baltimore, Maryland 21202

Dear Mr. Burch:

The State Board of Education has appointed a task force to conduct an in-depth study of pupil transportation in the State of Maryland.

In 1971, the Governor's Committee to Study Public School Transportation Systems recommended in its report the development of a uniform statewide contract for the operation of private school buses. In accordance with this recommendation, a standard form contract was developed and prescribed for use by local school systems. (See enclosed contract.) This contract is currently in use throughout the State of Maryland.

The task force, in its recent discussion of effecting economies in the area of pupil transportation, raised the question of the right and/or procedure for termination or cancellation of school bus contracts by the local boards of education of the several counties and Baltimore City in cases where certain buses may no longer be needed.

In view of the above, we respectfully request that your office render an opinion as to the following:

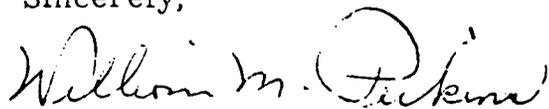
1. Under what terms of paragraph 8 of the enclosed contract is written notice of nonrenewal required?
2. If written notice is required, is there a period of time within which the contractor must be notified?
3. Where the date of automatic renewal has passed, is there a procedure whereby the local boards could terminate the contractual agreement?

The Honorable Francis B. Burch
Page 2
August 13, 1975

Thank you for your attention to this request. Your expeditious response is very much appreciated.

Kindest regards!

Sincerely,



William M. Perkins
Chairman, Task Force to Review
the Public School Pupil Transportation Program

WMP:sg
Enclosure

cc: Mr. Malcolm Kitt
Task Force Members



APPENDIX D

THE ATTORNEY GENERAL

DEPARTMENT OF EDUCATION

P.O. BOX 8717 - BWI AIRPORT
BALTIMORE, MARYLAND 21240

301-796-8300, EXT. 212

September 30, 1975

Mr. William M. Perkins
 Chairman, Task Force to Review the Public
 School Pupil Transportation Program
 Maryland State Department of Education
 P.O. Box 8717, BWI Airport
 Baltimore, Maryland 21240

Dear Mr. Perkins:

You have requested an opinion pertaining to an interpretation of paragraph 8 of the basic school bus contract between the school bus owners and local boards of education providing for transportation of students in the counties in Maryland. Specifically, you ask the following questions:

- "1. Under what terms of paragraph 8 of the enclosed contract is written notice of nonrenewal required?
2. If written notice is required, is there a period of time within which the contractor must be notified?
3. Where the date of automatic renewal has passed, is there a procedure whereby the local boards could terminate the contractual agreement?"

In answer to the first question, it is clear from reading paragraph 8, that the term of the contract is for one year and automatically renewable. Paragraph 10 indicates that the contractor may terminate the agreement for any reason upon thirty days notice in writing to the Board. However, there is nothing in the contract providing for termination by the Board before

the expiration of the term other than termination for inadequate performance or breach of the agreement as provided in paragraph 8. We must presume that absent a termination for either of these reasons, the Board of Education may terminate at the expiration of the term by giving notice prior thereto. Without notice of termination, the contract would be automatically renewed.

Your second question inquires as to a period of time in which the contractor must be notified of a nonrenewal by the local school board. The agreement is silent as to any stated time to give such notice. Although notice at any time prior to the automatic renewal date is probably legally sufficient, it is recommended that notice be given at least 30 days before the termination date of the agreement when practicable and that an explicit notice provision be included in future agreements.

The third question inquires as to the procedure for termination after the agreement has been extended by automatic renewal. We reiterate that the local board may terminate prior to the expiration date only for the reasons provided in paragraph 8. The contract is silent as to a termination beyond or subsequent to the renewal date for a reason other than a termination for inadequate performance or breach of contract. Therefore, the school board is bound for the remainder of the one year term absent a termination for cause.

Very truly yours,



Malcolm R. Kitt
Special Assistant Attorney General

MRK:jb

APPENDIX E

COMMENTS BY JOHN C. MURPHY

I would like to thank the committee for the opportunity to appear before you today. My name is John C. Murphy. I am a recently elected member of the Howard County Board of Education. As such I have had a somewhat limited exposure to the problems involved in state-supported programs of the type represented by the school transportation program. On the other hand, perhaps I can offer the committee the benefit of a different perspective.

May I begin by recognizing the need for prudent control of state tax money and for responsible use of that money. My concern is first that the present centralized administrative system has become too inflexible to provide the best possible transportation system at the local subdivision level, due in part to the varying conditions that exist throughout the state; and second that the present effort by the state to reduce costs of the transportation program has relied too heavily on modifying the administrative procedures and has both increased administrative costs at the state and local levels and has furthermore limited local options. To make these comments concrete, I would like to discuss several specific examples.

The first example is the rule which stipulates that local subdivisions may receive state monies only for those otherwise eligible students who attend school in their own district. The generally valid intent of this rule is obvious. However, some subdivisions elect to allow students otherwise eligible to receive state transportation money to attend out-of-district schools for any of a variety of educationally valid reasons. For instance, in a county such as Howard, which has a large number of new open-space schools as well as older ones with self-contained classrooms and blends of the two styles, there are a percentage of students who are permitted to transfer to out-of-district schools with learning environments better suited to their own particular needs. Under the present system, the county loses all money for transportation of such students, including the money they would have received for transportation to the district school. While the incremental costs of local programs of local options should be paid for by tax dollars, in my opinion, adoptions of these initiatives should not carry the added liability of reducing the county's share of state money to which it is otherwise entitled. Situations to which this comment applies may be generally applicable statewide. They are of special significance in a rapidly growing area such as Howard County where, for example, temporary student overloads at specific schools have been reduced by voluntary transfer programs between districts, and where the impact of frequent redistricting caused by growth has been reduced by some flexibility of student assignments in fringe areas between districts.

The second example relates to student eligibility for transportation based on hazardous road conditions. A decision in this area clearly requires a detailed and intimate knowledge of local conditions. This is a time-consuming process both for the local school system staff and for the state. Many of these decisions are difficult ones involving honestly different perceptions of what is safe. Adoption of the 1.5 mile walk distance for high school students changes the situation and has already raised questions concerning safe walking conditions during the winter months for routes that may otherwise be safe during daylight hours and in good weather. Current discussion of eliminating the supplement for hazardous conditions less than 1.5 miles has further complicated this problem.

A third example which relates to another aspect of the hazardous road condition eligibility is the expenditure of local funds to remove the hazardous condition. To this point there has been little real incentive for local fiscal agencies to spend local money for capital construction to reduce the expenditure of state money for transportation.

The final example concerns the uncertainty that local jurisdictions face in budgeting revenue since final entitlements are not determined until after the close of the fiscal year. This factor together with the general burden to the local jurisdiction in complying with increasing state administrative control further increases the inflexibility of the present system. From the state's point of view, administrative costs for additional inspectors, auditors, and so on clearly must be increasing.

In summary, it seems to me that the problems with the present system arise from two sources:

1. It is hard to establish an equitable set of enforceable administrative regulations statewide which is flexible enough to allow a reasonable amount of local autonomy.
2. A funding system which is based on transporting *eligible* students only implies that control of state costs can only be achieved by increasing the inflexibility of the administrative rules used to determine who is *eligible* and who is not.

The solution is to separate the question of the number of dollars the state can afford to spend on transportation from the question of the administrative rules needed to ensure that the state has an effective program.

I believe this can be done by taking a fresh look at the relation of the state department of education to the local departments of education in the matter of transportation. I suggest that the level of state contribution to transportation be based on a formula involving only the total number of students enrolled in each of the counties and Baltimore City and on the density of students in each jurisdiction. This formula would provide each local jurisdiction with a base transportation allotment calculated on a per student basis and a supplementary allotment based on both student density and student population. The supplementary allotment would provide increasing per student dollar support with decreasing student density and would offset the increased costs associated with greater travel distances in less populous counties. Local education agencies would be responsible for determining which students were eligible for transportation, however, the state's liability would be limited to the amount determined by the formula and any additional costs would be made up from local money. If the local system could provide transportation for less than the state figure, they would retain the surplus funds.

There are several advantages which would accrue to the state and local boards from this kind of proposal.

1. The state's fiscal liability would be determined each year for each local jurisdiction solely on the basis of the number of enrolled students. Forecasting of costs would be easier as well. If adjustments had to be made in the total level of state support, these would be realized by changing the per student allotment.
2. No extra inspectors would be needed, auditing procedures would be simplified and general administrative costs would go down.

3. Local jurisdictions would know their entitlements early in each budget year, permitting them to predict revenue accurately.
4. There would be a real incentive for local fiscal authorities to provide capital improvements as needed to reduce the number of students transported by virtue of hazardous conditions.
5. Local education agencies would have the flexibility to respond to local desires for supplementary services without losing state funds to which they were entitled but they would assume whatever added costs these services would require out of local funds.

Finally, this has been intended as an outline of another approach toward state funding of school transportation. Several of the more obvious benefits to be gained from a system of this kind were mentioned but I did not attempt to make a detailed study at this time. A specific proposal would require a per student allotment and the density factor which should only be determined after a more detailed study.

APPENDIX F

COMMENTS BY DELEGATE FRANK C. ROBEY

Delegate Frank Robey addressed the Task Force on transportation problems in Baltimore City. In 1969-70, Baltimore City received reimbursement for regular school transportation. Prior to that, parents paid for their children's transportation. In 1969-70, identification cards were issued to each child eligible for transportation. The card was shown to the bus driver, and the child could ride the bus for free. A black market developed for the identification cards, and a limit was set to determine the hours when the cards could be used. The following year, a coupon system was initiated. That system is still being used. The coupons are distributed each month and all unused coupons are to be returned to the school. With as many as 2,700 coupon booklets to be distributed each month in a single school, the paper work becomes enormous.

Delegate Robey identified several problems which are unique to transportation for Baltimore City:

1. Safety - Elementary students have to ride a bus that is also carrying older students, people on their way to and from work, etc.
2. Control - The principal has no idea who is riding what bus at any given time. He has no way to control racial conflicts or school rivalry conflicts on the bus.
3. Inflexibility of the System - The Mass Transit Administration (MTA) is reluctant to change the time schedules of the buses. If that schedule conflicts with the opening and closing time of the school, MTA will not change their schedule.
4. Athletics and Extra-Curricula Activities - If a child had to leave home earlier than 7 a.m. or stayed after school for an event later than 5:30 p.m., he could not use the coupon to ride for free. It was pointed out to Delegate Robey that transportation for extra-curricula activities is not reimbursed in any local school system. Delegate Robey stated that, since the coupons are already issued and since the State is reimbursing the cost anyway, the students should be able to use the coupon.

Delegate Robey also expressed concern for the attendance habits of the children. He could see a pattern by some bus drivers to be late or not to appear at all on the day after pay day. Some children would also become aware of this pattern and would not go to school on that day. If a bus was late arriving at a stop, the child might go back home or someplace else instead of waiting for a bus.

Delegate Robey recommended that Baltimore City have its own fleet of buses just as the other school systems do. If that is not possible, he recommended a charter system. However, if Baltimore City must continue with MTA, he felt the buses should be designated as school buses only.

Delegate Robey stated that MTA does provide service which transports most of the children to school on time, but there are problems with the system. Delegate Robey asked for questions from the Task Force.

Delegate Robey was asked how other cities provide transportation. He responded that most metropolitan cities have used systems like MTA, but many are moving toward buying their own system. He further stated that Baltimore City does operate its own buses for transporting handicapped children and for transporting for the purpose of balancing the size of enrollments in neighboring schools.

Concern was expressed because Baltimore City does not stagger opening and closing times of schools. Delegate Robey stated that they do stagger the openings to some extent.

In response to a question, Delegate Robey stated that the one and one-half mile limit was used to determine who would get a coupon book for riding MTA buses.

APPENDIX G

SUPPLEMENTAL VIEWS TO THE FINAL REPORT OF THE TASK FORCE TO REVIEW THE PUBLIC SCHOOL PUPIL TRANSPORTATION PROGRAM BY DELEGATE J. HUGH NICHOLS

The Task Force was specifically charged with reviewing and making recommendations concerning:

1. *Policies Which Govern Approval of Pupil Transportation Costs for Inclusion in the Minimum Program; and*
2. *Standard Rules and Regulations Governing Pupil Transportation for the State of Maryland (State Bylaw 13.05.03.01A).*

While the review has been accomplished and the recommendations have been made, I still feel very strongly that the present problems associated with the public school pupil transportation program will not be finally solved until we have examined the general concept under which the program operates and properly aligned the responsibilities of the various public (State, County, and Local Education Agency) and private (contractor) participants.

The general concepts which I believe most important are: (1) predictability - for the appropriating authorities at both the State and County level and for the developers of the local transportation program within the Local Education Agencies; and (2) incentives for improvements in transportation operations at the lowest possible cost without degradation in service.

In order to achieve the goal of predictability of requirements for, and availability of, State funds, I believe that we must abandon the policy of *State reimbursement* for school transportation costs. This implies abandonment of the *100 percent of necessary and approved costs* policy because it is impossible to precisely predict in advance at the State level. It appears, however, (as the appointment of this Task Force implies) that the necessary and approved costs are determined not on the basis of transportation requirements but on the basis of appropriated funds. The Counties and the Local Education Agencies are steadfastly holding to the theory that the State is responsible for all costs and are generally limiting services to the anticipated reimburseable items. There are some exceptions to this. Parents who contact the Local Education Agency about transportation services are frequently being told that a service cannot be provided because the State regulations prohibit it. In fact, the State does not provide for reimbursement of certain services because of limited funding but has not prohibited improved or additional local transportation services.

If the State is not going to run the total transportation system (and I do not believe they should at this time), then a new policy of State aid based upon some reasonable measure of service required, e.g., number of students, number of students transported, distances, and other unique local characteristics, should be established. The management of the local transportation services within State established guidelines for safety, training, and other necessary statewide criteria should be by the Local Education Agencies. To make the new policy acceptable, it should be based on criteria that will initially guarantee at least 100% of the current allowances.

Due to lack of State funding, this is the only alternative to continued cut-backs in State reimburseable items and, therefore, a possible deterioration in the level of service provided by the Counties and the Local Education Agencies.

Unless responsibility for pupil transportation services and funding is clearly and unequivocally established on an advance allocation basis, we will continue to have a system that promotes appropriation shortfalls and problems similar to those we have encountered this year.

I believe the State Department of Education should develop a procedure to clearly establish both service and funding responsibilities and appropriation guidelines that will provide the Local Education Agencies with early knowledge of the actual level of State funding so that they may adjust local appropriation requests to the program they wish to maintain. This would encourage improvements in the cost-effectiveness of the service because the local fiscal implications would be known. The purpose of this approach is not to decrease the level of State support but rather to make it more consistent, predictable, and administratively operable.



MARYLAND STATE DEPARTMENT OF EDUCATION
P.O. BOX 8717, BWI AIRPORT
BALTIMORE, MARYLAND 21240

July 28, 1975

The Honorable Marvin Mandel
Governor of Maryland
State House
Annapolis, Maryland 21401

Dear Governor Mandel:

The State Board of Education has appointed a Task Force to conduct an in-depth study of pupil transportation in the State of Maryland. The major emphasis of this study is to review two specific documents:

Policies Which Govern Approval of Pupil Transportation
Costs for Inclusion in the Minimum Program

Standard Rules and Regulations Governing Pupil Transportation for the State of Maryland

The need for comprehensive information regarding transportation in Maryland has directed the Task Force toward numerous factors related to transportation, and it has been brought to our attention that the Raine Decree has specific implications which command immediate attention and concern.

The Raine Decree appears to project additional State and local responsibilities for transportation of handicapped children, and we are alerted to both immediate and future needs beyond existing fiscal capabilities. We have become aware of the fact that local education agencies, in compliance with the Decree, will begin phase-in implementation on programming for these children in September 1975 and, subsequently, will be incurring transportation costs not included in budget estimates.

There are about 431 handicapped children enrolled in educational institutions newly approved by the Maryland State Department of Education. These children are eligible for transportation during the 1975-76 school year. An additional 524 children will also be eligible and will be budgeted for in 1976-77 by the Maryland State Department of Education.

The Honorable Marvin Mandel

Page 2

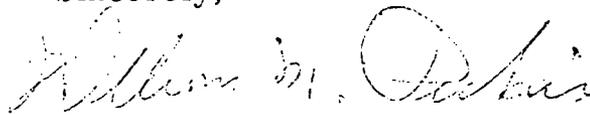
July 28, 1976

Since no funds have been made available for transportation of the above-referenced children in Fiscal 1976, it seems that the appropriate fiscal agency should give consideration for the funding so the local school system can be informed accordingly.

It is estimated that the cost for Fiscal 1976 will be approximately \$235,300. The Task Force has asked that this be brought to your attention.

If you wish additional information, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "William M. Perkins".

William M. Perkins
Chairman, Task Force on
Pupil Transportation

WMP:sg

cc: Kenneth Barnes

APPENDIX I

A BILL ENTITLED

AN ACT concerning

Public Education - Pupil Transportation

FOR the purpose of establishing a formula to determine the amount of reimbursement by the State to local school systems for the costs of transporting pupils to public schools and providing for the details of the reimbursement formula.

BY adding to

Article 77 - Public Education

Section 128

Annotated Code of Maryland

(1975 Replacement Volume and 1975 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That new Section 128 be and it is hereby added to Article 77 - Public Education, of the Annotated Code of Maryland (1975 Replacement Volume and 1975 Supplement) to read as follows:

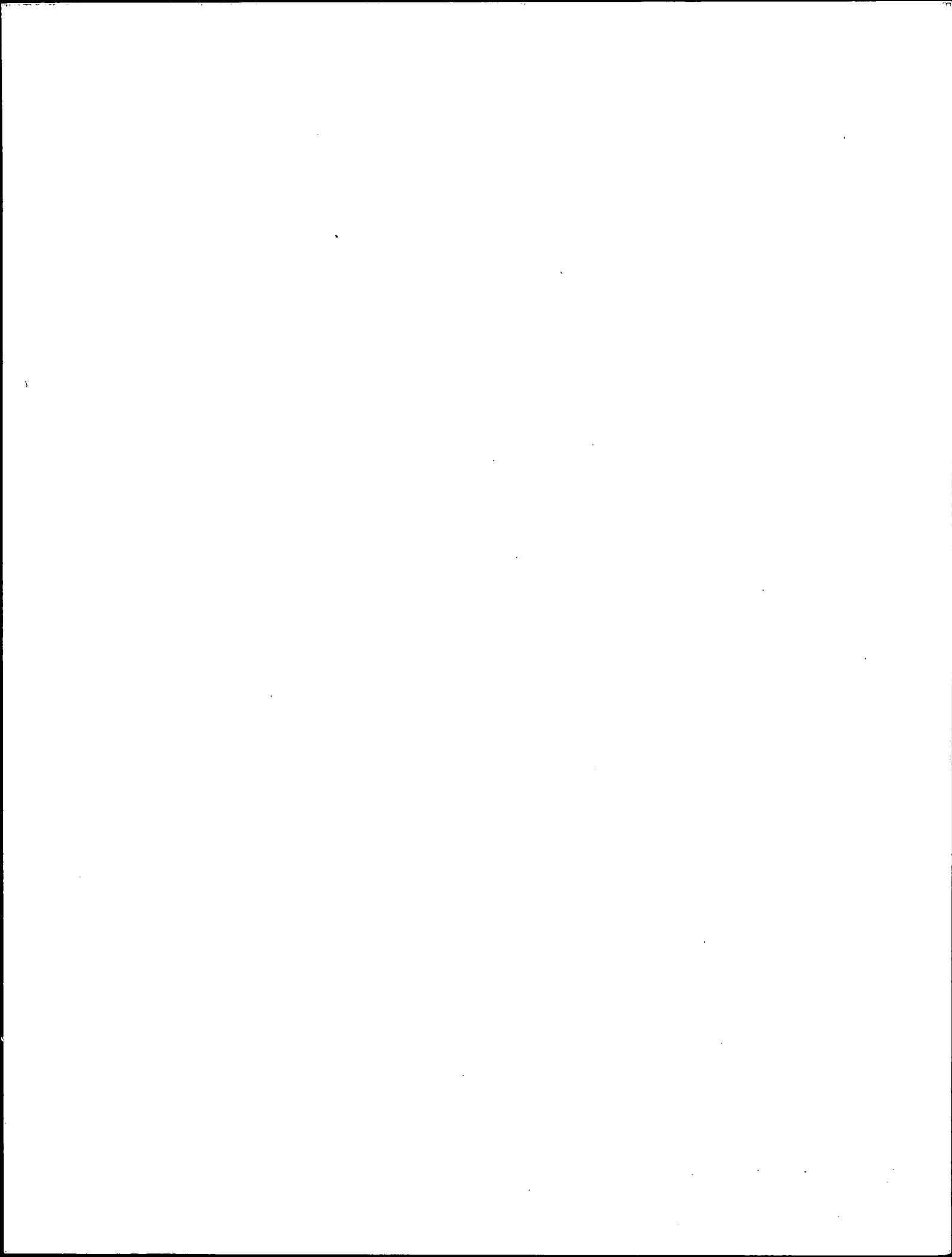
Article 77 - Public Education

128.

- (a) Definitions - As used in this section
 - (1) "County" includes Baltimore City and "county board of education" includes the Mayor and City Council of Baltimore
 - (2) "Category A bus" means a vehicle capable of carrying 66 or more passengers
 - (3) "Category B bus" means a vehicle capable of carrying 60 to 65 passengers
 - (4) "Category C bus" means a vehicle capable of carrying 30 to 59 passengers
 - (5) "Category D bus" means a vehicle capable of carrying 13 to 29 passengers
 - (6) "Category E bus" means a vehicle capable of carrying 4 to 12 passengers
 - (7) "Current year" means the fiscal year in which a reimbursement for pupil transportation is made
- (b) A county is not eligible for reimbursement for pupil transportation under this section unless it has complied with the applicable policies governing pupil transportation costs as adopted by the State Board of Education. The determination of compliance shall be made by the State Superintendent.
- (c) For the school year 1976-77 and each year thereafter, the county board of education shall receive from the State an amount for each bus used daily to transport pupils between established school bus stops and the school attended which is determined according to the following formula.

- (1) Bus Acquisition Costs - The average bid price, as determined by the State Superintendent, for all buses purchased by the counties during the ten year period beginning with the year prior to the current year in each of Bus Categories A through E, inclusive, shall be multiplied by .195.
- (2) Cost of Operating Buses - The sum of the price of fuel per gallon, as certified by the State Energy Policy Office or any successor agency, used for the operation of buses for the transportation of pupils in September prior to the current year divided by the number of miles per gallon for each of Bus Categories A through E, inclusive, as determined by the State Superintendent of Schools, multiplied by 2.5.
- (3) Salaries of Bus Operators - The salary for each operator of a bus shall be calculated at the hourly rate of a salary payable in the amount required by Grade 7, Step 3, of the State Standard Salary Plan, or any subsequently adopted equivalent of Grade 7, Step 3, and this amount shall be multiplied by a factor of 1.12.
- (d) Baltimore City shall receive an additional allocation for reimbursement of actual costs incurred for public school pupils transported on buses operated by the Mass Transit Administration or its successor. Such transportation costs shall be certified by the State Superintendent of Schools.
- (e) Administration and Miscellaneous Costs - The total of the sum of the products under paragraphs (c) and (d) shall be multiplied by a factor of 1.12.
- (f) On January 1, 1977, and thereafter on January 1 of every year the State Superintendent shall review the bus acquisition costs, cost of operating buses, and salaries of bus operators. Whenever the State Superintendent shall determine that the bus acquisition costs have increased or decreased by an amount not less than \$500; or that the cost of fuel has increased or decreased by an amount not less than 6¢ per gallon; or that the State salary scale has increased or decreased, he shall revise the State transportation allocation in accordance with such changes and, where necessary, request additional funds from the Governor and/or the General Assembly to be included as a supplemental item to the annual State Budget.
- (g) The State Superintendent shall develop the pupil transportation allocation based upon data available as of September 1 of each year.
- (h) The State shall pay to the counties the amount required under the formula or the actual costs incurred, whichever is less.
- (i) The State allocation under this formula shall be in addition to any funds the counties may make available for pupil transportation purposes.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1976.





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