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HEARINGS

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND URBAN AFFAIRS

OF THE

COMMITTEE ON
BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 662

TO AMEND THE URBAN MASS TRANSPORTATION ACT OF
1964 TO PROVIDE OPERATING ASSISTANCE FOR PROJECTS
LOCATED IN AREAS OTHER THAN URBANIZED AREAS, TO
PROVIDE FOR MASS TRANSPORTATION ASSISTANCE TO
MEET THE NEEDS OF ELDERLY AND HANDICAPPED PER-
SONS, AND FOR OTHER PURPOSES

JUNE 17, 18, AND 19, 1975

Printed for the use of the
Committee on Banking, Housing and Urban Affairs



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URBAN MASS TRANSPORTATION—1975

TUESDAY, JUNE 17, 1975

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS,
Washington, D.C.

The subcommittee met at 10:20 a.m. in room 5302 of the Dirksen Senate Office Building, Senator Harrison A. Williams, Jr., presiding.

Present: Senators Williams and Garn.

Senator WILLIAMS. The committee will come to order now.

Today the committee begins 3 days of hearings on S. 662—the National Mass Transportation Assistance Act Amendments of 1975. This legislation, which is sponsored by Senators Leahy, Stafford, Pastore, Pell, Church, Tunney, McIntyre, Randolph, Humphrey, and myself, has two main purposes: (1) It would provide mass transportation assistance to meet the needs of the elderly and handicapped; and (2) it would, for the first time, provide Federal operating assistance for mass transit projects located in rural areas.

During congressional deliberations on the National Mass Transportation Assistance Act last year, it became abundantly clear that more work must be done on the Federal level if we are to provide urban mass transportation to adequately meet the special needs of the elderly and handicapped.

In meeting these needs, the keyword is "accessibility"—the creation of transit systems which the elderly and handicapped can enter and leave without third-party assistance. Presently, there are no mass transit systems which are fully accessible to the handicapped. While BART in San Francisco and systems in Toledo, Ohio, and Portland, Oreg., have taken giant steps toward achieving this goal and should be commended for their actions, much more must be done.

All too often, the handicapped must rely on family or friends in order to get to and from work. Private transportation systems in many instances charge exorbitant fares ranging as high as \$35 per trip. In New York City the average charge for daytime service is \$12 per trip or \$60 per week. Charges for weekend services are even greater.

This financial burden becomes even more acute when we realize that the elderly and handicapped are less affluent than our average citizens. Public mass transportation is essential for their well-being.

Our handicapped population of 67.9 million citizens—85 percent of whom have an income of less than \$7,000—must be provided with accessible transportation if they are to pursue active lives and find gainful employment.

The costs of planning accessible mass transportation for the handicapped, if pursued on a rational basis, are not out of reach. The major

expense comes in the design of buses. While actual costs have not yet been fully determined, the Department of Transportation has indicated that once in production, a fully accessible bus would only add from \$2,000 to \$5,000 to the overall price. On the other hand, the costs of revamping an entire major existing rapid rail transit system would mean a huge financial undertaking which in cities like New York, would doubtless be impossible. Yet even in these areas, initial steps toward accessibility must be taken. The legislation before us today will go a long way toward achieving these goals.

Specifically, S. 662 would require that all assistance under the Urban Mass Transit Assistance Act provide for the effective utilization of mass transportation for elderly and handicapped individuals. It will require the Secretary to assure that all projects funded under the act are planned, designed, constructed, and operated to allow effective utilization of mass transportation by the handicapped. In addition, the Secretary shall not approve any program or project unless he finds that such requirements have been complied with.

I, for one, wholeheartedly agree with the conclusion contained in a recent letter which we have received from the President's Committee on Employment of the Handicapped which states:

The recent proposed regulations of the Urban Mass Transportation Administration are lacking in a decisive program and philosophy which would lead to a suitable solution of this problem. There is obvious confusion and vacillation regarding the course of action to take—whether to attempt to adapt design of normal public transportation systems to meet the needs of handicapped persons, or to set up a specialized and personalized subsystem to handle their transportation needs.

In my opinion, S. 662 will give Secretary Coleman the tools to end this vacillation and bring about feasible solutions to this pressing problem.

S. 662 also authorizes a program of operating assistance for mass transportation in rural and small urban areas. Last year when the Congress enacted the National Mass Transportation Act, it authorized \$500 million in capital grant funds for areas of under 50,000 in population. This authority did not include expenditures for operating assistance. Since the passage of the act, we have received many expressions of the need for operating assistance from our less populous cities. At this time, public transportation in rural areas is almost nonexistent. If new programs are to be initiated and services made available, immediate operating assistance must be forthcoming.

As I previously mentioned, the 1974 act authorized up to \$500 million over the next 6 years for rural and small urban area capital grant purposes. S. 662 would merely allow up to \$250 million of this money to be used for operating assistance. In this manner, it provides for rural operating subsidies without additional budgetary expenditures.

During the next 3 days, our committee will be hearing from a great variety of expert witnesses from every area of our Nation. With their help and guidance, I am confident that the groundwork will be laid for the rapid congressional enactment of S. 662.

[Copy of the bill follows:]

[S. 662 94th Cong., 1st sess.]

A BILL To amend the Urban Mass Transportation Act of 1964 to provide operating assistance for projects located in areas other than urbanized areas, to provide for mass transportation assistance to meet the needs of elderly and handicapped persons, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

OPERATING SUBSIDIES IN AREAS OTHER THAN URBANIZED AREAS

SECTION 1. The last sentence of section 4(c) of the Urban Mass Transportation Act of 1964 is amended by inserting before the period at the end thereof a comma and the following: "and of such \$500,000,000, not to exceed \$250,000,000 may be used in such areas for the payment of subsidies for operating expenses on the same terms and conditions and subject to the same limitations as are contained in section 5(d) (2), the last three sentences of section 5(e), and subsections (f) through (n) of section 5."

FELLOWSHIP ASSISTANCE

SEC. 2. Section 10 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS FOR TRAINING PROGRAMS

"SEC. 10. The Secretary is authorized to make grants to States, local public bodies, and agencies thereof and private mass transportation operators to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the urban mass transportation fields. Fellowship shall be for not more than one year of training in public or private training institutions offering programs having application in the urban mass transportation industry. The recipient of a fellowship under this section shall be selected on the basis of demonstrated ability and for the contribution which he can reasonably be expected to make to an efficient mass transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of \$12,000, or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the educational institution in connection with the fellowship and billed to the grant recipient, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grant recipient)."

EXPANDED DEFINITION OF CONSTRUCTION TO INCLUDE ENGINEERING

SEC. 3. Section 12(c) of the Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(6) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or acquisition of facilities and equipment for use in public mass transportation, including designing, engineering, location surveying, mapping, acquisition of right-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of placement housing."

MASS TRANSPORTATION FACILITIES AND EQUIPMENT TO MEET THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

SEC. 4. Section 16 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"MASS TRANSPORTATION FACILITIES AND EQUIPMENT TO MEET THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

"SEC. 16. (a) It is hereby declared to be the national policy that—

"(1) elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services;

"(2) special efforts shall be made in the planning, design, construction, and operation of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and

"(3) all Federal programs offering assistance for mass transportation (including the programs under this Act) should effectively implement this policy.

"(b) The Secretary shall require that projects receiving Federal financial assistance under this Act shall be planned, designed, constructed, and operated to allow effective utilization of mass transportation services by elderly and handicapped persons who are unable without special facilities or special planning or design to utilize such facilities and services effectively. The Secretary shall not approve any program or project under this Act unless he finds that the program or project complies with the requirements mandated by this section. The Secretary shall, as part of carrying out this section, require the following:

"(1) Effective immediately, any vehicle, building, station, or other structure for any new rapid rail system or other grade-separated fixed guideway system, and any other vehicle integrated with such a system, and any extension of an existing system that forms a usable segment, and any other station facility for use by the general public shall be accessible to elderly and handicapped persons. The Secretary shall issue accessibility standards for transit vehicles designed for at-grade operations, which may incorporate such reasonable exceptions from the requirements for grade-separated systems as the Secretary may deem required by the nature of the vehicle or its proposed use and the commercial availability of reliable equipment to facilitate accessibility except that such exceptions shall only apply where the Secretary determines, based on substantial evidence and in accordance with a detailed timetable submitted pursuant to the second sentence of paragraph (2), that the provisions of this subsection are otherwise being carried out.

"(2) Effective immediately, a local advisory committee (at least half of the members of which shall be elderly and handicapped persons) shall be established for each geographical area in which assistance under section 3 or 5 is being furnished. The committee shall be utilized in drawing up a detailed timetable for compliance with this subsection and in carrying out provisions of this subsection. A project agreement for assistance under either such section shall specify the time, not to exceed ninety days from the grant of assistance, for implementation of the timetable.

"(3) Effective immediately, the service proposed to be provided for elderly and handicapped persons shall be presented at the public hearing required as part of the application process for assistance under section 3 of this Act.

"(4) Effective immediately, all technical study grants made under section 9 of this Act in support of local transportation planning (including those grants made for the fiscal year 1975-1976 planning program) shall include work elements necessary to produce, in consultation with the local advisory committee required by paragraph (2), by July 1, 1977, a comprehensive local plan for meeting the mass transportation needs of elderly and handicapped persons within the geographical area included in the study.

"(c) The Secretary shall establish a National Advisory Council on Accessibility of Mass Transportation at least 50 per centum of the members of which shall be elderly and handicapped persons. The Advisory Council shall advise and consult with the Secretary on all matters relating to mass transportation for elderly and handicapped persons.

"(d) On or before July 1, 1977, the Secretary shall prepare and submit to the Congress a comprehensive report on the mass transportation needs of elderly and handicapped persons, including information generated under technical study grants subject to the requirements of paragraph (b)(4) of this section; research, development, and demonstration activities undertaken in furtherance of the national goal set forth in subsection (a); and the progress made in assuring the effective utilization by elderly and handicapped persons of mass transportation services and facilities assisted under this Act, and shall recommend additional measures to assure such effective utilization.

"(e) In addition to the grants and loans otherwise provided for under this Act, the Secretary is authorized to make grants and loans—

"(1) to States and local public bodies and agencies thereof for the specific purpose of assisting them in providing mass transportation services which are planned, designed, and carried out so as to meet the special needs of elderly and handicapped persons, with such grants and loans being subject to such terms, conditions, requirements, and provisions as are applicable to grants and loans made under section 3(a), and for the purposes of all other laws, any grant or loan under this subsection shall be deemed to have been made under such section; and

"(2) to private nonprofit corporations and associations for the purpose of assisting them in providing transportation services meeting the special needs of elderly and handicapped persons for whom mass transportation services planned, designed, and carried out under paragraph (1) are unavailable, insufficient, or inappropriate, with such grants and loans being subject to such terms, conditions, requirements, and provisions (similar insofar as may be appropriate to those applicable to grants and loans under paragraph (1)), as the Secretary may determine to be necessary or appropriate for purposes of this paragraph.

Of the total amount of the obligations which the Secretary is authorized to incur on behalf of the United States under the first sentence of section 4(c), 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs).

"(f) Of any amounts made available to finance research development, and demonstration projects under section 6 after the date of the enactment of this section $1\frac{1}{2}$ per centum may be set aside and used exclusively to increase the information and technology which is available to provide improved transportation facilities and services planned and designed to meet the special needs of elderly and handicapped persons.

"(g) For the purposes of this Act, the term 'elderly and handicapped persons' means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any individual who is nonambulatory wheelchair bound or who has semiambulatory capabilities, is unable without special facilities or special planning or design to utilize such facilities and services effectively."

LOAN FORGIVENESS

SEC. 5. (a) The Secretary of Transportation may convert equipment and facilities loans heretofore made under section 3(a) of the Urban Mass Transportation Act of 1964 or title II of the Housing Amendments of 1955 (42 U.S.C. 1492), to grants under the conditions set forth below. A grant agreement for the acquisition, construction, reconstruction, or improvement of facilities and equipment under section 3(a) may provide for forgiveness of principal and interest on a loan previously made in lieu of a cash grant in the amount forgiven. Such grant shall be subject to such terms and conditions as the Secretary may deem necessary and appropriate, taking into account the degree of completion of the project financed with the loan.

(b) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to mass transportation projects in the urbanized area, on a schedule acceptable to the Secretary, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven been the Federal share of a capital grant made when the original loan was made. The State or local fund contributed under the terms of the preceding sentence shall be made available for projects eligible for funding under section 3(a), and may not be used to satisfy the local matching requirements for any other grant project.

NEW REPORTING REQUIREMENT AND ELIMINATION OF LIQUIDATION SCHEDULE

SEC. 6. Section 4(c) of the Urban Mass Transportation Act of 1964 is amended by striking the third sentence and adding the following: "To assure for orderly planning and program development under section 3, the Secretary shall report to Congress on or before February 1, 1976. A detailed estimate of the cost of

grants to be made under section 3 for providing public mass transportation service in urban areas for each fiscal year within the period beginning with fiscal year 1977 and ending with fiscal year 1981. On or before February 1, 1978, the Secretary shall report to Congress a detailed estimate of the cost of grants to be made under section 3 for providing public mass transportation service in urban areas for each fiscal year within the period beginning with fiscal year 1979 and ending with fiscal year 1983."

Senator WILLIAMS. Chairman Sparkman was unable to attend today's hearing. He has submitted a prepared statement which we will insert in the record at this point as though read.

[The statement follows:]

STATEMENT BY SENATOR SPARKMAN

Senator SPARKMAN. This morning the Subcommittee on Housing and Urban Affairs begins 3 days of hearings concerning public transportation programs for elderly and handicapped persons, for persons residing in nonurban areas, and for other purposes.

As you know, the Federal Government has been directly assisting localities in providing public transportation for over a decade. The Urban Mass Transportation Act of 1964 provided Federal grants and loans to States and local public bodies to help them acquire, construct, and improve transportation facilities in urban areas.

In 1974 another major mass transportation assistance act was passed, providing grants for maintaining and operating public transit services, in addition to establishing a long-term formula for distributing funds among areas.

These legislative milestones were clearly timely in light of the energy realities that now confront us. There is, no doubt, room for additional legislative effort to improve public transportation to make it an effective alternative to costly private transportation.

There is also need to tackle the transportation problems that have been neglected in the past. The transportation needs of persons living in our rural, nonurban areas is such a neglected problem, and requires immediate attention. Equally, the needs of elderly and handicapped citizens—those who have least access to private transportation—must be addressed.

Senator Williams, a long-time advocate and leader in legislating public transportation programs, has once again taken the lead by introducing S. 662, amendments to the Urban Mass Transportation Act of 1964, to resolve these questions. I shall, accordingly, turn over the gavel for these hearings to him now.

Senator WILLIAMS. We will begin our hearing this morning with a statement from the Congressman from Louisiana, Mr. Long.

STATEMENT OF GILLIS LONG, REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. LONG. I appreciate the opportunity to testify to you on this matter of extreme importance to America and extreme importance to my congressional district.

I would like to take time to say a few words in support of the provision in S. 662 that authorizes transportation operating assistance for rural and small communities.

As I said, this is a particularly important amendment for the people in my own congressional district. A study recently completed by the task force on southern rural development reveals that more than one in five households in my district—which is predominantly rural—is without any automobile.

Similarly, more than half of the parishes throughout the State of Louisiana are classified as “transportationally disadvantaged.”

Mobility—or the capacity and opportunity to move freely about—has an understandably special significance for areas which are geographically remote and encompass widely dispersed populations. Without a transportation system to satisfy the basic need for mobility, local residents are not able to participate fully in the social and economic life of their communities.

Mr. Chairman, I think it is time for remedial action when all available evidence indicates that only a third of our eligible rural participants are served by Federal food programs due to lack of transportation. I think it is time for remedial action when only 14 percent of the jobs resulting from EDA growth-center projects are filled by present or former residents surrounding the projects due to the lack of transportation.

And I think it is time for remedial action when only a trickle of participants in vocational education programs set up for disadvantaged rural residents actually come from rural areas largely because of lack of transportation.

The legislative programs which Congress enacted to solve neglected problems in rural areas over the years have proven ineffective simply because the people cannot get in to the benefits and the benefits cannot get out to the people.

We do know from existing data that while a disproportionately high percentage of elderly and low-income people live in rural areas, there are no substantial rural public transportation systems there.

The American Public Transit Association indicates that of the 20,000 towns with populations of \$50,000 or less, 402 had some kind of public transit system in 1972, and only 313 had such systems in 1975—a net decline from 2 percent to 1.5 percent in 3 years’ time.

Mr. Chairman, I think there is something worthy of your serious consideration in Mr. Herringer’s statement today—and I have not had the opportunity to read it in detail—but he states that in the last 3 fiscal years, roughly one out of five grants made by UMTA have been to a small urban area, a total dollar value of \$27 million.

It reminds me of the State of Louisiana when we were talking about giving tax incentives to the big oil companies. They did it on the basis of creating jobs for people in those areas. But the big plants became so automated, they quit creating jobs and started getting tax relief.

Then the talk shifted from the number of jobs they were creating to the number of dollars that were being spent. It was a meaningless figure because there were no jobs created at all.

If you are talking about one out of five grants made by UMTA to a small urban area, they could only be extremely small grants going to communities close to urban centers.

I suggest, Mr. Chairman, when it comes to this point in Mr. Herringer’s statement, that this should be explored to see whether or not

the statements he makes are meaningful or, as I suggest, a lesson in semantics.

As I was saying, when you have a decline of 2 percent to 1.5 percent in a 3-year period—starting with a base of only 402 public transit systems—it is a discouraging economic trend. And the history of implementing existing legislation by the Department of Transportation doesn't give us any cause for optimism.

Back in 1972, a Senate Agriculture Committee report told us that our most rural noncommuter counties have double the incidence of poverty of that in nonrural counties, although they get a mere token return from most Federal delivery service programs.

In 1972, these counties had 24 percent of the poverty, but received only 2.1 percent of Federal outlays for basic adult education and 5.5 percent of health services. The only one that came close at all to meeting the incidence of poverty was elementary and secondary education, which received 17 percent of the outlays.

That same report concludes that the dearth of transportation resources in rural areas is a central factor in the failure to properly deliver these services.

Here it is 1975, and I still don't think we have begun to address the central problem yet. For example, the annual report required by the Rural Development Act details the amount of Federal funds that reach rural areas, and the latest report tells a very disturbing story.

The nonmetropolitan breakdown was subdivided into three categories to give a more accurate picture of where the funds were actually going—"urbanized," "less urbanized," and "thinly populated."

The total mass transit funds allocated to nonmetropolitan areas appeared to be 4.3 percent. But of the three categories in the nonmetro breakdown, the thinly populated areas got zero funds, the less urbanized areas got zero funds, and the entire 4.3 percent went to the urbanized nonmetropolitan areas.

I believe it is vital that the Congress properly direct the Department of Transportation to implement the National Mass Transportation Assistance Act, as amended through this proposed legislation, so that all three categories of nonmetropolitan areas get their fair share of the pie.

The judgment should be based on "need," and the need is there.

The universal cry from the rural communities for Federal transportation assistance is not just for the acquisition of capital equipment, but also for operating assistance.

Because of the difficulties incurred in providing services to people scattered over a wide area, rural areas literally will be left without a ride unless there is some Federal help to operate the program.

The first concrete Federal program to respond to this was the rural highway public transportation demonstration program, passed in 1973. The Congress and the Department of Transportation agreed that one-third of its funds should be used for operating expenses. According to the guideline language, "Projects eligible for Federal funds under this part include, but are not limited to * * * the payment from the general fund for operating expenses."

Logically, when the 2-year demonstration program expired, successful rural transportation project would be able to continue functioning under the rural provisions of the National Mass Transporta-

tion Act. Yet in passing the mass transportation bill, we effectively blocked the orderly transition from one program to the other by dropping operating authority for rural areas.

And if we cannot resolve this conflict over operating expenses, we will be defeating the very purpose of the demonstration program before it even gets off the ground.

The bill you are considering here today, S. 662, comes to grips with this problem. It does not add any new money. It does not give anything "special" to nonmetropolitan communities. It only provides the same operating assistance to rural areas that already exists for urban areas.

When the bill originally passed the House, it provided this right to rural applicants, but the provision disappeared somewhere in the Conference Committee.

Mr. Chairman, we cannot afford to let this happen again. Not only do we need this amendment, but I recommend that it be strengthened in such a way as to direct the Department of Transportation to work in all rural areas, and to expand the operating expense concept to include planning and technical assistance.

Thank you.

Senator WILLIAMS. Congressman Long, first of all let me ask you about your own district.

It is dominantly rural, is it not?

Mr. LONG. There is one city that approaches 50,000 in population. It is the only one that comes close to being designated urban. The next closest is 24,000.

The district is mainly composed of small rural areas, incorporated and unincorporated towns, scattered over a 210-mile area. It is 50 miles in length and 50 or 60 miles in width, going along the New Orleans Airport, along the Mississippi River, skipping Baton Rouge, coming back through Louisiana, and taking up the French country in south central Louisiana.

Senator WILLIAMS. In terms of mass transportation, is it basically a bus system that you have in this area?

Mr. LONG. To the extent we have any at all, yes. We have none other than that. There is a Trailways bus that runs through the area once in a while.

Some of the areas are not even served by that.

Senator WILLIAMS. Are there local bus lines?

Mr. LONG. The city of Alexandria and city of Opelousas have what may be called a bus system. For example, the town of Ville Platte, La., in the middle of the French country in my district, charters five buses to take people to their jobs every day in Lake Charles, a distance of about 30 miles.

There is no mass transit system at all.

By the way, in spite of that fact, Senator, I personally supported and cast the deciding vote in the Rules Committee to report out the mass transit bill because I believe it is vital to the welfare of America—particularly with respect to the energy problem and the ability to transport people.

In terms of rural areas, the transportation problems are so severe, I think we have to do something like we did with the rural electrifica-

tion programs in the thirties. We have to make a special effort to get these people mobile.

Senator WILLIAMS. Can you recall whether there were bus systems that served these people and is there presently an alternative to the automobile?

Mr. LONG. Occasionally there were local bus systems. Since that time some have been integrated into the Trailways system, but practically speaking we have never really had a mass transit system in that area at all.

Since the thirties we have been lucky to have roads. Much of the district is low country. It is expensive to build roads, and in some instances people must resort to boats.

Senator WILLIAMS. It impresses me that without a system of bus service within the rural parts of your district, you are not unlike many rural areas of our country. Rural America is not currently being served with an alternative to the automobile.

There are no buses or bus systems. Obviously rail transportation is out of the question in many of these areas.

Mr. LONG. That is true. I think it is an interesting point. I have 1 parish in the 13 parishes I represent where the biggest payroll is welfare. This is a sad situation.

I would say that probably the second biggest payroll in that parish is the school system, counting both the school lunch program and the teachers and administrators.

If you get to the third largest payroll it is probably State employees, who work on highways, roads, and other facets of public works. It is an extremely poor area.

Senator WILLIAMS. For geographical reasons is there an existing system of buses for schoolchildren to get to school?

Mr. LONG. We have busing—we have a fairly effective system of busing for schoolchildren. Yes. It's essential in that area.

It is now a fairly well-integrated bus system going into the question of compliance with the civil rights laws. Many of these areas arranged bus systems under Federal order, and it is working pretty well.

Senator WILLIAMS. Aside from the civil rights question, you have a predominant method of getting youngsters to school by bus?

Mr. LONG. A fairly good system. But just as we have a high incidence of poverty, we have a high incidence of illiteracy.

In the parish that I was using earlier, as an example, we have an extremely high rate of illiteracy. In fact the whole State of Louisiana rates 50th in the United States.

We have, compared to the circumstances in public transportation, developed a good system of transporting schoolchildren. Without it, the illiteracy rate would be even worse.

Senator WILLIAMS. It impresses me that where you have bus systems in existence and they are not making it and can't make it, operating assistance makes a great deal of sense and is probably essential to keep those systems alive.

Is the capital grant program enough or do you think it will not be a sufficient incentive to create bus systems?

Mr. LONG. I think it will. The areas in my district are developing economically to some extent, and have been for the past few years.

There is beginning in these smaller communities and people are beginning to run school buses on a limited schedule to get people from one area to another.

I don't know the extent to which it is being done, but I know it is very limited.

Senator WILLIAMS. You didn't mention the other parts of the bill.

Do you support the other aspects of this bill which tries to insure that as we fund various methods of mass transit, they should have built within them the opportunity for those who live with handicaps to use the mass transportation built with these funds?

Mr. LONG. Very definitely. I thought I could deal with the rural aspects of the bill very particularly because of my experience and the makeup of the district.

With respect to transportation of the handicapped, I have noticed remarkable changes in such things as airplane travel even in the last year or so, but I think there is still a great deal of room for improvement.

I would support those provisions in your bill.

Senator WILLIAMS. We hope we will have a good bill to send to you.

You are the last intersection in the Rules Committee. I am glad you support this legislation. Some things stop there for a while, as you know.

Mr. LONG. We have pretty well stopped that from happening in the last 2 or 3 years. We change bills up once in a while and try to give them a better structure than they had.

But we don't indulge ourselves in delaying bills anymore. I don't know if it's a coincidence or not that it has been in the 2 years I have been on this committee.

Senator WILLIAMS. Any questions?

Senator GARN. No.

Senator WILLIAMS. Thank you very much.

We are honored to have Harold Russell, Chairman of the President's Committee on the Employment of the Handicapped, as our next witness.

We are pleased Mr. Russell can be with us on the first day of hearings on these amendments to the Mass Transportation Act.

We welcome you.

STATEMENT OF HAROLD RUSSELL, CHAIRMAN, PRESIDENT'S COMMITTEE ON THE EMPLOYMENT OF THE HANDICAPPED; ACCOMPANIED BY BERNARD POSNER, EXECUTIVE DIRECTOR

Mr. RUSSELL. I am delighted to be here. I am happy to have with me Bernard Posner, Executive Director of the President's Committee.

Senator, and members of the committee, I wish to thank you for your invitation to appear here today.

I would like to have you think back to April 1, 1967.

It was 11 o'clock on the mall, and a throng of people were forming to enjoy the Smithsonian's annual rite of spring program.

At the same time, a historic moment was being marked in the Auditorium of the Museum of History and Technology. It was the birth of the newest Cabinet role, the new Department of Transportation.

The matter of a transportation department had been debated for over 90 years, but not until the 89th Congress were the obstacles finally overcome.

The people gathered at the auditorium were celebrating the decision of Congress to centralize in one Executive Department, the responsibility for leadership of the principal transportation matters of our country.

They heard the new Secretary of Transportation vow that this new Department would work to make transportation more socially responsible.

He recounted a list of goals that the Department would strive for. I think it is important to mention the priority he gave to one particular goal on his list.

His first goal was to make transportation safer for all users. I would like to quote his second:

We are also going to be more concerned with the transportation needs of physically handicapped people than has heretofore been the case.

This, we felt, was a grand and auspicious occasion for announcing to America that the long-sought aspirations of handicapped people had found a champion in this new Executive Department.

Other pronouncements in the days to come bolstered more hope. Improvement in the human environment—by application of human factors criteria to transportation design—was a theme reiterated by department officials.

In a society that prides itself on its fundamental concern for human values," the Secretary said at that year's annual meeting of the President's committee, "we have, it seems to me, omitted consideration for that which is most characteristically human—our weakness, our frailty, our imperfection."

The big problem, he concluded, is to get the right message through to the professions, where designers, in a strangely idealistic way, believe that men and women never weaken, never get old, never be deformed, never break down, never change.

With few exceptions, he said, engineers and designers are still constructing for users who are:

"Statistical abstractions; average men, median men, percentile men."

The next step brings us to 1970, when the Congress made a declaration of national policy that elderly and handicapped persons have the same rights as other persons to utilize mass transportation facilities and services.

This section of the Urban Mass Transportation Assistance Act, as you know, authorized the Secretary of Transportation to make grants or loans to States and local public bodies to assist in providing services which are planned, designed, and carried out to meet the special needs of elderly and handicapped persons.

It also requires that special efforts be made in the planning and design of mass transportation facilities so that elderly and handicapped persons can effectively utilize them.

We have had studies and reports bearing such titles as, "Transportation Barriers to the Handicapped," or "Mobility Needs of the Handicapped," or "Analysis of Transportation Problems of the Handicapped."

We have moved forward to grasp the extent of the problems. Now we are beginning to move toward solutions.

The physically handicapped themselves have become notably insistent during recent years. In fact, the evolution of organized groups of handicapped persons, as articulate and activist consumers, has characterized this past decade. They have turned to the courts and to the law to back up their efforts.

In San Francisco, they cited the State law which required the transit planners make the BART system accessible to the handicapped.

Here in Washington, it was a class law suit that forced the Metro officials to make the subway system accessible.

In Baltimore and Atlanta and Buffalo and Boston and Los Angeles, and anywhere else that accessible public transportation is planned, or taking shape, it is the handicapped consumers whose voices are being heard.

Now we come to 1975. Earlier this year, the Department of Transportation published a notice of proposed rulemaking that gave new hope to many handicapped people.

These regulations would spell out in detail certain design criteria which would make some public transit vehicles accessible to persons with handicaps. They would also provide for accessible terminals, stations, depots, and other facilities.

In addition, they would require some special services be addressed to the needs of persons with handicaps or who are aged.

While we do take exception to some of the details contained in these proposed regulations, we feel they are a valuable approach toward solving transportation problems of handicapped persons. Its appearance last February was a welcome event. We were glad to support it publicly.

We were, I might add, exceedingly generous in our praise of the Department of Transportation for taking this step.

Since then, proposed legislation S. 662 has come to our attention. Both the regulations and this legislation, we believe, intend to accomplish the same goals—by alleviating the transportation problems faced by handicapped persons.

The question, therefore, resolves into an interesting choice: Should the approach be by way of administrative rules, or through enactment of legislation?

We assume there are no quarrels with the general aim of the legislation on the part of the Department of Transportation. It certainly is in sympathy with the objectives contained in its own notice of proposed rulemaking.

Following the rulemaking came hearings held throughout the United States. Testimony from many people was taken. It is now being evaluated and studied by the Department of Transportation.

We are dealing with a complex subject; it should not be treated superficially.

We feel the department should be given adequate time to evaluate the hearings. We feel that any consideration of S. 662 should wait until this evaluation can be completed.

I have tried to establish the fact that some forward movement has occurred in the area of transportation for handicapped people. A

momentum is growing. We do not feel the momentum will be lost by deferring consideration of S. 662 until a later date, when the Department of Transportation completes its review of the complex matters before it.

In fact, we feel that there is no stopping the momentum. The handicapped people of this country will not allow it.

Instead, a slight delay will result in surer footing, in a more thoughtful approach.

That is really, I think, all that we want.

Thank you, Mr. Chairman.

Senator WILLIAMS. Thank you, Mr. Russell.

I notice in your statement here—I was following it—that you say we are beginning now to move toward solutions.

As you testified, you said “now hopefully we are beginning to move toward solutions.”

I wonder what degree of hope you have, that we are moving in the right direction toward these solutions?

Mr. RUSSELL. I am hopeful, Senator, that there is a light at the end of that long tunnel.

I have seen firsthand, a real need for handicapped people to get on the buses and streetcars around the Nation. I would like to think we are moving toward these solutions either through regulations or legislation.

Senator WILLIAMS. This will probably be central to our hearings, whether the regulations standing without additional legislative direction, are sufficient.

In a letter of May 16, from the President's Committee on Employment of the Handicapped, signed by Mr. Posner, Executive Director, I had the impression that your committee felt that the proposed regulations which were then in the hearing process, were not—did not offer the promise of complete solutions.

Perhaps I would be wise to quote a paragraph or two from the letter from the Committee on Employment of the Handicapped, which said, the recent proposed regulations, of the Urban Mass Transportation Administration are lacking in a decisive program and philosophy that could lead to a suitable solution of this problem.

There is obvious confusion and vacillation regarding the course of action to take, whether to attempt to adapt design of normal public transportation systems to meet the needs of handicapped persons, or to set up a specialized and personalized subsystem to handle their transportation needs.

Now it seems to me this is key to our hearing process on this legislation.

It was felt by those who offered the bill that there is presently lacking a decisive program and philosophy. We move with S. 662 to try to develop the elements which are lacking.

I wonder if we could have a clarification or amplification of your letter and your testimony today. Mr. Posner is with you to help us in this regard. However, you may want to handle the dilemma that you present us with.

Mr. RUSSELL. Mr. Posner will answer that question.

Mr. POSNER. Thanks.

I get the feeling from the testimony to be offered by Mr. Herringer today that the regulations we are talking about are not cast in stone. The agency is asking for more time to evaluate the hearings held in six cities around the country, during which many, many handicapped people themselves testified.

I get the feeling that there might be considerable changes in the proposed regulations. He seems to indicate this.

I think all we are asking is an opportunity to allow the agency to consider the input and then make minds up as to whether or not legislation is a proper path, or administrative rules are the proper path.

Senator WILLIAMS. The hearings have been concluded, is that right?

Mr. POSNER. That is right.

The testimony states that UMTA expects to have its analysis complete within the next few months. I don't know what a "few months" means, but apparently it is a period, a time, that does come to an end.

Senator WILLIAMS. Did the committee testify at any of the hearings on the regulations?

Mr. POSNER. Ed Leonard attended one of them.

Senator WILLIAMS. Did you submit any statements?

Mr. POSNER. Yes. His statement will be submitted for the record.

Senator WILLIAMS. I would think that you would be one of the most qualified in expressing the need and addressing yourself to whether the proposals are going to meet the need.

Mr. POSNER. Our expert on barriers in transportation, Ed Leonard, is out of the country.

Senator WILLIAMS. It must be obvious that one of the difficulties that result from being handicapped and not having transportation, is that you can't get to a job.

Mr. RUSSELL. There is no greater need in this Nation as far as handicapped people are concerned, than to provide adequate, cheap transportation.

A Ph. D. I know is a quadriplegic and he works in Massachusetts. It costs him more to work than if he stayed on disability income. Most of this is in paying someone to pick him up and take him home.

There is a desperate need for this all over the country.

Senator WILLIAMS. You support that effort?

Mr. RUSSELL. I support the solution to this problem, whether through regulations, sir, or through legislation.

I think that as these hearings are being evaluated, it will become clear the route we have to take.

Senator WILLIAMS. What has happened within the 3 weeks since you wrote the letter, that shifted the emphasis here from a need for legislation, to let's wait and see what develops following the hearing on the regulations.

Mr. POSNER. I became aware of the fact that the hearings were being evaluated, and that the agency was considering changing its regulations in accordance with its evaluations.

Senator WILLIAMS. Did you attend any of the hearings?

Mr. POSNER. I did not, sir. Ed Leonard did.

Senator WILLIAMS. Then you received from us, material on S. 662. It was in response to that material that you wrote this letter?

Mr. POSNER. That is right, sir.

Senator WILLIAMS. You say, we can only applaud your efforts—meaning our efforts here—in Congress to reiterate this policy through detailed instructions to the Secretary of Transportation.

Do you have a copy of your letter?

Mr. POSNER. I have, sir, yes.

Senator WILLIAMS. What did you mean, “we can”?

Mr. POSNER. We can only applaud your efforts in reiterating this policy with detailed instructions to the Secretary of Transportation.

Senator WILLIAMS. Were you referring to the bill?

Mr. POSNER. I am referring to the bill, yes, sir.

Senator WILLIAMS [reading]. “A specialized system will be necessary as part of transportation. We are convinced it is our responsibility to a dual solution if the handicapped persons will enjoy the right to public transportation.”

Mr. POSNER. There are two systems needed. One is the mainstream system that allows as many handicapped people as possible to use the mainstream system.

The other is the realization there are people so severely handicapped in this country, that they cannot use the mainstream system of transportation. For these some kind of special transportation is needed. They cannot possibly be brought to a mainstream system.

There is a need for both. We are calling for recognition of the need for both.

Senator WILLIAMS. Now, the Department will say they are trying to develop a prototype for buses, for people in wheelchairs, a capability for mainstream buses to handle wheelchairs. What is your view of this ambition?

Mr. POSNER. Of the capability of buses to handle wheelchairs?

Senator WILLIAMS. Yes.

Mr. POSNER. We applaud the effort. We have seen some of the systems that have been considered. We’re talking about the more seriously handicapped. We’re not talking about those in wheelchairs only. We’re talking more about quadriplegics and those who have severe cerebral palsy and people for whom adequate bus service would not be suitable even if a bus could accommodate a wheelchair.

Senator WILLIAMS. Could you put a little more flesh on this and describe the dual systems that would serve the more severely handicapped?

Mr. POSNER. They would benefit—perhaps for some type of dial-a-ride bus system. I’m thinking in my own mind, now, a system that would be available upon call, a system for which the handicapped would not have to pay. I may be dreaming dreams. A system that would have trained attendants to bring the people aboard a bus and transport them where they go.

I think there is one basic premise behind this entire thing, Senator, and that is the right of Americans to leave their homes by any means.

Senator WILLIAMS. We’re going to have to hear what the Department is doing, to see whether they are in fact developing under their regulations all of the means of making transportation available to handicapped people.

I note in Mr. Herringer’s statement they say they are doing it. We will have to see. You thought this wasn’t being done a month or so

ago. Now you're willing to wait and see. I'm wondering whether we are in fact getting what has been stated as national policy through Federal law—that is to develop the systems that will make our mass transportation federally supportive to all handicapped people.

Mr. POSNER. We're talking legislation or regulation?

Senator WILLIAMS. We will wait to see whether that is true. We'll hear from Mr. Herringer and see what the Department is doing. They feel, I'm sure, that they are doing what is necessary to develop systems that will serve people. You didn't think so.

Mr. POSNER. I didn't think so. I wasn't aware of the tremendous evaluation that was going on at that time. All I'm saying is wait and see. With our options open, wait and see.

Senator WILLIAMS. Senator Garn, do you have questions?

Senator GARN. I don't have any questions. I want to clear up one thing.

Listening to both of you gentlemen, I gather that you both are totally committed to solving this problem. There is no dispute there at all.

Mr. POSNER. That's right.

Senator GARN. It boils down to what you're saying, that you now don't want to necessarily go ahead and say regulation is the way to do it or that legislation is, but to allow time for the evaluation and study so that you can come back and say we can or cannot do it with regulation or legislation.

Doesn't that sum it up?

Mr. RUSSELL. I think that is true, Senator.

Senator GARN. That is all I have.

Senator WILLIAMS. Congressional objective and intention has been clear for 4½ years. This direction has been in the law for that period of time. We regret that we are not further advanced. S. 662 is before us in order to hasten our progress toward that objective.

I appreciate your help on this first day of hearings on this measure which brings into sharp focus what we are doing to serve people who desperately need public or mass transportation.

Thank you.

Mr. RUSSELL. Thank you very much, Senator.

Senator WILLIAMS. Now the centerpiece of today's hearing. The Administrator of The Urban Mass Transportation Administration, Mr. Frank C. Herringer.

STATEMENT OF FRANK C. HERRINGER, ADMINISTRATOR, URBAN MASS TRANSPORTATION ADMINISTRATION; ACCOMPANIED BY SALLYANNE PAYTON, JEROME C. PREMO, C. KENNETH ORSKI, AND FROM THE FEDERAL HIGHWAY ADMINISTRATION, BARBARA REICHART

Senator WILLIAMS. We look forward to your statement. We have the highest regard and respect for you and your associates. I am glad to see you're here together.

Mr. HERRINGER. We want to thank you for your invitation to appear and present the views of the Department of Transportation on S. 662, a bill which deals with several important issues affecting mass transit and its users.

The Department is strongly committed to improving the level and quality of mass transportation services. We support the objectives of S. 662. At the same time, we do have some concern regarding enactment of the provisions for the elderly and handicapped at this time, and we are concerned also about implementation and timing of a program to extend to rural and small urban communities operating assistance for transit services similar to that provided to urbanized areas under the National Mass Transportation Assistance Act of 1974.

I will discuss each of the provisions of the bill in turn.

Section 1 of the bill would permit subsidies to transit systems in rural and small urban communities for operating expenses.

The problems of many transportation users in these areas—the poor, the elderly, and the nondrivers—are in many cases more severe than those of similar groups in the cities. Many residents of rural and small urban communities do not have access to private automobiles which are necessary to reach the basic services or activities located many miles away. Shared ridership with neighbors is often used, but this is not always a reliable or a convenient means of transportation for such individuals.

Assistance to transit systems in these areas has always been provided in UMTA's capital assistance program. In the last 3 fiscal years, roughly one out of five grants made by UMTA has been to a small urban area—a total dollar value over the last 3 years of roughly \$27 million.

But our experience has shown that the problems small communities face in providing public transportation service are not limited to the acquisition of capital equipment. Increasing labor costs—both for operation and maintenance of vehicles—and increasing fuel costs contribute to the growing cost of providing transit service in both large and small communities.

The problem in providing public transportation service is the great distance which must be covered outside of urbanized areas to bring small numbers of people to centralized locations.

UMTA's involvement in nonurbanized areas also includes a number of projects in the section 16(b)(2) program under which UMTA is making grants to be used by private nonprofit organizations to provide transportation for the elderly and handicapped. Many of the grants we are making under this program are for projects in rural and small urban communities.

In the 1973 Highway Act, the Congress established the rural highway public transportation demonstration program, a 2-year demonstration effort slated to begin in fiscal year 1975. To expand coverage of the program to include all nonurbanized areas, the act was amended in 1974 to include small urban communities as well as rural areas. Proposals for funding under the program are presently being submitted through the States and are undergoing evaluation. By late summer we expect to have a number of projects underway.

Because this demonstration program is authorized for fiscal years 1975 and 1976, we suggest that the \$500 million now available for rural and small urban areas not to be used for operating assistance under fiscal year 1977.

There are sound reasons for such a delay for 1 year. When Congress passed the National Mass Transportation Assistance Act last year,

it dealt with a familiar problem—the provision of operating assistance to transit systems in large metropolitan areas. We knew the types of services that were being provided. We knew the magnitude of the operating deficits and could identify them in each urbanized area. The debate over the issue had gone on for some time. While there was not universal agreement as to the appropriate Federal role, there was not any doubt as to the existence and magnitude of the problem.

This is not the case in rural and small urban communities. While we are aware that problems exist, and while we have been able to identify different types of problems, we do not yet have any estimate of the magnitude of the problem. In particular, we neither know what the latent demand for public transit service might be, nor have we fully explored alternative institutional arrangements that might be made to satisfy that demand.

Although our grantmaking activities to date have provided some exposure to the needs of rural and small urban communities, we are not yet in position to recommend solutions to these problems. Because we do not know exactly how much money effective solutions will cost, we believe that the wisest course is to study the results of the demonstration program Congress has established before we decide what legislative changes are appropriate.

Our suggestion that operating assistance be made available beginning in October 1976 will give us the flexibility to address the problems that arise in the most sensible way, based on what we learn from the demonstration program which Congress established. This approach is consistent with our recommendation in the 1975 highway bill which we will submit shortly, and which will recommend rural and small urban area grants for operating assistance in fiscal year 1977 upon publication of regulations governing use of such funds.

A second major provision of S. 662 concerns transportation for elderly and handicapped persons. It would substantially revise section 16 of the Urban Mass Transportation Act of 1964, as amended. UMTA already exerts a substantial and increasing effort in this area.

First, section 16(b) of the 1964 act authorizes the Secretary to set aside 2 percent of the funds in the basic mass transportation capital grant program for use in programs which meet the special needs of elderly and handicapped persons. We are presently spending well over that 2 percent level for programs for elderly and handicapped persons. In addition, UMTA is devoting a significant portion of its research, development, and demonstration funds—well over the 1½ percent authorized by section 16(c) of the act—to increasing the information and technology available to provide improved transportation facilities and services for the elderly and handicapped persons.

Second, our R. & D. work has included development of a new generation of city transit vehicles—the so-called Transbus. In developing prototypes, UMTA has required the manufacturers to provide accessibility for wheelchairs. Three of the nine prototypes have been equipped with such features. UMTA is also developing a specification for small buses which will concentrate on features useful in service to elderly and handicapped persons.

Third, in addition to these hardware design efforts, UMTA has focused on transportation service to the elderly and handicapped under our service and methods demonstration program. We are about

to let three contracts leading to a major study of the transportation patterns and requirements of elderly and handicapped persons that we anticipate will become an important work in the field.

The final report of this study is expected to be ready by July 1, 1977. It will contain the kind of information that S. 662 would require to be submitted to Congress.

Finally, we are presently in the midst of a major rulemaking proceeding which commits us to strengthening our requirements for service to the elderly and handicapped persons. We have had six regional hearings on the proposed regulations published in February and have received several thousand pages of written commentary from a broad cross section of persons concerned with the issues raised by the regulations—organizations and individuals representing the elderly and handicapped, Federal, State, and local elected officials, transit operators, city planners, manufacturers, and supplies of transit equipment.

At the same time, HEW's Administration on Aging [AOA] has been investigating transportation alternatives for elderly persons. Earlier this year AOA issued a comprehensive report on the state of the art of transportation for the elderly, and conducted four regional public hearings. We are studying the material developed by the AOA along with that developed under our own rulemaking effort, and we hope that our final regulations will distill the best thinking on this subject.

Like S. 662, our proposed regulations concentrated on insuring that the transportation needs of the elderly and handicapped are considered systematically in the transportation planning process, on creating service which meets the needs of elderly and handicapped persons, and on reducing barriers in the design of equipment and facilities.

We agree that representatives of the elderly and handicapped should be included in the planning process, and UMTA is committed to that goal as part of its general commitment to bringing about broader participation in that process. We do believe formal advisory committees at the local level may not be the most appropriate approach. We will be happy to submit a fuller discussion of that issue.

Both our regulations and S. 662 would require local planners to review the unmet transportation needs of the elderly and handicapped persons within the area for which transportation planning is done. Both would require the local adoption of a plan for meeting these needs.

On the equipment design side, UMTA's regulations are consistent with S. 662. We would require that all new fixed facilities—stations, terminals, et cetera—comply with the specifications for accessibility to the elderly and handicapped published by the American National Standards Institute, the so-called ANSI standards, and would similarly require that new vehicles operating on rapid rail systems have interior features that would make them accessible to and reasonably safe for persons in wheelchairs.

UMTA's regulations would further require modification in the design of standard city transit coaches to accommodate the physical limitations of the great majority of elderly and handicapped transit patrons. We would require a redesigned stairwell to lower the first step, improved lighting and destination signs, and improved handrail and stanchion configuration, among others.

We are in the process of assessing the technical comments that we have received on these features. We have proposed these features for inclusion on the current generation of buses. We anticipate that the Transbus will be commercially available within a reasonable period of time and should provide a substantially higher level of service to elderly and handicapped patrons, including those in wheelchairs. If you wish, we will provide the committee and staff with technical comments we have received on these equipment features.

We believe that there are many severely handicapped persons who will become transit patrons if the equipment and facilities are designed to take into account their mobility limitations. On the other hand, many other handicapped persons will always require specialized service, whether provided publicly or privately.

UMTA's regulations, like S. 662, would require localities to plan to meet the actual transportation needs of their elderly and handicapped citizens. UMTA's regulations, like S. 662, would require that accessibility to transit equipment be provided to the maximum extent feasible within the state of the art; and UMTA's research, development, and demonstration effort is committed to advancing the state of the art in both planning and equipment design.

Even though we are in substantial agreement with the direction of S. 662, we think that the enactment of legislation to revise section 16 of the UMTA would be premature prior to the time when we have an opportunity to assess the comments that we have received on our proposed regulations.

We know now our regulations will require considerable refinement. Many of the problems that have been raised with respect to our regulations apply with equal or greater force to S. 662. At minimum, we would want the committee and its staff to wait and have the benefit of all the comments and our judgment on these issues before enacting legislation.

A well-considered approach to this problem must involve an analysis of cost. We are attempting now to develop reliable information on the capital and operating cost implications of various alternatives, including the cost to the elderly and/or handicapped traveler of using services now available. We all need a better appreciation of the relationship between alternative investments and the actual transportation benefit to elderly and handicapped persons.

In short, the Department supports the objective of the elderly and handicapped provisions of S. 662 but urges that the committee first consider our recommendations at the end of our rulemaking proceeding before enacting further legislation. We expect to have our analysis complete within the next few months.

With your permission, Mr. Chairman, we will submit a supplementary statement setting out in greater detail some of the issues involved in the elderly and handicapped section of S. 662. I would like to emphasize that our opposition to the enactment of the legislation at this time does not obscure our support for the general objectives of S. 662. DOT is fully committed to moving ahead in this area.

There are four other sections of S. 662 which we strongly support. They are basically technical amendments to the UMTA, but are important to the proper administration of the UMTA program.

The first of these would amend section 10 of the act to broaden the Department's authority to make training grants to employees of transit systems. The existing provision contains a number of restrictions which have hampered the effectiveness of the training grant program. The law sets a limit of 100 grants per year and restricts the percentage of grants that may be awarded in any one State. These restrictions inhibit the effective administration of the grant program. More significantly, the act currently requires that grants be made only for graduate study in institutions of higher education.

The training needs of transit personnel cannot always be met through graduate work in academic colleges and universities. For example, many kinds of technical training which are of significant value to transit systems can be done in trade schools and other technical institutions.

The bill would remove these limitations. The Department would be able to make its own determination of the number and distribution of training grants, within the limits of its appropriation, and we would not longer be restricted to making grants only for graduate study.

In conjunction with this broadening of the type of training available, we believe that the program should be further broadened to make this training available to personnel occupying a wider variety of job classifications within a transit system. We recommend therefore that S. 662 be amended to include operational personnel among those eligible for training grants. We define operational positions as those of a nontechnical nature which affect the overall efficiency of transit operations.

With this suggested change, the legislation will make the training grant program an effective tool in the effort to improve mass transit services and operations.

Section 3 of S. 662 defines construction to clarify those elements of work which are eligible items under capital assistance grants. As a technical point we recommend the deletion of the existing definition of construction in section 5(a)(1) of the 1964 act. The definition contained in S. 662 is appropriate for the entire act.

Section 5 of this bill allows the Secretary of Transportation to convert prior capital assistance loans to grants, or to forgive principal and interest on a prior loan in lieu of a cash grant. This provision applies to the only two places where we have made capital assistance loans—the State of Rhode Island, and the city of Philadelphia.

Because of problems of matching shares and availability of grant funds at the time, they were forced to accept capital loans instead of grants. The legislation is designed to equalize their obligations and benefits with other recipients of Federal mass transit aid.

Finally, section 6 eliminates the old liquidation schedule in section 4(c) of the act and establishes a requirement that the Secretary submit reports to Congress on the estimated cost of capital grants for the years 1977–83. This change gives UMTA and DOT a greater degree of flexibility in its program control which is necessary when dealing with major capital assistance projects.

In conclusion, I emphasize that our reservations about specific approaches contained in this legislation should not be interpreted as

any lessening of our commitment to provide good transit services to the elderly and the handicapped and to people in rural and small urban communities who are in need of service. I want to reaffirm UMTA's continuing commitment to these goals and our willingness to work with the Congress to achieve them.

I will be happy to answer any questions the committee may have.

Senator WILLIAMS. Thank you very much, Mr. Herringer. I will say at the outset that your statement is of departmental good purpose. We appreciate your attention to it. We regret you won't be here to see the fruit of the harvest. Good luck to you and your western venture.

Mr. HERRINGER. Thank you.

Senator WILLIAMS. You're going to BART. I'm told that in the planning and development stage—and now in operation—is an attention to the needs of the handicapped. What are some of the approaches used by BART? Are you familiar with them?

Mr. HERRINGER. Not in detail. The most striking feature of the system as far as elderly and handicapped accessibility is concerned is that each station has an elevator. There are other features such as handrails and specially designed restrooms.

Senator WILLIAMS. What about the wheelchair accessibility?

Mr. HERRINGER. People in wheelchairs gain access to the station through elevators. They can get to the platform level. That is a problem in New York where the stations are older and access is by way of stairs.

Senator WILLIAMS. Platform level was taken care of in the new system. It was built in at the outset. How about car accessibility? The approach to door level is made possible with elevators. How about car accessibility and the gap between platform and the car.

Mr. HERRINGER. I don't think there is a problem with gap level in the BART system. The level of the platform and door level is such that it can be accessed by people who use wheelchairs.

Senator WILLIAMS. What is the permitted gap to accommodate the wheels of the wheelchair?

Ms. PAYTON. The maximum BART gap is about 4 inches. There have not been many complaints about the BART gap to my knowledge. We did suggest in our regulations that the horizontal gap ought not to exceed 2 inches and vertical doorway gap ought not exceed 1.5 inches.

It was suggested to us that that tolerance was too close for safety and closer than was required by the wheelchair users. By way of comparison, the horizontal gap at BART ranges between $2\frac{7}{8}$ inches and $3\frac{5}{8}$ inches.

Senator WILLIAMS. I missed that last point.

Ms. PAYTON. The short answer is that the maximum BART gap, which is just under 4 inches, appears to be satisfactory.

Senator WILLIAMS. Four inches for the wheelchair, and that is accessible?

Ms. PAYTON. That is my recollection. There are a substantial number of wheelchair users in the bay area who travel on BART.

Senator WILLIAMS. What is the accommodation for the wheelchair within the train or car?

Ms. PAYTON. There is an area close to the doorway that is available for the stationing of a wheelchair. There is not a wheelchair securement device. The wheelchair user must hold on with his or her arms to the stanchions provided there.

Senator WILLIAMS. There is no locking of the wheelchair?

Ms. PAYTON. No, sir, we proposed in our regulations that there be a wheelchair securement device for rapid rail cars. We have gotten mixed reactions. Some wheelchair users suggest that is not necessary. In our view it would be desirable.

There has been suggestion that although a wheelchair securement device is critical where the vehicle has a bumpy ride or rapid acceleration, has a sway, that is not so true on new rapid rail facilities. The lack of the securement device on BART has not to our present knowledge caused any major problems.

Senator WILLIAMS. This attention to the particular needs of the wheelchair passenger was done without direction from any Federal authority; am I right or wrong or that?

Mr. HERRINGER. That is correct. That was a State law. BART was begun—that is, the initial financing was completed—before there was a major Federal program. Most of the funding in BART has come from the local level.

Ms. PAYTON. The BART engineering staff worked with the disabled veterans and other groups to bring about satisfactory accessibility features.

Senator WILLIAMS. With fixed facilities, do you have in place effective regulations that require facilities for nonambulatory?

Mr. HERRINGER. That is what the rulemaking procedure is about.

Ms. PAYTON. All of the new rapid rail systems that UMTA is funding will be barrier free.

Mr. HERRINGER. We could, but we would not. Once the regulations get in we would not or could not, I suspect.

Senator WILLIAM. What if the original sin is in place and you have three floors to get to train level and you have a relatively new federally funded facility? Are there any mechanisms to correct that original sin and put an elevator in the Metropark in Madison, N.J., for example?

Mr. Premo may know.

Mr. PREMO. We do not have applications currently pending to readjust stations already in place. The Lindenwold line in southern New Jersey—we have no application from that public agency to reequip the station on the Lindenwold with devices, possibly including elevators, that would make that system barrier free. On new systems such as Atlanta and Baltimore, in every case the stations as part of those programs will be barrier free.

Ms. PAYTON. Under our proposed regulations we would require that stations would have to be accessible. The stations on a usable segment, where a passenger could enter and exit to take a complete trip on segments financed by UMTA, would have to be barrier free.

We are aware of several transit systems that are working with the issue of retrofitting to provide access along existing rail lines. I think particularly of Chicago and Boston in this regard, although their analysis has not reached the stage of application to UMTA. Several transportation systems were considering that route.

Senator WILLIAMS. Now, let's get first of all to an understanding of your position on the discretionary authority in the bill for operating expenses on the rural projects. I don't quite understand why you delay this discretionary authority. I can imagine there would be a system now in place in a rural area that is going down the drain. If S. 662 was enacted perhaps you could save it.

I don't see why you want to tie your hands by not receiving this discretionary authority.

Mr. HERRINGER. Were such a system going down the drain there could be funds available under the rural demonstration programs under the 1973 Highway Act. We're not opposing this provision to S. 662. All we're saying is there is this demonstration program established by Congress that has 2 years to run.

Let's wait for the results out of that before we institute a new program. It would be conceivable, for example, if the Congress would enact S. 662 that they would enact it with start date of October 1, 1976, which is only 15 months from now.

Senator WILLIAMS. What are you doing under the demonstration authority that was in the highway act? What kind of demonstrations have you embarked upon?

Mr. HERRINGER. The applications are being developed by the State. The lead responsibility is in the Federal Highway Administration. I'm not personally familiar with the types of programs that are coming in.

I don't know whether the Federal Highway Administration is familiar with them at this stage. They are in the hands of the States and they are on their way. Barbara Reichart may have more information.

Ms. REICHART. The proposals are coming in to the States now. We have not seen any of them.

Let me give you a brief idea of what we are expecting. We are trying to see a variety of programs in areawide regional things, or statewide basis, that can be used to demonstrate what could work in a rural or small town area transportation system. This is a demonstration program. We are trying to be flexible in it. We are anticipating traditional types of programs using small bus, small vehicle types of service. Perhaps some will come in using cars, using station wagons, perhaps multiple-use vehicles.

The money for the program, as you know, is \$9.65 million for the fiscal year. The response and interest we feel exists in the States and that we have seen, by meetings with State and regional people, by their repeated communications with us, is very great. But it will not be enough to go around.

One of the things we are asked about most often is the money available for operating costs. Of that \$9.65 million, only 30 percent, roughly \$2.8 million, will be available for operating costs. What we're trying to do is use the resources that already exist through other Federal and State agencies to make up whatever difference there would be in order to provide good service.

We hope that the proposals will come in showing an integration of resources. HEW, Administration on Aging, Departments of Agriculture or Labor funds, State funds, and local funds to provide

some service to all people, not just senior citizens, handicapped, or poor people, but a general-use transportation system.

Those proposals will come through the State and regions. We anticipate getting them in Washington by the end of July. We will review them whereupon the ones we preliminarily select will go back to the States. There will be public hearings on those programs. Hopefully, by late fall, we will be able to actually fund demonstration programs, get them rolling and be able to use the service.

Senator WILLIAMS. How long have you been embarked on the search for the demonstrations that you will approve and are any demonstrations now taking place?

Mr. HERRINGER. The answer to the last question is no. The final regulations were published April 11, 1975.

Senator WILLIAMS. When was the authorizing law signed?

Mr. HERRINGER. 1973 act was signed in August 1973. The regulations—I'm anticipating your next question—the regulations were developed and published. Subsequently it became evident that there was confusion as to whether or not the operating moneys could be included under the 1973 act.

This issue was clarified in the 1974 act. The regulations were then revised and sent out.

Senator WILLIAMS. You have a slower pace on developing regulations than some departments. We had a department last week; they have a proposal on regulations for housing programs and we knew they had put them out for comment for 30 days. We knew they had the final regulations written at the same time. I objected to that by the way.

Mr. HERRINGER. Without trying to appear definitive, I would point to our record on regulations to implement the 1974 act, which you were instrumental in getting through.

The bill was signed November 26 and we had regulations out December 26. We are not always that slow.

Senator WILLIAMS. This demonstration program is necessary. There is no doubt about that. We should be farther down the line in getting demonstrations in to place to see what will work in rural areas.

I don't see why this should hold up the Congress from giving you authority to make sure that an existing system which is limping and perhaps failing, is kept alive even before you have demonstrated some of these other ideas. If it is a system that works and can be kept alive, we should have the authority to keep it alive.

Mr. HERRINGER. Before the Appropriations Committee this year, I am on record as saying I thought the Administration would be receptive to operating assistance in the existing areas. Perhaps the demonstration will help us answer questions.

Should we limit the operating assistance to \$250 million out of the \$500 million? Should we do it on discretionary grant basis or by formula? These questions will be answered.

Senator WILLIAMS. I don't—just as a question following your suggestion on the question of a formula program or a discretionary program. It would seem to me that in this exploratory period the formula would not apply.

Mr. HERRINGER. That is our point. We think if we get experience with the demonstration program, we will know.

Senator WILLIAMS. Maybe I don't understand the demonstration. I thought the demonstration was seeking to find answers where there is nothing and where there is no transportation. Isn't that the basic thrust?

Mr. HERRINGER. It can also be used to shore up systems where they do exist.

Senator WILLIAMS. Has that been part of your consultations at the State level to shore up the development of the station wagon approach and other new approaches?

Mr. HERRINGER. Your impression is correct and mine is incorrect. The demonstration funds cannot be used to bail out existing operations.

Senator WILLIAMS. Let's take that part of the bill over and put it on the consent calendar then. I think it is probably the area that has the fewest questions—discretionary authority for operating expenses in rural areas for existing systems. This probably has the greatest consensus, because of the technical problems in the other areas.

Let me ask you, the Transbus you have described in part. What is the mission of the Transbus that is in prototype?

Mr. HERRINGER. The mission, as the Senator knows, there has been no major design revision in the standard transit and building codes since the fifties. The Transbus mission is to develop a new type of design in maintaining transportation bus systems.

Senator WILLIAMS. What is the "trans"? It is a transition from the stock bus to something that will be different.

Mr. HERRINGER. That sounds like a good definition.

Ms. PAYTON. Maybe we should say the transient bus.

Senator WILLIAMS. Your foundation in law is in two acts. Your regulations are founded in the Highway Act? Am I right on that?

Ms. PAYTON. Which regulations are you talking about?

Senator WILLIAMS. The Highway Authorization Act.

Ms. PAYTON. Right.

Senator WILLIAMS. That is then followed by appropriations language. What is the date on that act? August of 1974?

Ms. PAYTON. Yes, Senator, we cite section 16 of the Urban Mass Transportation Act as amended; section 165(b) of the Federal Aid Highway Act as amended; sections of the Rehabilitation Act of 1973; and the delegation to UMTA to administer the program under the Appropriations Act of 1975.

Senator WILLIAMS. The last, the Appropriations Act of what year?

Ms. PAYTON. DOT 1975 Appropriations Act.

Senator WILLIAMS. It was passed in the Senate in August of 1974, section 315 states: "None of the funds provided under this act shall be available for the purpose of passenger rail or subway cars, for the purpose of motor buses or construction of related facilities unless such cars, buses, and facilities are designed and meet the mass transportation needs of the elderly and the handicapped."

That is the last congressional expression of intent, is that correct?

Ms. PAYTON. I believe that to be true.

Senator WILLIAMS. That is in the Appropriation Act. Is there any confusion or doubt as to its meaning? Am I right in stating it that way?

Ms. PAYTON. I believe that to be true, sir.

Senator WILLIAMS. It is crystal clear. There is no escaping the mandate of what you must do. None of the funds can be obligated unless the needs of the elderly and handicapped are met through the design of facilities, whether it be rolling stock or fixed rail.

It seems that with S. 662 we anticipate some of the problems that you're probably going to be digesting out of your hearings on the regulations. We say "The Secretary shall issue accessibility standards for transit vehicles designed for at-grade operations, which may incorporate such reasonable exceptions from the requirements for grade-separated systems as the Secretary may deem required by the nature of the vehicle or its proposed use and commercial availability of reliable equipment to facilitate accessibility, except that such exceptions shall only apply where the Secretary determines, based on substantial evidence and in accordance with a detailed timetable submitted pursuant to the second section of paragraph 2 that the provisions of this subsection or others being carried out."

There is a realistic latitude here. I would think that you who are administrators would find that this bill would make your job more effective.

This is what we're proposing to you, an opportunity to administer the act with greater effectiveness and efficiency. Don't say, "No," yet.

Mr. HERRINGER. I said, "Yes."

Senator WILLIAMS. Oh, you did.

Let me say this, we're in a concentrated period now of holding hearings on this bill and we will follow your findings on your regulations most carefully. I also hope you will have someone follow these hearings. I anticipate that it might come to pass that we would benefit from your comments after our hearings have been completed.

Would that be possible?

Mr. HERRINGER. Certainly.

Thank you, Senator. We would like to do it.

Senator WILLIAMS. Thank you very much.

We are adjourned until 10 o'clock tomorrow.

[Whereupon, at 11:50 a.m., the hearing was adjourned, to reconvene at 10 o'clock, Wednesday, June 18, 1975.]

[The following letters and statements were received for the record:]

STATEMENT OF JAMES ABOUREZK, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

I wish, first, to commend the sponsors of S. 662 and the members of the subcommittee for their interest and leadership in non-metropolitan mass transit. This is truly a matter of nationwide concern, and a concern which S. 662 addresses in an intelligent and workable manner.

No one questions the need for mass transportation in the large cities of this country. But sometimes ignored is the compelling need for mass transit in small cities and towns and the rural areas of the Nation. There is a gap here and the inattention to this need has repercussions in the areas of energy, aging, poverty, small business and many others. States like my own state of South Dakota have been almost entirely shut out of previous mass transportation programs, and I urge the Congress to take the lead in redressing the balance.

I also endorse wholeheartedly the emphasis in S. 662 on *operating assistance*. It is simply unrealistic to believe that once the Government helps a community with a loan or grant for a bus or a van or two that the case is closed. People do not change their commuting habits overnight. In many ways, it is clear that the day-to-day operation of a transportation system is more important to its ultimate success than the initial capital investment.

The cost of fuel, the need for public service employment and the regressive financing of most local governments all argue for a timely subsidy for operating expenses of mass transit systems. Some Senators may be surprised to learn that in South Dakota, only one city has a public bus system. Other towns, counties and regions are interested in mass transit. They need help—and subsidy—to make public transportation feasible. I believe S. 662 would be a giant step in the right direction. Many of the problems faced today by the urban areas of the nation might be alleviated if people who preferred to live in small towns and other non-metropolitan areas could do so with amenities anywhere near those available in big cities.

I have asked Tim Borich, who is rural transportation specialist with the South Dakota Economic Opportunity Office to share his views on S. 662 and the matter of rural transportation in general. I ask that his statement be printed in the hearing record. Mr. Borich proposes two areas where the intent of S. 662 should be clarified with respect to rural areas. I would second his suggestions in this regard.

I also commend to the attention of the Committee the description of the public transportation system Mr. Borich was instrumental in organizing in three rural South Dakota counties, last summer. From the description, the economic and social benefits of this modest shuttle bus program are obvious.

STATEMENT OF TIMOTHY BORICH, RURAL TRANSPORTATION COORDINATOR, ON BEHALF OF THE SOUTH DAKOTA STATE ECONOMIC OPPORTUNITY OFFICE AND THE STATE COMMUNITY ACTION AGENCY

Rural America is presently facing a transportation "crunch" with almost a total dependency upon private vehicles, the cost of transportation to basic needs has risen substantially, this in turn has most adversely effected the disadvantaged rural citizen.

Public transportation in rural areas ranges from insufficient to nonexistent, the expense of operation that is entailed by traveling over great distances in sparsely populated areas has precluded public transportation in rural areas.

In South Dakota The Office On Aging along with the State Department of Transportation has piloted successful programs in rural areas for transporting the aged, and example of this is the Transportation Project in Planning District I (see appendix). Yet even with the expenditures of over \$150,000 for elderly transportation, it has barely made a dent within this social group and much less among the low income and handicapped.

South Dakota is in critical need of offering alternative modes of transportation to its rural disadvantaged. Services have centralized within the urban areas of the state, leaving immense voids of these services over large geographic areas.

We applaud the intent of S. 662 to assist transportation in other than urbanized areas, however, we should be mindful that 27 percent of the United States population resides in rural areas, therefore we suggest that at least 27 percent of the five hundred million dollars authorized for "other than urbanized areas" be earmarked for rural areas (as defined by the Bureau of Census).

It is in Rural America where the cost of operating any vehicle far outweighs the original outlay in capital expense. We are concerned however, as to how the Urban Mass Transportation Administration will set the guidelines for such a bill. What will be its limitations? Will an areawide Rural Council of Governments be able to apply? Can such a bill benefit rural residents as well as residents of small cities?

In the past UMTA has restricted itself to supporting Mass Transportation in and between urban areas, except for the OEO Pilot Projects of the late 60's and early 70's no funds to date have been spent on Rural Transportation.

The end result is that Rural America has become virtually dependent upon private means of transportation (i.e. the automobile). This dependency has caused the cost of transportation in rural areas to rise drastically as the cost of the automobile rises, the cost of gasoline rises, the cost of oil increases, the cost of insurance rises, et cetera. Yet demand in rural areas is inelastic. Distance from your home or farm to the only local source of groceries does not vary unless

of course the local grocery store goes out of business and the next nearest source is miles away.

So that every state receives at least nominal funding for rural transportation we suggest an allocation system of funding where each state would receive at least one half of one percent of the allocated funds. Factors of "need" as well as "demand" should be taken into consideration.

Public transportation should be made available to all Americans to insure their mobility, therefore we support the intent of S. 662 but ask this intent to be clarified as to specifically include Rural America as well as Rural South Dakota.

APPENDIX—TRANSPORTATION PROGRAM IN CLARK, HAMLIN AND KINGSBURY COUNTIES, S. DAK.

(A) GENERAL BACKGROUND

Inter-Lakes Community Action received a grant for \$14,500 from the Older Americans Program, Title II, Pierre for transportation. The agency asked permission to try a pilot project for rural transportation.

The decision to use Kingsbury, Clark and Hamlin counties as a pilot program was made for two reasons: (1) The counties had set aside revenue sharing monies for the Visiting Neighbor Program which Inter-Lakes Community Action was coordinating. Transportation was known to be a big problem in this area and many of the elderly who needed transportation were known from the contacts of the Visiting Neighbor Program. (2) Clark and Hamlin Counties do not have a resident doctor, so people must leave the county for medical services. Kingsbury County, while having available medical services, does not have a large department store and many small communities are without grocery stores.

(B) PLANNING

Meetings were held in the three counties to determine if people wanted a bus in their county. Mary Ann Birgen, Manager of Senior Citizens Programs of I-CAP, outreach workers and Tim Borish attended all meetings in the counties. It was explained in opening remarks that the bus was given to Inter-Lakes Community Action by the Older Americans Program through a federal grant designated for transportation in rural areas. The people present were informed of our plans and input was encouraged from the communities. Visiting Neighbor Board members and workers, business people, representatives of Senior Citizens Centers, Public Health officials and County Commissioners attended the meetings.

Town coordinators were set up at each meeting to gain a local town representative in each community in the three counties. The survey was operated through these coordinators to gain a perspective on the specific needs of each community and to get a general background of the people interested.

Research was also done in the area of possible future needs of the elderly transportation. Population projections put out by South Dakota State University were used to determine what the 1980 projected elderly population in the three counties would be. The results of the projection are quoted in section F of this report.

Research in the area of past surveys of the elderly's need for transportation in District I was reviewed. However, most surveys were not applicable because they were done on a district-wide basis and not on a county-by-county format.

The bus toured the area before specific routes were set up to gain local interest. Flyers were also distributed by the town coordinators and other outreach people to publicize the upcoming project. Releases were given to local small town weekly newspapers and printed a week or two before the actual start of the routes. In these releases schedules were printed together with a general description of the program. Eventually these releases found their way into the dailies in the area, including The Huron Daily Plainsman, Watertown Public Opinion and Brookings Daily Register.

Information from the survey was compiled and routes were made up from the results. Once the need was established, bus routes were then designed to gain the greatest participation. Once the routes were plotted out, they averaged 91.1 miles

in length (one-way from Brookings, with a standard deviation of 14.2). Average speed of the routes was calculated to be 50 mph, so that 1.2 minutes were allowed for each mile to be traveled. Five minutes were allowed for each bus stop. The average time between towns was 15.1 minutes (with a standard deviation of 8.5). The average distance between towns was 12.6 miles.

The routes were set up so that each route would allow a minimum of five hours at the final point of destination, which would be one of four cities; Huron, Watertown, Madison or Brookings. Twelve routes were planned originally, but a route through the northern part of Clark County to Webster was dropped through lack of interest. The longest route (from the first bus stop) is approximately one hour and 45 minutes long, with a distance of 73 miles one way. The shortest route is one hour long, with a distance of 37 miles one way.

Towns with a projected positive response were often aligned on the routes with projected little or negative response to create a balance and prevent overloads. This also gave the lagging towns chances to respond at later dates.

Most of the routes were routed to either Huron or Watertown. There were two reasons for this: (1) Nutritional sites are located at each community which will supply a low cost meal for the riders and (2) These two towns seem to service the widest area in the three counties, at least in terms of the elderly's needs.

Research was also made into the area of other local area rural transit systems (i.e., Brookings, Codington, Spink and Brown Counties). In every case the systems were approached on a single county basis. Certain advantages became clear with a multi-county system. First, more towns can be included on each route to gain maximum participation, and, secondly, there is not a back and forth effect which you find in a single county system. Instead of having to go out twice with a city-based bus (once to pick up people and then again to return them), a rural-based bus can sweep a multi-county area, pick up passengers along the way, take them to their destination and then return them in route again as the bus returns. This makes for a more effective use of the bus.

There is one disadvantage, however, to a multi-county system when compared to a single county system. The single county can cover its area more frequently than a multi-county bus. Whereas some towns within the R.E.T.S. area can be covered only once every four weeks, a single county system covers its towns often on a weekly basis. This problem could be alleviated in the multi-county system if more than one vehicle were located in the same area and buses would then rotate routes.

Doctors were contacted in the towns of Watertown, Huron, Brookings and Madison. Model Rural Development made the contacts in Watertown. The Huron Senior Center made the contacts in Huron.

One special note must be made for future planning of rural transit systems, and that is in securing the cooperation of the small town businessman. The small town business community is keenly aware of any business leaving their community, especially in a governmental subsidized program. Contact must be made with the small town business communities, and a full explanation of the project must be given. In this specific program, limitations were placed on the amount of goods that may be purchased so as to coincide with the amount of goods sold within the rural community.

Bus stops were set up in each community to avoid having to pick up each individual at his home. This, it was felt, would cause problems in routing and would curtail the amount of time that could be spent in the destination city.

The bus stops were set up in central locations, often at a senior center, a cafe, or a bank, which ever was most convenient. In towns where there was housing for the elderly a second bus stop was set up at the housing units.

While bus stops were placed in the rural communities, freedom of movement was guaranteed within the cities as the bus would take the riders anywhere they wished to go within the city limits. This kept the bus driver active during the day and also insured the elderly freedom of movement within the city.

(C) RESPONSE

The response of the elderly to the program has been very good. We are averaging over half a bus load with each trip. This is expected to increase as the project gains acceptance. They are taking advantage of the transportation, especially for shopping, visiting friends and relatives and medicine. Many ride for the pleasure of the trip or for the meal at the nutrition sites. Each destina-

tion city has a Senior Citizens Center which is allowing us full use of their facilities as a resting and recreation area.

Many riders plan ahead for upcoming trips by making doctor appointments and other engagements according to the upcoming bus schedule. Already some of the riders have made connections with commercial bus lines, and some town coordinators have asked for all the R.E.T.S. bus schedules so more could do so.

Complaints were few, and most of those centered around the length of time spent in the city. Some felt five hours was too long a time, and some felt it was too short. Often the bus would leave slightly ahead of schedule because the group had finished their business in the city. The schedule, however, was left as printed because those who had medical appointments sometimes required the full stop time to complete their examinations.

The social aspect of the program should not be overlooked. Many of the people had not attended senior citizen activities before, but by visiting on the bus they are becoming involved. They enjoy the ride and the conversation that goes with it.

Some of the comments made, either in conversation or written as a suggestion by the elderly are:

82 year old woman from Oldham

"I appreciated the ride to Madison to get my shopping done. I often have trouble finding a ride because I don't have a car."

74 year old widow from Bryant

"This sure beats driving. I get so tired out when I drive."

67 year old woman from Lake Preston

"Thanks so much for the ride. I really appreciated the trip and the meal."

63 year old wife from Hayti

"I think Hamlin County should have its own bus."

84 year old man from Clark

"I met an old friend in Watertown that I haven't seen for years."

93 year old widower from Raymond

"This is good for me. I don't like driving by myself, and this way I can see my son in Huron."

61 year old man from Lake Norden

"This is great. I can come up to Watertown now every two weeks to get my insulin shot. It takes the hardship off my sister from driving me."

74 year old widow from Clark

"The trip was relaxing, the meal good, and the driver courteous."

80 year old widow from Naples

"I think half the town is here on this bus."

64 year old wife from Lake Preston

"My only complaint is that the trip seemed too short."

81 year old man from Hetland

"This should really help some of the folks in this town."

76 year old woman from Hetland

"Maybe I'm too independant, but I'll stay home before I call up people and ask them for a ride. This way I get to where I want to go without begging."

(D) COST ANALYSIS

The following cost analysis of the project is an estimate based on the first five days of operation within the first two weeks of operation. It is based on a five day week, even though the bus is scheduled on a four day week because of a planned "free" Friday. On Fridays the bus was expected to go to areas and follow routes not covered in the original schedule.

The figures from the first five days remained similar through the first seven weeks of operation, so they will be listed in this report. They are projections of what the end result will be after a year of operation if present trends continue. They do not take into consideration possible fluctuations due to the change in seasons and weather, nor do they take into consideration a possible increase in the number of participants once the program becomes better established. Donations are accepted, and they are projected on the same basis.

Since figures were compiled at the end of July (or after one month of operation) these figures will be footnoted where a major deviance occurred from the original five day figures.

(D-1) Cost analysis (1st 5-day period) :

Gas and drivers salary-----	\$168. 30
Cost of bus-----	93. 00
Program planning-----	24. 50
Insurance-----	6. 50
Tires-----	6. 50
Oil and minor maintenance-----	3. 00
Total-----	<u>300. 30</u>

(D-2) Yearly cost estimate:

Estimated salary of driver-----	4, 742. 00
Gasoline-----	3, 738. 00
Cost of bus-----	4, 836. 00
Insurance-----	334. 00
Tires-----	250. 00
Oil and minor maintenance-----	300. 00
Total-----	<u>14, 200. 00</u>

(D-3) Projected total cost of project :

Total-----	14, 200. 00
Research and planning in June-----	1, 250. 00
Total cost-----	<u>15, 450. 00</u>

(D-4) Yearly net cost (projected donations included) :

Estimated total costs-----	14, 200. 00
Estimated total donations-----	-990. 00
Total net cost (based on month of July)-----	<u>13, 210. 00</u>

(D-5) Cost per mile :

Average travel per month-----	3, 600. 00
Average cost per month-----	1, 100. 00

Cost per mile of bus (1,129.4 miles was the 5-day average at the end of July)-----	. 37
Average number of passengers for July-----	7. 200
Cost per mile of operation-----	<u>\$0. 300</u>

Cost per passenger per mile-----	<u>\$0. 042</u>
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At the cost of 4.5 cents per passenger per mile the mini-bus is running more economically than an average American made car with three people in it. The bus also provides a savings in energy and money for those who ride the bus. The cost of the project is justified by the response to the project.

It should also be pointed out that the average number of passengers increased during the first two weeks of August. We are now averaging 8.5 passengers per trip through the first two weeks in August. Donations are up by \$16 in the first two weeks of August compared to the first two weeks of July. With future revisions in routing the average number of passengers per trip and the amount of donations could increase. If present trends continue, the bus will directly affect over 500 people.

DEPARTMENT OF TRANSPORTATION,
STATE OF GEORGIA,
Atlanta, Ga., March 31, 1975.

Hon. HERMAN E. TALMADGE,
U.S. Senate,
Russell Senate Office Building, Washington, D.C.

DEAR HERMAN: I would like to call attention to the Department of Transportation's support of the National Mass Transportation Assistance Act Amendments of 1975 (S. 662) introduced recently by Senator Harrison A. Williams. The bill contains many worthy measures and holds the promise of easing the path to full utilization of Federal Assistance.

Of particular interest to us is the measure which would provide operating assistance for public transit systems located in rural and small urban areas. The provision would expand the potential use of the \$500 million currently authorized for capital purposes in these areas by allowing up to one-half of that amount to be used for operating assistance.

This provision will benefit the city of Rome which is currently funding the full amount of the operating deficit of its transit system. The city of Athens which has recently submitted a Capital Grant Application to the Urban Mass Transportation Administration to begin transit service will also benefit from the availability of operating assistance. The Department feels operating assistance is vitally needed by these systems and those which may begin operation in rural areas in the future.

Your attention to this matter will be greatly appreciated.

Sincerely,

DOWNING MUSGROVE,
Commissioner.

URBAN MASS TRANSPORTATION—1975

WEDNESDAY, JUNE 18, 1975

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS,
Washington, D.C.

The subcommittee was reconvened, pursuant to adjournment, at 10:05 a.m. in room 5302 of the Dirksen Senate Office Building, Senator Harrison A. Williams presiding.

Present: Senators Williams, Proxmire, and Garn.

Senator WILLIAMS. We will come to order and continue our hearings on S. 662, a bill to amend the Urban Mass Transportation Act of 1964.

This morning Dr. William J. Ronan, chairman of the New York and New Jersey Port Authority, and chairman of the American Public Transit Association, was to be our first witness. I know it was impossible for Mr. Ronan to be here this morning, and we are pleased to have Lillian Liburdi, from Path, with us to read his statement.

Will you deliver Dr. Ronan's statement or your own?

STATEMENT OF LILLIAN C. LIBURDI, FROM PATH, ACCOMPANIED BY ROBERT M. COULTAS, DEPUTY EXECUTIVE DIRECTOR, AMERICAN PUBLIC TRANSIT ASSOCIATION

Ms. LIBURDI. Dr. Ronan's statement.

Mr. Robert Coultas, who is the deputy executive director of the American Public Transit Association.

Senator WILLIAMS. Thank you.

Ms. LIBURDI. I am Lillian C. Liburdi, coordinator for rail programs for the Port Authority Trans-Hudson Corp. I am speaking on behalf of Dr. Ronan. Mr. Richard D. Buck was hospitalized so he was not able to be here.

I will be reading a short version of the full testimony.

Mr. Chairman, your committee and the Transit Coalition have had many opportunities to meet in the past, and we've had a good deal of success. It has been through your committee that the National Mass Transportation Assistance Act of 1974 became law. Certainly the Nation's urban areas owe a great debt of gratitude to the Senate Banking, Housing and Urban Affairs Committee for not only last year's act but for its predecessor legislation, the Urban Mass Transportation Assistance Act of 1964 and its subsequent revision of 1970. Through this legislation public transport has been able to begin the

long road back after more than a quarter century of decline and neglect.

We welcome the opportunity of testifying on S. 662 and lending our support to the objectives it proposes. We are certainly in total agreement with the sections dealing with operating assistance for nonurbanized areas, funding report and update and the grants for managerial training programs. We would, today, like to specifically address section 4 dealing with the provision of transportation services for the handicapped and elderly citizens of this Nation—certainly, a goal which APTA strongly endorses.

Mobility is an essential ingredient to the achievement of a productive life. However, APTA believes that accessibility to transportation services alone cannot provide mobility of this segment of the population.

The elimination of architectural barriers in our buildings, increasing social awareness, greater political sensitivity, and an overall dedication to encouraging and allowing all individuals to use their own abilities, rather than emphasizing their disabilities, are all factors which are equally important in permitting society to provide mobility to the elderly and handicapped.

Obviously, mass transportation services cannot address or control all of these variables I have just described. However, the Congress, the administration, and the transit industry, through the American Public Transit Association, can provide the leadership and direction required to achieve progress in the provision of better transportation service to the elderly and handicapped.

APTA supports the basic intent of section 4 of S. 662. The provisions of this section of the bill are in many instances similar to, or supportive of, the position of the Department of Transportation as evidenced by the Urban Mass Transportation Administration's issuance of proposed rules for elderly and handicapped transportation services. APTA believes this rulemaking effort will achieve the establishment of national mobility standards which will permit reasoned decisions to be made by communities after reviewing local needs and constraints including input from local advisory committees.

I would add that Frank Herringer's statement delivered yesterday before this subcommittee came as a surprise. He said:

Even though we are in substantial agreement with the direction of S. 662, we think that the enactment of legislation to revise Section 16 of the UMTA Act would be premature . . .

On the contrary, we feel thoughtful action by the Congress in this area is long overdue. We feel S. 662 is supportive of the proposed rulemaking of the administration.

Last year, the Congress adopted an amendment to the 1975 DOT appropriation bill that nullifies the effect of rulemaking. Fortunately, this amendment expires with the end of this fiscal year—June 30.

The Congress also passed as an amendment to the 1974 Highway Act a mandate to total accessibility for all transit equipment purchased with funds authorized by the Federal aid highway program. Thus, local governments and transit operators will be faced with two standards when buying buses. If the grantee uses UMTA funds he will be subject to the proposed rules. On the other hand, if the grantee

uses Federal highway funds he will be subject to the mandate of equipment that is totally accessible.

We support S. 662 as a way to achieve a reasonable and a uniform policy from the Congress. Lacking a thoughtful congressional expression, we will always be faced with the prospect of inconsistent and sporadic policies. For this, we endorse S. 662 and commend you for your efforts.

However, while APTA supports the intent of section 4, there are portions of this section which we believe must be clarified and/or broadened if this pending legislation is to result in improvements to mobility for the elderly and handicapped segments of our population.

I welcome this opportunity to comment on these various sections.

APTA supports a national policy which declares that:

Elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services.

We believe that "special efforts" should be made "in the planning, design, construction, and operation of mass transportation facilities and services" to insure their availability and effective utilization by elderly and handicapped persons.

In examining both existing and proposed legislative and regulatory efforts to improve mobility of our aged and physically disabled citizens, it has become apparent to APTA that these segments of the population do not have identical transportation needs. In fact, in many cases, their requirements are so diverse as to call for completely separate solutions.

For example, elderly persons tend to have a lesser need for specialized transportation services, such as dial-a-ride service, than non-ambulatory handicapped persons. Indeed, APTA believes that specialized transportation services can be justified at public expense only for those individuals who have a distinct mobility limitation that precludes them from using regularly scheduled public transportation services.

While the proposed legislation which your subcommittee is considering has been developed to improve mobility for these two segments of the population, we urge that their specific needs be recognized where any legislative requirements are concerned. In essence, we urge that Congress give recognition to the differing transportation needs of each and not mandate a common solution.

APTA believes that the Federal Government should avoid imposing "solutions" to the mobility needs of elderly and handicapped persons that will seriously impair the ability of the transit industry to meet its obligations to the general public.

In this regard, it is imperative that this subcommittee address the very difficult question of definition. That is, who are elderly and handicapped persons within the meaning of the law and what are the transit industry's responsibilities to them.

This is particularly critical where the handicapped segment of the population are concerned inasmuch as there is no standard definition of the phrase "to utilize such facilities and services effectively" as employed in section 16(g) of this bill. No one in a position of authority in the administration has been willing to formulate a definition of the

term "handicapped person" which is both manageable from a standpoint of the transit industry and equitable from the standpoint of the affected persons, i.e., the handicapped themselves.

APTA has developed what we believe to be an acceptable set of definitions. We urge the subcommittee to substitute them for the present definitions included in S. 662. Our proposed definitions are as specified in our complete statement:

"Elderly person" means any individual 65 or over.

A. General definition: A mass transportation handicap is any incapacity or disability which results in the inability of a person to perform one or more of the following functions necessary for the effective use of mass transportation facilities without significant difficulty: (1) negotiating a flight of stairs or escalator; (2) boarding or alighting from a standard bus or train; (3) standing in a moving bus or train; (4) reading informational signs; and (5) hearing announcements by train conductors or bus drivers.

B. Nonmobile mass transportation handicapped: Means any handicapped person whose incapacity or disability confines that person to his or her home or an institution and for that reason the use of public transportation services is not a reasonable expectation.

C. Semimobile, nonambulatory mass transportation handicapped: Means any handicapped person whose incapacity or disability will not allow that person to walk even with the assistance of devices, but with the assistance of an attendant would have the personal mobility and independence in a wheelchair to a degree that use of appropriate public transportation services would be a reasonable expectation.

D. Mobile, nonambulatory mass transportation handicapped: Means any handicapped person whose incapacity or disability will not allow that person to walk even with the assistance of devices, but who without the assistance of an attendant has the personal mobility and independence in a wheelchair to the degree that use of appropriate public transportation services would be a reasonable expectation.

E. Semiambulatory mass transportation handicapped person: Means any person whose incapacity or disability causes that person to walk or negotiate changes in grade with difficulty or insecurity and/or with the assistance of walkers, crutches, canes, or other such devices, and for whom regular public transportation services may be a reasonable expectation.

F. Mobile, sensory mass transportation handicapped person: Means any person whose handicap relates to a degree of visual, audio, mental, or psychological impairment or disability.

G. Noneligible handicapped person: Means a person who may be sufficiently handicapped to meet one of the previous definitions but who is not eligible for the use of public transportation for one or more of the following reasons: (1) that person is mentally deficient to the point of a likely inability to cope with the normal circumstances of using public transportation; (2) that person has a contagious disease; (3) that person may be a hazard to himself, other passengers, or to the safe operation of the transit vehicle.

Section 16(b) (2) calls for the creation of local advisory committees, at least half of whose members shall be elderly and handicapped persons. However, it is unclear whom the advisory committees are to ad-

vise or by whom they are to be created. We suggest, therefore, that these committees be explicitly tied to the metropolitan planning process by stipulating that they be established by the metropolitan planning organization. The first sentence of 16(b)(2) would then read:

Effective immediately, a Local Advisory Committee (at least half of the members of which shall be elderly and handicapped persons) shall be established by the Metropolitan Planning Organization for each geographical area in which assistance under Section 3 or 5 is being furnished.

The creation of such local advisory committees in each area receiving assistance under section 3 or 5 is a step which APTA believes will have worthwhile results. APTA members properties currently dealing with and through such local committees have advised us that while there are often problems and disagreements between the operators and these committees, on the whole their activities have resulted in progress and transportation service programs that are acceptable to the elderly and handicapped.

Section 16(b)(4) appropriately calls for the inclusion in the UMTA supported planning process of work elements necessary to produce a comprehensive local plan for meeting the mass transportation needs of elderly and handicapped persons. To strengthen this section even further, we recommend four additional considerations:

One: Elderly and handicapped planning consideration should be clearly tied into the more comprehensive transportation planning process.

Two: In addition to explicitly requiring consultation with the local advisory committee, this Section should require consultation with public mass transportation operators in the area.

Three: The planning process should include an exploration of all reasonable alternatives for meeting the needs of elderly and handicapped persons.

Four: The deadline for development of the local plan should be made concurrent with the new fiscal year.

In view of the above, we recommend that section 16(b)(4) read as follows:

Effective immediately, in consultation with the local advisory committee required by paragraph 2 and with local public mass transportation operators, all unified work programs shall include work elements necessary to produce by October 1, 1977, transportation improvement programs and transportation plans which contain components necessary for meeting the identified mass transportation needs of elderly and handicapped persons. The planning process shall include an exploration of all reasonable alternatives for meeting such needs.

APTA supports the proposed creation of a National Advisory Council on Accessibility of Mass Transportation as a further means of achieving the interface necessary between the Federal Government, the transit industry, and the elderly and handicapped consumer and looks forward to direct transit participation either through APTA and/or by individual member properties.

Section 16(4d) directs the Secretary to prepare and submit a comprehensive report to Congress on the mass transportation needs of the elderly and handicapped. It is important that the Secretary be directed to compile information, and subsequently report to Congress on the progress being made in the development and operation of special

facilities or services which are meeting the transportation needs of the elderly and handicapped. In this regard, the following sentence should be added to the end of section 17(d) :

This report shall also include an analysis and evaluation of all reasonable alternative methods of providing mass transportation service to the elderly and handicapped.

A large number of demonstration programs for the supply of mobility for elderly and handicapped persons as well as permanently established procedures for such transportation have already taken place within the transit industry. The States of Delaware and Rhode Island have accomplished the most comprehensive programs to date, but other programs in Denver, Colo., Seattle, Wash., Naugatuck Valley, Conn., Omaha, Nebr., and Baton Rouge, La., are beginning to supply the transportation needs of elderly and handicapped persons.

Other programs are underway in Brevard County, Fla., Toledo, Ohio, Pittsburgh, Pa., Rochester, N.Y., San Francisco, Calif., and many others. The formulation of the UMTA proposed rules for elderly and handicapped transportation services will be a positive step in establishing a level of mobility which transit systems can begin to achieve.

Again, Mr. Chairman, the American Public Transit Association welcomes the opportunity of testifying today. Mr. Coultas and I would be glad to answer any questions you might have.

Senator WILLIAMS. Thank you very much.

I am not clear as to the reasons for all of the detailed attention to definitions in your statement. Could you give us a little more behind the philosophy of your arriving at all of these itemized definitions?

Ms. LIBURDI. Yes, sir. The APTA committee, which has prepared much of the background for this testimony, has been at work for the last year on reviewing transit accessibility for the elderly and handicapped and our responsibilities under the APTA act. And one of the things that we found when the committee began analyzing the industry's position was that we really don't have a workable transit-related definition, one which clearly segregates out the factors which are transit deficiencies which will not allow individuals to use current transportation surface facilities. This is one area which we believe must be addressed. We talk in the definitions we submitted for the record of five elements which we believe the transit definition must include, the ability to negotiate a flight of stairs or elevator, the ability to stand in a moving bus or train, the ability to hear announcements by conductors or bus drivers. We believe that these abilities must be the abilities which we look to determine whether people are handicapped for transit purposes.

One: Negotiating a flight of stairs or escalator.

Two: Boarding or alighting from a standard bus or train.

Three: Standing in a moving bus or train.

Four: Reading informational signs.

Five: Hearing announcements by train conductors or bus drivers.

Senator WILLIAMS. I guess I can understand the criteria and definitions if they're directed toward the end of changing facilities or creating facilities that meet all of the needs for regular services. Is that what your basic thinking is? Now, take the flights of stairs. Is

it the end objective of new facilities to get away from the necessity to climb stairs in order to get to the transportation?

Ms. LIBURDI. If one assumed that was the objective of the new facilities, then yes—

Senator WILLIAMS. No; we're not assuming that. I'm just wondering whether that is the direction in which we are going. I thought it was and I thought at least where Federal funding is concerned the flights of stairs is just the thing we are trying to get away from.

Ms. LIBURDI. When we put together our definitions, and there are five others that I did not read to you which do pertain to abilities that would deal specifically with someone's inability to climb a flight of stairs, we tried to realize that there are many places in the country that are not going forward with the rehabilitation efforts. We are trying to distinguish between these handicapped individuals who could use current systems from those who can't use current systems because those systems are not accessible because they are not going forward with rehabilitation effort.

If we are building new systems, which are designed to be fully accessible, then, yes, sir, there would be no need for this statement that the person be able to negotiate stairs, but not all of our systems would be fully accessible because we have current systems which are not now, and we are not planning, rehabilitation systems.

Senator WILLIAMS. I wonder if all the criteria included in your definitions are looking toward alternative systems for those who fall within your definition of handicapped until regular systems can be changed in order to make them accessible? Is that premise basic to your thinking in this area?

Ms. LIBURDI. Yes, sir, it is, and additionally not only are we attempting to define handicapped alternative system programs but we would like to be able to structure definitions to encompass the broad transportation picture for mass transit purposes. There may be some individuals who perhaps could never use mass transportation facilities, and we have tried to identify them through our definition.

Senator WILLIAMS. Now let's look at the definition in light of that observation. Which are the criteria that rule or tend to rule out individuals from accessibility to the present system? Is that what you just said?

Ms. LIBURDI. Yes.

Senator WILLIAMS. Yes.

Ms. LIBURDI. On page 6 it would be numbered B, nonmobile mass transportation handicapped means any handicapped person whose incapacity or disability confine that person to his or her home or institution and for that reason the use of public transportation services is not a reasonable expectation. What we tried to do is scale our definition so that we identify the disability and graduate it because some individuals who are currently handicapped could use our current systems. Some can't, but with some changes we could easily accommodate them. What we tried to do was construct a definition which would allow us to identify the dimensions of the improvements that would have to be taken by public transit.

Senator WILLIAMS. It would suggest to me that the only transportation that would meet the situation described in B would be an ambulance.

Ms. LIBURDI. Or a special ambulance service of some sort which perhaps the transit operator may wish to contract for.

Senator WILLIAMS. Now, I don't think that really has a great deal of meaning in terms of what we're talking about—Federal funding of mass transportation for handicapped people. How about under A—the general definition? In A and C, they seem to relate more closely to the problem.

Ms. LIBURDI. Yes, you're absolutely right. However, if I may just go back to B for a second, one of our reasons for including B was because we have had numerous occasions in the past where we have been confronted with the question of carrying the iron lung person. We recognize there is a need for mobility and that's perhaps an extreme example and that's been talked about in the past as we have considered legislation for handicapped, but we do recognize that there is the need for mobility for severely handicapped individuals who are institutionalized or are at home. So that's why we wanted to recognize in our testimony that this segment of the population does exist and there may be a need to address the problems of this sector but not necessarily the transportation we're addressing here.

Senator WILLIAMS. What are the exclusionary factors of A and C or are there any other factors that suggest to you alternative means of transportation until the day when systems can be made that lend themselves to accessibility to the people that fit the other parts of the definition?

Ms. LIBURDI. I'm not positive that I fully understand your question. Are you asking what are the transit problems currently that would pertain to the semiambulatory, semimobile and not ambulatory that inhibit us or don't allow us to carry them?

Senator WILLIAMS. Yes, that's about it.

Ms. LIBURDI. Well, in looking at C I would say the fact that the person would be required to walk or be transported with the assistance of attendants.

Senator WILLIAMS. Where is that?

Ms. LIBURDI. That's No. C, top of page 7, but would be able to use the wheelchair is not compatible with our current systems because currently we do not have a lift device for buses and we do not have adequate technological installations on our rail vehicles which would allow us to carry these individuals. Neither are most of our stations on rail facilities at least constructed to accommodate wheelchairs to allow that wheelchair person to come through the system onto a vehicle.

Senator WILLIAMS. We have a legislative problem that has just been announced to me. I must go over to the floor of the Senate. I wonder if we could think through your statement and submit some questions to you in writing for written answers?

Ms. LIBURDI. Certainly, I would be very happy to provide you with any information you would like.

Senator WILLIAMS. We still have some problems with understanding and relating your statement to the objectives of this bill.

Thank you very much.

Ms. LIBURDI. Fine, thank you.

[Complete statement of Mr. Ronan as received for the record follows.]

STATEMENT OF DR. WILLIAM J. RONAN, CHAIRMAN, AMERICAN PUBLIC TRANSIT ASSOCIATION AND CHAIRMAN, PORT AUTHORITY OF NEW YORK AND NEW JERSEY

Mr. Chairman, I am William J. Ronan, Chairman of the American Public Transit Association. I am also Chairman of the Port Authority of New York and New Jersey. I appear today in behalf of the American Public Transit Association whose members carry 90% of those using public transport throughout the nation.

Appearing with me today is Richard D. Buck, a member of the Board of Directors of the Massachusetts Bay Transportation Authority and a Vice President of the American Public Transit Association. Mr. Buck is the APTA Vice President responsible for coordinating the industry's activities on the subject of mobility for the Nation's elderly and handicapped. Ms. Lillian C. Liburdi, Coordinator of Rail Programs with the Port Authority Trans-Hudson Corporation is the Chairperson of APTA's Committee on the Elderly and Handicapped.

The testimony I am presenting today is based on the very extensive work and recommendations of APTA's Committee on the Elderly and Handicapped.

Mr. Chairman, your Committee and the transit coalition have had many opportunities to meet in the past, and we've had a good deal of success. It has been through your Committee that the National Mass Transportation Assistance Act of 1974 became law. Certainly the nation's urban areas owe a great debt of gratitude to the Senate Banking, Housing and Urban Affairs Committee for not only last year's Act but for its predecessor legislation, the Urban Mass Transportation Assistance Act of 1964 and its subsequent revision of 1970. Through this legislation public transport has been able to begin the long road back after more than a quarter century of decline and neglect.

We welcome the opportunity of testifying on S. 662 and lending our support to the objectives it proposes. We are certainly in total agreement with the sections dealing with operating assistance for nonurbanized areas, funding report and update and the grants for managerial training programs. We would, today, like to specifically address Section 4 dealing with the provision of transportation services for the handicapped and elderly citizens of this nation—certainly, a goal which APTA strongly endorses.

Mobility is an essential ingredient to the achievement of a productive life. However, APTA believes that accessibility to transportation services *alone* cannot provide mobility to this segment of the population. The elimination of architectural barriers in our buildings, increasing social awareness, greater political sensitivity and an overall dedication to encouraging and allowing all individuals to use their own abilities, rather than emphasizing their disabilities, are all factors which are equally important in permitting society to provide mobility to the elderly and handicapped.

Obviously, mass transportation services cannot address or control all of these variables I have just described. However, the Congress, the Administration and the transit industry, through the American Public Transit Association, can provide the leadership and direction required to achieve progress in the provision of better transportation service to the elderly and handicapped.

SECTION 4

APTA supports the basic intent of Section 4 of S. 662. The provisions of this section of the Bill are in many instances similar to, or supportive of, the position of the Department of Transportation as evidenced by the Urban Mass Transportation Administration's issuance of Proposed Rules for Elderly and Handicapped Transportation Services. APTA believes this rulemaking effort will achieve the establishment of national mobility standards which will permit reasoned decisions to be made by communities after reviewing local needs and constraints including input from local advisory committees.

However, while APTA supports the intent of Section 4, there are portions of this Section which we believe must be clarified and/or broadened if this pending legislation is to result in improvements to mobility for the elderly and handicapped segments of our population.

I welcome this opportunity to comment on these various Sections:

SECTION 4 RE: SECTION 16 (A) (1) (2) OF THE UMT ACT OF 1964

APTA supports a national policy which declares that "elderly and handicapped persons have the same right as other persons to utilize mass transpor-

tation facilities and services." We believe that "special efforts" should be made "in the planning, design, construction and operation of mass transportation facilities and services" to ensure their availability and effective utilization by *elderly and handicapped persons*.

In examining both existing and proposed legislative and regulatory efforts to improve mobility of our aged and physically disabled citizens, it has become apparent to APTA that these segments of the population do not have identical transportation needs. In fact, in many cases, their requirements are so diverse as to call for completely separate solutions. For example, elderly persons tend to have a lesser need for specialized transportation services, such as dial-a-ride service, than non-ambulatory handicapped persons. Indeed, APTA believes that specialized transportation services can be justified at public expense *only* for those individuals who have a distinct mobility limitation that precludes them from using regularly-scheduled public transportation services.

While the proposed legislation which your Subcommittee is considering has been developed to improve mobility for these two segments of the population, we urge that their specific needs be recognized where any legislative requirements are concerned. In essence, we urge that Congress give recognition to the differing transportation needs of each and *not* mandate a common solution.

APTA believes that the Federal Government should avoid imposing "solutions" to the mobility needs of elderly and handicapped persons that will seriously impair the ability of the transit industry to meet its obligations to the general public.

In this regard, it is imperative that this Subcommittee address the very difficult question of definition. That is, who are elderly and handicapped persons within the meaning of the law and what are the transit industry's responsibilities to them.

This is particularly critical where the handicapped segment of the population are concerned inasmuch as there is *no* standard definition of the phrase "to utilize such facilities and services effectively" as employed in Section 16(g) of this Bill. No one in a position of authority in the Administration has been willing to formulate a definition of the term "handicapped person" which is both manageable from the standpoint of the transit industry and equitable from the standpoint of the affected persons, i.e. the handicapped themselves.

APTA has developed what we believe to be an acceptable set of definitions. We urge the Subcommittee to substitute them for the present definitions included in S. 662. Our proposed definitions are as follows:

"Elderly person" means any individual age 65 or over.

MASS TRANSPORTATION HANDICAPPED DEFINITIONS

(a) *General Definition*.—A mass transportation handicap is any incapacity or disability which results in the inability of a person to perform one or more of the following functions necessary for the effective use of mass transportation facilities without significant difficulty:

- (1) Negotiating a flight of stairs or escalator.
- (2) Boarding or alighting from a standard bus or train.
- (3) Standing in a moving bus or train.
- (4) Reading informational signs.
- (5) Hearing announcements by train conductors or bus drivers.

(b) *Non-mobile Mass Transportation Handicapped*.—Means any handicapped person whose incapacity or disability confines that person to his or her home or an institution and for that reason the use of public transportation services is not a reasonable expectation.

(c) *Semi-Mobile, Non-ambulatory Mass Transportation Handicapped*.—Means any handicapped person whose incapacity or disability will not allow that person to walk even with the assistance of devices, but *with the assistance of an attendant* would have the personal mobility and independence in a wheel-chair to a degree that use of appropriate public transportation services would be a reasonable expectation.

(d) *Mobile, Non-ambulatory Mass Transportation Handicapped*.—Means any handicapped person whose incapacity or disability will not allow that person to walk even with the assistance of devices, but who *without the assistance of an attendant* has the personal mobility and independence in a wheel-chair to

the degree that use of appropriate public transportation services would be a reasonable expectation.

(e) *Semi-ambulatory Mass Transportation Handicapped Person*.—Means any person whose incapacity or disability causes that person to walk or negotiate changes in grade with difficulty or insecurity and/or with the assistance of walkers, crutches, canes or other such devices, and for whom regular public transportation services may be a reasonable expectation.

(f) *Mobile, Sensory Mass Transportation Handicapped Person*.—Means any person whose handicap relates to a degree of visual, audio or mental or psychological impairment or disability.

(g) *Non Eligible Handicapped Person*.—Means a person who may be sufficiently handicapped to meet one of the previous definitions but who is not eligible for the use of public transportation for one or more of the following reasons:

(1) That person is mentally deficient to the point of a likely inability to cope with the normal circumstances of using public transportation.

(2) That person has a contagious disease.

(3) That person may be a hazard to himself, other passengers or to the safe operation of the transit vehicle.

SECTION 16 (B) (2)

This section calls for the creation of local advisory committees, at least half of whose members shall be elderly and handicapped persons. However, it is unclear whom the advisory committees are to advise or by whom they are to be created. We suggest, therefore, that these committees be explicitly tied to the metropolitan planning process by stipulating that they be established by the Metropolitan Planning Organization. The first sentence of 16(b) (2) would then read:

“Effective immediately, a Local Advisory Committee (at least half of the members of which shall be elderly and handicapped persons) shall be established by the Metropolitan Planning Organization for each geographical area in which assistance under Section 3 or 5 is being furnished.”

The creation of such local advisory committees in each area receiving assistance under Section 3 or 5 is a step which APTA believes will have worthwhile results. APTA member properties currently dealing with and through such local committees have advised us that while there are often problems and disagreements between the operators and these committees, on the whole their activities have resulted in progress and transportation service programs that are acceptable to the elderly and handicapped.

SECTION 16 (B) (4)

This section appropriately calls for the inclusion in the UMTA supported planning process of work elements necessary to produce a comprehensive local plan for meeting the mass transportation needs of elderly and handicapped persons. To strengthen this section even further, we recommend four additional considerations:

1. Elderly and handicapped planning consideration should be clearly tied into the more comprehensive transportation planning process.

2. In addition to explicitly requiring consultation with the local advisory committee, this Section should require consultation with public mass transportation operators in the area.

3. The planning process should include an exploration of all reasonable alternatives for meeting the needs of elderly and handicapped persons.

4. The deadline for development of the local plan should be made concurrent with the new fiscal year.

In view of the above, we recommend that Section 16(B) (4) read as follows:

“Effective immediately, in consultation with the local advisory committee required by Paragraph 2 with local public mass transportation operators, all unified work programs shall include work elements necessary to produce by October 1, 1977, transportation improvement programs and transportation plans which contain components necessary for meeting the identified mass transportation needs of elderly and handicapped persons. The planning

process shall include an exploration of all reasonable alternatives for meeting such needs."

SECTION 16 (4C)

APTA supports the proposed creation of a National Advisory Council on Accessibility of Mass Transportation as a further means of achieving the interface necessary between the Federal Government, the transit industry, and the elderly and handicapped consumer and looks forward to direct transit participation either through APTA and/or by individual member properties.

SECTION 16 (4D)

This section directs the Secretary to prepare and submit a comprehensive report to Congress on the mass transportation needs of the elderly and handicapped. It is important that the Secretary be directed to compile information, and subsequently report to, Congress on the progress being made in the development and operation of special facilities or services which are meeting the transportation needs of the elderly and handicapped. In this regard, the following sentence should be added to the end of Section 16(d) :

"This report shall also include an analysis and evaluation of all reasonable alternative methods of providing mass transportation service to the elderly and handicapped."

A large number of demonstration programs for the supply of mobility for elderly and handicapped persons as well as permanent established procedures for such transportation have already taken place within the transit industry. The States of Delaware and Rhode Island have accomplished the most comprehensive programs to date, but other programs in Denver, Colorado; Seattle, Washington; Naugatuck Valley, Connecticut; Omaha, Nebraska and Baton Rouge, Louisiana are beginning to supply the transportation needs of elderly and handicapped persons. Other programs are underway in Brevard County, Florida; Toledo, Ohio; Pittsburgh, Pennsylvania; Rochester, New York; San Francisco, California and many others. The formulation of the UMTA Proposed Rules for Elderly and Handicapped Transportation Services will be a positive step in establishing a level of mobility which transit systems can begin to achieve.

Again, Mr. Chairman, the American Public Transit Association welcomes the opportunity of testifying today, and Mr. Buck, Ms. Liburdi and myself would be happy to answer any questions.

Senator WILLIAMS. I wonder if Ralph Caso—no, he's not here.
John Lancaster.

Mr. LANCASTER. Yes, Senator.

Senator WILLIAMS. Tom O'Brien.

MR. O'BRIEN. Yes, Senator.

Senator WILLIAMS. James Raggio.

MR. RAGGIO. Yes, Senator.

Senator WILLIAMS. A bill will be taken up on the Senate floor in 10 minutes. It is my bill. I have to be there.

I thought maybe we could get started and go about 15 minutes and see how far we are able to proceed. Can we do that?

Mr. LANCASTER, Fine.

STATEMENTS OF JAMES RAGGIO, ATTORNEY, PUBLIC INTEREST
LAW CENTER, PHILADELPHIA, PA.; THOMAS G. O'BRIEN, CHAIR-
MAN OF THE TRANSPORTATION COMMITTEE FOR THE AMERICAN
COALITION OF CITIZENS WITH DISABILITIES, DANVERS, MASS.;
AND JOHN A. LANCASTER, PARALYZED VETERANS OF AMERICA,
INC.

Senator WILLIAMS. You all have statements?

MR. RAGGIO. Yes.

Mr. LANCASTER. Yes.

Senator WILLIAMS. All of you do.

Now can we first of all agree that they all will go into the record in their entirety.

Would you identify yourselves, one by one, and see how far we can progress before I get called away.

Mr. RAGGIO. My name is James Raggio, I am a staff attorney for the Public Interest Law Center of Philadelphia, Project on the Rights of Citizens Who Are Different. I am testifying on behalf of the Coalition for Equal Public Transportation Services, which is a group of consumer and service organizations in the Philadelphia area that are concerned with accessible transportation services for the elderly and handicapped.

Senator WILLIAMS. Alright. Would you highlight your concerns and your proposed solutions.

Mr. RAGGIO. Yes. Mr. Chairman, we pose the question: Is UMTA complying with the language and intent of congressional enactments guaranteeing elderly and handicapped citizens the right to use public transportation? We submit that that agency is not.

Our prepared statement treats this matter more fully. We introduce it for the record.

We ask that Congress set forth specific instructions to that Agency for implementing the Nation's policy guaranteeing elderly and handicapped persons equal transportation rights, namely that all transportation equipment be made fully accessible to that group, and that transportation services be made readily available to all members of the public, including the elderly and handicapped, not conveniently situated to existing transit routes.

In this regard, we would like to review some of the provisions proposed in section 4 of Senate bill 662. Particularly section 16(B)(1).

This section would require transit vehicles and facilities to be designed so as to be fully accessible to elderly and handicapped persons. The only exception to this requirement should be where reliable equipment is not commercially available. This provision would be very similar to legislation for cleaning up and preserving the environment.

Congress should set standards and require industry to catch up with these standards. As for reasonable exceptions based on the nature of the vehicle and its proposed use, we believe that any exceptions in this area would be covered by the commercial availability of equipment.

The nature of the vehicle speaks to design and the purpose of this bill would be to require design to be adapted to accommodate the elderly and handicapped.

As for proposed use, if vehicles are for the public, the public must include our Nation's elderly and handicapped citizens. Section 16(B)(1) also raises the possibility of instituting alternative services to meet the transportation needs of the elderly and handicapped.

We see accessibility of equipment and availability of services as two distinct problem areas, each of which need to be addressed. They are not alternative or substitute solutions. The transportation needs of the elderly and handicapped must be met both by designing equipment that is accessible and by instituting routes to serve the needs of those who are not conveniently located near or who are underserved by existing transit services.

As for section 16(B) (2), we laud the establishment of local advisory committees and believe that this would serve to bring planning and programming more in tune with the expectations and the demands of the public to be served. We recommend that these local advisory committees be utilized to develop programs which would include definite timetables for instituting transit services that would serve the needs of those who do not have transit services readily available because they are not located near existing transit routes.

And that basically sums up our support for this bill, giving the clarifications that I summarized.

Senator WILLIAMS. Thank you very much, Mr. Raggio.

Your observations will have to be studied. I regret that we don't have the time right now to fully develop your ideas. I wonder if we could keep in communication with you so we can further digest your full statement.

Mr. RAGGIO. We certainly would appreciate that. This is an area which we have had a continuing interest in and our project on the rights of citizens who are different is deeply committed to working for effectuating the rights of elderly and handicapped citizens.

[Complete statement of Mr. Raggio follows.]

STATEMENT OF JAMES RAGGIO, STAFF ATTORNEY, PUBLIC INTEREST LAW CENTER OF PHILADELPHIA, PROJECT ON THE RIGHTS OF CITIZENS WHO ARE DIFFERENT, IN BEHALF OF THE COALITION FOR EQUAL PUBLIC TRANSPORTATION SERVICES

Mr. Chairman, and Senators, in 1970, Congress declared it to be national policy that elderly and handicapped persons have the same right as all citizens to use public transportation, and called for special efforts to be made in the planning and design of mass transit services to assure that the elderly and handicapped can effectively utilize public transportation.¹ Although the law provides direction for making all transit equipment fully accessible to our nation's elderly and handicapped population; five years have passed, yet older and disabled Americans continue to encounter the same difficulties in gaining access to public transportation. The failure to realize the promise of this national policy is demoralizing and frustrating to the millions of elderly and handicapped residents of our nation's cities and towns who are personally mobile, but for whom present design standards render the use of public transportation exceptionally difficult or impossible. For these individuals, the majority of whom do not own or operate an automobile, public transportation is the key to developing their full economic, social, and personal potential in the community, and to leading lives of independence and self-confidence which is the fundamental guarantee of our Constitution and democratic society.

Why have improvements not been brought about in our nation's public transportation systems during the past five years to meet the requirements of elderly and handicapped passengers? One place to look is the agency which administers the federal programs offering financial assistance for mass transportation. The Urban Mass Transportation Administration has yet to develop and implement definite and consistent guidelines for effectively implementing Section 16 of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. Section 1612. UMTA's current requirement, as contained in its External Operating Manual, merely states that:

In the planning and design of mass transportation facilities and equipment, reasonable efforts should be made to ensure that the elderly and handicapped will be able to effectively use the facilities.²

Applicants for federal capital grants have been entirely left on their own to determine what improvements to make for the elderly and handicapped. By failing to provide for specific, standardized equipment features at the national

¹ Section 16, Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. Section 1612.

² Urban Mass Transportation Administration, External Operating Manual (August, 1972), Chapter 11, Section B at 14.

level, manufacturers have not been given the necessary incentive to invest to produce improvements; and local transit operators, in turn, are constrained by the hardware choices offered by the producers. For example, one of the features for facilitating use of motor buses by some elderly and handicapped is a level changing mechanism for boarding and exiting the vehicle. None of the major bus manufacturers presently equip their standard urban vehicles with this feature, although the technology for doing so currently exists.³

More recently, in face of litigation to establish the right to equal access to public transportation for the elderly and handicapped, UMTA has assumed a less passive role in carrying out its legislative duties. Formal rules and procedures are being developed by UMTA that will spell out in more detail the duties of local transit operators and planners for receiving federal assistance. As proposed, these regulations are noticeably deficient in that they fail to adopt standards requiring full accessibility to motor busses.⁴ Furthermore, although the proposed regulations purport to establish design criteria for making transit equipment, other than non-level entry vehicles, fully accessible to the elderly and handicapped, UMTA's Administrator has reserved broad discretion to waive or modify these requirements upon the application of local transit operators.⁵ It should also be pointed out that Subparts B and C of the proposed regulations obviate full accessibility requirements by allowing alternative transportation services for the elderly and handicapped.⁶ At this time, we should like to submit, for the record, memoranda from UMTA's Administrator and Chief Counsel which reflect that agency's non-committal position towards requiring full accessibility to transit vehicles and facilities for the elderly and handicapped.⁷

The problems encountered by elderly and handicapped persons in using public transportation services arise in two distinct areas: accessibility of equipment and availability of services. A recent report prepared for UMTA estimates that public transportation is available within two blocks of 60% of the urban elderly and handicapped population who are non-drivers.⁸ Thus, for the majority of our nation's elderly and handicapped citizens, their transportation problem would be solved by designing full accessibility into transit vehicles and facilities. Creating a separate transportation system for this population, or subcategories of this population as persons who use wheelchairs, would result in an enormous duplication and waste of resources.

The needs of elderly and handicapped individuals for transportation are the same as those of other citizens, including the desire to go shopping; to go to entertainment and recreation areas; to engage in employment and educational opportunities; to make social visits; and to seek expert services. The capital and operating expenses incurred in providing and coordinating an adequate fleet of demand-responsive vehicles with region-wide capabilities similar to those of existing transit networks in order to serve the diverse needs of elderly and handicapped passengers would be prohibitive. Unless society is willing to commit the necessary resources to maintain an adequate level of services through separate systems for the elderly and handicapped, such systems are doomed to be inferior.

For those elderly and handicapped persons who are not conveniently located near transit routes, regional transportation opportunities can be most efficiently and effectively assured by integrating neighborhood based demand responsive type services with fixed route transportation systems. This approach would be consistent with Section 5 of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. Section 1604 which declares it to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transport in a manner that will better serve the needs of local

³ Blitz Body Corporation, Chicago, Illinois, equips standard General Motors Corporation transit buses with lift devices. The F.M.C. Corporation, Santa Clara, California, is also producing thirty foot heavy duty buses with level changing devices. See, U.S. Department of Transportation, Urban Mass Transportation Administration, A Directory of Vehicles for Elderly and Handicapped (October, 1974).

⁴ 49 C.F.R. Section 609.19, 40 Fed. Reg. 8319 (February 26, 1975).

⁵ 49 C.F.R. Section 609.7, 40 Fed. Reg. 8317 (February 26, 1975).

⁶ 49 C.F.R. Sections 609.9(c)(4); and 609.13 (a) and (b), 40 Fed. Reg. 8317 (February 26, 1975).

⁷ Memorandum from Frank Herringer, dated November 6, 1974, "Proposed Regulations on Transportation for the Elderly and Handicapped"; and Memorandum from Sally Anne Payton, dated March 10, 1975, "Elderly and Handicapped Regulations". Attached as Exhibits 1 and 2.

⁸ The Handicapped and Elderly Market for Urban Mass Transit, Transportation Systems Center (October, 1973) at 11. The figures from the report are attached as Exhibit 3.

communities. These service improvements would therefore, not be an alternative or substitute for designing full accessibility into transit vehicles and facilities, but would provide a neatly complementary solution for making public transportation more readily available to persons residing in or traveling to areas underserved by existing transportation systems.

The present bill to amend the Urban Mass Transportation Act of 1964 provides an opportunity for Congress to clarify and strengthen the law guaranteeing elderly and handicapped persons the right to use public transportation by mandating that all transit vehicles and facilities financed under that Act be fully accessible. This requirement would be consistent with Section 105(b) of the Federal Aid Highway Act Amendments of 1974, P.L. 93-643; and Section 315 of the Department of Transportation and Related Agencies Appropriation Act of 1975, P.L. 93-391. By requiring accessibility features to be incorporated in the primary design of vehicles and facilities, new rail systems and extensions of existing systems would be fully usable by the elderly and handicapped. Through a steady process of replacement, eventually all surface transit routes will be totally barrier free. Vehicle replacement alone will not totally open up existing subway and elevated routes to the elderly and handicapped, unless improvements are also made in the design of related facilities. Although it may prove impossible to revamp every existing facility, the opportunity for incorporating accessibility features in projects to renovate and upgrade structures must not be overlooked.

Section 16(b)(1) of S. 662 introduces a potential loophole for getting around the full accessibility requirement for vehicles by authorizing the Secretary of Transportation to grant exemptions if he determines, based on substantial evidence and a detailed timetable, presumably for instituting alternative transportation services, that the transportation needs of the elderly and handicapped are otherwise being met. As stated above, it would doubtlessly be impossible for separate transportation systems to provide region-wide transportation opportunity that would otherwise be made available by designing full accessibility into the primary transportation system, unless society is willing to do so at a prohibitive cost. Promoting separate transportation systems would also likely serve to delay the production of fully accessible vehicles and increase production costs by limiting the market for such vehicles. Although demand responsive type services should be an integral part of regional programs for assuring the ready availability of transportation to persons for whom fixed route services are not conveniently located, S. 662 should make it clear that these services are not a substitute for assuring full accessibility to the primary public transportation system. The local advisory committees that would be established under Section 16(b)(2) of S. 662 should rather be involved in developing programs for flexibly routed services to supplement existing public transportation systems.

Thank you.

THE COALITION FOR EQUAL PUBLIC TRANSPORTATION SERVICES

The Coalition for Equal Public Transportation Services is an alliance of consumer groups and service agencies organized around the need for accessible public transportation services for elderly and handicapped citizens in the Philadelphia area. Included in the Coalition are: Action Alliance of Senior Citizens; Delaware Valley Council on Services for the Handicapped; Disabled in Action of Pennsylvania; Center for the Blind; Gray Panthers; Moss Rehabilitation Hospital; Nevil Interagency Referral Service; United Cerebral Palsy Association; Council of Agencies of and for the Blind; Pennsylvania Department of Health, Southeast Region; Magee Memorial Hospital Rehabilitation Center; Magee Alumni Club; Magee Auxiliary Club; Pennsylvania Federation of the Blind; and Senior Adult Council. J.Y.C. The Public Interest Law Center of Philadelphia, through a grant from the Max and Anna Levinson Foundation, is serving as counsel to the Coalition.

DEPARTMENT OF TRANSPORTATION,
URBAN MASS TRANSPORTATION ADMINISTRATION,
Washington, D.C., November 6, 1974.

Memorandum for: Ken Orski.
From: Frank Herringer.
Subject: Proposed regulation on transportation for the elderly and handicapped.

I have reviewed the proposed regulation on transportation for the elderly and handicapped, and I want to congratulate you and the other members of the task

force for an excellent job. I was particularly impressed by your ability to obtain concurrence on a subject that is so controversial.

I have initialed the approval box and I assume that this means that the notice of the meeting will be issued. Before release of the notice of proposed rule making, I would like you to consider the following points:

1. Is there any way to indicate in Section 609.9(b) and (c) that the requirement for full accessibility may be changed at a future date pending the outcome of some of our research studies? I am concerned that the present wording locks us into a position that may be politically inevitable, but may not make any sense from a transportation effectiveness or cost benefit standpoint. At some future date it may be recognized that alternative service is a preferable way of handling the transportation needs of the elderly and handicapped.

2. The definitions in Section 609.3 should be compatible with the definitions that we would promulgate under the half-fare requirements of S. 386. It seems to me that in that context the definition of handicapped person may be too broad and vague.

3. You do not make any reference to PL 90-480. Is this intentional?

4. On pages 7 and 8 of the preamble, there is a discussion of bus accessibility. On the basis of my meeting this morning on Transbus, I do not think that the remarks about devices that would achieve accessibility for the wheelchairbound are accurate. In addition, how can we say we have "serious reservations" about a requirement to make buses accessible, when we state emphatically that all fixed guideway facilities should be fully accessible. The comments on the needs of wheelchair confined users concerning alternative service would be just as applicable to users of fixed guideway facilities. Of course, this relates to the point made under (1), above.

Please let me know how you intend to deal with the above comments before distributing the notice of proposed rule making.

LEUNG

DEPARTMENT OF TRANSPORTATION,
URBAN MASS TRANSPORTATION ADMINISTRATION,
Washington, D.C., November 4, 1974.

Subject: Proposed regulation on transportation of the elderly and handicapped.
From: Associate Administrator for Policy and Program Development, UPP-1.
Chief Counsel, UCC-1. Associate Administrator for Transit Planning, UTP-1.

Associate Administrator for Capital Assistance, UCA-1. Associate Administrator for Research and Development, URD-1.

Attached is our draft regulation on the elderly and handicapped, developed under UPP leadership by UMTA staff with OST participation. We feel the draft is ready as a point of departure for sessions with APTA and other interest groups prior to issuance as a notice of proposed rule-making.

LEUNG

HIGHLIGHTS OF DRAFT

The draft regulation places strong emphasis on a pragmatic, "service and equipment" strategy to meet the needs of the elderly and handicapped, specifying both design standards for rolling stock and buildings, as well as a performance standard for special services. In sum, the regulation:

Defines handicapped, ambulatory handicapped, non-ambulatory handicapped, and elderly [section 609.3].

Requires that all new fixed systems, major usable extensions, and rail rolling stock be accessible to the non-ambulatory handicapped [section 609.9(b) and (c)].

Provides currently feasible design standards requiring buses to be accessible to the ambulatory elderly and handicapped [section 609.9(d)]. These design standards have not yet received full engineering evaluation and might be altered before final rule-making.

States UMTA policy for capital and planning applicants with regard to the elderly and handicapped [section 609.7 and 9(a)].

Requires that every UMTA grant recipient provide and/or coordinate special services and equipment for non-ambulatory users, effective July 1, 1977 [section 609.9(e)]. Levels of service are to be approved by the Administrator. This is a general performance standard which allows considerable discretion both in the applicant's response and in UMTA approval criteria. It follows closely our approach to settling the Baltimore suit.

LEUNG

Builds a case, through the preamble, that UMTA has a continuing program in this subject area, including a major research project, and that this regulation is a natural step in the codification of UMTA policy now going on.

PROCESS OF RULE-MAKING

Because of increasing pressures to open up the rule-making process and on the recommendation of TGC, we feel that UMTA should publish a "notice of meeting" (attached) before sitting down with the operators, users, and manufacturers. This would accomplish essentially the same purpose as our originally proposed advance notice of proposed rule-making. Our recommended schedule is as follows:

- November 7 —Notice of Meeting in Federal Register.
- November 25—Meet with user groups (e.g., President's Committee on Employment of the Handicapped).
- November 26—Meet with operators (APTA committee).
- November 27—Meet with suppliers (e.g., GM, Rohr, AMC).
- December 20—Publish Notice of Proposed Rule-Making.
- March 1 —Publish Final Rule, with effective date 30 days thereafter.

C. KENNETH ORSK,
UPP-1.
SALLYANNE PAYTON,
UCC-1.
ROBERT McMANUS,
UTP-1.
JEROME C. PREMIO,
UCA-1.
GEORGE POSTO,
URD-1.

DEPARTMENT OF TRANSPORTATION,
URBAN MASS TRANSPORTATION ADMINISTRATION,
Washington, D.C., March 10, 1975.

STEVE McCONAHEY:

I have read your note of 6 March and agree with it utterly. The regulations were developed for litigation and political reasons, and say what they must say in order to satisfy those concerns. The E&H lobby is resistant to the safety issue as a result of the FAA rulemaking, which focuses on safety and is viewed as a way of avoiding accessibility. We are checking with BART on the liability insurance implications of wheelchair accessibility.

Any assistance you could provide on thinking through this issue would be greatly appreciated.

SALLYANNE PAYTON,
The Chief Counsel.

DEPARTMENT OF TRANSPORTATION,
URBAN MASS TRANSPORTATION ADMINISTRATION,
March 6, 1975.

To: Chief Counsel, UCC-1.

From: Director, Section 5 Implementation Task Force.

Subject: Elderly and handicapped regulations.

I have received with interest the notice of proposed rulemaking for an Elderly and Handicapped regulation. While I certainly appreciate that current events require UMTA to take speedy action on this issue, I find one aspect of the proposed rules particularly troublesome.

I am deeply concerned that attention has not been given to the safety implications of the E & H regulation. I do not feel that UMTA's responsibility ends with the guarantee of accessibility to E & H riders if ultimately their safety in an emergency cannot be assured (at least to the same extent as other passengers). In this context, the guidelines provide for getting the wheelchair-bound into a subway station and onto a train; they do not provide for getting such individual out in an emergency.

Section 107 will ultimately require action by UMTA to promulgate safety guidelines and standards. Granted that such requirements are outside the scope of the present E & H exercise. However, the issuance of strict regulations

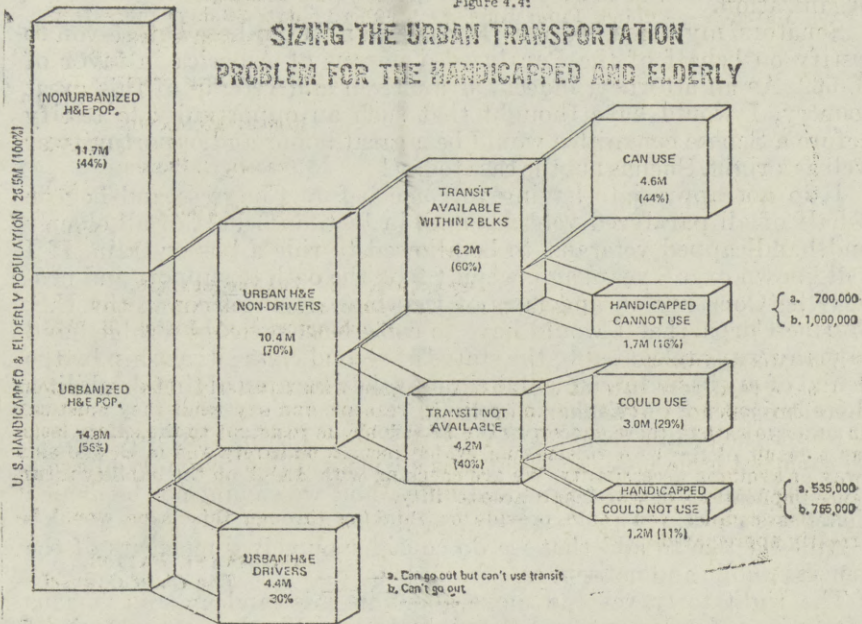
for E & H access mandates that the safety issue be addressed eventually. Failing to do so may place UMTA in the position of requiring costly provisions for the E & H on one hand while ignoring their safety concerns on the other.

Even if there is no clear legislative mandate for such action on our part, UMTA's safety-related efforts will inevitably be scrutinized the first time a wheelchair patient is trapped in a subway tunnel with no means of escape. When an accident occurs, the fact that UMTA has taken direct action with regard to E & H will implicitly involve us in a safety investigation, whether or not safety was mandated in the present rulemaking. Notwithstanding such dramatic possibilities, the implications for insurance coverage in the transit industry should also be examined.

In sum, I do not postpone an easy solution to these problems, but merely wish to express concern that the safety issue should be addressed now, rather than at a later point when the problems have become critical.

STEPHEN G. MCCONAHEY.

Figure 4.4:



Senator WILLIAMS. Thank you very much, Mr. Raggio. We will to Mr. Lancaster and Mr. O'Brien in one moment. I have to confer with Senator Garn.

We will continue and Senator Garn, who has a great interest in this subject matter and who was here yesterday, will chair our hearings. I have been called over to the floor. So why don't we start with either Mr. Lancaster or Mr. O'Brien.

Mr. LANCASTER. I'm John Lancaster, Senator, and would you prefer that I just highlight my statement?

Senator WILLIAMS. Senator Garn, which would you prefer, to have the full statement at this time or its highlights?

Senator GARN. It's entirely up to you. It doesn't look like a very long statement, so if you'd like to do the whole thing—

Mr. LANCASTER. Senator, I'd like to read it in for the sake of our organization.

Senators, my name is John Lancaster, and I am here before you to testify on behalf of the Paralyzed Veterans of America in favor of S. 662. As an attorney, indeed, as a citizen and veteran of this great country, I would have thought that such an opportunity to testify before a Senate committee would be a great honor and opportunity as well as a right. Such is not the case today!

I do not appreciate having to come before Congress and beg on behalf of all paralyzed veterans and, in fact, on behalf of all elderly and handicapped veterans, to be allowed to ride a bus or train. If I had known over 8 years ago, when I took the oath to support and protect the Constitution and laws of this land as an officer in the U.S. Marine Corps, that I would have to come back severely disabled and in many ways relegated to the status of second class citizenship by the denial of my basic fundamental rights, solely because of that disability, then I might not have taken that oath.

I hope the people from APTA are still here. I think they are missing an essential issue here, and that it is a constitutional issue. We have a right to ride on these trains and buses, and we should not be denied that basic right.

And I'd like to add that we do consider ourselves members of the general public and not separate from them.

The right to travel and move about in this land and its various States is as fundamental as the right to life, liberty, and pursuit of happiness.

The Paralyzed Veterans of America is here today to advocate that S. 662 be passed to spell out for all the inconsiderate, cost-concerned officials, who provide funds for, regulate, monitor, operate, and construct mass transportation systems, that they can no longer discriminate against elderly and handicapped persons, especially the elderly or severely disabled veteran.

The committee is probably well aware that there are over 2,210,000 disabled service-connected veterans, many of whom have ambulatory problems. There are 20,460 known paralyzed veterans in the United States. There are also many other veterans confined to wheelchairs or in need of other ambulatory aids. These range from veterans with severe arthritis to amputees.

As the committee can see from these figures, a significant portion of the veteran population alone stands to benefit if all mass transportation is made accessible to those with severe ambulatory problems.

It follows that failure to mandate that all mass transportation be accessible to elderly and handicapped persons allows transportation companies, most of which receive government subsidy, and the Federal Government to continue to discriminate against disabled veterans, as well as elderly and handicapped persons.

To be submitted following this testimony is a sample legal brief in support of a mythical lawsuit against a transit authority in denying access to the elderly and handicapped. This brief, prepared by the National Center for Law and the Handicapped in South Bend, Ind., deals basically with the constitutional issues involved and doesn't begin to contemplate the firmness of its stand if it was based on 49 U.S.C., section 1612 [Public Law 91-453, the Urban Mass Transportation Act of 1964 as amended] and the Federal-Aid Highway Amendments of 1974 [Public Law 93-643, sec. 105].

Lawsuits are presently being brought under the basic constitutional theories set forth in NCLH's brief, which we will submit tomorrow, in both Federal and State courts against mass transportation systems in the cities of Honolulu, San Francisco, Seattle, Chicago, Austin, Houston, Detroit, and Birmingham. Such a lawsuit concerning the accessibility of Metro here in Washington was recently won.

[The brief is printed following Mr. Lancaster's prepared statement at p. 61.]

It is said that elderly and handicapped folk have to fight for their basic right to travel. However, since this fight is necessary, it is the position of the PVA that it be done through responsible legislation, rather than on a case-by-case basis which would only further tie up our already overburdened courts.

S. 662 is also needed to provide elderly and handicapped persons means of transportation in the automobile in light of fuel crisis. The increasing price of gasoline and the ever imminent threat of gasoline rationing make the need for barrier-free mass transportation more important than ever before. As was pointed out in the Congressional Record on Tuesday, February 11, 1975, when S. 662 was introduced, elderly and handicapped persons are less affluent than average citizens, and thus can least afford to operate an automobile and must rely on the public mass transportation that is presently inaccessible to them. Many of the members of PVA who have non-service-connected spinal cord injuries are in the same financial bind as other disabled persons. They do not enjoy the compensation benefits and specially-adapted automobile grant to which certain severely disabled service-connected veterans are entitled.

Thus, as with all elderly and handicapped persons, it is often the high costs of automobile travel and the inaccessibility of mass transportation that keeps the non-service-connected veteran from enjoying the benefits of travel.

Further, the PVA believes that this legislation is needed in view of distressing history and lack of good faith of the Urban Mass Transportation Administration of the Department of Transportation in coming forward with firm regulations to implement the mandates of already existing law.

First, the 1970 amendments to the UMT Act require that "special efforts" be made toward making transportation services available to the elderly and handicapped.

Second, the 1974 amendments to the Federal Aid Highway Act of 1974 (FAH Act) plainly require that mass transit projects funded under the FAH Act be fully accessible to the elderly and handicapped.

Third, the Department of Transportation and related agencies Appropriations Act of 1975 requires that mass transit projects paid for out of that appropriation be accessible to the elderly and handicapped.

Fourth, the 1974 amendments to the UMT Act prohibit the use of funds to support procurements utilizing exclusionary or discriminatory specifications.

Finally, section 504 of the Rehabilitation Act of 1973, as amended, requires all federally assisted programs to be fully accessible to the handicapped. This includes transportation programs.

In spite of these laws, S. 662 is needed to insure that all elderly and handicapped persons have the same right as other persons to use mass transportation. UMTA has failed to come up with any regulations or specifications that would meet the mandates and spirit of the above-mentioned legislation. Instead, they have come up with ineffectual discriminatory proposed regulations.

In fact, UMTA's proposed rules have a whole section—609.7—explaining how the authority of the Administrator of UMTA is established to grant waivers, so that a transit system would not have to comply. The rules further delay the issue of accessibility by providing for lengthy regional planning programs. The rules seem to have been proposed in order to satisfy concerns over litigation or politics.

Contrary to UMTA's proposed rules, S. 662 provides an effective, clear and reasonable means of leading the Department of Transportation and UMTA by the hand showing them the way to what has already been mandated.

S. 662 spells out clearly, like the FAH Act, that elderly and handicapped persons shall have equal access to mass transportation. The act provides for basically no waivers, except as level access bases, and a reasonable timetable for implementation. We would like to see the waiver concerning level access to buses deleted from the bill.

S. 662 is a responsive and responsible resolution to a regrettable problem, which, if not solved by S. 662, will be solved in the courts.

In conclusion, the PVA feels that it is regrettable that, as in the 1960's with the Civil Rights Act and the Voting Rights Act, the Congress has to again legislate for a certain segment of the American society, in this case, the elderly and handicapped, the constitutionally protected rights they already possess as citizens.

The right to travel is a very basic and fundamental right guaranteed to every citizen. All persons, including the elderly and handicapped, have the right to travel and to use all the instrumentalities that effectuate that travel on an equal basis.

It matters not, where such a fundamental right is concerned, whether the denial and discrimination created by inaccessible transit systems is direct or indirect. The right to travel is a liberty which cannot be deprived a citizen without due process of law.

Freedom of movement throughout and within our States is necessary for a livelihood and may be as close to the heart of an individual as the choice of what he eats, wears, or reads.

Freedom of travel is basic in our scheme of values. It is necessary to be able to exercise the right of access to the courts, the right of access to the Government, the right to secure an education, the right to seek and engage in gainful employment, the right of freedom of association, and numerous other rights guaranteed by the Constitution.

We, as veterans, many of us who received our disabilities while engaged in service to protect those ideals just mentioned do not want to be denied these, simply because the transportation system in this land is inaccessible to a person in a wheelchair.

Therefore, we strongly support S. 662 as a step toward assuring that we are not denied those basic rights in the future.

Senator GARN. Thank you, Mr. Lancaster.

[Prepared statement of Mr. Lancaster, his answers to written questions, and the brief referred to earlier follow:]

STATEMENT OF JOHN A. LANCASTER OF THE PARALYZED VETERANS OF AMERICA

Mr. Chairman, and Honorable members of the Senate Committee on Banking, Housing and Urban Affairs, my name is John Lancaster and I am here before you to testify on behalf of the Paralyzed Veterans of America in favor of S. 662. As an attorney, indeed as a citizen and veteran of this great country, I would have thought that such an opportunity to testify before a Senate Committee would be a great honor and opportunity as well as a right. Such is not the case today. I do not appreciate having to come before Congress and *beg* on behalf of all paralyzed veterans, and, in fact, on behalf of all elderly and handicapped veterans, to be allowed to ride a bus or train. If I had known over eight years ago when I took the oath to support and protect the Constitution and laws of this land as an officer in the U.S. Marine Corps, that I would have to come back severely disabled and in many ways relegated to the status of second class citizenship by the denial of my basic fundamental rights solely because of that disability, then I might not have taken that oath. The right to travel and move about in this land and its various states is as fundamental as the right to life, liberty, and pursuit of happiness. The Paralyzed Veterans of America is here today to advocate that S. 662 be passed to spell out for all the inconsiderate, cost concerned officials, who provide funds for, regulate, monitor, operate and construct mass transportation systems, that they can no longer discriminate against elderly and handicapped persons, especially the elderly or severely disabled veteran.

The committee is probably well aware that there are over 2,210,000 disabled service-connected veterans, many of whom have ambulatory problems. There are 20,460 known paralyzed veterans in the United States. There are also many other veterans confined to wheelchairs or in need of other ambulatory aids. These range from veterans with severe arthritis to amputees. As the Committee can see from these figures, a significant portion of the veteran population alone stands to benefit if all mass transportation is made accessible to those with severe ambulatory problems. It follows that failure to mandate that all mass transportation be accessible to elderly and handicapped persons allows transportation companies, most of which receive government subsidy, and the federal government to continue to discriminate against disabled veterans as well as elderly and handicapped persons.

To be submitted following this testimony is a sample legal brief in support of a mythical law suit against a transit authority in denying access to elderly and handicapped folk. This brief, prepared by the National Center for Law and the Handicapped, deals basically with the Constitutional issues involved and doesn't begin to contemplate the firmness of its stand if it was based on 49 U.S.C., sec. 1612 (P.L. 91-453, the Urban Mass Transportation Act of 1964 as amended) and the Federal-Aid Highway Amendments of 1974 (P.L. 93-643, sec. 105). Law suits are presently being brought under the basic constitutional theories set forth in NCLH's brief in both federal and state courts against mass transportation systems in the cities of Honolulu, San Francisco, Seattle, Chicago, Austin, Houston, Detroit and Birmingham. Such a law suit concerning the

accessibility of METRO here in Washington was recently won. It is sad that elderly and handicapped folk have to fight for their basic right to travel. However, since this fight is necessary, it is the position of the PVA that it be done through responsible legislation rather than on a case by case basis which would only further tie-up our already overburdened courts.

S. 662 is also needed to provide elderly and handicapped persons means of transportation in the automobile in light of fuel crisis. The increasing price of gasoline and the ever imminent threat of gasoline rationing make the need for barrier free mass transportation more important than ever before. As was pointed out in the Congressional Record on Tuesday, February 11, 1975, when S. 662 was introduced, elderly and handicapped persons are less affluent than average citizens, and thus can least afford to operate an automobile and must rely on the public mass transportation that is presently inaccessible to them. Many of the members of PVA who have non-service connected spinal cord injuries are in the same financial bind as other disabled persons. They do not enjoy the compensation benefits and specially-adapted automobile grant to which certain severely disabled service-connected veterans are entitled. Thus, as with all elderly and handicapped persons, it is often the high costs of automobile travel and the inaccessibility of mass transportation that keeps the non-service connected veteran from enjoying the benefits of travel.

Further, the PVA believes that this legislation is needed in view of distressing history and lack of good faith of the Urban Mass Transportation Administration of the Department of Transportation in coming forward with firm regulations to implement the mandates of already existing law. First, the 1970 amendments to the UMT Act require that "special efforts" be made toward making transportation services available to the elderly and handicapped. Second, the 1974 amendments to the Federal Aid Highway Act of 1973 (FAH Act) plainly require that mass transit projects funded under the FAH Act be fully accessible to the elderly and handicapped. Third, the Department of Transportation and related agencies Appropriations Act of 1975 requires that mass transit projects paid for out of that appropriation be accessible to the elderly and handicapped. Fourth, the 1974 amendments to the UMT Act prohibit the use of funds to support procurements utilizing exclusionary or discriminatory specifications. Finally, Section 504 of the Rehabilitation Act of 1973, as amended, requires all federally assisted programs to be fully accessible to the handicapped. This includes transportation programs. In spite of these laws, S. 662 is needed to insure that all elderly and handicapped persons have the same right as other persons to use mass transportation. UMTA has failed to come up with any regulations or specifications that would meet the mandates and spirit of the above mentioned legislation. Instead, they have come up with ineffectual discretionary proposed regulations. In fact, UMTA's proposed rules have a whole section (609.7) explaining how the authority of the Administrator of UMTA is to grant waivers so that a transit system would not have to comply. The rules further delay the issue of accessibility by providing for lengthy regional planning programs. The rules seem to have been proposed in order to satisfy concerns over litigation or politics.

Contrary to UMTA's proposed rules, S. 662 provides an effective, clear and reasonable means of leading the Department of Transportation and UMTA by the hand showing them the way to what has already been mandated. S. 662 spells out clearly, like the FAH Act, that elderly and handicapped persons shall have equal access to mass transportation. The Act provides for no waivers and a reasonable timetable for implementation. S. 662 is a responsive and responsible resolution to a regrettable problem, which, if not solved by S. 662, will be solved in the courts.

In conclusion, the PVA feels that it is regrettable that, as in the 1960's with the Civil Rights Act and the Voting Rights Act, the Congress has to again legislate to a certain segment of the American society, in this case, the elderly and handicapped, the Constitutionally protected rights they already possess as citizens.

The right to travel is a very basic and fundamental right guaranteed to every citizen. All persons, including the elderly and handicapped, have the right to travel and to use all the instrumentalities that effectuate that travel on an equal basis. It matters not, where such a fundamental right is concerned, whether the denial and discrimination created by inaccessible transit systems is direct or indirect. The right to travel is a liberty which cannot be deprived a citizen without due process of law. Freedom of movement throughout and within our states is necessary for a livelihood and may be as close to the heart of an indi-

vidual as the choice of what he eats, wears or reads. Freedom of travel is basic in our scheme of values. It is necessary to be able to exercise the right of access to the courts, the right of access to the government, the right to secure an education, the right to seek and engage in gainful employment, the right to freedom of association, and numerous other rights guaranteed by the Constitution. We as veterans, many of us who received our disabilities while engaged in service to protect those ideals just mentioned, do not want to be denied these simply because the transportation system in this land is inaccessible to a person in a wheelchair. Therefore, we strongly support S. 662 as a step towards assuring that we are not denied those basic rights in the future.

QUESTIONS OF SENATOR WILLIAMS

I would like to direct this question to the panel and you may each respond as you see fit.

(1) Yesterday, the Department of Transportation witnesses testified that while they supported this legislation in principle, that they believed there was no need for it because of their proposed regulations on mass transit for the elderly and handicapped. Would you agree with this assessment?

(2) Do you find that lack of public transportation services is such a severe problem for disabled persons that many of them are not able to be employed because they have no way of getting to and from work?

(3) Mr. Ronan recommended in his testimony this morning a series of definitions for elderly and transportation handicapped persons. Do you have comments on these definitions?

(4) Do the organizations which you represent believe that all new transportation vehicles must be accessible?

ANSWERS TO QUESTIONS FOR THE PANEL BY JOHN LANCASTER OF THE PARALYZED VETERANS OF AMERICA

(1) No. DOT has failed to comply with the already existing laws concerning accessibility of mass transportation for the elderly and handicapped. These proposed regulations suggest that they would continue that non-compliance. The proposed regulations provide for waivers basically at the discretion of UMTA. There should be no waivers. These proposed regulations would not provide for accessibility of new equipment "effective immediately." It appears DOT will continue to stall in the implementation of any program solving the problem of accessibility to mass transportation unless they are told how, when, and where by law. If they truly supported the legislation in principle, they would support it, for S. 662 is a more effective and quicker solution to the problem than their regulations.

(2) Yes. Such is the case, especially in urban areas where owning an automobile is becoming prohibitively expensive due to soaring costs of parking, gasoline, and repairs. The inability to own and operate an automobile often prevents employment of the handicapped, for they have no other alternative inexpensive means of transportation.

(3) The Paralyzed Veterans of America particularly object to the language at the end of each definition . . . "To use appropriate public transportation service would be a reasonable expectation." It is for the individual, not the government, to decide what his expectations, reasonable or not, may or may not be.

(4) Yes.

SENATOR WILLIAMS' QUESTIONS FOR JOHN LANCASTER, PARALYZED VETERANS

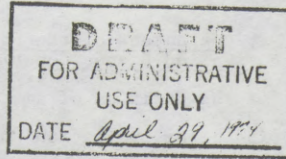
(1) Are there veterans or other disabled persons who are so disabled that they would be unable to use an accessible public transportation system?

(2) The proposed UMTA regulations contain provisions requiring a study of needs of disabled persons in a community for transportation services. As I understand it, this study would encompass the location of persons with disabilities, their anticipated uses of such vehicles, and so on. Do you believe that such a study would be necessary prior to making changes in a mass transit system?

ANSWERS TO QUESTIONS FOR JOHN LANCASTER OF THE PARALYZED VETERANS OF AMERICA

(1) Yes. However, they are very few in number. Of those who are so catastrophically disabled that they could not use accessible mass transportation alone, they could do so with the aid of an attendant.

(2) No. If there is one person who is elderly or handicapped and who is being denied access to public mass transportation, then that person is being discriminated against without due process of law. This is not only morally wrong, but illegal and unconstitutional as well. Yet such discrimination exists in almost every public mass transportation system in the country. It can be safely said, without a study, that there is at least one elderly or handicapped person wherever there is a public mass transportation system. There are numerous members of our organization in every major metropolitan area; they could all benefit from an accessible mass transportation system. See legal brief attached to our testimony.



In The
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Plaintiffs,

vs.

CIVIL ACTION NO.

Defendants.

BRIEF OF AMICUS CURIAE

NATIONAL CENTER FOR LAW AND THE HANDICAPPED

To The Honorable United States District Court
Southern District of New York

- I. The conduct of the defendants, in maintaining and operating a system of public mass transportation that is not physically accessible to the mobility disabled, and, thus, excludes them from utilizing such means of transportation, is violative of the fundamental right of said mobility disabled persons to travel, as protected by the due process, and privileges and immunities

guarantees of the Fourteenth Amendment to the
United States Constitution.

It is the position of amicus that any governmentally sanctioned restriction of or limitation upon the right of a handicapped or elderly person to travel by means of a publicly supported mass transportation system violates a very basic and fundamental right guaranteed to every citizen by the United States Constitution, i.e. the right to travel and to use the instrumentalities of interstate commerce on an equal basis with every other person for whose use such system is provided. Furthermore, to be violative of this right, it does not matter that the restriction or limitation is direct or indirect.

Defendant Metropolitan Transportation Authority is a body, corporate and politic, constituted to maintain, develop, and improve commuter mass transportation and related services in the New York metropolitan area, and to formulate and implement a unified mass transportation policy for said area. Defendant New York City Transit Authority is a public corporation, constituted to acquire and operate transit facilities for the convenience and safety of the general public.

The defendant bodies and their component officers, by maintaining and operating a public mass transportation system that is not physically accessible to a significant segment of the handicapped and elderly population of the New York metropolitan area, are avoiding a crucial part of the duty and responsibility ascribed to them at their inception, and are substantially depriving the mobility disabled of the New York City area of their right to travel, by foreclosing to them access to the means of public transportation open to the able-bodied travelers of that area.

That the right to travel is a fundamental constitutional liberty can hardly be questioned in light of the abundance of case law so holding. Apthecker v. Secretary of State, 378 U.S. 500, (1964), concerned

an attack by top-ranking leaders of the Communist Party on §6 of the Subversive Control Act of 1950, which denied passports to members of certain Communist organizations. The Court held the statute invalid on its face as violative of "the constitutional right to travel," pointing to dictum in Kent v. Dulles, 357 U.S. 116, at 125-126 (1958), that

"The right to travel is a part of the 'liberty' of which the citizen cannot be deprived without due process of law under the Fifth Amendment... Freedom of movement across frontiers in either direction, and inside frontiers as well, was a part of our heritage. Travel abroad, like travel within the country, may be necessary for a livelihood. It may be as close to the heart of the individual as the choice of what he eats, or wears or reads. Freedom of movement is basic in our scheme of values." (378 U.S., at 505-506).

United States v. Guest, 383 U.S. 745 (1966), involved the prosecution of individuals for, among other things, conspiracy to injure, oppress, threaten, and intimidate Negro citizens in the free exercise and enjoyment of "the right to travel freely to and from the State of Georgia and to use highway facilities and other instrumentalities of interstate commerce within the State of Georgia." (383 U.S., at 757). In upholding the indictments, the Court stated:

"The constitutional right to travel from one State to another, and necessarily to use the highways and other instrumentalities of interstate commerce in doing so, occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized...

Although the Articles of Confederation provided that 'the people of each State shall have free ingress and regress to and from any other State,' that right finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created. In any event, freedom to travel throughout the United States has long been recognized as a basic right under the Constitution." (United States v. Guest, *supra.*, at 383 U.S. 757-758)

Although there have been recurring differences in emphasis within the Court as to the source of the constitutional right of travel, the

most frequently recognized constitutional origins of the right are the Privileges and Immunities clauses of Article 4, section 2, and section 1 of the Fourteenth Amendment. For example, in Crandall v. Nevada, 6 Wall. 35 (1868), invalidating a Nevada tax on every person leaving the State by common carrier, the Court took as its guide the statement of Chief Justice Taney in the Passenger Cases, 7 How. 283, 492 (1849):

"For all the great purposes for which our Federal government was formed, we are one people, with one common country. We are all citizens of the United States; and, as members of the same community, must have the right to pass and repass through every part of it without interruption, as freely as in our own States."

Privileges and immunities of citizens of the United States are only such as are specifically granted or secured to all citizens or persons by the Constitution, or as arise out of the nature and essential character of the National Government. Twining v. New Jersey, 211 U.S. 78, (1908). Among the rights and privileges of National citizenship recognized by the Court, and protected by the Fourteenth Amendment is the right to travel. Crandall v. Nevada, *supra*; Twining v. N.J., *supra*; New York v. O'Neill, 359 U.S. 1 (1959); Paul v. Virginia, 8 Wall. 168, 20 L.Ed. 449 (U.S., 1869); Ward v. Maryland, 12 Wall. 418, 20 L.Ed. 449 (U.S., 1870).

In Williams v. Fears, 179 U.S. 270, (1900), the Court gave further expression to the right in these terms:

"Undoubtedly the right of locomotion, the right to remove from one place to another according to inclination, is an attribute of personal liberty, and the right, ordinarily, of free transit from or through the territory of any State is a right secured by the Fourteenth Amendment and by other provisions of the Constitution."
(179 U.S., at 274)

In Shapiro v. Thompson, 394 U.S. 618 (1969), overturning various State residency requirements for welfare recipients, the Court again took recognition of the long-standing principle that

"the nature of our Federal Union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement."
(394 U.S., at 629)

In his concurring opinion, Justice Stewart emphasized that the court, in its opinion, simply recognized an established constitutional right — the right to free and uninhibited travel throughout the land — and gave to that right no less protection than the Constitution itself demands, which right is not a mere conditional liberty subject to regulation and control under conventional due process or equal protection standards, but a right broadly assertable against private interference, as well as governmental action, and a virtually unconditional personal right guaranteed by the Constitution.

Other constitutional sources of protection for the federal right of travel have been recognized. In Edwards v. California, 314 U.S. 160 (1941), invalidating a California law which impeded the free interstate passage of the indigent, the Court based its reaffirmation of the federal right of interstate travel upon the commerce clause. This ground of decision was consistent with precedents firmly establishing that the federal commerce power surely encompasses the movement in interstate commerce of persons as well as commodities. In his concurring opinion, Justice Douglas emphasized (at 314 U.S. at 177) that "the right of persons to move freely from State to State occupies a more protected position in our constitutional system than does the movement of cattle, fruit, steel and coal across state lines."

While most of the Supreme Court cases dealing with the right to travel have spoken primarily in terms of interstate movement, it has been suggested, and amicus contends, that the Court has felt that the right to travel intrastate is so obvious that it was not necessary to specifically distinguish between a right to travel interstate and a

right to travel intrastate. Mr. Justice Douglas, in a separate opinion in Bell v. Maryland, 378 U.S. 226, at 255 (1964), after acknowledging "the duty of common carriers to carry all, regardless of race, creed, or color," said that the right to travel intrastate was certainly as basic as the right to travel interstate.

The Second Circuit has specifically considered the issue of intrastate travel, concluding that the right to travel does not depend on the interstate nature of the travel. King v. New Rochelle Municipal Housing Authority, 314 F. Supp. 427 (S.D.N.Y. 1970), aff'd 442 F. 2d 646 (2d Cir. 1971). See also, Cole v. Housing Authority of City of Newport, 312 F. Supp. 692 (D. R.I., 1970), aff'd 435 F. 2d 807 (1st Cir. 1970), where no distinction was made between one plaintiff who had moved interstate, and one plaintiff who had moved intrastate; the residency requirement for a housing project was ruled invalid as to both. The court in King, in basing its decision on Shapiro v. Thompson, *supra.*, (where the Court struck down a one-year residency requirement for welfare benefits as an invidious discrimination against needy residents because they had exercised their constitutional right to travel) noted that the Court in Shapiro had ascribed the right to travel to the Constitution generally, not just one particular clause. As the Second Circuit in King declared at 648, "It would be meaningless to describe the right to travel between states as a fundamental precept of personal liberty and not to acknowledge a correlative constitutional right to travel within a state."

In Aptheker v. Secretary of State, *supra.*, the Supreme Court concluded, at 517, that "...freedom to travel is a constitutional liberty closely related to rights of free speech and association..." The freedom of movement is necessary to be able to exercise the First Amendment freedoms. Erwin v. State, 41 Wis. 2d 194, 163 N.W. 2d 207 (1968). The freedom of movement and right to travel is necessary to be able to exercise the right of access to the courts, the right of access to the government, the right to secure an education, the right

to seek and engage in gainful employment, the right to freedom of association, and numerous other rights guaranteed by the Constitution. The Supreme Court recognized this in Kent v. Dulles, *supra*, where it held that freedom of movement was a basic right inherent in the Bill of Rights and in the Constitution itself. The Court in Kent did not limit the right of travel to interstate travel: "Freedom of movement across frontiers in either direction, and inside frontiers, was a part of our heritage." 357 U.S., at 126. (Emphasis added). The right to travel intrastate is, thus, one of those rights that must necessarily be considered "retained by the people," as specified in the Ninth Amendment to the United States Constitution. See Griswold v. Connecticut, 381 U.S. 479 (1965).

Blackstone has given us an often-quoted definition of personal liberty, particularly applicable to the case at hand:

"Personal liberty consists in the power of locomotion, of changing situations, or removing one's person to whatever place one's own inclination may direct, without restraint, unless by due course of law."
1 Bl. Com. 134

To exercise this right of liberty, plaintiffs and their class must have the same full and free use of the public mass transportation system that the defendants are providing for the able-bodied travelers of the New York metropolitan area. Various alternatives for making public transportation accessible to and usable by the handicapped and elderly are available. Among them are hydraulic lifts on buses, elevators to subway stations, and the dial-a-bus systems now in operation in several U.S. cities. But by not providing access to any mode of public transportation, the defendants have placed a substantial restraint on plaintiffs' liberty, and this has been done without due process of law.

When the State creates benefits and extends them to its citizens, whether as gratuities or privileges or rights, the Constitution runs with them. They cannot be withheld arbitrarily or for interdicted

reasons. Frost Trucking Co. v. Railroad Com., 271 U.S. 583 (1926); U.S. v. Chicago, M., St.P. & P.R.R., 282 U.S. 311 (1931); Speiser v. Randall, 357 U.S. 513 (1958); Sherbert v. Verner, 374 U.S. 398 (1963). Since the right to travel and freedom of movement are fundamental constitutional rights, the Court must employ strict scrutiny in evaluating defendants' conduct in deprivation of those rights.

The right to travel and freedom of movement, whether they are derived from the privileges and immunities clause, the due process clause, the commerce clause, or the Ninth Amendment, are clearly rights that are necessary to protect many other constitutional rights. Defendants, by maintaining a public mass transit system that is physically inaccessible to many handicapped and elderly persons, are depriving plaintiffs and their class of this much needed, and constitutionally protected, freedom of movement.

II. Plaintiffs have a constitutional right to equal access to public mass transit facilities under the equal protection clause of the Fourteenth Amendment to the United States Constitution.

By failing to provide plaintiffs and their class with equal access to the publicly supported mass transit facilities to which they are entitled, the defendants have violated the equal protection clause of the Fourteenth Amendment. They have, without any justifiable rationale, classified people into two groups: those who can by their own power board buses or descend subway steps, and those who cannot.

Particularly analogous to the case at hand is a recent decision of the United States District Court for the District of Columbia which held that handicapped children constitute a class entitled to protection under the due process and equal protection clauses of the Constitution. Mills v. Board of Education, 348 F. Supp. 866 (D.D.C. 1972). Mills involved the failure of the District of Columbia to provide publicly-supported education and training to "exceptional" children — i.e., children who are mentally retarded, emotionally disturbed, physically handicapped, hyperactive, or who have behavioral problems.

The Court held that, so long as the District of Columbia had undertaken to provide a system of publicly-supported education for the children of the District, it must be made available to all children on equal terms. Moreover, the defendant's failure to satisfy the constitutional obligation to provide equal access to public education could not be excused by insufficient funds.

"If sufficient funds are not available to finance all of the services and programs that are needed and desirable in the system then the available funds must be expended equitably... The inadequacies of the District of Columbia Public School System ... cannot be permitted to bear more heavily on the 'exceptional' or handicapped child than on the normal child."
(Id., at 876).

The holding in Mills is strikingly applicable to the present case in which there are at least two rights that are being denied to plaintiffs

and the class they represent that are as fundamental as the right to equal education involved in Mills. First, there is the right of equal access to the public transportation system. The defendants, in undertaking to provide a publicly-financed mass transit system, have a constitutional duty to provide equal access to that system to all citizens, including the handicapped and elderly.

Since, as elaborated upon in section I of this brief, the right to travel is a fundamental one, where the exercise of this right is substantially limited or denied to one class of citizens, the State, acting through these defendants, must demonstrate a compelling interest for doing so. Shapiro v. Thompson, *supra*, at 638. Oregon v. Mitchell, 400 U.S. 112, 238 (Opinion of Brennan, White, and Marshall, J.J.) (1970). In Shapiro, the Court found that the minimum residency requirement for welfare recipients penalized citizens for exercising their right to move freely between states and held that:

"Since the classification here touches on the fundamental right of interstate movement its constitutionality must be judged by the stricter standard of whether it promotes a compelling state interest."
(394 U.S., at 638).

The Court dealt with the compelling state interest question in Shapiro, at 633:

"We recognize that a State has a valid interest in preserving the fiscal integrity of its programs. It may legitimately attempt to limit its expenditures, whether for public assistance, public education, or any other program. But a State may not accomplish such a purpose by invidious distinctions between classes of its citizens. It could not, for example, reduce expenditures for education by barring indigent children from its schools. Similarly, in the case before us, appellants must do more than show that denying welfare benefits to new residents saves money. The saving of welfare costs cannot justify an otherwise invidious discrimination."

Just as the compelling state interest test was not met in either Mills or Shapiro, it cannot be met by the defendants here, with arguments of

financial difficulty or inconvenience.

Secondly, in addition to the denial of plaintiffs' freedom to travel, the defendants' actions (or inaction) will substantially restrict plaintiffs' right to gainful employment. As early as 1914, the Supreme Court indicated that the right to work is fundamental in the sense that all other freedoms are at least partially dependent upon the economic security provided by a job:

"In so far as a man is deprived of the right to labor, his liberty is restricted, his capacity to earn wages and acquire property is lessened, and he is denied the protection which the law affords to those who are permitted to work. Liberty means more than freedom from servitude, and the constitutional guarantee is an assurance that the citizen shall be protected in the right to use his powers of mind and body in any lawful calling."
Smith v. Texas, 233 U.S. 630, 636 (1914).

The following year, in Truax v. Raich, 239 U.S. 33 (1915), the Court declared at 41 that:

"It requires no argument to show that the right to work for a living in the common occupations of the community is of the very essence of the personal freedom and opportunity that it was the purpose of the [Fourteenth] Amendment to secure."

Many years later, in United States v. Robel, 389 U.S. 258 (1967) Mr. Justice Brennan, in a concurring opinion, similarly observed that the right to employment and the right to follow a chosen profession free from unreasonable Government interference falls within the protection afforded by the Fifth Amendment:

"That right is therefore also included among individual liberties fundamental to American institutions which are not to be destroyed under pretext of preserving those institutions..."
 (Id., at 270).

As disclosed at recent Senate hearings on "A Barrier-Free Environment for the Elderly and Handicapped" (before the Special Committee on Aging, United States Senate, 92nd Congress, 1st Sess., Oct. 20, 1971, p. 49): "handicapped persons feel the need to do something and feel lost and useless without the support and stimulation of work." In the same hearing it was noted that whereas 71% of the non-handicapped

between the ages of 17-64 are members of the labor force, only 36% of the handicapped population in the same age bracket are in the labor force. It was also brought out that of the employed handicapped interviewed, 53% used public transportation to get to work and 30% of those who were unemployed, but looking for jobs, indicated that transportation was one of the factors in their unemployed status.

Plaintiffs are being excluded from public transportation solely on the basis of their unalterable physical characteristics. In addition to the obvious economic impact on this class of citizens, the exclusion affects the handicapped psychologically. As noted by the Supreme Court in Brown v. Board of Education, 347 U.S. 483 (1954), the psychological impact of unequal treatment is a significant consideration. In Brown, segregated educational facilities generated "a feeling of inferiority as to... (plaintiffs') status in the community that may affect their hearts and minds in a way unlikely ever to be undone." 347 U.S. at 494. The physically handicapped have similar problems. They must struggle to overcome obstacles to their acceptance into the general general community at every turn. Surely, defendants' insensitivity to the plight of these people should not be permitted to add yet another frustration to their attempt to lead normal lives.

The defendants have as their responsibility the removal of the daily affront and humiliation to the handicapped and elderly in discriminatory denials of access to transportation facilities ostensibly open to the public.

"...(D)enials of equal protection... are singularly grave when government has or shares responsibility for them. Government is the social organ to which all in our society look for the promotion of liberty, justice, fair and equal treatment, and the setting of worthy norms and goals for social conduct. Therefore, something is uniquely amiss in a society where the government, the authoritative oracle of community values, involves itself in ...discrimination."

Adickes v. Kress & Co., 398 U.S. 144, 190-191 (1970)

The defendants have an affirmative duty to insure equal access to the public mass transit system to all citizens. Available funds must be expended equitably to insure that the handicapped are not excluded from publicly-supported transportation. Inadequacy of funding, if such is the case, cannot be permitted to bear more heavily on the handicapped than on the rest of the public.

Where fundamental rights are involved, the fact that one solution may be administratively more feasible than another is inconsequential. As held by the Supreme Court, dealing with the right to vote, in Carrington v. Rash, 380 U.S. 89, 91 (1965), remote administrative benefit to the Government cannot be used to deprive a class of individuals of a fundamental right.

Thus, since there is no compelling state interest behind defendants' classification and exclusion of plaintiffs and their class from public transportation by maintaining and operating an inaccessible transit system, plaintiffs and their class are being deprived of the equal protection of the law guaranteed to them by the Constitution of the United States, a wrong remediable by this Court through the declaratory and injunctive relief for which the plaintiffs pray.

III. Defendants' conduct in excluding plaintiffs and their class from public mass transportation places an undue burden on interstate commerce.

Article I, § 8, cl. 3 of the United States Constitution confers upon Congress the power to regulate commerce among the several states. Further, clause 18 of the same article grants Congress the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.

The U.S. Supreme Court pointed out in Heart of Atlanta Motel, Inc., v. U.S., 379 U.S. 241 (1964), that this grant of power extends to those activities intrastate which so affect interstate commerce, or the execution of the power of Congress over it, as to make regulation of them appropriate means to the attainment of a legitimate end, the effective execution of the granted power to regulate interstate commerce. The only activities which are beyond the reach of Congress are "those which are completely within a particular state, which do not affect other states, and with which it is not necessary to interfere, for the purpose of executing some of the general powers of the government." Gibbons v. Ogden, 9 Wheat. 1, 195 (1824).

Plaintiffs herein contend that the willful failure of defendants to provide access to transportation facilities effectively denies them and others similarly situated the right to utilize public transportation, and consequently interferes with interstate commerce.

There is little disagreement with the proposition that New York City is one of the major tourist capitals of the world, perennially catering to visitors of every possible origin, many of whom have travelled from other states. Thirty-five per cent of all persons utilizing mass transit in the United States utilize it in New York City, notwithstanding the fact that the population of New York City comprises only 4% of the national population. Based upon these statistics it seems clear

that a substantial number of the individuals utilizing the New York mass transit system are not in fact residents of New York but travel interstate to New York City for various purposes.

As the energy crisis worsens, more and more Americans are forced to depend upon mass transit, gasoline for private cars in many instances being unobtainable. Fortunately most individuals are able to make this adjustment; but such is not the case with the handicapped, who, by virtue of some physical defect, are unable to utilize the mass transit system as presently designed. Thus, a handicapped individual who because of the gasoline shortage travels to New York City via common carrier or means other than automobile finds himself immobilized in the nation's largest city. This situation clearly discourages interstate travel for the majority of individuals who are physically handicapped. Thus, in spite of the fact that man has made great progress in the field of transportation, many individuals not able to afford the high fare of taxi's are forced to rely upon crutches if they move about the city at all.

The fact that defendants' actions or inaction affect interstate commerce on a relatively small scale does not exclude them from potential regulation under the commerce clause, for as was said in Wickard v. Filburn, 317 U.S. 111 (1942):

"That appellee's own contribution to the demand for wheat may be trivial by itself is not enough to remove him from the scope of federal regulation where, as here, his contribution, taken with that of many others similarly situated, is far from trivial." 317 U.S. at 127-128.
(See also Heart of Atlanta Motel, supra)

Additionally defendants' failure to provide facilities suited for use by handicapped individuals is contrary to congressional policy. Congress has declared that it shall be

"the national policy that elderly and handicapped persons have the same right as other persons to utilize mass transportation facili-

ties and services, that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all federal programs offering assistance in the field of mass transportation should contain provisions implementing this policy.
49 U.S.C. 1612.

Defendants failure to provide appropriate facilities for the handicapped would render congressional policy nugatory. Clearly such a result is to be avoided, and can be by awarding plaintiffs the relief sought in this action. Such relief will also remove a significant restriction on the free flow of interstate commerce, as it relates to the handicapped and elderly.

- IV. To deny the use of public transportation to the mobility disabled, solely on the basis of a handicapping condition is a violation of 42 U.S.C. §1983.

The mobility disabled are continually faced with discriminatory treatment in that they are denied access to and use of public transportation facilities. When such a denial occurs under color of law, it is a direct violation of 42 U.S.C. §1983. Section 1983 was enacted pursuant to the Fourteenth Amendment to provide a civil action against anyone acting under color of any state statute, ordinance or regulation who deprives an individual of any right, privilege or immunity secured by the Constitution and laws of the United States. Two distinct elements of this cause of action were discussed by the Supreme Court in Adickes v. S.H. Kress & Co., 398 U.S. 144, 150 (1970).

The terms of §1983 make plain two elements that are necessary for recovery. First, the plaintiff must prove that the defendant has deprived him of a right secured by the "Constitution and laws" of the United States. Second, the plaintiff must show that the defendant deprived him of this constitutional right "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory." This second element requires that the plaintiff show that the defendant acted "under color of law."

The right to interstate travel of all citizens has long been accepted by the courts. Historically, several constitutional provisions have been used as a basis for this right: Edwards v. California, 314 U.S. 160 (1941), (commerce clause), accord, United States v. Guest, 383 U.S. 745 (1966); Twining v. New Jersey, 211 U.S. 78 (1908), (privilege and immunity clause), accord, New York v. O'Neill, 359 U.S. 1 (1959), Apthecker v. Secretary of State, 378 U.S. 500 (1964) (liberty). More recently, the Supreme Court has referred to the right to travel as a "basic right under the Constitution" without providing specific constitutional language for support. Dunn v. Blumstein, 405 U.S. 330, 338 (1972); Shapiro v. Thompson, 394 U.S. 618, 629 (1969).

The right to travel intrastate has also been recognized by the courts. See e.g., Bell v. Maryland, 378 U.S. 226, 255 (1964) (Douglas, J., concurring); King v. New Rochelle Municipal Housing Authority, 314

F. Supp. 427 (S.D. N.Y. 1970), aff'd, 442 F.2d 646 (2nd Cir. 1971); Cole v. Housing Authority of City of Newport, 312 F. Supp. 692 (D. R.I. 1970), aff'd, 435 F.2d 807 (1st Cir. 1970).

Denial of the right to travel freely has been held as a proper basis for the application of §1983. In Flemming v. South Carolina Electric And Gas Company, 224 F.2d 752 (4th Cir. 1955), a suit based on §1983 challenging a bus company's state-sanctioned policy of forcing Blacks to ride at the back of buses was dismissed pursuant to the then applicable separate but equal doctrine. In so doing, however, there was no question but that §1983 was properly invoked. In Williams v. Wallace, 240 F. Supp. 100, 106 (M.D. Ala. 1965), the right to travel, inter alia, was held to be within the ambit of §1983. Denying the mobility disabled the use of public transportation is a denial of their constitutionally guaranteed right to travel and when done under the color of law violates §1983.

Employment discrimination has uniformly been accepted as being within the scope of §1983. See generally, Employment Discrimination in State and Local Government, 7 Clearinghouse Review 63 (1973). Although the policies of the defendants do not directly relate to employment discrimination, they do have a strong negative affect on the ability of the plaintiffs to fairly compete for employment opportunities. Because they are denied use of public transportation, the mobility disabled must use private means of transportation which may or may not be as adequate as public transportation, and which in any event are far more costly. This additional financial burden placed on the plaintiffs, which is not suffered by the general public due to the availability of public transportation, denies them their right to equal employment opportunities; a denial which violates §1983.

In order for a cause of action based on §1983 to be successful, action under color of state law must be found. To be an action under color of law an explicitly written discriminatory policy need not be shown, nor is an official endorsement of an actual policy necessary.

The Supreme Court, in Adickes v. S.H. Kress & Co., 398 U.S. 144, 168 (1970), stated that:

...settled practices of state officials may, by imposing sanctions or withholding benefits, transform private predilections into compulsory rules of behavior no less than legislative pronouncements... 'It would be a narrow conception of jurisprudence to confine the notion of 'laws' to what is found written on the statute books, and to disregard the gloss which life has written upon it. Settled state practice... can establish what is state law. The Equal Protection Clause did not write an empty formalism into the Constitution. Deeply embedded traditional ways of carrying out state policy, such as those of which petitioner complains, are often tougher and truer law than the dead words of the written text! Nashville, C. & St. L.R. Co. v. Browning, 310 U.S. 362, 369 (1940).

This concept of private motivation of discrimination carried out under "color of law" is also discussed in Dailey v. City of Lawton, Oklahoma, 425 F.2d 1037, 1039 (10th Cir. 1970).

If proof of a civil right violation depends on an open statement by an official of an intent to discriminate, the Fourteenth Amendment offers little solace to those seeking its protection. In our opinion it is enough for the complaining parties to show that the local officials are effectuating the discriminatory designs of private individuals.

Furthermore, to be considered acting under color of law, an individual need not be a state official. "It is enough that he is a willful participant in joint activity with the State or its agents." United States v. Price, 383 U.S. 787, 794 (1966). Any quasi-official activity sanctioned by the state is action under color of state law. "Misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken 'under color of' state law." United States v. Classic, 313 U.S. 299, 326 (1941).

The court in Jackson v. Metropolitan Edison Company, 483 F.2d 754 (3rd Cir. 1973), provided general guidelines for determining when action is taken under color of state law. The court said that there may be a finding of action under color of law:

1. When a private party's action occurred in conjunction with a business in which the state may be considered a partner or joint venturer in a profit making field...; or
2. when a state statute or custom or usage compels the result...; or
3. when a state agency affirmatively orders or specifically approves the activity in the course of its regulatory rule making...; or
4. when a private agency in effect is acting on behalf of and furnishing a typical government service... 483 F.2d at 757.

The court in Jackson determined that the termination of utility service in this case was not action under color of law. In doing so the court stated: "It is important, therefore, that the issues here be considered not only on the premise of color of state law but that there be an examination and evaluation of the underlying federal rights of the parties..." 483 F.2d at 759. In examining the rights involved the court held that electric service could be terminated prior to a decision on a disputed item since the state was not obligated to furnish free electric service. 483 F.2d at 760-762. By implication it would seem that action under color of law would be found if the right involved were constitutionally mandated and not simply a service facilitated by state assistance. The right to travel is such a right, and when it is denied to the mobility disabled by a public transportation authority facilitated by state aid, there is a denial of equal protection and of an affirmatively guaranteed right in violation of §1983.

In Ihrke v. Northern States Power Company, 459 F.2d 566 (8th Cir. 1972), vacated and dismissed as moot, 409 U.S. 815 (1972), termination of electric service was found to be action under color of law. In reaching its decision the court relied on an analysis presented in a concurring opinion in Kadlec v. Illinois Bell Telephone Co., 407 F.2d 624, 628 (7th Cir. 1969), which stated:

"[I]t may be possible to demonstrate that a privately-owned publicly-regulated utility or carrier or similar entity has a sufficient nexus with or dependence on a state as to make some of its actions under color of law. Some of the factors which should be considered are whether 1) the entity is subject to close regulation by a statutorily created body..., 2) the regulations filed with the regulatory body are required to be filed as a condition of the entity's operation, 3) the regulations must be approved by the regulatory body to be effective, 4) the entity is given a total or partial monopoly by the regulatory body, 5) the regulatory body controls the rates charged and/or specifies services offered by the utility, 6) the actions of the entity are subject to review by the regulatory body, and 7) the regulation permits the entity to perform acts which it may not otherwise perform without violating the law." 459 F.2d at 568, 569.

Following these guidelines, the court found action under color of law in that: Northern was granted a monopoly privilege; it was allowed to use public property to provide its services; the City of St. Paul had the right to review operations and had to grant prior permission for some functions; copies of schedules, contracts, agreements, rules and regulations had to be filed with the city which had the right to review and reject such items; and 5% of gross earnings were paid to the city. In summation of the relationship between the City and Northern the court stated:

By its own actions, the City of St. Paul has in effect given Northern a monopoly on the retail distribution of gas and electricity, and as a practical matter, the Irlkes could not buy these commodities from any other source. Under these circumstances, we think it is abundantly clear that the action of Northern in threatening to terminate the service to the Irlkes was under "color of law" as used in 42 U.S.C. §1983.... 459 F.2d at 570.

The positions held by the defendants are no less of a monopoly. They are subject to similar control and regulation and undeniably act under color of law. Their failure to extend the services they provide to the mobility disabled is a denial of the right to travel and a further denial of the right to equal protection of the laws.

Since the Supreme Court's decision in Monroe v. Pope, 365 U.S. 167 (1961), which dismissed a complaint under §1983 against the City of Chicago for alleged violation of civil rights by city policemen, there has been some question as to whether a governmental agency itself, as opposed to its officials, is also liable under §1983 for official acts. The Court in Monroe determined that municipalities are not subject to suit for damages under §1983 primarily because of Congress' rejection of the Sherman Amendment which would have specifically provided for such liability. See generally, Appendix To Opinion of Mr. Justice Douglas, Dissenting In Part in City of Kenosha v. Bruno, 412 U.S. 507, 517 (1973). The major concern was that civil liability for damages against public agencies might destroy or severely damage the effectiveness of local government. Following this reasoning, it would seem that injunctive relief against such agencies should be allowed, and has been by several lower federal courts. See e.g., Porcelli v. Titus, 431 F.2d 1254 (3rd Cir. 1970) (board of education); Wall v. Stanelly County Board of Education, 378 F.2d 275 (4th Cir. 1967) (board of education); Harkless v. Sweeny Independent School District, 427 F.2d 319 (5th Cir. 1970) (local school district); Smith v. Board of Education, 365 F.2d 770 (8th Cir. 1960) (board of education).

In City of Kenosha v. Bruno, 412 U.S. 507 (1973), the Supreme Court affirmatively indicated that municipal corporations are not subject to either damages or equitable relief under §1983.

We find nothing in the legislative history discussed in Monroe, or in the language actually used by Congress, to suggest that the generic word 'person' in §1983 was intended to have a bifurcated application to municipal corporations depending on the nature of the relief sought against them. Since, as the Court held in Monroe, 'Congress did not undertake to bring municipal corporations within the ambit of' §1983, ... they are outside of its ambit for purposes of equitable relief as well as for damages. The District Court was therefore wrong in concluding that it had jurisdiction of appellees' complaints under §1343.
412 U.S. at 513.

The scope of Kenosha is not clear from the decision. The only named defendants were the cities of Kenosha and Racine, Wisconsin, and the Court failed to indicate how broadly exemption from §1983 should be interpreted. The Court relied heavily on the legislative history behind §1983 and the congressional use of the word "person." In effect, the Court held that a municipality was not a "person," and seemed to indicate that only human beings were "persons" under the section. Such a narrow interpretation of "person" however, would be inconsistent with the large majority of cases which have held that private corporations may be sued as a "person." See e.g., Adickes v. S.H. Kress Co., 398 U.S. 144 (1970) (retail store clothed with state power); Cypress v. Newport News General And Nonsectarian Hospital Association, 375 F.2d 648 (4th Cir. 1967) (equitable relief for discrimination against Black physicians); Smith v. Hampton Training School for Nurses, 360 F.2d 577 (4th Cir. 1966) (employment discrimination by hospital receiving federal funds); Smith v. Holiday Inns of America, Inc., 336 F.2d 630 (6th Cir. 1964). The word "person" was not considered by Congress in the debates over the Sherman Amendment; the true issue being whether cities, counties and parishes should be liable under §1983. Consequently, Monroe and Kenosha should be read as only exempting cities and counties from liability and should not be extended to other public entities. Furthermore, it is well established that corporations and associations may bring suit under §1983, and it would be inconsistent not to allow them to be sued under §1983. See e.g., NAACP v. Thompson, 357 F.2d 831 (5th Cir. 1966) (civil rights organization); Adams v. City of Park Ridge, 293 F.2d 585 (7th Cir. 1961) (charitable corporation); McCoy v. Providence Journal Co., 190 F.2d 760 (1st Cir. 1951) (newspaper corporation); Watchtower Bible & Tract Soc. v. Los Angeles County, 181 F.2d 739 (9th Cir. 1950) (religious corporation).

The defendant Transit and Transportation Authorities should be subject to §1983 liability. They should be responsible for the various effects of the implementation of their policies. Such an application of §1983 would allow the plaintiffs the meaningful opportunity of seeking redress not only against the officials involved, but against the entities themselves, thus assuring a more practical method of preventing further discrimination in the future.

Various remedies may be sought under this cause of action. The Supreme Court, in Louisiana v. United States, 380 U.S. 145, 154 (1965) in discussing remedies stated:

We bear in mind that the court has not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discrimination in the future.

A district court, under 42 U.S.C. §1988, may draw from federal or state sources in formulating an appropriate remedy. Young v. International Telephone & Telegraph Co., 438 F.2d 757, 760 (3rd Cir. 1971). The Supreme Court interpreted this section in Sullivan v. Little Hunting Park, Inc., 396 U.S. 229, 240 (1969). "This means, as we read §1988 that both federal and state rules on damages may be utilized, which ever better serves the policies expressed in the federal statutes." Consequently, federal district courts have great discretion in formulating appropriate legal and equitable solutions to rectify discriminatory policies and practices.

Section 1983 has consistently been used as a remedy for discriminatory treatment and is not limited to racial or religious discrimination. Scher v. Board of Education Of Town Of West Orange, 424 F.2d 741, 743 (3rd Cir. 1970). The discrimination faced by the mobility disabled because of the practices and policies of the defendant Authorities is certainly a proper basis for this cause of action. Their right to travel free from unreasonable interference under color of law is guaranteed by the Constitution. Also, the Constitution

guarantees equal protection under the law, a right presently denied the mobility disabled. Because the defendants are acting under color of state law they cannot effectuate policies that deny to the mobility disabled constitutionally guaranteed rights; and when such policies are effectuated, the defendants are subject to legal and equitable remedies which should serve to preclude further discriminatory activity. Clearly, the mobility disabled are being denied constitutionally protected rights, and it is time for the judiciary to lend its full support in affirmatively terminating discriminatory policies and rectifying the effect of post discriminatory treatment.

V. To deny the use of public transportation to the mobility disabled, solely on the basis of a handicapping condition, is a violation of 42 U.S.C. §1981.

The mobility disabled are continually faced with discriminatory treatment in that they are denied the right to contract for the use of public transportation facilities. 42 U.S.C. §1981 guarantees all persons within the United States the right to make and enforce contracts, a right which is arbitrarily and discriminately denied the mobility disabled by the policies of the defendant Transit and Transportation Authorities. The defendants, in operating a transportation service open to the general public, have an obligation to make such service accessible to the mobility disabled and cannot deny them their statutory right to contract for use of that service.

Historically, the Civil Rights Act of 1866, from which §1981 is derived, was interpreted as proscribing state action which resulted in discriminatory treatment. Private acts of discrimination were held not to be within the ambit of this legislation. Today, however, the scope of §1981 is well accepted as being more broad and extends to purely private acts of discrimination. This change in interpretation is attributed primarily to the Supreme Court's decision in Jones v. Alfred H. Mayer Co., 392 U.S. 409 (1968), where the Court held that companion legislation, 42 U.S.C. §1982, bars all racial discrimination, private as well as public, in the sale or rental of property. The Court emphasized that this legislation proscribes informal, as well as formal, acts of discrimination.

...[T]he Enabling Clause of [the 13th Amendment] empowered Congress to do much more. For that clause clothed 'Congress with the power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States.'
Civil Rights Cases, 109 U.S. 3, 20. (Emphasis added). 392 U.S. at 439.

The Court in Jones goes on to state: "Surely Congress has the power under the Thirteenth Amendment rationally to determine what are

the badges and the incidents of slavery, and the authority to translate that determination into effective legislation." 392 U.S. 440. Thus the Court expressly recognizes congressional power to legislate against private discrimination and is willing to broadly interpret §1982 as prohibiting private discrimination in the sale and leasing of property.

Following this decision, lower federal courts have extended the applicability of §1981 to private discriminatory acts as well.

At least since *Jones v. Mayer* a strictly private right, be it in the property field as such, or the contract field as such, is within the protection of the Civil Rights Act of 1866 against interference by a private citizen or a group of citizens.
Dobbins v. Local 212, International Brotherhood Of Electrical Workers, 292 F. Supp. 413, 442 (S.D. Ohio 1968).

Therefore, regardless of how the operations of the defendants are characterized — either public or private — their actions, in depriving the mobility disabled the opportunity to contract for transportation services, are a direct violation of the proscriptions against discriminatory treatment contained in §1981.

This section has widely been accepted as protecting against private interference with the right to contract for employment. *Young v. International Telephone & Telegraph Co.*, 438 F.2d 757 (3rd Cir. 1971); *Waters v. Wisconsin Steel Works Of International Harvester Company*, 427 F.2d 476 (7th Cir. 1970), cert. denied, *International Harvester Co. v. Waters*, 400 U.S. 911 (1970); *Sanders v. Dobbs Houses, Inc.*, 431 F.2d 1097 (5th Cir. 1970), cert. denied, 401 U.S. 948 (1971); *Brady v. Bristol-Meyers, Inc.*, 459 F.2d 621 (8th Cir. 1972).

These courts concluded that §1981 was derived from the Civil Rights Act of 1866, 14 Stat. 27 (1866), that the 1866 Act was enacted pursuant to congressional powers under the Thirteenth Amendment, and that it was intended to prohibit acts of private discrimination.
 438 F.2d at 759.

The Court in Young goes on to indicate the primary importance this section has in guarding against private acts of employment discrimination. "In the context of the Reconstruction it would be hard to imagine to what contract right the Congress was more likely to have been referring." 438 F.2d at 760.

Although the policies of the defendant Authorities do not directly interfere with the plaintiff's right to contract for employment, the denial of the right to contract for transportation has a strong negative affect on the ability of the plaintiffs to fairly compete for employment opportunities. The lack of available public transportation forces the mobility disabled to seek out private means of transportation which may or may not be adequate and which in any event impose a severe financial liability. Because of these considerations, the plaintiffs are denied the right to freely contract for employment, as is enjoyed by the general public, which right is guaranteed by §1981.

Use of §1981 is not limited to interference with contracts for employment. The purchase of a ticket on right of admission to a facility open to the public has continuously been held by the courts to be a contract. Marrone v. Washington Jockey Club, 227 U.S. 633 (1913) (Holmes, J.); Williams v. Kansas City, Mo., 104 F. Supp. 848 (W.D. Mo. 1952), aff'd, 205 F.2d 47 (8th Cir. 1953), cert. denied, 346 U.S. 826 (1953); Scott v. Young, 421 F.2d 143 (4th Cir. 1970), cert denied, 398 U.S. 929 (1970). In Valle v. Stengel, 176 F.2d 697 (3rd Cir. 1949), the court discussed the applicability of what is now §1981 to a situation where Blacks were refused admission to a facility open to the public.

It follows therefore that the plaintiffs were denied equal protection of the laws within the purview of the Fourteenth Amendment because they were Negroes or acting in association with Negroes when they attempted

to gain admission to the pool at Palisade Park. They, or some of them, were ejected from the park, were assaulted and were imprisoned falsely, as alleged in the complaint, because they were Negroes or were in association with Negroes, and were denied the right to make or enforce contracts, all within the purview of and prohibited by the provisions of [§1981].
176 F.2d at 702.

In further discussing the right to contract as being protected by the privilege and immunity clause of the Constitution, the court stated:

If a man cannot make or enforce a contract already made because of interference of a State officer he is being denied a civil right. He cannot support himself or his family or earn a living under the system to which we adhere. The liberty involved is in fact the liberty of contract. ...To refuse to an individual the liberty of contract is to put him beyond the pale of capitalism. Thus ostracized, he cannot engage in the acquisition of property or in the pursuit of happiness.
176 F.2d at 703.

To refuse the mobility disabled admission to public transportation facilities is a similar denial of the guaranteed right to contract. That right extends to prospective as well as executed contracts, and interference with either right violates §1981. "[T]he phrase 'to make contracts' of [§1981] clearly shows that Congress had in mind much more than enforcing a contract, already made, by a legal proceeding." 176 F.2d at 703. The intent of Congress in enacting §1981 was to help secure equality for all in the United States by guaranteeing the right of every individual to make and enforce contracts concerning all types of human endeavor. The policies of the defendants deny the mobility disabled that right by precluding use of their transportation facilities, such denial being a direct violation of §1981.

Section 1981 was enacted by Congress pursuant to power granted under the Thirteenth Amendment. Waters v. Wisconsin Steel Works Of International Harvester Company, 427 F.2d 476, 482 (7th Cir. 1970). That amendment, in Hodges v. United States, 203 U.S. 1 (1906), was given broad interpretation.

The meaning of this [amendment] is as clear as language can make it. The things denounced are slavery and involuntary servitude, and Congress is given power to enforce that denunciation. ...While the inciting cause of the Amendment was the emancipation of the colored race, yet it is not an attempt to commit the race to the care of the Nation. It is the denunciation of a condition and not a declaration in favor of a particular people. It reaches every race and every individual, and if in any respect it commits one race to the Nation it commits every race and every individual thereof. Slavery or involuntary servitude of the Chinese, of the Italian, of the Anglo-Saxon are as much within its compass as slavery or involuntary servitude of the African.
203 U.S. at 16-17.

Legislation enacted pursuant to the thirteenth amendment, §1981 and companion sections originally derived from the Civil Rights Act of 1866, have also been given broad interpretation by the courts.

While it is obvious that these statutes were passed primarily to insure the rights of non-whites, nothing in the statutes limits their application to situations where the civil rights of non-whites are being violated. The statutes are phrased in terms such as "all persons" and "all citizens", and the courts are bound to give these sections "a sweep as broad as (their) language."
Gannon v. Action, 303 F. Supp. 1240, 1244 (E.D. Mo. 1969), aff'd in part, 450 F.2d 1227 (8th Cir. 1971)

In implementing this broad interpretation, the courts have recognized §1981 as protecting the rights of many different classes of "persons." Anglo-American Provision Co. v. Davis Provision Co., 105 F. 536 (S.D. N.Y. 1900) (corporations); Takahashi v. Fish And Game Commission, 324 U.S. 410, 419 (1945) (aliens); Rios v. Enterprise Association Steamfitters Local Union No. 638 Of U.A., 326 F. Supp. 198 (S.D. N.Y. 1971) (Puerto Ricans); Carter v. Gallagher, 452 F.2d 315 (8th Cir. 1971) (Indians and other minority persons); Castro v. Beecher, 459 F.2d 725 (1st Cir. 1972) (Spanish-surnamed persons); Marlowe v. Fisher Body Division Of General Motors Corporation, 5 Empl. Prac. Guide ¶ 7963 (E.D. Mich. 1972) (Jews).

In Graham v. Richardson, 403 U.S. 365 (1971), the Supreme Court recognized the applicability of §1981 in protecting the right of indigent aliens to travel freely within the United States.

...Congress has not seen fit to impose any burden or restriction on aliens who become indigent after their entry into the United States. Rather, it has broadly declared: "All persons within the jurisdiction of the United States shall have the same right in every State and Territory... to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens. ..."

42 U.S.C. §1981. The protection of this statute has been held to extend to aliens as well as citizens. Takahashi, 334 U.S., at 419 n.7. Moreover, this Court has made it clear that, whatever may be the scope of the constitutional right of interstate travel, aliens lawfully within this country have a right to enter and abide in any State in the Union "on an equality of legal privileges with all citizens under non-discriminatory laws." Takahashi, 334 U.S., at 420. 403 U.S. at 377, 378.

Clearly, the intent of these courts was to use §1981 to protect the right to contract of whomever was threatened by discrimination. This section is applicable to the mobility disabled as well. As a class they have suffered continual discriminatory treatment of the type, proscribed by civil rights legislation. This discrimination has occurred not only in the area of transportation, but in the areas of employment, access to public facilities and buildings, and education, as well as other areas of human endeavor. This discriminatory treatment should not be allowed to continue; and the right of the mobility disabled to contract for the necessities of life, public transportation in particular, should be guaranteed by an application of §1981. The defendant's denial to the plaintiffs of use of public transportation held open to the general public is a direct violation of §1981 and should no longer be permitted.

Case law dealing with rights asserted under civil rights legislation, both §§1981 and 1983, has developed three fundamental principles in determining the existence of discriminatory treatment. These

principles have been most fully developed in employment situations, but are applicable to other forms of discrimination as well. The first of these principles is that a statistical demonstration of unequal treatment of a minority group will constitute prima facie evidence of unlawful discrimination.

It is the law that where the hiring practice of a public agency (even though the agency does not intend to discriminate against minority groups) actually produces a situation in which the percentage of minority group persons employed is grossly and disproportionately less than the percentage of minority group persons in the general population, such effect alone, although it does not necessarily render the method of selection constitutionally defective, does render the method of selection sufficiently suspect to make a prima facie case of unconstitutionality and shifts to the public agency the burden of justifying the use of generalized hiring tests by demonstrating that there is a reasonably necessary connection between the qualities tested in the examination and the actual requirements of the job to be performed.

Western Addition Community Organization v. Alioto, 340 F. Supp. 1351, 1352 (N.D. Cal. 1972).

Such a statistical analysis has also been applied to jury selection, Turner v. Fouche, 396 U.S. 346, 360 (1970); voter redistricting, Gomillion v. Lightfoot, 364 U.S. 339 (1960); and university admission policies, Meredith v. Fair, 298 F.2d 696 (5th Cir. 1962), cert. denied, 371 U.S. 828 (1962).

A second established principle is that unlawful discrimination may be proven without the showing of an intent to discriminate.

The complaint that analytically no violation of equal protection vests unless the inequalities stem from a deliberately discriminatory plan is simply false. Whatever the law was once, it is a testament to our maturing concept of equality that, with the help of Supreme Court decisions in the last decade, we now firmly recognize that the arbitrary quality of thoughtlessness can be as disastrous and unfair to private rights and the public interest as the perversity of a willful scheme. Hobson v. Hansen, 269 F. Supp. 401, 497 (D.D.C. 1967), aff'd sub nom., Smuck v. Hobson, 408 F.2d 175 (D.C. Cir. 1969) (en banc).

A third recognized principle is that purportedly neutral policies or practices are unlawful if applied in a discriminatory manner. "A

procedure may appear on its face to be fair and neutral, but if in its application a discriminatory result ensues, the procedure may be constitutionally impermissible." Penn v. Stumpf, 308 F. Supp. 1238, 1244 (N.D. Cal. 1970). This principle has been applied to situations such as requirements for voter registration, Davis v. Schnell, 81 F. Supp. 872 (S.D. Ala. 1949), aff'd per curiam, 336 U.S. 933 (1949); jury selection criteria, Turner v. Fouche, 396 U.S. 346 (1970); and pupil school assignment criteria, Swann v. Charlotte-Mecklenburg Board Of Education, 402 U.S. 1 (1971).

These principles should be applied to the case at hand. There is a large statistical disparity between the number of mobility disabled who are benefitting from the transportation facilities maintained by the defendants and the number of mobility disabled in the general population served by those facilities. This disparity alone, without intent on the part of the defendants to discriminate against the mobility disabled, establishes a prima facie case of discrimination. Furthermore, the seemingly neutral policy of the defendants, of providing services to anyone who is physically able to use the facilities, in reality discriminates against the mobility disabled who are effectively denied physical access to those facilities. The practices and policies of the defendants, in light of these policy considerations, clearly deny the right of the mobility disabled to freely contract for transportation in violation of §1981.

In a case such as this, seeking redress in a federal court for the deprivation of a civil right, a jurisdictional issue may be raised as to whether state administrative or judicial remedies have been exhausted. Although the doctrine of exhaustion is well established where there exists concurrent state and federal remedies, the Supreme Court has consistently held that exhaustion is not necessary for actions challenging the denial of civil rights. Houghton v. Shafer,

392 U.S. 639 (1968); King v. Smith, 392 U.S. 309 (1968); Damico v. California, 389 U.S. 416 (1967); McNeese v. Board of Education, 373 U.S. 668 (1963); Monroe v. Pope, 365 U.S. 167 (1961). In Monroe, *supra*, the Supreme Court stated:

It is no answer that the State has a law which if enforced would give relief. The federal remedy is supplementary to the state remedy, and the latter need not be first sought and refused before the federal one is invoked.
365 U.S. at 183.

This principle has been applied to claims based both on §1981 and §1983. Carter v. Gallagher, 452 F.2d 315 (8th Cir. 1971); James v. Ogilvie, 310 F. Supp. 661, 664 (N.D. Ill. 1970). Furthermore, when the intent of Congress has been to limit federal jurisdiction through the requirement of exhausting state remedies, such a limitation has been by express language. Moreno v. Henckel, 431 F.2d 1299, 1305 (5th Cir. 1970); *see e.g.*, 28 U.S.C. §§1341, 1342, 2254. No such intent, expressed or implied, is found in the civil rights statutes so as to require exhaustion.

The mobility disabled, therefore, in seeking redress under §§ 1981 and 1983 need not exhaust any available state administrative or judicial remedy. The federal remedies provided by these sections are supplementary to any state remedy and may be invoked without first resorting to state procedures. The extent of federal jurisdiction is aptly stated by the Supreme Court in a quote taken from Stapleton v. Mitchell, 60 F. Supp. 51,55 (D. Kan. 1945):

We yet like to believe that wherever the Federal courts sit, human rights under the Federal Constitution are always a proper subject for adjudication, and that we have not the right to decline the exercise of that jurisdiction because the rights asserted may be adjudicated in some other forum.
McNeese v. Board Of Education, 373 U.S. 668, 674 n.6 (1963).

The policies of the defendant Transit and Transportation Authorities, in denying the mobility disabled use of those facilities held

open to the general public, prevent the mobility disabled from freely competing for employment opportunities and further denies them the right to contract for use of the defendants public transportation facilities. Such a denial violates 42 U.S.C. §1981 which guarantees all individuals the right to contract and should no longer be allowed to continue.

- Vi. The denial of a benefit, under a program receiving federal financial assistance, to an individual solely because of a handicapping condition is a violation of §504 of the Rehabilitation Act of 1973.

Public Law 93-112, the Rehabilitation Act of 1973, was passed by the 93rd Congress and signed into law on September 26, 1973. Section 504 of Title V of that Act is entitled "Nondiscrimination Under Federal Grants" and provides:

No otherwise qualified handicapped individual in the United States, as defined in section 7(6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The language of this section was taken directly from §601 of the Civil Rights Act of 1964, 42 U.S.C. §2000d; and its legislative history indicates that the purpose of this section is to extend rights guaranteed by the Civil Rights Act of 1964 to the handicapped. In floor debates concerning the Rehabilitation Act, Representative Vanik stated:

In December of 1971 I introduced a bill that incorporated the handicapped into the Civil Rights Act of 1964. Regardless of the fact that 60 members of the House and 20 members of the Senate cosponsored the civil rights bill, it was not reported to the floor by either Judiciary Committee.

Senator Humphrey, who introduced my bill in the Senate, incorporated the language and intent of my bill into the Vocational Rehabilitation Act last year in the Senate.

I am happy to say that my language remains in title 7, section 704 and section 705 [now P.L. 93-112 §504] of today's bill. Congressional Record, Vol. 119, March 8, 1973, H. 1531.

Clearly, the intent of this legislation is to provide a remedy for the handicapped commensurate with that afforded under Title VI of the Civil Rights Act.

The provision in Title VI proscribing discrimination under a program receiving federal financial assistance was primarily designed to help remedy the lack of progress in school desegregation. Green v. County School Board Of New Kent County, 391 U.S. 430, 433 n.2

(1968). The scope of that section, however, has never been limited to discrimination in public education and has been applied to various other programs receiving federal financial assistance. See e.g., Otero v. New York City Housing Authority, 484 F.2d 1122 (2d Cir. 1973) (urban renewal program receiving funds under the Fair Housing Act of 1968, 42 U.S.C. §§3601 et. seq.); Joy v. Daniels, 479 F.2d 1236 (4th Cir. 1973) (low income housing program receiving funds under the National Housing Act, 42 U.S.C. §§1401 et. seq.); Gardner v. State Of Alabama, 385 F.2d 804 (5th Cir. 1967), cert. denied, 389 U.S. 1046 (1968) (state welfare program receiving funds under the Social Security Act, 42 U.S.C. §§301 et. seq.); Hawthorne v. Kenbridge Recreation Association, Incorporated, 341 F. Supp. 1382 (E.D. Va. 1972) (recreational program receiving federal loan under the Consolidated Farmers Home Administration Act of 1961, 7 U.S.C. §1926); Marable v. Alabama Mental Health Board, 297 F. Supp. 291 (M.D. Ala. 1969) (state mental health program receiving funds under the Public Health Service Act, 42 U.S.C. §§201 et. seq.).

The federal courts have also established that the cancellation of federal funding is not the only remedy available under §601. Injured parties have standing to bring suit to enjoin discriminatory treatment. In Bossier Parish School Board v. Lemon, 370 F.2d 847, 852 (5th Cir. 1967), cert. denied, 388 U.S. 911 (1967), the Court of Appeals for the Fifth Circuit stated:

The defendants argue that this section is a mere statement of policy, and that section 602's administration remedies are the only means by which it may be enforced. ... In the absence of a procedure through which the individuals protected by 601's prohibition may assert their rights under it, violations of the law are cognizable by the courts.

This position of extending a judicial remedy to persons protected by §601 is reflected in other federal court decisions as well. See e.g., Alvarado v. El Paso Independent School District, 445 F.2d 1011 (5th Cir. 1971);

Hicks v. Weaver, 302 F. Supp. 619 (E.D. La. 1969); Marable v. Alabama State Health Board, 297 F. Supp. 291 (M.D. Ala. 1969). This policy of non-discrimination in programs receiving federal financial assistance is now so well accepted that the court in Joy v. Daniels, 479 F.2d 1236, 1241 (4th Cir. 1973), declared that:

The policy of this statute, a person's right to be free of invidious discrimination in federally assisted programs, is contained in many statutes, see, e.g., 42 U.S.C. §2000a. 'This legislative establishment of policy carries significance beyond the particular scope of each of the statutes involved. The policy thus established has become itself a part of our law, to be given its appropriate weight not only in matters of statutory construction but also in those of decisional law.'

[Citations omitted.]

Administrative remedies have also been developed to effectuate the nondiscriminatory policies of §601. Extensive regulations have been promulgated by various federal agencies to delineate the scope and coverage of that section. See generally, 28 C.F.R. §§42.1 et. seq. (1973); 45 C.F.R. §§80.1 et. seq. (1973). The Department of Transportation has also issued regulations pertaining to programs over which it has authority. 49 C.F.R. §§21.1 et seq. (1973). Under §21.5 of these regulations certain discriminatory acts are prohibited.

§21.5 (b)(1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the grounds of race, color, or national origin —

- (i) Deny a person any service, financial aid or other benefit provided under the program;
- (ii) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that provided to others under the program;...
- (iv) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;
- (v) Treat a person differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet in order to be provided any service, financial aid, or other benefit provided under the program;...

(2) A recipient, in determining the types of services... which will be provided under any such program... may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination...

In an appendix to these regulations, 49 C.F.R. Part 21 Appendix C, specific examples of nondiscrimination in federally assisted projects are given; one of which is:

(a)(3)(i) Any person who is, or seeks to be, a patron of any public vehicle which is operated as a part of, or in conjunction with, a project shall be given the same access, seating, and other treatment with regard to the use of such vehicle as other persons without regard to their race, color, or national origin.

The above regulations indicate what kinds of policies should be regarded as discriminatory and serve as a guide to the courts in determining whether a challenged practice is in violation of §601. Due to the use of identical language, these regulations should also be used in determining violations of §504 of the Rehabilitation Act of 1973. An application of the standards expressed in the regulations to the policies of the defendant Transit and Transportation Authorities clearly indicates a violation of §504. The defendants receive large sums of federal monies under the Urban Mass Transportation Act of 1964, 49 U.S.C. §1602, a program expressly covered by the transportation regulations. 49 C.F.R. Part 21 Appendix A. Furthermore, the defendants deny services to the plaintiffs which are provided the general public, restrict the defendants use of other services, and utilize criteria for admission to such services which preclude the plaintiffs. Clearly, the policies of the defendants are in opposition to established standards of nondiscriminatory treatment and deny the plaintiffs the beneficial use of public transportation in violation of §504.

Recently, in Lau v. Nichols, _____ U.S. _____, 42 U.S.L.W. 4165 (Jan. 21, 1974), the Supreme Court was faced with a challenge to the San Francisco school system's policy of not providing special remedial

English classes for a substantial number of Chinese-speaking students. The Court held that the policy denied those students a meaningful opportunity of obtaining an education in violation of §601.

Under these state-imposed standards there is no equality of treatment merely by providing students with the same facilities, textbooks, teachers and curriculum; for students who do not understand English are effectively foreclosed from any meaningful education.
42 U.S.L.W. at 4166.

The Court went on to say — quoting H.E.W. guidelines from 35 Fed. Reg. 11595 — that:

"Where inability to speak and understand the English language excludes national origin-minority group children from effective participation in the educational program offered by a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instructional program to these students."
42 U.S.L.W. at 4167. [emphasis added]

The defendants, too, must take affirmative steps to open their transportation services to the mobility disabled. Presently, the plaintiffs are denied effective participation in the defendants' transportation services due to the defendants' failure to make such services accessible. Merely providing the plaintiffs the same subways, trains and buses as are provided the general public is not enough; for they cannot in any meaningful sense enjoy the benefit of those services as presently offered. Because the defendants have received federal financial assistance, they cannot continue to discriminate against the plaintiffs without violating §504. Such discrimination should be permanently enjoined, and the mobility disabled should be guaranteed the rights afforded them by §504 of the Rehabilitation Act of 1973.

Senator GARN. Mr. O'Brien, if you would like to go ahead and get through your testimony, and we will get back to some questions after we have completed you.

Mr. O'BRIEN. Thank you.

My name is Thomas C. O'Brien, 15 Wellesley Road, Danvers, Mass.

I appear here today representing a unique combination of interests. First, I am employed by the Massachusetts Bay Transportation Authority, a public transportation project serving 79 cities and towns in the Greater Boston area.

My responsibility with the transportation authority is to design and develop a program of service to persons with special needs, specifically the elderly and handicapped. My title is special needs project manager.

My vocational interests began 25 years ago when I became disabled after a diving accident and continue today as a spokesman for various self-help organizations of handicapped persons as well as voluntary health service organizations.

First, I have been appointed chairman of the transportation committee for the American Coalition of Citizens with Disabilities.

This is a newly formed organization of the handicapped nationally, with the largest representation of the handicapped and including nearly all types of disabled and injured persons.

I have served as a member and also as a director and president of the Massachusetts Association of Paraplegics and the Massachusetts Council of Organizations of the Handicapped.

I am presently president of the United Cerebral Palsy Association. I am also a member of the American Public Transit Association, APTA, and I also serve as a member of the committee called the elderly and handicapped committee, and you have heard testimony from Lillian Liburdi earlier today. I serve as chairman of a subcommittee of that group called the consumer advisory committee on elderly and handicapped.

I would like to point out that three major issues do emerge here in any discussion of transporting elderly and handicapped persons:

One, the costs and this is one area that I would strongly suggest that S. 662 begin to address, that the costs are not borne by the transit operators or UMTA alone.

Transportation for handicapped persons as heard in other testimony goes far beyond just the transportation aspect of this problem. Rehabilitation and health services programs by many Federal agencies should also play an important role and actually participate in the funding of transportation for disabled persons.

In regard to costs, this has been one of the biggest obstacles of trying to accomplish the task as set forth by the policy statement in 1970, that all persons, elderly and disabled as well, should have a right to use public transportation.

If our costs should be borne by all agencies that have a stake in this, I point out the fact that the provisions of vocational rehabilitation in each State spends sizable amounts of money in transporting elderly persons. In California, \$700,000 was spent. I submit that this money could be coordinated or combined with the public transit operators.

Further on the subject of cost, I feel that various HEW agencies, such as the Administration on Aging, should also share the cost of transporting elderly and handicapped persons. Specifically in the case of elderly persons who are now being transported to meals, perhaps I feel that the Administration on Aging, whoever manages these programs should see to it that the maximum degree of coordination with their programs and that of the public transportation operator should exist. That would eliminate duplication of effort.

Another comment I would like to address is the testimony of APTA earlier, a comment relative to the state of the art. It was stated somewhat generally that there is no lift available today that will satisfy the needs and also that basically there was no adequate response or capability or availability of equipment or material or design capability and technology, et cetera, that is in place today that would allow us to move forward and implement these programs for elderly and handicapped persons.

I have here and I will submit for the record, a variety of material that includes pictures of the General Motors coach that has been modified to include a front door lift. This vehicle is some 10 years old, not this specific one but this concept or design concept has been around for some 10 years.

I also have a drawing of a step device. The drawing is actually a blueprint that spells out the exact detail of how it works. This is a combination step device or ramp or lift. All three are combined in one unit and these are now commercially available.

I would also say and point out that there are many manufacturers who are today stocking lifts. These lifts are in stock. I know this to be the case because in Boston, I purchased a lift from stock from a company in Springfield, Mass., and have installed it in a General Motors coach.

This vehicle will be put into service by the Massachusetts Transportation Authority. The cost, I might add, was borne entirely from Massachusetts Bay Transportation Authority funds and the lift itself was \$1,750.

The installation itself took 30 hours and we estimate that it will be far below the estimates that many transit operators across the country have estimated.

However, I must say that the estimate has decreased considerably now that these materials and sources of information have been explored and the estimate now ranges from \$2,000 to \$5,000 per vehicle.

Original estimates and some indication of the kind of opposition that has been generated by a variety of interests in this project—I am talking about various organizations in the transit industry, transit operators themselves, UMPT themselves, many of them, that the costs were just exorbitant, astronomical was a common word heard in describing what this money would be.

I submit that the costs now that we can identify sources of this material, are far less than the original estimates. Also, a bus that is some 5 or 6 years old is available commercially, completely adequate in serving the needs of elderly and handicapped and this vehicle has been in service in the east zone area, Seymour, Shelton, and Derby, Conn. area, a program funded by UMPTA.

Also, I will just quickly mention that the foreign manufacturer, Neoplan produces a vehicle that has a floor height of only 20 inches above ground. This has long been the problem that the American transportation industry has had, that is to comply with a floor lower than they have now. When that type of vehicle is adjacent to a curb, there are many handicapped people that could easily get over that 5- to 6-inch space.

Senator GARN. May I stop you. Yesterday we had testimony as far as trains. We were talking about BART in San Francisco. They were talking about a 4-inch gap. The reason I stopped you there, there was some dispute whether 4 inches was too much or some testimony that if they were closer that was not safe, as far as trains passing the platform.

So you say that can be negotiated?

Mr. O'BRIEN. I was talking about vertical heights. The horizontal heights—and I can address that, having worked with that problem in the Massachusetts Bay Transit Authority, that the space as it approaches 2 inches or more, becomes a hazard, much as it does for anyone who wears highheels who might catch their toe in that space if they weren't watching where they were going.

I submit there is technology available to provide some way to bring that gap or close up that space. As you heard APTA testify earlier, the state of the art is not satisfactory. My statement is, it is satisfactory, but not 100 percent. There are obviously problems such as the one you have identified that haven't been looked at or resolved.

There is no question in my mind that in our country where we have had amazing engineering accomplishments that this is a relatively small matter to deal with. I have also, and I will submit for the record, a copy of a prebid conference held in Los Angeles by the Southern California Rapid Transit District, a prebid conference regarding ordering some buses. Most of the major manufacturers were there and there was some confusion. I would call it, as to whether or not manufacturers can actually build a vehicle that is accessible. Upon close inspection of this document, you will find that some of the questions posed by the transit district to the manufacturers indicated that UMPTA has delayed the process by the fact that they haven't developed standards for these vehicles.

I would like to also mention that some time ago, it had been widely felt that manufacturers were not able to meet the requirements of these specifications for low-floor, wide-door lift-equipped vehicles.

The testimony you will see throughout this document indicates they can do anything engineeringwise or technologywise and they felt the only constraint was that there was no single standard to which they could build their vehicles.

They were concerned there would be a wide variety of vehicles ordered by different transit authorities throughout the country and they would have to build a wide variety of vehicles. This is not the case and UMPTA, if they would develop specifications, they would have a single standard to build to and, as I say, they have agreed that if there were that single standard, they could build a vehicle.

Also, on the point of UMPTA's testimony yesterday, they indicated there were considerable efforts made as a result of the 1970 police statement relative to serving the handicapped, that UMPTA in fact accomplished a great deal. I submit that the present actions of UMPTA are far less than the mandate and certainly the intent of the legislation as promulgated by Congress.

For example, section 16(b)(2), a program for elderly and handicapped specifically provides 80 percent of the capital cost of vehicles. I can cite a number of examples where organizations that I am very familiar with and play an active role in, these organizations did not have the resources to even apply for those funds because they could not afford the 20-percent balance of capital costs nor the operating expense they could incur.

The point being that although UMPTA did, of course, provide some solution, some attempt to solve the problem, it was very, very minimal. I submit that there should be more effort in this area, operating expenses being the biggest part of the problem. That should be something that S. 662 should address.

One last point, on section 16(b)(2), there are union difficulties that have emerged and that may, in fact, delay, if not completely wipe out the intent of having this section 16(b)(2) program of assistance in capital for purchasing vehicles.

This is typical of the problems that the handicapped and elderly are the victims of. We are faced with union problems, the lack of funding, the lack of coordination between agencies that have a stake in this problem.

The handicapped themselves have little or no resources to use and call upon to muster any kind of counteroffense. Their resources are almost nonexistent. I mentioned I am president of the United Cerebral Palsy in Metropolitan Boston. I have seen in the last 40 years an increase in cost of transporting out people, from \$50 to \$60 a month when we were using our own vehicles and reimbursing our staff to the next stage of \$70 or \$80 a month, where we would pay for a cab. We are now transporting 55 to 60 people a month and it is costing us \$1,200 to \$1,500 a month. There is no way we can get reimbursement for these moneys.

Interestingly enough, this organization found itself financially strapped and unable to apply for the section 16(b)(2) funds.

Again, 25 percent of the capital would have to be borne by them. So, although UMPTA has made an effort to resolve the problem, it falls far short of what the need is.

I will submit documents that I mentioned, the pictures and the blueprints and so forth, as well as the testimony at the prebid conference which I feel is most significant, but I would urge and finally, that the cost that I speak of can be addressed in Senate 662 so it does no longer become the sole responsibility of the transit operators in this country.

As I mentioned, it is certainly appropriate that organizations or agencies within HEW and others should bear some of the costs, especially possibly in the way of subsidy. If the Older American's Act, for example would consider the transit operator and subsidize it and have some means of sharing those expenses, I think it would be a fair and equitable solution for everyone.

Senator GARN. Thank you, Mr. O'Brien.

We would be happy to include in the record any exhibits or photos you have, as part of the subcommittee's record.

Senator GARN. Yesterday, there was testimony on behalf of the witnesses from DOT that they did not disagree with the intent of this particular bill but they felt it should not be done by regulation, at least that the legislation should wait until they have had an opportunity to continue their hearings and their evaluation of their proposed regulations.

They also testified that they certainly were not in final form. That was the purpose of needing further time for evaluation before they came up with final proposed regulations.

What is your feeling about that type of a procedure? I don't think that the Congress is going to feel ultimately that there is no need for legislation. I might just comment that in the brief time I have been here that we often rush into legislation with good intent but it hasn't been very well thought out.

So my question—to boil it down—is there sufficient information now to come up with good regulations or would it help to wait and see the results of what DOT is doing and then be able to come up with better legislation than what we are talking about today?

Mr. O'BRIEN. I would submit, sir, that there is no piece of legislation or rule or regulation that is perfect in its original form.

Senator GARN. There never will be.

Mr. O'BRIEN. On that point, I would like to say what we have before us represents, I feel, the best that we can do at this moment. I suggest and I believe you concur, that as we move forward that we can modify, amend, and design this in such a way that it is more appropriate and gets to the point if we happen to miss one at this early stage.

I have no doubt that it will change as you feel it will. It is imperative, however, that we begin. The very fact that the national policy was stated in 1970 and very, very little has been done to perpetuate that policy or implement that policy, we have lost 5 years of available time that would have a tremendous impact on putting people to work or allowing them to use transportation to get to work.

I am sure you are aware of the tremendous disadvantage that handicapped people are at because of this mobility issue. We are not concerned with who can ride or who can't ride in terms of definition. It is important that we give them the chance to ride. That is all we are asking. We are not handicapped by our disabilities of our own. The wheelchair I have and the devices others of us have make us most capable of competing in terms of education. There is no bus to get on and get to work or to and from home or to and from an educational facility.

These things mitigate against the handicapped in terms of their very life style. That is why it has become such an emotional issue.

Senator GARN. You feel the biggest problem is not a matter of having jobs available, it is a matter of getting to them?

Mr. O'BRIEN. I would not say it is the biggest but transportation is certainly one of the major issues in continually providing an obstacle to employment. There is no question in my mind if a person had the potential of holding down a job in terms of his credentials, that

without that transportation component, he can't get there. There are numerous cases that I know of personally and have been documented that transportation is in fact, one of the greatest deterrents.

Senator GARN. Mr. Lancaster, do you feel we would come up with a better piece of legislation with a few months waiting for DOT? Do you think there is enough pressure on them to make them finally come along with the previously existing laws, or do you think we could get better legislation or go along with this one?

Mr. LANCASTER. Senator, I recommend we go along with this particular bill because it appears that UMTA and the Department of Transportation will always have in the back of its mind the cost implications of their regulations.

Their proposed regulations seem to have built right into them by that one waiver provision and certain other ambiguities, the ability to waive whatever regulations they themselves might set up concerning accessibility merely because someone says, "Well, this system would be good, but Mr. Administrator, even with the help of the Federal funds, it is going to be too expensive and what not."

Plus, 662, that first section of it, I think goes a little bit beyond merely transportation systems which are supported by the Federal funds.

In section (a) it does basically say that accessibility is a national policy, and although that has been said before, UMTA has done very little.

I might recommend one thing to be considered as a possible amendment and improvement of the bill as it exists. There already exists within the Department of HEW the Architectural and Transportation Barriers Compliance Board. We might recommend that added to this bill, in order to help oversee UMTA and other Federal agencies which give money to mass transportation systems, an enforcement power within that Architectural and Transportation Barriers Compliance Board that would enable them to order when needed, that a certain mass transportation project get with it in accordance with this bill, if it should be passed.

As it is now, the Architectural and Transportation Compliance Board just sort of exists, without powers or authority.

Senator GARN. In the proposed UMTA regulations they contain provisions requiring a study of need for particular persons to location, to the needs of disabilities to the entire transportation system. Do you think that this is something that ought to be done before you require retrofitting an entire transportation system?

Mr. LANCASTER. Definitely not, and I say that for three reasons. You may have a study in, say, Ogden, Utah. There is an Ogden, Utah?

Senator GARN. Yes, there is.

Mr. LANCASTER. You may find out there are one to two handicapped persons in all of Ogden. And that it is just not feasible or needed and your planning board says we don't need to make the buses of Ogden accessible to the handicapped. What if I, as a citizen of the United States, passing through Ogden have a need to ride the bus in Ogden and I can't get aboard, but yet that bus transportation system in Ogden is receiving funds?

Senator GARN. I understand what you were saying, but I was a mayor of Salt Lake City, looking at the costs which can't be ignored, I certainly agree with what you are trying to accomplish.

I don't know how any of us can't, especially all of us who have the mobility, we ought to be the most sympathetic of all.

However, when you are facing the problems, I have gone through several years in the municipal government, there are extremely difficult problems totally. They have been making changes over those years. They can't begin tomorrow to phase in the costs and physical changes and so on.

So I agree with you ultimately, we would want to have all transportation accessible but if you do have limited funds wouldn't they study and pinpoint the areas of most need to begin with and help in that way, because I think you recognize that throughout an entire country this can't be done instantly or overnight.

It will take time and money, so I would certainly, as a mayor of the city for my transportation system want to try and target and if we only got four buses to begin with, I would want to know where do we send those buses. Does that approach the subject from that standpoint?

Mr. LANCASTER. It does, but I think S. 662 does that better than planning provisions of the UMTA regulations. S. 662 talks about being "effective immediately," as to any vehicle, building, or structure that is new, and as for providing planning to the future in section (d), the provision is there, "July 1, 1977, the Secretary shall prepare and submit to the Congress a comprehensive report."

Going on, that section also would provide that planning built into this, would receive the input of the elderly and the handicapped person, whereas the UMTA regulations don't provide for that input, other than in public hearings. This bill would mandate that the input from elderly or handicapped citizens would be put into that.

Senator GARN. Whether it is mandatory or not, you do agree that the legislation is mandatory and part of achieving the goals we want to achieve?

Mr. LANCASTER. I must agree it can't be done without planning, but the planning should target the problem areas and find out where the concentrations are of handicapped persons. Although, our organization is spread all over this country.

I would say a demographic study of our organization would follow basically the population concentrations of the country as a whole.

Senator GARN. Let me ask you one other question that came up yesterday about those, certain disabled people who, regardless of the accessibility, wheelchairs and so on, would not be able to use public transportation. Do you have any suggestions on more severely handicapped? That really was brought up as a problem yesterday, but not really fully discussed.

Mr. LANCASTER. Is the Senator addressing himself like to someone who is a severely handicapped, say a quadriplegic, that at best can be pushed around in a wheelchair?

Senator GARN. Yes, I realize it is a small part of the problem compared to the overall, but it was brought up yesterday.

I mean, there is another area, those who have a difficult time getting out at all, although there are relatively few, still for them it is a difficult problem.

Mr. LANCASTER. We would, of course, advocate that anything that can be done for those people should be done. I know there are in certain

cities some dial-a-ride buses and other types of transportation systems. We do not advocate those in general because it would start to create a separate but equal types of situation, where one might have all handicapped and elderly folk using that system and not using the regular mass transportation system.

I might also say that people who are that severely disabled are usually accompanied by an attendant in most all cases, not all. Some can get around in electric wheelchairs. If that is the case, there is no reason, if the bus is modified, that they can't get around in it themselves. Certainly with an attendant, if the bus is modified, it is going to make it easier for all concerned.

The catastrophically disabled person could then use the mass transportation system and not have to rely on the automobile that they always have to fall back on.

Senator GARN. You made a comment this morning regarding UMPATA. I am sorry I missed that testimony. You made a comment they missed the boat. Could you elaborate on that a little bit more?

Mr. LANCASTER. My concern is the complete failure to recognize or mention the fact that they are not only dealing with the problem that has to do with the mechanics of design, with the implementation of it, but they are also dealing with a problem that is a constitutional problem, a legal problem. And they are doing nothing to correct their violations of the constitution and the law as it presently stands, and they continue to suggest other definitions, other ways that will water the objective down and make it easier for them to avoid ultimately confronting the issue as fast, and as quickly as possible, and thus making their entire system equally accessible to all persons in this country, or their area.

Senator GARN. Do you have any specific disagreement with their definitions?

Mr. LANCASTER. Yes, I do. I don't see why they have to break them down the way they do and I also do not like the phrase that they stick at the end of each one, which basically says, "To use appropriate public transportation services would be a reasonable expectation . . ."

Well, the determination of a reasonable expectation of whether or not I am going to use a bus or a train should not be made by the Government. I am to say whether it is reasonably expectable that I might exercise the freedom of speech or the freedom of association or the freedom to go out to get a job. It is up to me, the individual, the handicapped person, to make that determination whether it is reasonably expectable that I might go out and use that bus.

That is some phraseology that I do not like at all.

Senator GARN. Mr. Raggio, we have talked some about the loopholes of allowing the Secretary of Transportation to really allow substantial delays in the accessibility of buses and in your statement, you said you felt this would encourage massive production of alternative systems.

Now, it is my understanding of the bill that the Secretary would only be allowed to apply these exemptions as his exceptions, where the local area had submitted a plan and a timetable which met the needs of the elderly and handicapped and that this plan would have to set forth a reasonable timetable for full accessibility.

Would you elaborate on that?

Mr. RAGGIO. Do you mean full access to vehicles used by the general public or full accessibility as some alternative means of providing mobility? That is where the uncertainty arises and that is one of the issues which has come up in the hearings on the UMTA regulations: Accessibility versus mobility. We see it as two issues.

In a recent report on the handicapped and elderly market for urban mass transportation, it shows that 60 percent of the elderly and handicapped population are presently located within two blocks of public transportation. We ask why create a separate system for these people when they can readily use the existing system, if it is accessible? That is an area that must be addressed and must be provided for by designing accessibility into the transportation system.

For other people who are not conveniently located near transportation systems, we need to develop other solutions. These other solutions, rather than creating an alternative system, would be to provide some means of service to link persons up with the main transportation system.

Now, there is the third area, there are some people more severely handicapped who would need some type of escort in order for them to travel around in public, and we would submit that this is a limited type of category and these would be specialized services.

We would identify these as three separate and distinct problem areas. APTA, the transit operators and UMTA are attempting to obfuscate the issue by saying improvements aren't needed in all these areas, and by trying to set up separate systems for the elderly and handicapped for which there are no adequate source of funding available to take care of all the problems.

We see a need for legislation rather than waiting for regulations that contain loopholes for postponing or further confusing the issues; and for setting down directions that elderly and handicapped needs must be served by addressing both accessibility of equipment and availability of services.

Certainly no one solution is appropriate for all three groups. Action must be taken in all areas. Let's start addressing those areas and not have UMTA confuse the issue.

Senator GARN. Do any one of you three have objections, again, if it is under a timetable? Again, I look at it as part of my previous experience as a mayor, I would hate to be under such-and-such-and-such-a-date you will find reasons why it does not. I think there ought to be some flexibility in allowing exceptions, if you have a timetable. Do you have any objections to that?

Mr. O'BRIEN. No objections whatsoever. I was in contact with the chairman of the American Coalition of Citizens for Disabilities. As I said, this group represents a number of people and has better communication among those people. It is their contention it is quite possible to come up with a date at which time a reasonable attempt to make the systems accessible will be denied.

I feel that by further discussions between manufacturers, the industry in general, UMTA and the handicapped, the elderly and others adversely effected by the lack of transportation that a reasonable date could be determined, one that would allow the manufacturers the time they claim they need to tool up for making accessible equipment.

There are many other factors that actually justifiably delay a date that has been talked about, of 1 year. It is our hope it would be 1 year or even sooner, of course. I think you will find the handicapped and others concerned with this problem.

I would submit on the Architectural Barriers Compliance Board mentioned by Mr. Lancaster than the situation—I will mention very briefly, where there is a similar kind of organization called the architectural barriers planning board, it consists of seven members, four of whom are handicapped. I had occasion to go to them and ask for some waivers. We have a \$14 million project that is upgrading existing stations, not new stations. I feel, eventually, those new stations would have to be in full compliance with the accessibility requirements, but the older stations—the fact they had \$14 million being spent on them—the architectural barriers board, and some other outside institutions insist we make them accessible.

However, the amount of funds available to us to engage in some basically cosmetic changes could not be stretched to the point where we could improve an elevator or to render those stations accessible.

I am talking about seven separate stations. The opinion of the board and their actual decision was to grant us three waivers, three of the stations where we could demonstrate there was no way we could put an elevator in within the limits of the funds we had available.

Therefore, they denied our request for waiver. On three others, we have as a result of their decision not to grant us a waiver, changed the scope of work somewhat, and are now able to make those stations accessible. I point this out as a fair and equitable decision on the part of the board.

We were willing to sit down and discuss and compromise and negotiate, if you will, and I think this is the element that is lacking in all of us. The exception is your work with the committee, who has invited a good deal of testimony of handicapped people.

I have made an obvious effort to include consumers, so-called, on the staff. This is a missing element on many, many discussions on this issue. It seems to me people are making decisions for us. On that point, I feel that the handicapped want access to the decisionmaking process.

This goes into the question that you raised earlier in terms of the study. Very seldom have I had the luxury of being asked what I felt on a particular subject. Many handicapped people feel conservative about the fact, and they frankly have been studied to death.

I will submit to you a reading list on that subject of handicapped and where they want to go and where their needs are.

In response to the question you asked Mr. Lancaster, my answer would be the same as his. We have been studied ad nauseam. We should begin something. There is information to get going. Although we don't have the total answers as we discussed earlier, and we don't know all of the problems that will emerge but it is time to begin. I think it is an idea that has come and I would finally like to state if we make this system accessible, I am talking about the entire bus, trolley, rail, anything under the aegis of public transportation, accessible and usable by physically handicapped persons who can't now use it; then the system will be improved to the point where you will attract non-handicapped persons. In other words, if we make the system for the lowest common denominator of the handicapped persons who aren't

able to use it, it is automatically more attractive to the ridership that is presently using it. I know that the ridership on many public transportation systems now is declining for many reasons.

There are tremendous safety problems, vandalism, that is discouraging people. I say, if we look at this system anew with handicapped and elderly, taking a look at those with mobility problems, we will have made it better for everyone.

I think it is time that the entire industry begin to take a look and include the handicapped element and, obviously, it will be better.

Stairs was mentioned by Senator Williams as one of the items that should be eliminated. I submit for many elderly people that use the existing system and have trouble navigating stairs, there is an alternative means to navigate steps.

Senator GARN. Thank you, Mr. O'Brien. I have three questions that are rather specific that Senator Williams has submitted. I would appreciate it if you would answer these three questions for the committee.

Mr. O'BRIEN. Surely.

Senator GARN. Thank you very much for your testimony. We always seem to run out of time. If the last three witnesses, if possibly you could come up together, Mr. Caso, Mr. Reading, and Mr. Ronis.

STATEMENTS OF RALPH G. CASO, NATIONAL ASSOCIATION OF COUNTIES AND COUNTY EXECUTIVE, NASSAU COUNTY, N.Y.; JAMES E. READING, ASSISTANT EXECUTIVE DIRECTOR, OPERATIONS REGIONAL TRANSPORTATION DISTRICT, DENVER, COLO.; AND LEONARD RONIS, GENERAL MANAGER, CLEVELAND TRANSIT SYSTEM

Senator GARN. Which one is Mr. Caso?

Mr. CASO. Right here.

Senator GARN. I don't know what your time constraints are. If you could abbreviate your statement, we would be happy to put your entire statement into the record. We would like to hear all three of you before we get too involved.

If you would like to start, Mr. Caso.

Mr. CASO. Thank you, Senator Garn.

I would like to introduce Sandra Spence, legislative aide to NACo, on my left here. I want to thank you for giving me the opportunity to be here today.

I am here first as chairman of the transportation committee of NACo.

Senator GARN. I was rather deeply involved with NACo. Dan Smoot is a very close friend of mine. I was president-elect of NLC last year. I would have been president this year, and I have been rather involved with cities and towns.

Mr. CASO. It is refreshing to know that someone in the Senate has a feel for local government in the sense you have served there in those practical problems.

Senator GARN. There needs to be a lot more and there is a great lack of understanding among my distinguished colleagues of how local government works.

Mr. CASO. Thank you, Senator, for making that statement because I felt rather uncomfortable about saying that.

I am here as chairman of the transportation subcommittee of the National Association of Counties, or NACo, the organization formed to represent, here in Washington, county governments from across the United States.

I will paraphrase my remarks. I do want to indicate that NACo—you are familiar with the organization because Stan Smoot from your State is their current president—and NACo took the first steps toward reordering our national priorities by making money from the highway trust fund available to local municipalities for the capital and operating expenses of public transportation facilities.

With some minor reservations, which I will address later, NACo also supports S. 662. We feel that this bill, by authorizing the use of public transit funds in rural areas for operating as well as capital costs, allows greater flexibility in meeting urgent rural needs.

In most rural areas, there is no public transportation. Yet, the need is great and growing greater. Since the population is widely dispersed, most trips in rural areas are long-distance trips. The rising cost of gasoline makes provision of some sort of public transportation for rural areas more imperative than ever.

Such transportation facilities as do exist in rural areas are severely limited in their ability to meet the real needs of rural residents.

I think that it is poor public policy to encourage the continuation or proliferation of these fragmented, categorical, and very costly programs. Instead, we should allow public transportation agencies more flexibility to develop unified transportation services. Giving these agencies the authority to use UMTA funds for operating expenses, instead of limiting them to capital expenditures, will go a long way toward encouraging more imaginative approaches to public transportation planning, such as the program already underway in Cape May County, N.J.

In counties like Cape May, where there are already vehicles available, the prime need is for operating subsidies to establish and run the kind of unified public transportation service system that is now being developed there.

Our reservations concerning S. 662 deal only with the timing of any requirement that all public transportation facilities be made immediately accessible to the handicapped. We have no reservations whatever about the concept. Accessibility to the handicapped should be incorporated into the planning and design of all new mass transit facilities.

But we urge caution on enacting any across-the-board mandate for immediate conversion of all existing facilities and vehicles to make them fully accessible. Such a mandate would be extremely costly at a time when most public transportation systems are already facing large deficits.

Instead, the emphasis should be on mobility for the handicapped. In some areas—in Nassau County, for example—a system like dial-a-ride might be a more practical way to insure their mobility.

In other areas, other solutions might be more feasible. What we are asking for, really, is that the language of the bill spell out both the national policy goal that it is designed to meet, as well as the

degree of flexibility that should be left to local transportation planning and operating agencies to attain that goal.

At the present time, although some public transportation systems have taken the initial steps necessary to make their facilities accessible to the handicapped, there is no system in the county that is totally accessible. For the most part, the handicapped must still rely on family and friends—or on private transportation systems which are extremely costly.

As you pointed out, Mr. Chairman, in your statement, in the Congressional Record on February 11 of this year, New York City, for example has numerous firms providing transportation for the handicapped, but the average charge for a daytime customer works out to be \$60 a week or about \$2,880 a year.

As you further pointed out, 85 percent of the nearly 68 million handicapped persons in the country have incomes under \$7,000 a year, and 52 percent of these have incomes under \$2,000.

Thus, for all but essential travel, paid by public social service agencies, these people are effectively immobilized and denied participation in the life of their communities. In New York State, essential, specialized transportation for the physically, economically and socially disadvantaged clients of social service agencies costs about \$80 million a year.

Making public transportation accessible to these people would not only reduce the costs of social services but would permit them to find gainful employment and to enter into the mainstream of their communities, not as passive onlookers but as active participants.

Indeed, Nassau County has begun a public awareness program to encourage private business to hire the handicapped. Within our county government, I have ordered all heads of departments to begin an affirmative action program to recruit and hire the handicapped. To be successful, the program must be accompanied by actions to make the handicapped more mobile, as we have already heard from the two witnesses that preceded us here.

In our county, we are embarking on a twofold program to facilitate the use of public transportation by the elderly and the handicapped.

We have long had a half-fare system for the elderly on our county buses.

Effective June 30, to conform to Federal requirements, we will be extending the half-fare system to county residents certified as handicapped by established service agencies, private physicians or the county health department. Under this system, these people will be given a specially marked county leisure pass which will entitle them to half fares on the buses operated by the Metropolitan Suburban Bus Authority.

In addition, all new buses purchased by the county for the authority will be equipped with a special device that will enable the bus, in effect, to "kneel" at bus stops to make it easier for the handicapped and the elderly to get on and off.

The first order of these specially equipped buses, 45 of them, will be delivered in 1976. On these buses, the driver can release the air from the forward right air lifter or air shock absorber so that the right corner of the bus literally kneels, or lowers itself, by several inches. This feature will be especially helpful in those cases where, because of parked cars or other obstructions, the bus is unable to pull over to the curb.

Senator GARN. May I stop you there for a minute?

Will this allow for wheelchairs?

Mr. CASO. It will allow for wheelchairs through a lifting device. This primarily is for elderly and those who are mobile.

Senator GARN. So it wouldn't cut the vertical distance down sufficiently to pull a wheelchair over it?

Mr. CASO. No.

UMTA funds are being used for a variety of research and development studies on design modifications to allow for such changes as lower stairs, more safety equipment, handrails, and skid-resistant floors. UMTA is also supporting capital and planning assistance programs to determine the particular needs of the elderly and the handicapped.

S. 662 is an attempt to accelerate the planning and research and development process. We in NACO fully support this effort. We fully endorse the statement that it shall be a matter of national policy that the handicapped have the same right as other persons to utilize mass transportation basically, so it could be 35 cents, 50 cents, as high as a dollar, depending on where you want to go.

Senator GARN. How large an area does it cover?

Mr. CASO. All our county and also New York, so it is a sizable operation. We took over nine existing buslines that were going bankrupt in our county. Since I feel transportation is no longer a luxury but a necessity, I indicated it was one of the easiest decisions I had to make as a county executive.

We asked MTA in New York State to set up a subsidiary known as the Metropolitan Suburban Bus Authority, to operate the buses for us. We have amalgamated, consolidated the various lines. We are improving services and adding routes where they are needed but primarily, we are intercounty, city, New York, Queens, Jamaica, and so on and are working on an intracounty transportation system which in suburbia is a difficult thing.

We don't have the grid system. We are looking at dial-a-ride and other things.

Senator GARN. The reason I was curious is because everyone is constantly back asking Washington for operating funds and yet in our own system there was a dramatic decrease in ridership over the last 30 years. Some 30 million riding the system in 1948, and then down to 3 million is now dramatically on the rise with a 15 cent fare any place subsidized by a sales tax, which the people themselves voted overwhelmingly. No transfers, no zone changes, 15 cents for everybody, handicapped, not handicapped, a sales tax making up the difference.

So I was curious about the fares because every time I hear it must be Federal money I have a concrete example that it must not be Federal money, that there are local organizations that will make the effort to subsidize them with local tax money and on a referendum basis, the people of the county voting to do so.

Mr. CASO. That is a very interesting concept and one that we are looking at in Nassau County and I was particularly interested in the Atlantic project where ridership has increased.

In that Utah, or Salt Lake City, or whatever it is you made reference to—

Senator GARN. It is now the Utah Transit Authority which has expanded to include not only Salt Lake County, but Davis and Weber

Counties and expanding the routes again, so it is to the surprise of a lot of people, including myself, who didn't think it would work initially, and we are trying to do it and it is working.

Mr. CASO. That is encouraging. We certainly will study that.

Thank you very much. If you would like to leave, you can, or if you would like to stay.

Mr. CASO. I do have another commitment at noon so if I may be excused.

Senator GARN. One other question, is this the position of your transportation committee of NACo?

Mr. CASO. Yes; thank you.

[Complete statement of Mr. Caso follows:]

STATEMENT OF NASSAU COUNTY EXECUTIVE RALPH G. CASO

I want to thank you, Mr. Chairman and members of this committee, for the opportunity to appear here today.

I am really here this morning in a dual role: First, as county executive of Nassau County, the Nation's most populous suburban county; and second, as chairman of the transportation subcommittee of the National Association of Counties, or NACo, the organization formed to represent, here in Washington, county governments from across the United States.

NACo was a strong supporter of the 1974 landmark legislation that took the first steps toward re-ordering our national priorities by making money from the highway trust fund available to local municipalities for the capital and operating expenses of public transportation facilities.

With some minor reservations, which I will address later, NACo also supports S662. We feel that this bill, by authorizing the use of public transit funds in rural areas for operating as well as capital costs, allows greater flexibility in meeting urgent rural needs.

In most rural areas, there is no public transportation. Yet, the need is great and growing greater. Since the population is widely dispersed, most trips in rural areas are long distance trips. The rising cost of gasoline makes provision of some sort of public transportation for rural areas more imperative than ever.

Such public transportation facilities as do exist in rural areas are severely limited in their ability to meet the real needs of rural residents. Either they are intercity private systems, with fixed routes that cannot be adjusted to local needs—or they are fragmented programs, supported by federal categorical grants and designed to meet the special needs of relatively small numbers of specific people.

I think that it is poor public policy to encourage the continuation or proliferation of these fragmented, categorical and very costly programs. Instead, we should allow public transportation agencies more flexibility to develop unified transportation services. Giving these agencies the authority to use UMTA funds for operating expenses, instead of limiting them to capital expenditures, will go a long way towards encouraging more imaginative approaches to public transportation planning, such as the program already underway in Cape May County in New Jersey. Cape May county is one of the least populated, most rural counties, in that state. Its largest town has only 8,000 people. The county traffic department is now coordinating one bus system to serve the needs of people who were previously served by 30 independently-operated transportation programs which were funded by various health and social services projects. Each project, instead of operating its own program, now pays the county for providing transportation for its clients. Actual service has expanded significantly—and the ultimate goal is to extend the service to the general public as well.

In counties like Cape May, where there are already vehicles available, the prime need is for operating subsidies to establish and run the kind of unified public transportation service system that is now being developed there.

Our reservations concerning S662 deal only with the timing of any requirement that all public transportation facilities be made immediately accessible to the handicapped. We have no reservations whatever about the concept. Accessibility to the handicapped should be incorporated into the planning and design of all new mass transit facilities. But we urge caution on enacting any across-the-board mandate for immediate conversion of all existing facilities and vehicles

to make them fully accessible. Such a mandate would be extremely costly at a time when most public transportation systems are already facing large deficits. Instead, the emphasis should be on mobility for the handicapped. In some areas—in Nassau County, for example—a system like dial-a-ride might be a more practical way to insure their mobility. In other areas, other solutions might be more feasible. What we are asking for, really, is that the language of the bill spell out both the national policy goal that it is designed to meet, as well as the degree of flexibility that should be left to local transportation planning and operating agencies to attain that goal.

At the present time, although some public transportation systems have taken the initial steps necessary to make their facilities accessible to the handicapped, there is no system in the country that is totally accessible. For the most part, the handicapped must still rely on family and friends—or on private transportation systems which are extremely costly. As you pointed out, Mr. Chairman, in your statement in the Congressional Record on February 11th of this year, New York City, for example, has numerous firms providing transportation for the handicapped, but the average charge for a daytime customer works out to \$60 a week or about \$2,880 a year.

As you further pointed out, 85 per cent of the nearly 68 million handicapped persons in the country have incomes under \$7,000 a year, and 52 per cent of these have incomes under \$2,000. Thus, for all but essential travel, paid for by public social service agencies, these people are effectively immobilized and denied participation in the life of their communities. In New York State, essential, specialized transportation for the physically, economically and socially disadvantaged clients of social service agencies cost about \$80 million a year. Making public transportation accessible to these people would not only reduce the costs of social services but would permit them to find gainful employment and to enter into the mainstream of their communities, not as passive onlookers but as active participants. Indeed, Nassau County has begun a public awareness program to encourage private business to hire the handicapped. With county government, I have ordered all heads of departments to begin an affirmative action program to recruit and hire the handicapped. To be successful, the program must be accompanied by actions to make the handicapped more mobile.

In our county, we are embarking on a twofold program to facilitate the use of public transportation by the elderly and the handicapped.

We have long had a half-fare system for the elderly on our county buses.

Effective June 30th, to conform to federal requirements, we will be extending the half-fare system to county residents certified as handicapped by established service agencies, private physicians or the county health department. Under this system, these people will be given a specially marked county leisure pass which will entitle them to half fares on the buses operated by the Metropolitan Suburban Bus Authority.

In addition, all new buses purchased by the county for the authority will be equipped with a special device that will enable the bus, in effect to "kneel" at bus stops to make it easier for the handicapped and the elderly to get on and off. The first order of these specially equipped buses—45 of them—will be delivered in 1976. On these buses, the driver can release the air from the forward right air lifter or air shock absorber so that the right corner of the bus literally kneels, or lowers itself, by several inches. This feature will be especially helpful in those cases where, because of parked cars or other obstructions, the bus is unable to pull over to the curb.

UMTA funds are being used for a variety of research and development studies on design modifications to allow for such changes as lower stairs, more safety equipment, handrails and skid-resistant floors. UMTA is also supporting capital and planning assistance programs to determine the particular needs of the elderly and the handicapped. S662 is an attempt to accelerate the planning and research and development process. We in NACo fully support this effort. We fully endorse the statement that it shall be a matter of national policy that the handicapped have the same right as other persons to utilize mass transportation facilities and services. Our only concern is that the policies that are adopted by consistent with the overall transportation needs of the United States and that they be flexible enough to permit and to encourage local initiative.

In that light, I cannot close without urging the Congress to continue and to expand its support for public transportation.

Support for public transportation must be a part—and a key part—of any energy legislation enacted. Gasoline prices are rising sharply, in part by executive action and in part by expected OPEC actions. There are predictions that the price of gasoline could rise to as high as one dollar a gallon. But the increase in the price of gasoline will not be an effective conservation measure, and will not deter energy consumption, unless we have made public transportation a viable alternative to the private automobile. If we have not, the increased costs of gasoline will be only as additional, and very severe, hardship on those who have no place else to turn.

(Adopted at NACo Transportation Steering Committee meeting June 23, 1975,
Honolulu, Hawaii)

RESOLUTION ON PUBLIC TRANSPORTATION FOR ELDERLY AND HANDICAPPED

Whereas the elderly and handicapped are often effectively immobilized and denied participation in the life of their communities as a result of their inaccessibility to public transportation facilities;

Whereas the elderly and handicapped are among those with the greatest need for health and social services available to them only if transportation is available;

Whereas the elderly and handicapped are among those least able to afford the high cost of most transportation services which are available to them;

Whereas the Congress has reacted to the very serious needs of the elderly and handicapped in the 1974 Federal Highway Act and the 1975 DOT Appropriation Act by mandating immediate accessibility of the elderly and handicapped to public transportation facilities;

Whereas the significant problems of planning, design, cost, procurement, and operations may result in serious delays in service to other members of the general public: Therefore be it

Resolved, That the NACo Transportation Steering Committee urge the Congress to clarify legislative intent by enacting legislation to:

Recognize the national goal of maximum mobility for the elderly and handicapped;

Provide appropriate levels of funding and opportunity to search for alternative service methods to assure speedy implementation of this goal;

Recognize the significant operational differences in providing service to ambulatory and to nonambulatory elderly and handicapped; and

Without unnecessary restriction, allow local units to develop methods most appropriate to the particular local situation to serve the different transit needs of ambulatory and nonambulatory groups in a manner which will not impair transit service to nonhandicapped members of the general public.

Senator GARN. Mr. Reading?

Mr. READING. Thank you very much, Senator.

My name is James E. Reading. I am assistant executive director for operations of the Regional Transportation District in Colorado.

The object of transportation planning is to design transit systems which will maximize achievement of community goals as they relate to the total transportation system with the least social cost and maximum social benefit.

One of the specific goals cited with great regularity by Denver area groups is that we should plan for "a balanced community which can provide residents with a wide variety of opportunity."

The ultimate goal of the RTD is to develop, maintain, and operate a public transportation system for the benefit of the residents of the district in accordance with the governing legislation.

The district's board of directors approved seven specific objectives to achieve this goal. The RTD Board also adopted guidelines which include one on "serving transit dependents." Guideline 5 states:

Despite having one of the highest auto ownership rates per household of any area in the country, there are still an estimated 25 percent of the district's residents who lack mobility. The elderly, the handicapped, the young, and the lower income person have transportation needs which must be met. Transit improvements must recognize these needs and demands, and be responsive to them.

Guideline 9 calls for intra area circulators to provide internal mobility within identified activity centers throughout the region.

The RTD has further developed specific performance standards in order to display options and tradeoffs. These include spacing of routes and bus stops, frequency of service, schedule reliability, vehicle reliability, directness of service, load factors, safety, security, transit information services, and passenger amenities, including shelters.

With that as the background and cognizant of the special transportation needs of the elderly and handicapped, the RTD created the handy ride service. This special mobility needs program was developed with the assistance of citizen advisory committees formed of both elderly and handicapped persons.

It quickly became apparent that there were three distinct groupings of individuals who are defined as elderly and handicapped. These are:

One: Those who can use the existing bus service.

Two: Those who can use buses if certain modifications are made.

Three: Those who need transportation provided by vehicles especially designed to overcome their more severe mobility problems.

The result was the formulation and adoption of a special mobility needs policy by the governing board of RTD, with three principal objectives:

One: The implementation of special transit service using buses designed to accommodate the handicapped, including persons confined to wheelchairs, in door-to-door subscription service.

Two: The program of modifications to increase the accessibility of existing fleet buses to the elderly and handicapped capable of utilizing them.

Three: Conducting a continuing evaluation of the mobility needs of the elderly and handicapped, the effectiveness of the service provided in meeting those needs, proposed improvements to the service and innovations in providing elderly and handicapped service.

The 12-bus handy ride service was designed to provide subscription service to elderly and handicapped citizens of the district. A fleet retrofit program will increase regular fleet bus accessibility.

Inaugurated on February 3, 1975, the handy ride is a subscription service. District residents with physical disabilities, including senior citizens who cannot utilize existing transit service, signed up for the service in late 1974 by completing a detailed subscription form establishing the nature of the disability and their transportation needs.

These early forms were carefully evaluated and priorities were established for essential work, school, and rehabilitation trips. Additional trip requirements are being evaluated for inclusion as the service develops.

A total of 637 qualified applications for service in the metropolitan area were received by the November 1 deadline. An additional 527 were mailed in after that date, with 259 more coming from Boulder County, to the north of Denver.

Of the 1,164 from the greater Denver area, 579—50 percent—are 65 years of age or more. The remaining 50 percent are handicapped. The number confined to a wheelchair is 129—11 percent. Further research following successful implementation of this special needs program, revealed nearly 600 additional persons using wheelchairs.

Priorities were established to serve the transportation disadvantaged in the following order: Work/school trips for: (1) handicapped in wheelchairs; (2) other handicapped; and (3) elderly not presently served.

Other trips for:

The same listing of priorities.

To maximize the use of available equipment, schedules were established by grouping transit origins, destinations, and time requirements of the applicants. The trips are scheduled on a regular basis to bring transit service to the largest possible number of citizens with special mobility needs.

Once established, routes become regular bus routes, similar to existing transit routes. The basic difference is that they originate at the patron's door and terminate at the closest possible point to the destination. In addition, the service meets the time requirements of its patrons as much as possible.

During the month of February, the special-needs service provided transportation for 1,093 passengers. Riders in March totaled 1,960 and 5,519 for April. The May figure was 5,749 customers.

The dramatic increase in passengers resulted from providing mid-day direct service to shopping centers for senior citizens living in high rise apartments. This ability also resulted in significantly lowering the cost per passenger of the service which is admittedly expensive.

Our priorities have since changed. Now that service and the vehicles and performing satisfactorily, the handy ride is reaching out for the truly transportation disadvantaged. We are now adding handicapped, especially those confined to wheelchairs, who can find educational and job opportunities.

Special needs groups or organizations may charter this equipment on an availability basis providing an exclusive service to persons previously excluded from group activities requiring special transportation. Charter rates for these vehicles are the same as those applicable to other RTD equipment.

The RTD believes strongly that every effort should be made to extend transportation to every citizen possible within the region. A recent survey of the needs of elderly residents of the metropolitan Denver region listed "reasons for not using the bus more often." Listed in order of percentage of responses received, they are:

One: Bus does not go where respondent needs to go.

Two: Physical problems make bus use difficult.

Three: Neighborhood bus stop is unsafe.

Four: Bus does not come when needed.

Five: Bus stop is too far away.

Six: Dislikes buses.

Seven : Bus fare is too expensive.

The survey, conducted by a Denver research firm, was commissioned by the Regional Council of Governments. It confirms our belief that mobility of the elderly and handicapped is more important than total system vehicle accessibility.

For the first time in many of these people's lives, they do not have to depend on family or friends for transportation. They now have the freedom to move from one place to another via public transportation. They are also able to utilize public transportation without fear of having to fight for a seat or of being hurt by having to compete with the able bodied.

It has given them a sense of independence by not having to depend on others and at the same time made employment and education opportunities more accessible. Also as greater optimization is made in the use of these vehicles, health and recreational facilities, previously beyond the reach of many, will become a reality.

The RTD handy ride was created for the elderly and handicapped. It is their system. It is special, because it serves their specific needs by enhancing their personal independence and thereby, their dignity.

We believe these people don't feel segregated from the mainstream of their community—they feel their community cares enough to furnish them a special transportation system?

Thank you for listening to our story. I have with me today one of our handy ride users. His name is J. K. "Sparky" Ullmer. We would be happy to answer any questions you may have.

[Complete statement of Mr. Reading follows:]

TESTIMONY BY JAMES E. READING, ASSISTANT EXECUTIVE DIRECTOR, OPERATIONS, REGIONAL TRANSPORTATION DISTRICT, DENVER, COLO.

The object of transportation planning is to design transit systems which will maximize achievement of community goals as they relate to the total transportation system with the least social cost and maximum social benefit.

One of the specific goals cited with great regularity by Denver area groups is that we should plan for "a balanced community which can provide residents with a wide variety of opportunity." The ultimate goal of the RTD is to develop, maintain and operate a public transportation system for the benefit of the residents of the District in accordance with the governing legislation.

The District's Board of Directors approved seven specific objectives to achieve this goal. The RTD Board also adopted guidelines which include one on "Serving Transit Dependents." Guideline 5 states:

"Despite having one of the highest auto ownership rates per household of any area in the country, there are still an estimated 25% of the District's residents who lack mobility. The elderly, the handicapped, the young, and the lower income person have transportation needs which must be met. Transit improvements must recognize these needs and demands, and be responsive to them."

Guideline 9 calls for intra area circulators to provide internal mobility within identified activity centers throughout the region.

The RTD has further developed specific performance standards in order to display options and trade offs. These include spacing of routes and bus stops, frequency of service, schedule reliability, vehicle reliability, directness of service, load factors, safety, security, transit information services and passenger amenities, including shelters.

With that as the background and cognizant of the special transportation needs of the elderly and handicapped, the RTD created the Handy Ride service. This special mobility needs program was developed with the assistance of citizen advisory committees formed of both elderly and handicapped persons. It quickly

became apparent that there were three distinct groupings of individuals who are defined as elderly and handicapped. These are:

1. Those who can use the existing bus service.
2. Those who can use buses if certain modifications were made.
3. Those who need transportation provided by vehicles especially designed to overcome their more severe mobility problems.

The result was the formulation and adoption of a Special Mobility Needs Policy by the governing board of RTD, with three principal objectives:

1. The implementation of special transit service using buses designed to accommodate the handicapped, including persons confined to wheelchairs, in door-to-door subscription service.
2. The program of modifications to increase the accessibility of existing fleet buses to the elderly and handicapped capable of utilizing them.
3. Conducting a continuing evaluation of the mobility needs of the elderly and handicapped, the effectiveness of the service provided in meeting those needs, proposed improvements to the service and innovations in providing elderly and handicapped service.

The twelve-bus Handy Ride service was designed to produce subscription service to elderly and handicapped citizens of the District. A Fleet Retrofit Program will increase regular fleet bus accessibility.

Inaugurated on February 3, 1975, the Handy Ride is a subscription service. District residents with physical disabilities, including senior citizens who cannot utilize existing transit service, signed up for the service in late 1974 by completing a detailed subscription form establishing the nature of the disability and their transportation needs. These early forms were carefully evaluated and priorities were established for essential work, school and rehabilitation trips. Additional trip requirements are being evaluated for inclusion as the service develops.

A total of 637 qualified applications for service in the metropolitan area were received by the November 1 deadline. An additional 527 were mailed in after that date, with 259 more coming from Boulder County.

Of the 1164 from the greater Denver area, 579 (50%) are 65 years of age or more. The remaining 50% are handicapped. The number confined to a wheelchair is 129 (11%). (Further research following successful implementation of this special needs program, revealed nearly 600 additional persons using wheelchairs.)

Priorities were established to serve the transportation disadvantaged in the following order:

Work/school trips for:

1. Handicapped in wheelchairs.
2. Other handicapped.
3. Elderly not presently served.

Other trips for: The same listing of priorities.

To maximize the use of available equipment, schedules were established by grouping transit origins, destinations and time requirements of the applicants. The trips are scheduled on a regular basis to bring transit service to the largest possible number of citizens with special mobility needs. Once established, routes become regular bus routes, similar to existing transit routes. The basic difference is that they originate at the patron's door and terminate at the closest possible point to the destination. In addition the service meets the time requirements of its patrons as much as possible.

During the month of February, the special needs service provided transportation for 1,093 passengers. Riders in March totaled 1,960 and 5,519 for April. The May figure was 5,749 customers.

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The RTD believes strongly that every effort should be made to extend transportation to every citizen possible within the region. A recent survey of the needs of elderly residents of the metropolitan Denver region listed "Reasons For Not Using The Bus More Often." Listed in the order of percentage of responses received, they are:

1. Bus does not go where respondent needs to go.
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6. Dislikes buses.
7. Bus fare is too expensive.

The survey, conducted by a Denver research firm, was commissioned by the Regional Council of Governments. It confirms our belief that mobility of the elderly and handicapped is more important than total system vehicle accessibility.

For the first time in many of these peoples' lives, they do not have to depend on family or friends for transportation. They now have the freedom to move from one place to another via public transportation. They are also able to utilize public transportation without fear of having to fight for a seat or of being hurt by having to compete with the able-bodied. It has given them a sense of independence by not having to depend on others and at the same time made employment and education opportunities more accessible. Also as greater optimization is made in the use of these vehicles, health and recreational facilities, previously beyond the reach of many, will become a reality.

The RTD Handy Ride was created for the elderly and the handicapped. It is their system. It is special, because it serves their specific needs by enhancing their personal independence and thereby, their dignity. We believe these people don't feel "segregated" from the mainstream of their community—they feel their community cars enough to furnish them a special transportation system.

Thank you for listening to our story. I have with me today one of our Handy Ride users. His name is J. K. "Sparky" Ullmer. We'd be happy to answer any questions you may have.

Senator GARN. Thank you very much. That is very interesting.

I am glad Mr. Lancaster and Mr. O'Brien are here. I was going to ask Mr. Ullmer if there is some conflict here between total accessibility and mobility needs. I would be interested in your response as a user of handy rides.

And then I would like to ask Mr. Lancaster and Mr. O'Brien regarding the question of mobility versus total accessibility.

Mr. ULLMER. Well, the neatest thing about it, it makes you feel like you are a real person. You are not stuck in a house. I have been able to get to work in one way or another. However, we had one gal on our bus paying \$480 a month to operate taxi service for transportation when her father could no longer take her. I feel mobility is the need versus accessibility. I don't know how to balance the two. I am not here representing any particular organization at all, although I am active in a number of local Denver handicapped groups.

If you have an accessible bus stop that is two, three, or four blocks away, it is not really accessible until all steps, all snow, all ice, and all curbs are eliminated.

I think that is what is great about handy ride. I whip out there in my electric wheelchair, which can't be transported by any car. It is great to go into that bus and be tied down in that wheelchair and dropped off at work and not have to hassle with your wheelchair.

Always before with your wheelchair—when you are traveling, it is like you are getting ready to go swimming. You have to get into your swimming trunks to travel. It is like getting out of your wheelchair. You have to wait for people to wait on you.

I am very happy with the Denver system. It costs me two bits each way. I feel a little guilty every time I drop a quarter into the box, because I know that is not beginning to cover the price of the ride. I feel they need many, many, many, many more buses for the handicapped. I consider myself extremely fortunate to be on this pilot system. I can suggest virtually no improvement in the buses. The drivers have been very helpful and we just need many more buses like this in many, many more States.

Also, this sort of bus should be available for people that don't have jobs but need one to go look for a job. State rehabilitation services spend tens of thousands of dollars on individuals and there you are, sitting at home with no way to seek employment. If you have any specific questions, I would be glad to respond to them.

Senator GARN. I would be interested, inasmuch as we are running late, we did spend quite a bit of time with Mr. Lancaster and Mr. O'Brien. I would like a brief response to what you have heard on the testimony of this kind of a system.

Mr. LANCASTER. I have a lot of problems with such a system, if it was to be the answer for all handicapped people or elderly people. No. 1, it is a separate but equal type situation. No. 2, I think it is going to be much more expensive. Let's look down the road 40 or 50 years when eventually all the buses that we now have are going to be replaced anyway.

Stations will be crumbling and new stations will have to be built. There are areas that are now planning mass transportation systems. Take the Niagara Frontier, up around Buffalo, N.Y., they have been planning a new metro system. It seems to me by making totally accessible systems like this, it is going to be cheaper in the long run than having a separate system and as I understand these minibuses or dial-a-bus run anywhere from \$14,000 to \$25,000 apiece, and a regular bus even with the extra lifts and what not they put in probably would only run \$70,000 and would accommodate many, many more people, and you are only talking about one or two stops for a handicapped person.

So I think in the long run, such a system is going to be far more expensive.

It does have one advantage and probably does have a place. A system like this could handle the catastrophically handicapped people, the quadriplegic or someone that needs an artificial machine, that does get the benefit of that bus. Basically, I am against the separate system.

Senator GARN. How do you answer the comment about the snow in Denver which also occurs in Salt Lake?

Mr. LANCASTER. Snow is not a great problem for wheelchair users. As to his third contention, my answer to that is that every municipality should be knocking down the curbs that presently exist. There is snow removal. If there is snow removal, I don't see any real problem with weather.

Senator GARN. You ever lived in Salt Lake or Denver?

Mr. LANCASTER. I am from Buffalo, N.Y. originally. We have a bit of snow up there. That would be a problem. There is no doubt about it in the winter time. I think you are going to find a similar problem with any bus system if there is no snow removal.

Again, you get back to costs and I don't like to talk costs, because I think it is a right and shouldn't be evaluated in terms of dollars.

It takes a fair amount of snow before you have great problems.

Senator GARN. Do you have anything different to add?

Mr. O'BRIEN. Just a few personal observations.

Boston is also snow country. I can give you factual information by employers who have been cited for their employment of handicapped people. They can testify to the fact there is more absenteeism among able-bodied people during a snow than handicapped people. Many of my able-bodied fellow employees would criticize me for making the effort to get to work on a given day and say, if you weren't here, I wouldn't have to be here.

Handicaps have divergent opinions as anyone else. I would like to cite that for the record. That is one of the few examples that handicapped people are normal after all. A separate but equal system provides more mobility. It does. However, I would differ with the gentleman in terms of having the option available to me to choose a bus that I could get on to a fixed-route mode of operation. It just seems to me that if I have the same origin and destination as an able-bodied person standing next to me on the street corner, that I should get on that street given the same limitations that the bus only goes a specific route.

Senator GARN. I am sure both of you would agree that this is a fine program and you would wish other cities would do similar things if not only for an interim step.

Mr. O'BRIEN. I would say it is an interim step. I would see this could be a complementary system to a fixed-route system. I am very much aware that there would always have to be a component of specialized services.

However, I submit when a person comes to Denver, if you come to visit a particular city, you certainly don't have time to file an application and wait for it to be determined eligible, and so on, while you are waiting at home. I would hope that the fixed-route system would be accessible to all and that would be the major thrust although somewhere down the road, of course.

Senator GARN. I would like you to take note of one sentence in Mr. Reading's testimony. It says a fleet retrofit program will increase regular fleet accessibility.

They are not saying this is totally the answer in Denver. That brings me back to you. Do you have any particular timetable for a remodel, restore, basis as buses come in or how are you proceeding on your retrofit?

Mr. READING. On the fleet retrofit program, we are in progress right now with additional grab rails, step facings, stanchions, door chimes at the front door for people who are blind, to distinguish where the door is. As buses become available from the manufacturers, that are accessible, we will be adding them to our fleet. In the meantime, we felt that a primary step was important and that was the establishment of a separate system.

Senator GARN. In this retrofit, there are no lifting devices.

Mr. READING. No lifting devices.

Senator GARN. You don't plan to do that other than as new bus lifting devices become available?

Mr. READING. That is correct.

Senator GARN. You mentioned that your ride was 25 cents each way. Is that a flat fee?

Mr. READING. Yes, it is. It is a flat 25 cents for elderly and handicapped users of any ride at any hour of the day.

Senator GARN. Regardless of where they go?

Mr. READING. That is correct.

Senator GARN. So you are subsidizing that very heavily?

Mr. READING. To a great extent.

Senator GARN. Thank you very much. I appreciate the testimony. Mr. Ronis?

Mr. RONIS. My name is Leonard Ronis. I am general manager of the Cleveland Transit system.

I have with me Mr. John Kellog, who is general counsel of the Cleveland Transit system.

I wish to take this opportunity to thank the committee for granting me this opportunity to express the reaction of the Cleveland Transit system to the provisions of Senate bill 662, as related to elderly and handicapped transportation services.

After a review of the provisions as proposed, we are of the opinion that:

One: An attempt to provide access to all transit equipment will not result in mobility for the handicapped.

2. There is no cost-effective manner in which all handicapped individuals may be transported on regular transit equipment.

3. Implementation of all of the provisions of the bill would be doing a grave injustice to the nonhandicapped general public and to handicapped persons, and

4. Operators of mass transit systems will be forced to forgo Federal financial assistance if they are required to follow all provisions of this bill.

It is encouraging to note that this bill recognizes the need to set aside certain funds to be used to increase the information and technology which is available to provide improved transportation services for the elderly and handicapped.

We agree that there is a need for comprehensive report on the mass transportation needs of the elderly and the handicapped, and for technical studies and research, development, and demonstration activities related to the effective utilization of transit services by the elderly and handicapped.

However, a major thrust of the bill is to attempt to make mass transit equipment accessible to the handicapped by removing all physical barriers on the equipment. There appears to be a misconception that such accessibility to transit equipment by people restricted to wheelchairs will result in freedom of mobility. It should be understood that barrier-free ingress and egress from mass transit vehicles is only one short link in the chain of transportation functions leading to mobility.

Since mass transit is generally operated on a scheduled, fixed route basis, the vast majority of wheelchair-bound persons will encounter discouraging or prohibitive barriers in attempting to reach transit vehicles or will encounter such barriers between the point where

they leave the transit vehicle and the point at which they reach their destination.

Therefore, it should not be assumed that so-called barrier-free public transportation will result in the unlimited mobility of wheelchair-bound persons.

Consider the plight of a wheelchair-bound customer struggling through a 6-inch snowfall to reach a transit loading zone. With the prevailing weather conditions in the city of Cleveland, as in Utah, severe snowstorms may be anticipated between October and May. During the winter months, it is doubtful that any but the most hardy would venture out with any regularity, and as a result, only sporadic, if any, use of our regular routes by wheelchair-bound passengers could be expected during 7 months of the year.

It is evident that no matter what type of equipment is used, by operating a fixed route system, transit authorities cannot provide for the special mobility needs of all the handicapped population. We have estimated the number of potential transit users confined to wheelchairs in the Cleveland community to be approximately 300. Since there is a reasonable alternative available, an alternative which would have the potential of truly meeting the needs of the handicapped, it appears unjustifiable to inconvenience our 300,000 daily passengers in an effort to inadequately accommodate a very special minority.

It has been shown in demonstration after demonstration throughout the country that the best way that the handicapped can be provided with mobility is by specialized equipment operated in a manner which provides accessibility as well as mobility.

In Cleveland, we are involved in such a demonstration program to further define the needs of such persons, as well as to identify shortcomings in existing handicapped pickup and delivery systems.

We are committed to this demonstration and hope to draw from this experience valuable information which will allow us to make intelligent decisions regarding future programs.

Implementation of the provisions of this bill admittedly would eliminate a number of problems faced by some handicapped individuals who desire to use the rapid transit facilities or the bus routes operated by the Cleveland Transit System.

At the same time, rigid implementation of the requirements as they apply to individuals in wheelchairs would create a number of insurmountable problems in the areas of safety, scheduling, operating costs, and customer convenience.

The personal safety of all of our passengers is a major concern. Consider the normal movements of rapid transit trains operating at speeds of 50 to 60 miles per hour. I am sure you would agree that an unsecured wheelchair in an aisle represents a hazard to anyone on a train, as well as to the person in the wheelchair.

With normal station swell times of approximately 15 to 30 seconds, it is inconceivable that an individual in a wheelchair could press through peak period boarding and alighting passengers, board a train, and secure his wheelchair in a manner so that it would not be a hazard to himself or other passengers.

Because we operate multicar trains with one motorman and one attendant, it would be impossible to determine if a wheelchair-bound

person had boarded or secured himself in a safe manner without having an attendant on each car. We do not consider this type of rapid transit operation to be cost effective; in fact, providing an attendant for each car could easily triple our operating costs.

If we increased the station dwell time to allow for persons in wheelchairs to board and to safely secure their equipment—that is, assuming they wouldn't fall in the margin between the car and the platform—we would inconvenience the other passengers by lengthening our trip. Furthermore, we would have to add vehicles to the line solely to compensate for increased running times. Again, this is not a cost-effective solution.

In the area of scheduling services designed to meet the majority of passenger demands, we would anticipate that rigidly following the requirements of the bill would be disruptive and costly. The necessary seating arrangements and reduction of seated capacity of the equipment, in conjunction with the unpredictable delays caused by boarding and existing wheelchair-bound passengers, will require an increase in the number of vehicles scheduled and a reduction in overall system speed.

Using our present bus fleet, as an example, the retrofit required to seat passengers confined to a wheelchair would reduce the capacity from 50 to 40 seats. This appears to be a minor adjustment; however, when it is applied to systemwide, we find that 70 to 80 additional buses would be required to maintain the present peak-hour loading standards.

As an exhibit to my presentation, I have provided data regarding increased costs that would result from the reduction of operating speeds which could be anticipated if the bill's requirements were followed as proposed.

In summary, the implementation of these provisions would be a prohibitive costly requirement for the Cleveland Transit System, as well as for all other transit operators. We have estimated the implementation cost for our system to exceed \$42 million in capital and an additional \$9.9 million in annual operating costs. This does not include costs of rebuilding rapid transit stations and installing elevators, nor the additional expenses involved in insurance, maintenance of increasingly sophisticated equipment, or the paving of thousands of bus stops.

Through section 5 of the National Mass Transportation Assistance Act of 1974, formula funds of \$56 million are to be made available to the Cleveland urbanized area through Federal fiscal year 1980. However, the cost to Cleveland for implementing the provisions of S. 662 would far exceed that amount.

When we consider the prohibitive cost of implementing these provisions as well as the operational problems involved, we are forced to conclude that the Cleveland Transit System would be prohibited from obtaining financial assistance with such costly "strings" attached.

Although this action would undoubtedly lead to further deterioration of transit facilities in the Greater Cleveland area, it would be the only rational route to take when the alternatives are considered.

Without badly needed Federal operating assistance, there would be similar deterioration in system service and ridership resulting in adverse social, environmental, and economic impacts on the entire community.

There are a number of other questions related to problems of transporting the handicapped which should be resolved before urban transit systems are required to redesign their equipment to accommodate wheelchair-bound passengers:

Who will assume the responsibility for assisting these passengers in boarding and alighting, and who will assume the responsibility of assuring that the wheelchair is properly secured? It is unlikely that bus and rapid transit operators would voluntarily assume such added responsibilities.

What will be the reaction of the thousands of present riders who will have their journey to work lengthened due to reduced operating speeds? We would hope that they would be tolerant; however, we may expect that many will seek a faster alternate mode of transportation.

Who can and will assure bus operators that designated stops are clear of obstructions which may be hazardous to the operation of a wheelchair lift that protrudes from the side of a vehicle? At present, the police forces cannot keep all of our 6,000 stops clear of illegally parked autos.

We have pointed out the magnitude of the operational and financial problems, conservatively estimated at being in excess of \$50 million for the Cleveland Transit System alone and have cited other concerns which must be resolved before all provisions of the bill may be implemented. Let us now examine some alternatives available to transit operators.

Based upon our current experience, in specialized services, we believe that true mobility can be provided to individuals in our community with ambulatory restrictions. These services could be provided at an annual cost of approximately \$2 million—a fraction of the amount that would be required to provide accessibility with our standard equipment.

Such services would be operated with specially equipped vehicles, manned by a driver and an attendant and would provide door-to-door rides from origin to destination. But, most important, this \$2 million would provide both accessibility and mobility.

To insure the current high standards of public transit, it will be necessary to establish special funds from which transit operators can provide special services for the handicapped. Grants should be provided for this purpose on the basis of 100 percent of capital and operating expenses. Current funds available to transit operators are already woefully inadequate to meet present needs.

It would certainly not be consistent with the cost effective philosophy of UMTA to divert already inadequate financial resources from the vast majority of our urban populations to a relatively small group.

We respectfully suggest that the committee give further consideration to the effects of implementing the requirements regarding the modification of standard transit equipment and we would advise against the implementation of such regulations until such time that metropolitan planning agencies have had an opportunity to systematically inventory the specialized needs of the elderly and handicapped, to analyze those needs in light of alternative programs designed to improve transportation services, and to report their findings.

Until such time as there have been more comprehensive demonstrations with Federal funds of how transit systems can provide alternate solutions, it would be unwise to insist upon the proposed prohibitively expensive modifications of transit vehicles and facilities.

I have some data attached to the written presentation which I believe you have.

Senator GARN. Yes, we will be happy to include that in the record. What is the population of Cleveland?

Mr. RONIS. The metropolitan population of Cleveland is 2 million, the city is 800,000.

Senator GARN. The reason I asked that was your figure of 300.

Mr. RONIS. I am talking about wheelchair-bound handicapped.

Senator GARN. Mr. Reading testified there were 729 that they know about.

Mr. RONIS. Again, I said those that would make use of the vehicles. Our estimate was 900 and we assume that 33 percent of them would use the service.

Senator GARN. It seems like a small number.

Mr. RONIS. The data was developed by the Cleveland Board of Education research staff. I think in proportion, it is about the same.

Senator GARN. 729.

Mr. RONIS. We are slightly larger.

Senator GARN. I would like to go back to Mr. Reading for a moment. I listened with interest to your pilot program in Denver and you didn't say whether you were for or against S. 662 in your testimony.

Mr. READING. Our purpose in being here is to let you know what it is we are doing. We are opposed to S. 662 as it applies to making our current fleet totally accessible. We are not opposed to the manufacturers' developing a vehicle and making it available to us in the future, as we replace our current vehicles.

Senator GARN. Would you just in big generality, estimate that your costs would be similar in Cleveland? I don't mean total amounts, but per bus on your existing stock?

Mr. READING. Yes, we have estimated it would cost approximately \$14,000 per bus to go through a complete retrofit program.

Some of those buses we have on our property now are worth \$200 in scrap.

Senator GARN. So neither one of you have any objection to new buses being done in this manner?

Mr. RONIS. I do, sir. I think it is a terrible mistake to require the entire system to be rebuilt or made in a different manner to accommodate this small number of people who can be accommodated much better by small vehicles individually dispatched to take care of them, whether on a subscription basis, as in Denver, or on a dial-a-bus basis, which we have in Cleveland.

It is working satisfactorily in those neighborhoods where it is being done. They are getting better service from their door to their destination.

Senator GARN. I can understand retrofit of older vehicles. I have been around enough airplanes and have seen those things put back together in doing refits and all sorts of things and the high cost of doing

that but normally on an assembly line, if you have developed a new mechanical system it doesn't become that tremendously expensive to incorporate it into the buses compared to the cost.

Mr. RONIS. Senator, the cost of the vehicle itself is a negligible aspect. The main point I addressed myself to was the operating cost. It slows down the operation of that vehicle. In our system, if you slow down the average speed time by 1 minute, you are costing the system \$3 million a year. We would estimate that the cost of the slower speed resulting from boarding at least one handicapped person on a route—you might have more than one or you might have one—would be about 5 minutes per average trip. That results in the necessity of having more buses just to accommodate the same number of people that you presently have.

Senator GARN. What about in Denver. How do you feel about the operating times?

Mr. READING. We have to agree completely with Cleveland. My hope is that technology will advance to the point where if people desire to use a regular transit system, but who are confined to a wheelchair, that the manufacturers could come up with a bus that will not take very long for that person to board.

We are looking at different approaches that would not require a lift, would have a ramp. We feel that where it takes approximately 5 minutes from the time a bus stops for a person in a wheelchair until it starts again, that a lower floor—such as our buses with an 18½-inch floor—with a ramp may cut that time down to maybe 20 or 30 seconds. Then you are talking feasibility in terms of total accessibility.

I have to agree with Mr. Ronis, if every bus is to be equipped with a lift and it takes 3 to 5 minutes to board that bus, the cost and inconvenience to the system and the majority of its customers is just too much.

Senator GARN. Thank you very much, gentlemen. We have kept you a long time. I appreciate your testimony. Although you have had the very most junior Senator on the committee, I have had great interest in what all of you had to say today.

The subcommittee will stand in recess until 10 tomorrow morning.

[Whereupon, the subcommittee adjourned, at 12:35 p.m. to reconvene at 10 a.m., Thursday, June 19, 1975.]

[Complete statement of Mr. Ronis follows:]

STATEMENT OF THE CLEVELAND TRANSIT SYSTEM ON ELDERLY AND HANDICAPPED TRANSPORTATION SERVICES

(Presented by Leonard Ronis, General Manager)

My name is Leonard Ronis and I am General Manager of the Cleveland Transit System. I wish to thank the Committee for granting me this opportunity to express the reaction of the Cleveland Transit System to the provisions of Senate Bill 662, as related to elderly and handicapped transportation services.

After a review of the provisions as proposed, we are of the opinion that:

- (1) An attempt to provide access to *all* transit equipment will not result in mobility for the handicapped;
- (2) There is no cost effective manner in which *all* handicapped individuals may be transported on *regular* transit equipment;
- (3) Implementation of all of the provisions of the Bill would be doing a grave injustice to the non-handicapped general public and to handicapped persons; and
- (4) Operators of mass transit systems will be forced to forego Federal financial assistance if they are required to follow all provisions of the Bill.

It is encouraging to note that this Bill recognizes the need to set aside certain funds to be used to increase the information and technology which is available to provide improved transportation services for the elderly and handicapped. We agree that there is a need for a comprehensive report on the mass transportation needs of the elderly and the handicapped, and for technical studies and research, development, and demonstration activities related to the effective utilization of transit services by the elderly and handicapped.

However, a major thrust of the Bill is to attempt to make mass transit equipment accessible to the handicapped by removing all physical barriers on the equipment. There appears to be a misconception that such accessibility to transit equipment by people restricted to wheelchairs will result in freedom of mobility. It should be understood that barrier-free ingress and egress from mass transit vehicles is only one short link in the chain of transportation functions leading to mobility. Since mass transit is generally operated on a scheduled, fixed route basis, the vast majority of wheelchair-bound persons will encounter discouraging or prohibitive barriers in attempting to reach transit vehicles or will encounter such barriers between the point where they leave the transit vehicle and the point at which they reach their destination. Therefore, it should not be assumed that so-called barrier-free public transportation will result in the unlimited mobility of wheelchair-bound persons.

Consider the plight of a wheelchair-bound customer struggling through a 6'' snowfall to reach a transit loading zone. With the prevailing weather conditions in the City of Cleveland, severe snow storms may be anticipated between October and May. During the winter months, it is doubtful that any but the most hardy would venture out with any regularity and, as a result, only sporadic, if any, use of our regular routes by wheelchair-bound passengers could be expected during seven months of the year.

It is evident that no matter what type of equipment is used, by operating a fixed route system, transit authorities cannot provide for the special mobility needs of all the handicapped population. We have estimated the number of potential transit users confined to wheelchairs in the Cleveland community to be approximately 300. Since there is a reasonable alternative available, an alternative which would have the potential of truly meeting the needs of the handicapped, it appears unjustifiable to inconvenience our 300,000 daily passengers in an effort to inadequately accommodate a very special minority.

It has been shown in demonstration after demonstration throughout the country that the best way that the handicapped can be provided with mobility is by specialized equipment operated in a manner which provides accessibility as well as mobility. In Cleveland, we are involved in such a demonstration program to further define the needs of such persons, as well as to identify shortcomings in existing handicapped pick-up and delivery systems. We are committed to this demonstration and hope to draw from this experience valuable information which will allow us to make intelligent decisions regarding future programs.

Implementation of the provisions of this Bill admittedly would eliminate a number of problems faced by some handicapped individuals who desire to use the rapid transit facilities or the bus routes operated by the Cleveland Transit System. At the same time, rigid implementation of the requirements as they apply to individuals in wheelchairs would create a number of insurmountable problems in the areas of safety, scheduling, operating costs, and customer convenience.

The personal safety of all of our passengers is a major concern. Consider the normal movements of rapid transit trains operating at speeds of 50 to 60 miles per hour. I'm sure you would agree that an unsecured wheelchair in an aisle represents a hazard to anyone on a train as well as to the person in the wheelchair.

With normal station dwell times of approximately 15 to 30 seconds, it is inconceivable that an individual in a wheelchair could press through peak period boarding and alighting passengers, board a train, and secure his wheelchair in a manner so that it would not be a hazard to himself or other passengers. Because we operate multi-car trains with one motorman and one attendant, it would be impossible to determine if a wheelchair-bound person had boarded or secured himself in a safe manner without having an attendant on each car. We do not consider this type of rapid transit operation to be cost effective, in fact, providing an attendant for each car could easily triple our operating costs.

If we increased the station dwell time to allow for persons in wheelchairs to board and to safely secure their equipment, we would inconvenience the other passengers by lengthening their trip. Furthermore, we would have to add vehicles to the line solely to compensate for increased running times. Again, this is not a cost effective solution.

In the area of scheduling services designed to meet the majority of passenger demands, we would anticipate that rigidly following the requirements of the Bill would be disruptive and costly. The necessary seating arrangements and reduction of seated capacity of the equipment, in conjunction with the unpredictable delays caused by boarding and existing wheelchair-bound passengers, will require an increase in the number of vehicles scheduled and a reduction in overall system speed.

Using our present bus fleet as an example, the retrofit required to seat passengers confined to a wheelchair would reduce the capacity from 50 to 40 seats. This appears to be a minor adjustment; however, when it is applied systemwide, we find that 70 to 80 additional buses would be required to maintain the present peak-hour loading standards.

As an exhibit to my presentation, I have provided data regarding increased costs that would result from the reduction in seating capacity and from the reduction of operating speeds which could be anticipated if the Bill's requirements were followed as proposed.

In summary, the implementation of these provisions would be a prohibitively costly requirement for the Cleveland Transit System, as well as for all other exceed operators. We have estimated the implementation cost for our system to exceed \$42 million in capital and an additional \$9.9 million in annual operating costs. This does not include costs of rebuilding rapid transit stations and installing elevators, nor the additional expenses involved in insurance, maintenance of increasingly sophisticated equipment, or the paving of thousands of bus stops.

Through Section 5 of the National Mass Transportation Assistance Act of 1974, formula funds of \$56 million are to be made available to the Cleveland Urbanized Area through Federal fiscal year 1980. However, the cost to Cleveland for implementing the provisions of S. 662 would far exceed that amount!

When we consider the prohibitive cost of implementing these provisions as well as the operational problems involved, we are forced to conclude that the Cleveland Transit System would be prohibited from obtaining financial assistance with such costly "strings" attached. Although this action would undoubtedly lead to further deterioration of transit facilities in the Greater Cleveland Area, it would be the only rational route to take when the alternatives are considered.

Without badly needed Federal operating assistance, there would be similar deterioration in system service and ridership resulting in adverse social, environmental and economic impacts on the entire community.

There are a number of other questions related to problems of transporting the handicapped which should be resolved before urban transit systems are required to redesign their equipment to accommodate wheelchair-bound passengers:

Who will assume the responsibility for assisting these passengers in boarding and alighting, and who will assume the responsibility of assuring that the wheelchair is properly secured? It is unlikely that bus and rapid transit operators would voluntarily assume such added responsibilities.

What will be the reaction of the thousands of present riders who will have their journey to work lengthened due to reduced operating speeds? We would hope that they would be tolerant; however, we may expect that many will seek a faster alternate mode of transportation.

Who can and will assure bus operators that designated stops are clear of obstructions which may be hazardous to the operation of a wheelchair lift that protrudes from the side of a vehicle? At present, the police forces cannot keep all of our 6,000 stops clear of illegally parked autos.

We have pointed out the magnitude of the operational and financial problems, conservatively estimated at being in excess of \$50 million for the Cleveland Transit System alone and have cited other concerns which must be resolved before all provisions of the Bill may be implemented. Let us now examine some alternatives available to transit operators.

Based upon our current experience in specialized services, we believe that true mobility can be provided to individuals in our community with ambulatory restrictions. These services could be provided at an annual cost of approximately \$2 million—a fraction of the amount that would be required to provide accessibility with our standard equipment. Such services would be operated with specially equipped vehicles, manned by a driver and an attendant and would provide door-to-door rides from origin to destination. But, most important, this \$2 million would provide both accessibility and mobility.

To insure the current high standards of public transit, it will be necessary to establish special funds from which transit operators can provide special services for the handicapped. Grants should be provided for this purpose on the basis of

100% of capital and operating expenses. Current funds available to transit operators are already woefully inadequate to meet present needs. It would certainly not be consistent with the cost effective philosophy of UMTA to divert already inadequate financial resources from the vast majority of our urban populations to a relatively small group.

We respectfully suggest that the Committee give further consideration to the effects of implementing the requirements regarding the modification of standard transit equipment and we would advise against the implementation of such regulations until such time that metropolitan planning agencies have had an opportunity to systematically inventory the specialized needs of the elderly and handicapped, to analyze those needs in light of alternative programs designed to improve transportation services, and to report their findings. Until such time as there have been more comprehensive demonstrations with Federal funds of how transit systems can provide alternate solutions, it would be unwise to insist upon the proposed prohibitively expensive modifications of transit vehicles and facilities.

CALCULATION OF INCREASED COSTS DUE TO ELDERLY AND HANDICAPPED REGULATIONS

RAPID TRANSIT SYSTEM

Additional vehicles required to offset loss in seating capacity :

Current seats in rapid transit cars : 54.

Lost seats due to wheelchair berthings : 12.

Net reduction in rapid transit seated capacity : 22 percent.

Current vehicles in rapid transit fleet : 116.

Additional volume necessary to offset lost capacity : 22 percent.

Additional vehicles necessary to offset lost capacity : 25.

1974 operating cost of rapid transit system : \$6,000,000.

1974 operating cost/vehicle : \$51,700.

Additional operating cost for 25 vehicles : \$1,300,000.

Additional vehicles required due to increased running time :

Current running time of rapid transit :

East : 15 minutes.

West : 20 minutes.

Estimated additional scheduled time for wheelchairs : 5 minutes.

Increased running times of 33 percent East and 25 percent West.

Average increased running times of 30 percent.

Current vehicles in rapid transit fleet : 116.

Additional vehicles necessary to maintain current headways : 35 (30 percent).

Additional operating expenses for 35 vehicles : \$1,800,000.

BUS SYSTEM

Additional vehicles required to offset loss in seating capacity :

Current seats in buses : 50.

Lost seats due to wheelchair berthings : 6.

Net reduction in bus fleet seated capacity : 12 percent.

Current vehicles required in CTS bus fleet : 632.

Additional volume necessary to offset lost capacity : 12 percent.

Additional vehicles necessary to offset lost capacity : 76.

1974 operating cost of bus system : \$28,442,000.

1974 operating cost/vehicle : \$45,000.

Additional operating cost for 76 vehicles : \$3,400,000.

Estimated additional scheduled time for wheelchairs : 5 minutes.

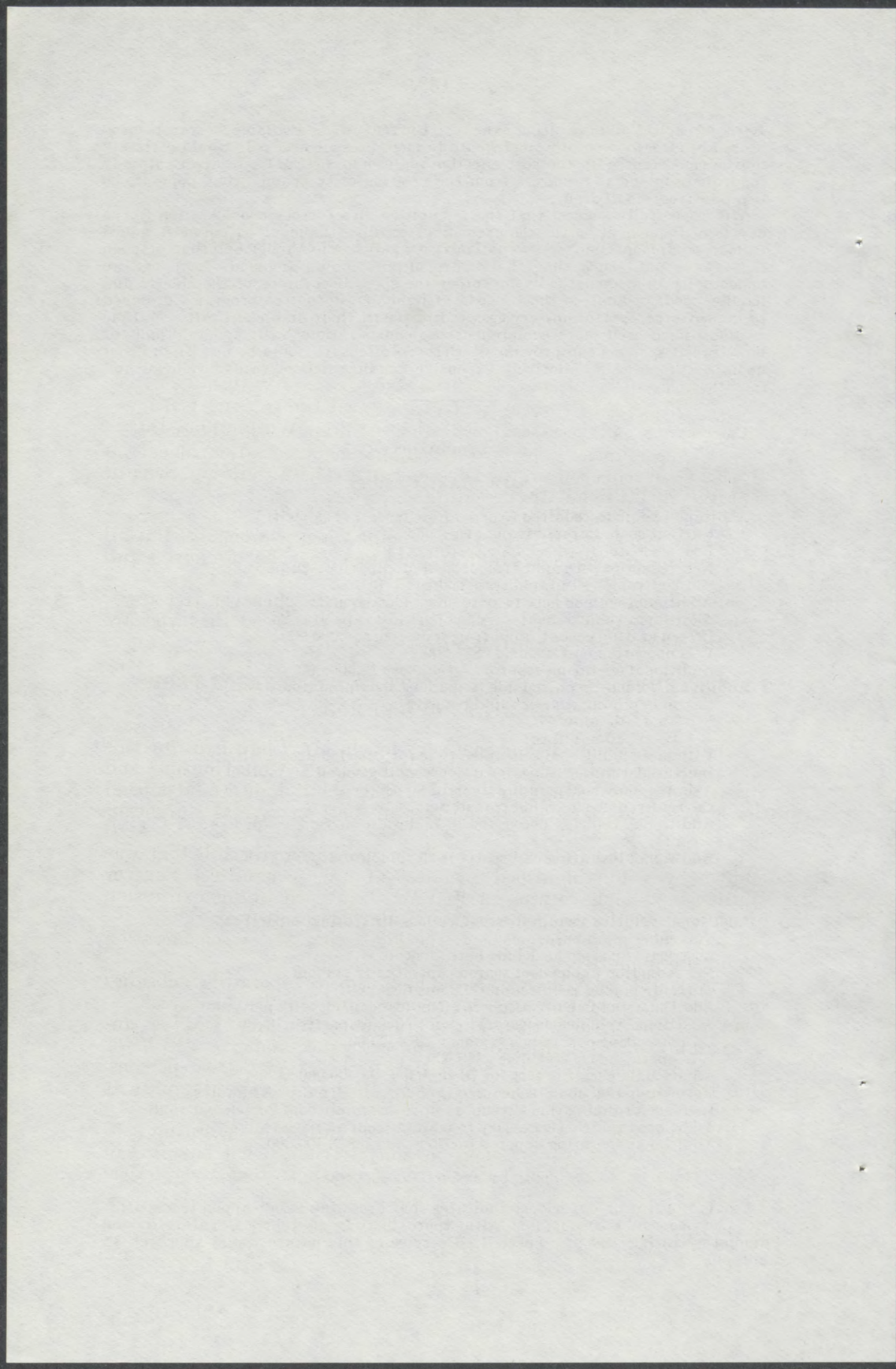
Increased running times would require one additional vehicle per route.

Additional vehicles necessary to maintain current headways : 75.

Additional operating expense for 75 vehicles : \$3,400,000.

DEMAND-RESPONSIVE SYSTEM

Current operating experience indicates that areawide handicapped transportation service could be supplied with approximately 40 vehicles. The estimated annual operating cost of a specialized service of this nature would approach \$2 million.



URBAN MASS TRANSPORTATION—1975

THURSDAY, JUNE 19, 1975

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS,
SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS,
Washington, D.C.

The subcommittee was reconvened, pursuant to adjournment, at 10:05 a.m. in room 5302 of the Dirksen Senate Office Building, Senator Harrison A. Williams, Jr., presiding.

Present: Senators Williams and Garn.

Senator WILLIAMS. I know that Senator Garn who has been at all of our hearings, will want to hear your statement, but we have a full group of witnesses today, so we will proceed.

Senator STAFFORD. I'm ready, Mr. Chairman, whenever you are.

Senator WILLIAMS. All right. We are very pleased that you are here to make a statement on this bill.

STATEMENT OF ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. Thank you very much, Mr. Chairman, for this opportunity to appear before this Subcommittee on Housing and Urban Affairs in connection with S. 662, a bill that would amend the Urban Mass Transportation Act of 1964 in several significant ways.

I was delighted to be able to join in sponsoring the bill that was offered by a distinguished member of this committee, Senator Williams, and I have been pleased and heartened by his expression of support for the provisions of particular concern to me.

I have two major interests in the legislation under consideration by this subcommittee.

First is the provision that would authorize operating subsidies for mass transportation agencies in rural and small urban areas.

As you know, the Urban Mass Transportation Act, UMTA, authorizes up to \$500 million of Federal assistance under section 3 for areas of the country with population of less than 50,000 persons. But, this Federal assistance is restricted solely to capital grants at present.

Other provisions of the law authorize \$4 billion in operating subsidies for public transportation, but only to States that have urban areas; that is, that have cities with population of at least 50,000 persons.

Thus, present law contains no provision for operating subsidies for transportation agencies that operate in cities of less than 50,000 persons. This despite the fact that one of the ground-breaking features of the law is that it is the first Federal mass transit act to provide a subsidy for public transportation operating expenses.

The effect of all of this has been to prevent operating subsidies for small bus companies that serve small urban and rural areas—and also to provide no operating subsidies at all to the States of Vermont and Wyoming, simply because they are the only States in the Union without an urban area: a city of 50,000 persons.

Vermont's Legislature has recently created a new cabinet-level agency of transportation that is designed to improve the State's ability to meet public transportation problems. Clearly, the inability of the State to qualify for any sort of Federal operating subsidy is a severe handicap to its operation of the new agency of transportation:

In addition, the Chittenden County Transportation Authority, located in Vermont's most populous county, at present operates one of the most successful and efficient small bus companies in the Nation.

It provides bus service among and within the communities of Burlington, South Burlington, Winooski, and Essex Junction—four communities whose total population, incidentally, far exceeds 50,000 persons. This bus service serves several major industries, a medical center, the State university, and several colleges. It is vital to the economic health of the region and, in addition, during this period of recession, provides 26 full-time jobs and 14 part-time jobs.

The Chittenden County Transportation Authority operates 18 buses, including 13 that were purchased with the help of a capital grant from UMTA of more than \$570,000. It has experienced a steady increase in ridership, with a 35-cents regular fare and an offpeak fare of 25 cents.

Despite this steady increase in ridership, and despite financial support from the four communities it serves, the Chittenden County Transportation Authority is operating at a deficit. I understand it faces a projected operating deficit of about \$130,000 in the fiscal year that will begin July 1.

This deficit is not the result of any inefficiencies. I am told that this Vermont publicly owned bus company, which took over when a private bus company went out of business about 2 years ago, operates at a cost of less than 74 cents per vehicle-mile traveled—and that is one of the lowest operating figures in the Nation.

The problem is simply that mass public transportation companies cannot operate in the black on the fare box alone. The Urban Mass Transportation Act recognizes this fact of life in the 1970's. It is ironic that UMTA, which has helped purchase the buses for this well-run operation, is prohibited by law from providing necessary operating subsidies to continue its support for the system.

In addition, several other small urban places and some rural areas in Vermont, including my home city of Rutland, have plans to provide their citizens with public transportation facilities. It is vital that they be eligible to receive the same kind of operating subsidies that the Federal Government is making available to communities in other States.

I am confident that members of this subcommittee will also agree that simple justice requires that communities in Vermont and Wyoming should not be discriminated against in this important area of Federal participation.

Later today, Mr. Chairman, you will hear Mayor Gordon H. Paquette of Burlington, the distinguished heads of several of the other communities in the immediate vicinity of Burlington that I mentioned a moment ago, and the general manager of the Chittenden County Transportation Authority. I am confident that these gentlemen will be happy and able to provide you with further detail on the situation.

Turning to my second major interest in S. 662, I want to emphasize my support for the provision designed to provide for mass transportation assistance to meet the special needs of elderly and handicapped persons.

As the ranking minority member of both the Subcommittee on the Handicapped of the Committee on Labor and Public Welfare, and the Transportation Subcommittee of the Committee on Public Works, I am not particularly aware of the importance of transportation to all Americans, in urban areas as well as in rural parts of the country. I am very much aware of your interest in matters affecting the handicapped people of this country.

Immobility is one of the most serious consequences of physical handicap. It separates elderly persons and handicapped individuals from their fellow Americans all too often. It prevents these Americans from entering the mainstream of our national life and culture all too much.

Virtually all of the many excellent programs that have been enacted to assist our elderly and handicapped citizens will fail to achieve their goals if the proposed beneficiaries of these programs lack the transportation so essential for their full participation in the programs.

The purpose of the provision of the bill before you dealing with this matter is to assure full access for all Americans to a revitalized public transportation system.

I know of the Chairman's particular interest in this effort, as well as the interest of other members of the subcommittee. I am confident you will deal favorably with this proposal—as you will with the effort to provide equal treatment to Vermont and Wyoming in the matter of operating subsidies.

Senator WILLIAMS. I appreciate your statement very much, Senator Stafford, and I know that the members of the committee who read it will also. We expect that we will deal with this proposal favorably and if that comes to pass your contribution will be significant.

If I could explore just one or two points. The lack of population in two States, Vermont and Wyoming, shuts them out of all consideration under the operating assistance part of the mass transportation program, is that correct?

Senator STAFFORD. That's true.

Senator WILLIAMS. I would say that there are other areas, of course, in States that have cities of under 50,000 that would fit within the provisions of this bill also, but yours are clearly the only States that are shut out entirely.

Senator STAFFORD. That's right, Mr. Chairman. We are the only two States that are completely excluded from operating subsidies at present.

Senator WILLIAMS. We were quite disappointed with the Administration's viewpoint on this legislation as expressed by Mr. Herringer. He cites as a reason not to proceed the 1973 Highway Act where the Congress established the rural highway public transportation demonstration program. A 2-year demonstration effort slated to begin in fiscal year 1975—these are Mr. Herringer's words—"because this demonstration program is authorized for fiscal years 1975 and 1976, we suggest the \$500 million now available for rural and small urban areas not be used for operating assistance until fiscal year 1977."

It seems to me that this need has been clearly stated and that this type of delay could be ruinous in some situations. In fact some transit companies might go out of business. I'm sure that's not going to be the case in Chittenden County with the public transportation authority, but in some other areas I can see it happening.

Senator STAFFORD. Well, I quite agree, Mr. Chairman. I think if this fund is not available for subsidies right away that it puts a very severe burden on the Chittenden County Transportation Authority that I described for you. It will experience apparently a substantial deficit for this operation in Vermont next year, and if these funds are not available it will mean that smaller cities in my State and in many areas will not even undertake to start a public bus transportation system knowing that while they can buy the capital equipment they will have no way of meeting the cost of operation.

Senator WILLIAMS. Yours is a powerful statement and most persuasive and very helpful not only on the rural section of the bill dealing with operating expenses but also on the part of the bill dealing with the elderly and the handicapped. Certainly your position of responsibility and your demonstration of concern comes with great force. Just yesterday we were partners and passed in the Senate one of the finest expressions of national concern for handicapped people with our education bill. I'll never forget the vote. It was 83 to 10, which is very significant, and you were right in the center of that most hopeful development.

Senator STAFFORD. Thank you, Mr. Chairman. It's always a pleasure to work with you in the committees that we serve on together and it's my privilege now, Mr. Chairman, if it's appropriate at this time—

Senator WILLIAMS. I wonder if we could pause a moment. Senator Garn, I don't know if you had a chance to review Senator Stafford's statement. It is excellent.

Senator GARN. No; but I sit next to him on the floor, so if I have any questions I'll grab him there.

As long as I'm speaking, I'd like to welcome the mayor of Burlington. Gordon and I served on the National League of Cities board of directors together and spent a great deal of time working on various committees of the National League of Cities. So it's a pleasure to have you here this morning, Gordon.

Mr. PAQUETTE. Thank you, Senator Garn.

Senator STAFFORD. Mr. Chairman, it's a privilege for me to introduce the distinguished mayor of our largest community in Vermont,

the mayor of Burlington, the Honorable Gordon Paquette, who, in turn, will introduce those who are with him, if that's agreeable with the Chair.

Senator WILLIAMS. Mayor, we are very pleased to have you here this morning.

**STATEMENT OF GORDON PAQUETTE, MAYOR, BURLINGTON, VT.,
ACCOMPANIED BY DONALD BRUNELLE, MAYOR, WINOOSKI, VT.;
PAUL FARRAR, COUNCIL PRESIDENT, SOUTH BURLINGTON; AND
RALPH CRAMER, PRESIDENT, CHITTENDEN COUNTY TRANSPORTATION AUTHORITY**

Mr. PAQUETTE. Mr. Chairman, first I'd like to thank the committee for giving me this opportunity to come here to testify. I am here today with Mayor Edgar Czarnecki of Iowa City, Iowa, representing the National League of Cities and the United States Conference of Mayors.

I am currently president of the Vermont League of Cities and Towns, and have served as a member of the board of directors of the National League of Cities. I now serve as a member of the National League of Cities advisory board.

If I may, Mr. Chairman, I would like also to introduce some other concerned Vermont officials who have come to today's hearing. Mayor Donald Brunelle of Winooski, Council President Paul Farrar of South Burlington, and Town Manager Kevin Ryan of Essex, representing the municipalities which, with Burlington, are the members of the Chittenden County Transportation Authority. Also with us are Ralph Cramer, president of the transportation authority, and Robert Stewart, executive director of the Vermont League of Cities and Towns.

To understand our perspective, gentlemen, I believe it is important that I acquaint you with my city. Burlington, Vt., is a city of over 39,000 population, the largest city in a State which does not have, according to Federal criteria, a single urban area. But Burlington is, in fact, an urbanized center surrounded by more than 50,000 suburbanites. More than 11 percent of the local taxes collected in Vermont are collected in our city.

I appreciate this opportunity to speak for cities such as Burlington which are outside the so-called urbanized areas which are, in fact, urban cities. We have many of the same problems—and potentials—of the larger cities; we may differ in degree but not in substance. This applies to transportation as it does to other problem areas.

Congress has shown increasing awareness of the public mass transportation needs of small urban and rural areas. The 1973 Highway Act provided for a 2-year program of demonstration projects for public mass transportation on highways in nonurbanized areas.

In 1974, the act was amended to increase the 2-year authorization to \$75 million and expand the eligible projects to include operating expenses as well as the previously authorized expenditures such as purchase of buses.

The National Mass Transportation Assistance Act of 1974 authorized up to \$500 million over 6 years in discretionary capital grants for

small urban and rural areas. Unfortunately, the flexibility to use transit money for operating expenses as well as capital expenditures was limited to what the Federal Government recognized as urbanized areas, those over 50,000 population. Speaking for those cities discriminated against, I applaud Senator Williams for introducing S. 662, which would allow small urban and rural areas to use up to half of the \$500 million for operating assistance purposes.

Mr. Chairman, I certainly do not have to review for you and other members of this committee the decline in the number of mass transportation users in recent years or the dire need for operating subsidies to keep vital transportation services running effectively. However, most of the attention in Congress, and in the country, has been focused on the transportation needs of the larger urbanized areas.

We would like to direct your attention to the smaller urban areas. We in the Burlington area have faced the problem. The private carrier could not continue. Four municipalities created the Chittenden County Transportation Authority, using money from the original act. Our success has been impressive. During our first year of operation, the number of passengers was up 25.1 percent over the last year for the private carrier. Our second year was a 33.4 percent increase over our own previous year.

Unfortunately, our experience is practically unique. Recent statistics show that there are only 313 public transit systems in places of less than 50,000 population outside urbanized areas. There are, by comparison, 17,546 such places with a total population of 84,765,000.

If we are to revitalize and significantly expand public transportation services in small urban and rural areas, adequate funds are desperately needed for planning and capital. All our efforts, however, will be wasted if the new systems we develop cannot continue to operate. The attraction of public mass transit in small cities is usually not as evident as it is in our larger urban areas, especially to those driving to and from work. While air pollution, congestion, and parking costs are not overwhelming problems, the soaring cost of gasoline, and we are now advised it will climb again, is a threat to the automobile commuter which we should be ready to meet with the alternative of public transportation.

In addition, public transportation in smaller communities has a ready market in those persons who lack mobility in an automobile-oriented society—the young, the old, the handicapped, and the poor. These are the people who can least afford high fares and who often require services, such as Dial-A-Ride, which are more costly to operate. Small cities and rural areas therefore must have not only the financial assistance to develop effective transit systems to serve the needs of their residents, but also help in meeting the operating costs of providing the services. Many small cities have been struggling over the past years to provide such services. My own city of Burlington is but one example.

Mr. Chairman, I would also like to speak briefly about another issue addressed in S. 662 which is of concern to cities of all sizes—that is transportation services for the elderly and handicapped.

The National League of Cities and the U.S. Conference of Mayors have gone on record in support of the national policy mandated in the

recent Mass Transportation and Highway Act that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services. We support the need to move expeditiously in the planning and design of such facilities and services to assure effective implementation of this policy.

We are concerned, however, that total access to all transit facilities is not the only or necessarily the best means of achieving mobility for all elderly and handicapped citizens. For example, the inability to reach existing mass transit facilities is a major obstacle to using those facilities by many of the elderly and handicapped.

Our objective, therefore, should be "equal mobility" for all citizens. "Equal access" or "total accessibility" should be considered as only one alternative to be evaluated along with others by the local areas based on their particular needs and circumstances.

Senator WILLIAMS. Thank you very much, Mr. Mayor, and it's a most helpful statement and you are to be applauded with your colleagues of the other three communities in taking a situation that evidently was running downhill in terms of public transportation; is that right; one private company served the area?

Mr. PAQUETTE. That's right. They went out and we took over without a gap in time. We were very fortunate in that respect, that we took over and didn't allow it to cease operating.

Senator WILLIAMS. They announced that they were going out of business in that area?

Mr. PAQUETTE. Yes; they announced to us that they were going out and we immediately took steps to take over the operation and operate it and really we couldn't even buy those buses. We had to go out other places and buy buses and bring them in and operate them. We didn't lose 1 day's time in that.

Senator WILLIAMS. Let me ask you, you are creating an authority in the four municipalities?

Mr. PAQUETTE. That's right.

Senator WILLIAMS. What did you do to create the financial base for this public authority in transportation?

Mr. PAQUETTE. We first had to go to the legislature to create the authority and then we had to make application directly for Federal funding to purchase equipment, and this was done with great speed and a great deal of help from here in Washington which really put us in business very shortly.

Senator WILLIAMS. Then you started off with the equipment that had been used by the private carrier?

Mr. PAQUETTE. No. We—

Senator WILLIAMS. That's what I missed.

Mr. PAQUETTE. We could not purchase that equipment. The prices were a little out of line, but our people did go down to Springfield, Mass., and purchase a whole fleet of buses and brought them in so we were able to keep the system going without 1 day's loss.

Senator WILLIAMS. This was equipment that had been used in Springfield? It was used equipment and you brought it in?

Mr. PAQUETTE. Yes.

Senator WILLIAMS. What happened to Springfield? Did they go out of business?

Mr. PAQUETTE. No. I believe these were just used buses that they had for sale. I am informed that the C.R. & L. in Connecticut had these buses.

Senator WILLIAMS. And you started at 35 and 25 cents offpeak?

Mr. PAQUETTE. That's right.

Senator WILLIAMS. Was that last year?

Mr. PAQUETTE. 1973.

Senator WILLIAMS. And you started at that rate, and you're still there?

Mr. PAQUETTE. Yes; we're still there. They reduced it after they got going and put a straight 35 cents on it, but one of the concerns I have here—we have four communities who have got into a transportation authority. We can, anyone community, get out of that authority with 1 year's notice. I am concerned at the amount of the subsidies that we're getting into here that some of the people in our communities might think that we're spending a little too much on subsidies. I think we have a great opportunity here in the city of Burlington to give our people on the outside in the smaller communities some better service, and if we could get these subsidies I'm sure that we could find a great deal more transportation going on in the State of Vermont. It will mushroom out from the city of Burlington and from our four communities, but if we get jeopardized and the subsidies get so large that one community feels they shouldn't be paying any subsidies, we could lose the whole ball of wax.

Senator WILLIAMS. Well, now, that's the next question. What percentage of operating expenses are the communities putting in; that degree that is needed above the fare box return?

Mr. PAQUETTE. My community is putting in 60 percent and I can't remember the percentages, but it goes down with population figures.

Senator WILLIAMS. This is a new budget item for the city of Burlington?

Mr. PAQUETTE. That's right. It's a new budget item for all of the communities concerned here and certainly to get the communities concerned with transportation we had to put in a way that they could get out of the thing on a year's notice or we wouldn't have been able to have started.

Senator WILLIAMS. There seems to be something imaginative about the 35-cent fare. Did you copy that from New York?

Mr. PAQUETTE. No.

Senator WILLIAMS. That's the symbol of stability in New York City, the 35-cent fare. It gets a lot of attention.

You have done a remarkable job. Would you have been where you are without the Federal program being there to contribute?

Mr. PAQUETTE. No. I'm sure we would not have been.

Senator WILLIAMS. On your last observations with regard to the provisions of the bill dealing with the elderly and the handicapped. I'm not sure that I have the full import of your last full sentence on page 7, "our objective, therefore, should be equal mobility for all citizens. equal access or total accessibility should be considered as only one alternative to be evaluated along with others by the local areas based on their particular needs and circumstances."

I wonder if you could just amplify a bit on that.

Mr. PAQUETTE. I think that our concern in Burlington probably is like everyone's concern about the handicapped person not being able to take advantage of many things in our society, and we are moving in our city toward that objective and we feel quite strongly that along with our program that we have now that we should have a program going whereby we could provide that service to the handicapped people in the city of Burlington and surrounding communities.

We have a number of these people that do live there and do need transportation, and we feel quite strongly that we should be providing something for them. We have been thinking in terms of having one piece of equipment with these kind of things on it, rather than our whole fleet having them on it. We feel that we could service with one vehicle those people at this time.

Senator WILLIAMS. I'm obviously not familiar with your transit lines, but the area the authority embraces is a rather large geographical area, isn't it?

Mr. PAQUETTE. Yes.

Senator WILLIAMS. And I would imagine that in going out into the more rural areas that accessibility to the transit system is a problem for everybody, not just the elderly and handicapped. Am I right on that?

Mr. PAQUETTE. That's right, Senator. We do feel that if this bill were passed and the subsidies did come through we do have probably two more communities who would think very seriously about joining the authority and we would provide service for them.

We also feel very strongly that there are other smaller communities that we could get involved with providing transportation for them. That's why we think it's an important piece of legislation.

Senator WILLIAMS. Now this question of getting people to the system, that's what I'm dealing with in terms of the elderly and the handicapped. Are you suggesting a feeder service that would bring people to the regular system or a completely alternative system for especially designated people. In this bill it would be the elderly and the handicapped?

Mr. PAQUETTE. I think what we are suggesting is something like a dial-a-ride for handicapped people, that this would be a special service to them and nothing to do with our regular system. This would be a service whereby when they called they would be picked up at a certain time and dropped in the downtown area or where they were going. We feel that this could operate on our system with one vehicle at this time very well.

Senator WILLIAMS. I see. The Dial-A-Ride approach is tailored to a need but as you indicated it's been found to be quite expensive and it does need broader support than is now available.

Mr. PAQUETTE. That's right, and especially for the handicapped.

Senator WILLIAMS. I'm going to turn to Senator Garn before we geographically move to Iowa, but let me ask one question that's not particularly relevant. Do you have any interstate connection to Burlington for people from another State coming to Burlington on a daily journey to work?

Mr. PAQUETTE. No; In Burlington we don't have anyone from some other State coming in.

Senator WILLIAMS. The Plattsburgh-Burlington ferry is strictly for people who are not going on a work journey; is that right?

Mr. PAQUETTE. Yes; very few people, because of the lake separating us and because of the winter months, no transportation by boat, we find very few people from New York State coming to Vermont to work. There are a few.

Senator WILLIAMS. In terms of our transportation program in this area which started really on a work-related basis, we're not going to have to worry about the Burlington-Plattsburgh ferry, are we?

Mr. PAQUETTE. No.

Senator WILLIAMS. Who operates that, by the way?

Mr. PAQUETTE. Lake Champlain Transportation Co.

Senator WILLIAMS. It's a private company?

Mr. PAQUETTE. It's a private company.

Senator WILLIAMS. How many months a year?

Mr. PAQUETTE. It's running now pretty close to 9 months a year. It's running a little longer than it did.

Senator WILLIAMS. Then there's another ferry which goes all year round?

Mr. PAQUETTE. Rouse's Point or Cumberland Head goes until they freeze them in.

Senator WILLIAMS. Senator Garn?

Senator GARN. I just wanted to pursue this last paragraph. Yesterday we had a great deal of testimony on this particular subject, accessibility for the handicapped or the aged. It was primarily from the larger cities. We had Cleveland, Denver, and two very divergent viewpoints. One side presented that Dial-A-Ride, that mobility was not the answer; that was separate, but equal; and still discriminatory; and the only answer was total accessibility. That is, every bus and every bus system made to accommodate handicapped or aged with lifting devices, various mechanical things to make them accessible; and Denver pointed out a very successful Dial-A-Ride, at least at this point, using 12 minibuses equipped to handle handicapped. But all of the testimony on both sides was, as I say, primarily from the larger metropolitan areas.

Now even though you have testified that Dial-A-Ride would be expensive and one bus would handle it, I would assume that to convert your entire system and make every bus equipped would be far more expensive than the Dial-A-Ride; is that correct?

Mr. PAQUETTE. It certainly would; yes, sir.

Senator GARN. And in the rural area, Senator Williams was talking about the difficulty of the widespread routes with fewer passengers, fewer stops, the stops further apart, and I suppose in the rural areas this would probably be more true than in an urban area. Does that follow?

Mr. PAQUETTE. Oh, yes. That would follow, Senator.

Senator GARN. Because I assume you would have some rather long distances from someone's home outside the city to a bus stop?

Mr. PAQUETTE. Not really, the way our transportation system is set up. We wouldn't be having any long hauls for this.

Senator GARN. But what I mean, yesterday some of the testimony was that some people, particularly handicapped, might have a couple of blocks to go to negotiate curbs and so on. Would you have distances longer than that from bus stops?

Mr. PAQUETTE. Yes; it could be, and that's why I feel the Dial-A-Ride would serve our purpose much better than having all of our equipment equipped for that.

Senator GARN. In other words, I suppose you would feel, particularly in a smaller area, that if you had all of the buses equipped, that many of them might not be used at all, and yet you would not adequately be serving the handicapped?

Mr. PAQUETTE. That's right.

Senator GARN. Thank you. That's all I have, Mr. Chairman.

Senator WILLIAMS. Thank you, Senator Garn.

Gentlemen, do you have anything to add to the mayor's remarks before we go west to Iowa?

Mr. FARRAR. Not really, thank you.

Senator WILLIAMS. I hope the record reflected you're here.

Mr. FARRAR. I am chairman of the city council in South Burlington.

Mr. BRUNELLE. I'm the mayor of the city of Winooski.

Senator WILLIAMS. And the other is Essex Junction?

Mr. PAQUETTE. The manager of Essex Junction couldn't make the trip. We have the manager of our authority here, Mr. Cramer, who's the manager.

Senator WILLIAMS. Yours has been significant testimony. We are very grateful.

Mr. PAQUETTE. Thank you, Senator.

Senator WILLIAMS. Mayor Czarnecki of Iowa City, Iowa.

STATEMENT OF EDGAR CZARNECKI, MAYOR, IOWA CITY, IOWA

Mr. CZARNECKI. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, I'm Edgar Czarnecki, mayor of Iowa City, Iowa, a community of 47,000 population.

I support Mayor Paquette's view that we cannot provide public mass transportation services for our citizens if we cannot afford to operate our new buses—and we are becoming increasingly unable to do so in our small cities.

Senator Williams, without your diligent efforts over these past years, we still would not have Federal assistance for meeting transit operating deficits. But the 50,000 population cutoff for such assistance appears to us in somewhat smaller cities—especially those in the 25,000 to 50,000 range—to be an arbitrary figure. It does not reflect the needs of our cities—cities which are currently devoting large portions of very limited resources to maintain public mass transportation services.

Urban Mass Transportation Administrator Frank Herringer told this committee on Tuesday that the administration supports the language of S. 662 regarding operating assistance for small urban and rural areas, but prefers total flexibility in the use of the \$500 million authorization. We are pleased that the administration has taken this position and that it proposes to administer the program on a partial allocation/partial discretionary basis. This will enable UMTA to determine where the needs and the support are, and what type of funding mechanism should be employed. The result will hopefully be a new, adequately funded commitment to providing effective mass transportation services to the citizens of our small cities and rural areas.

I would like to add a note that is not in the prepared text. That is that Mr. Herringer also informed you that the administration favored the use of demonstration programs authorized by the 1973 Highway Act through fiscal years 1975 and 1976. He also said the administration will soon try to tie this into the highway bill and provide some provision for small urban and rural transit programs.

I'd like to make it clear that the demonstration program can be no help to small urban areas with existing systems that are now in financial trouble. I would also like to impose the idea of turning the small urban and rural transit programs over to the Federal Highway Administration and thus to the State highway departments. I feel that the record demonstrates our concern over the ability of the Highway Administration to administer transit programs.

The demonstration program authorized by the 1973 Highway Act was signed into law in August of 1973. The guidelines on the program were issued in March 1975 over 20 months later. On the other hand, UMTA was able to issue their regulations on the operating assistance program within the short span of 1 month.

I would like to take a few minutes to tell you what we in Iowa City are trying to do in mass transit with our limited local funds. I won't go through all the detail of the prepared statement, but I would like to give you some background.

The municipality of Iowa City instituted a conventional transit system in September 1971 that replaced a private system that had ceased operation. And 12 new 45-passenger buses were purchased with the assistance of the Urban Mass Transit Transportation Act of 1964. The fare was reduced from 25 cents to 15 cents, and the level of service was increased from 7 to 10 routes which provide a 20-percent increase in coverage and a 39-percent increase in mileage. From the beginning, we had a dramatic increase in ridership. In September 1971 through February 1972, we had a 165-percent increase in our patronage. This has continued, not as dramatically, but we are now almost up to 1½ million riders per year compared to the 500,000 approximate passenger ridership before the city took over the system. I detail some of the interim struggles to maintain the private operator in business. It included considerable subsidy by the city and also by the university. Iowa City is the home of the University of Iowa.

Just prior to taking over of the private system by the city there was a subsidization by the city of over \$80,000 to the private operator for the 14 months prior to September 1971. Our downtown area of the city joins the university and all of our buses go into the heart of the city and we have a central system that—we have a central location for all of the buses at the meeting point of the city and the university.

Prior to the city taking over only 3 percent of all the trips downtown occurred through the bus system. Now that has increased to 16 percent—16 percent of all the people coming into our downtown area are now coming via the bus.

We have added two additional General Motors passenger buses. These came out of our general revenue funds in 1974.

Now the bad news. The cost of operation of our system has continually increased because of wage salary increases, cost of oil, fuel, and so forth. We are now not quite but approximately contributing to the system \$300,000 per year.

We have a shuttle system that has buses going around both directions of the campus continuously. We also have a suburb of Coralville which operates its own independent transit system but also feeds passengers into the downtown city.

We are currently trying to secure capital assistance of a grant for 20 buses that would provide the university with new buses, the city with three additional buses, and Coralville with buses. We are almost completing the arrangements with UMTA. The university has some problems and they might not be able to come in at this time. If in fact the city of Iowa City secures this grant we would be the only city in the United States that would lease and work bus operations between the city and the university, a joint effort.

Senator WILLIAMS. What's the population of the university?

Mr. CZARNECKI. 20,000 which is included in our 47,000 to 48,000 figure.

I then mention the problems, as I'm sure have been pointed out many times, of the 50,000 population figure. I should point out our county has 75,000, the city has 48,000, Coralville has 46,000. So we are a very urbanized county, yet we don't qualify for any operating subsidies.

I would, of course, like to extend our appreciation for all the capital subsidies that we received, but now we are very tightly pressed to meet operating costs.

As I mentioned, we have a great impact on altering the load of transportation of people from the car to the bus. Our parking levels in the city have declined since we took over the buses. The city of Iowa City and all the cities in Iowa have a fixed limitation of the amount of property taxes that they can raise. We have a 30-mill limit imposed upon us by the State. A mill in Iowa City would now equate to about \$90,000 in taxes. So the deficit of the bus system of \$300,000 is well over 10 percent of our total operating budget. I will explain, however, funds are not taken directly from the operating budget.

We do have two other options in addition to the method we used to make up the operating deficit from the transit system. One, of course, is the increased fares and I think our past experience and those of other cities have cautioned us not to increase fares unless it's the last resort.

The other, we do have the authority to issue a 2-mill special transit tax assessment again because property taxes are so high we are not too interested in doing that—increase the burden of taxes of our citizens.

What we have done, and I have explained this in the written testimony, we originally used the property taxes to make up our deficits, but then it got too great and we used revenue sharing. We used about \$200,000 of the \$300,000 that comes from revenue sharing, general revenue sharing funds that we receive from the Federal Government.

Senator WILLIAMS. Have you been reelected since you did that?

Mr. CZARNECKI. No; but I would like to point out that—and the two budget hearings that I participated in since I have been on the city council, each of them have had extremely strong support for maintaining the 15-cent fare and in the case where we did use the revenue sharing extremely strong support from the citizens to use that vehicle, although as I mentioned here we are risking because we are

using the subsidy that we are not sure how long and what form will continue to meet an operating item in the budget and we did have and do have strong support from the citizens for continuation of the 15 cents. What we have done this year, we proposed to go up to a 25-cent fare starting July 1 with the proviso however if the State municipal assistance fund, which is a separate fund to all the cities of Iowa, was increased we would keep it at 15 cents. That's really what has happened and the State legislature has given us, all the cities in Iowa, more funds. The Governor hasn't signed the bill yet but hopefully he will this week, and then our fare will continue at 15 cents.

In summary, I'd like to state that there's no question that Iowa City has an extremely viable transit system as measured by the threefold increase in ridership since the city took over the operation of a private firm in September 1971. Yet even with this tremendous response by the public, the city, because of increasing costs has needed to secure additional and ever-increasingly larger amounts of subsidies for its system. It has managed to keep its 15-cent fare only by use of revenue sharing and State assistance programs. The restrictions of State limitation of property taxes has restricted this avenue as a source of funds for the system. The city of Iowa City annually subsidizes their system \$4.56 per capita. We realize that this subsidy is not all local taxes, but it is still a drain on revenue that could have been used for other needs within the city. Yet transit is so important to Iowa City that we have used this subsidy to a far greater extent than other cities.

In the appendix, I have listed some cities where the subsidies are in the area of \$1.50. Our annual rider per capita is 27.8 and I have a chart which shows cities in the 4-State region. We are far above all cities. St. Louis, Mo., being the closest.

I also have a figure that shows the amount of subsidy, the seven cities in Iowa over 50,000 receive under the bill and the amount of subsidies in the seven smaller cities put into the system is approximately one-third of that of the larger cities. In other words, the smaller cities do subsidize the bus system to a great extent.

I'd also like to point out that we had two systems in Iowa that had to discontinue service in 1967. Fort Dodge, Iowa, a city of over 30,000; and Muscatine, Iowa, a city of 22,000. The city of Fort Dodge recently has been studying the possibility of initiating mass transit operations, but two relatively large cities in the State of Iowa have discontinued transit service since 1967.

What we are basically asking is that the \$250 million be allocated for operating subsidies as proposed in Senate bill 662. A new bus, as you know, costs about \$60,000 today. We are subsidizing operation-wise each of those buses about \$20,000 a year. In a 10-year period, obviously the operating costs are far beyond that of the capital costs. We feel that the 50,000 population figure is an extremely arbitrary cutoff point. It really has no relation whatsoever to the viability of any particular transit system.

If in fact Iowa City I think as shown by the statistics has an extremely viable system and a high acceptability by its people, why should we be denied Federal subsidies? We would argue strongly that Congress pass the proposed amendment allocating \$250 million for operating subsidies and these sums not be allocated not on a blanket

across-the-board formula such as those already allocated, but rather with the Congress looking at the viability and feasibility of a system and determining some criteria by which to measure how these discretionary funds may be allocated. We have suggested several possible measurements. We feel that whatever reasonable criteria are promulgated by Congress, the city of Iowa City could meet those requirements. Thank you for the opportunity to appear before you today.

Senator WILLIAMS. Thank you, Mayor, for an excellent statement. We, of course, in developing our basic program did have to deal with the argument that it was merely a big city program. I think your testimony this morning is proof that dispells that notion and that capital grants have gone to significant areas of less than metropolitan size.

Mr. CZARNECKI. One of the statistics I don't have is the fact that Iowa City has more riders than any other city in Iowa except Des Moines, which is the capital, and it has a population five times as big as Iowa City. We are not too far behind Des Moines in ridership.

Again, I think it points out that we have an extremely large system ridershipwise but because of the population cutoff we receive no subsidies to operate the system.

Senator WILLIAMS. It would seem to me unwise to delay bringing the less populated areas under the operating assistance provisions of the act for transit. Smaller areas should have the option of using Federal funds for operating expenses. I would see no wisdom in delaying this action. I look at the results of what's happened in the State of Iowa. Not only as to the decline in service, but as to companies that are going out of business. So we can work these two together—the capital contribution and the operating assistance and perhaps we can then meet the needs of some of these communities that are losing service altogether.

Mr. CZARNECKI. All of our buses have been purchased through the Federal subsidy, the 12 we purchased in 1971, and we purchased a couple in 1974, and as I say, we have a grant application on file now for additional buses. So we have been able to secure capital funds. Our problem obviously is in the operation.

Senator WILLIAMS. You did not include in your very comprehensive statement the other section of our bill dealing with accessibility for the elderly and the handicapped.

Mr. CZARNECKI. No. We're working with that. Obviously, because we have a grant before UMTA now and that's part and parcel of their concern, how we would handle the problems of the handicapped, we have a very active group of veterans within the university and others who have been pushing for accessibility on our existing system. We do not have that now. We have a rural program, not connected with the city, that's called SEATS—area transportation system are the last three—this is for the rural area and to bring people into the city and take them from the city to the rural areas. The program is funded under the Older Americans Act through our State area agency for the aged. They do help and transport elderly, but they don't have lifts that they can take them into the bus. They are minibuses. They are equipped with steps and they—the driver assists people into them. We can't get a wheelchair in, but it's not designed specifically for that.

The proposal is to use this system to augment ours for the elderly and handicapped. The other alternative is the dial-a-ride or dial-a-cab really. The cost of this system is extremely high and the cab company in Iowa City has offered to provide this service for handicapped by purchasing a special handicapped bus, a bus equipped for the handicapped, that he would then transport people around this area.

So we are concerned and I was interested in Senator Garn's comment about the cost. If we had to equip all of our buses with lifts it would almost ruin our system because we couldn't maintain the level of service that we are providing now. It would destroy our headways and so forth and it could be a problem. This is a real concern because the University of Iowa is making a big attempt now to make the university accessible to the handicapped.

Unfortunately, there isn't any university in Iowa which the handicapped can go to school because none of the universities have accessibility and we are using some of our community development funds—the university is putting some money in—so we are cutting curbs and making our buildings accessible and they are making theirs. So hopefully we will have a large influx of handicapped people within the university community in the next few years and that will, of course, put an extra demand on our transit system.

Senator WILLIAMS. Senator Garn?

Senator GARN. I don't have any questions. I'd like to make a comment. You weren't here yesterday, Senator. There is another 15 cent fare. Salt Lake City's is 15 cents. It isn't 35 cents, and we had a very difficult situation. I'll just describe this again for you gentlemen's benefit as well as the chairman.

We had the typical situation of a reduction in travel on a system that in 1948 obviously was much smaller and a much smaller population with 30 million people a year who rode the buses. And even with the increased population a few years ago we were down to 3 million, 10 percent, and the private bus system went out of business.

There was some great difficulty for 2 or 3 years while we worked and waited for the legislature to adopt a law that would allow us to create a transit authority and subsidize up to half a million dollars a year from our city out of my budget to keep it going.

But since that time, the creation of the transit authority, it has expanded into a large area of three counties. All the municipalities within Salt Lake County, the fare has been reduced from 25 cents to 15 cents and thru a public referendum we are handling our operating subsidies through a quarter cent sales tax and, as a result, we are able to buy new buses and increase the route structure constantly. Every time I pick up a paper they are adding new routes, and we've been able to keep the 15 cent fare and the subsidy is coming from a quarter cent sales tax.

So although I have testified here before representing the National League of Cities, and there are certainly some communities that have no other alternative than Federal operating subsidies, there are also some others that we ought to be aware of who could do more on their own before they come back here.

I don't want you gentlemen to misunderstand me. I'm not saying that's the case in your cities, but we are going to have to watch as a Congress, particularly with our overall budget problems and the huge deficits that we are running, that we don't get into the tendency of helping communities that haven't done all they can first at their own level before they come back and ask for help; and I'm sure you mayors would agree that is a tendency that happens sometimes, but I was frankly quite surprised, as I said yesterday, that the people overwhelmingly voted—the referendum was about 2 to 1 to impose a quarter cent sales tax on all sales to subsidize the bus system. I frankly was not optimistic about it passing, but I was terribly wrong because it was a 2 to 1 vote.

So the bus system is coming back and doing it without Federal operating subsidies at this point.

Did you have a comment, Mayor?

Mr. CZARNECKI. Yes; because this occurs in all the discussions over Federal subsidies to cities—the local tax effort. The cities in Iowa do not have the option of any local taxes. We cannot even go to the people in a referendum on any local—we don't have any authority for any State sales or local income tax.

Senator GARN. We didn't either, and we had to go to the legislature for this permission. In fact, one of the chief sponsors wanted to go further. He wanted no fare. He's fought for it for years, a member of the legislature—totally no fare, and finance it with a half a cent sales tax; and that was also an option on the ballot and the people turned that one down.

I personally couldn't justify no fare. You'd get a lot of sightseers. The 15 cent fare seemed reasonable and anybody could afford it and no fare I think would invite all kinds of abuse and I couldn't see why we should subsidize to that extent when there are a lot of people who certainly could afford to pay, but both those options were on the ballot and the people picked the 15 cent rather than the no fare, and yet this particular legislator is still fighting, despite the fact it was on a public ballot, for a totally no fare system.

I have nothing else.

Senator WILLIAMS. Very well. Thank you, gentlemen. We are very grateful for your appearance and your statements were most helpful. Let me say right now that Senator Tunney had hoped to be here, but was unable to. Let us put his statement in the record at this point as though read.

[The statements of Mayor Czarnecki and Senator Tunney follow:]

Testimony of Mayor Edgar Czarnecki of Iowa City

Mr. Chairman, Members of the Committee, I am Edgar Czarnecki, Mayor of Iowa City, Iowa -- a community of 47,000 population. I am here with Mayor Paquette on behalf of our cities and the National League of Cities and U. S. Conference of Mayors in support of operating assistance for transit projects in small urban and rural areas.

I support Mayor Paquette's view that we cannot provide public mass transportation services for our citizens if we cannot afford to operate our new buses -- and we are becoming increasingly unable to do so in our small cities.

Senator Williams, without your dilligent efforts over these past years, we still would not have federal assistance for meeting transit operating deficits. But the 50,000 population cutoff for such assistance appears to us in somewhat smaller cities -- especially those in the 25,000 to 50,000 range -- to be an arbitrary figure. It does not reflect the needs of our cities -- cities which are currently devoting large portions of very limited resources to maintain public mass transportation services.

Urban Mass Transportation Administrator Frank Herringer told this Committee on Tuesday that the Administration supports the language of S.F. 662 regarding operating assistance for small urban and rural areas, but prefers total flexibility in the use of the \$500 million authorization. We are pleased that the Administration has taken this position and that it proposes to administer the program on a partial allocation/partial discretionary basis. This will enable UMTA to determine where the needs and the support are, and what type of funding mechanism should be employed. The result will hopefully be a new, adequately funded, commitment to providing effective mass transportation services to the citizens of our small cities and rural areas.

Let me take a few minutes to tell you what we in Iowa City are trying to do in mass transit with our limited local funds.

The municipality of Iowa City instituted a conventional transit system in September 1971 that replaced a private system that had ceased operation. 12 new 45-passenger buses were purchased with the assistance of the Urban Mass Transit Transportation Act of 1964. The fare was reduced from 25¢ to 15¢ and the level of service was increased from 7 to 10 routes which provide a 20% increase in coverage and a 39% increase in mileage. The service continued as before from 6:30 AM to 6:30 PM. No night time service was provided. All the routes had 30 minute headways and there was no University subsidy and no provisions were made for bus shelters or other amenities. The suburb of Coralville continued its own separate service. There was a considerable increase of patronage as a result of the reduced fare and the increase of the level of service. A 165% increase in patronage occurred from September '71 through February '72. This trend has continued, not as dramatically, but steadily, until 1974 the average total ridership is about 1,500,000 compared with an estimated passenger ridership of 500,000 before the City took over the system. Transit service in Iowa City had reached a crisis stage during 1970 as the private operator, in the face of the classical problem of declining patronage and rising costs, notified the city that he planned to cease operating transit service. The Iowa City Coach Company operated a continuous-service line-haul system, using 31- and 35-passenger coaches. The average age of the buses was nearly 14 years. There had been little attempt to expand service to new growth areas of the city, even though the city's population had increased by more than 40 percent in the 10-year period from 1960 to 1970. The level of service during the 1960s was fairly constant. The increase to a 25¢ fare in the spring of 1966 drove ridership to a record low and actually produced a decrease in revenue. In an effort to maintain some form of transit service, the university agreed to subsidize the transit system at \$3,000 per month, with the stipulation that university students be allowed to ride for a 10¢ fare. The result was an immediate doubling of ridership. Because of pressure from local

citizens, the city council agreed to share in the subsidy, increasing it to \$5,000 per month, and the general fare was reduced to 10 cents. This was discontinued in 1967 and the fare rose again to 25¢. In the spring of 1970, the owner, who had been operating without a franchise, threatened to terminate service as of June 6, 1970. As a stopgap measure, the city entered into an agreement with the private operator to continue service. The city agreed to pay the Iowa City Coach Company \$90 per day per route with the city retaining all revenues. As a result, the city has paid up to \$9,000 per month in subsidy. This agreement continued for 14 months at a total cost of \$81,805 (\$220,000 cost as compared to \$138,000 in revenues) until September 1, 1971, when the improved public service was implemented. Shortly after the system came into operation in September 1971, there was a question of providing additional bus service to alleviate the capacity problems at peak hours. The city in January 1972 did lease buses to provide 20 minute headways during the peak hours, in contrast to the 30 minute headways allowed at other times. This has continued during the peak months of January, February, March and April ever since.

Of prime importance is the impact of the new service on the number of trips to the Iowa City urbanized area. Prior level of service when it was in private hands attracted only 3% of all the trips to the downtown area. The new service increased this 16%. Also, to alleviate the capacity problem at peak hours, the city in 1974 purchased 2 additional General Motors coach buses 50-passenger size. Somewhat larger than the 45-passenger buses purchased in 1971. The funds for the 1974 buses came out of a portion of the city's General Revenue funds.

While the number of passengers greatly increased, beginning in 1972, the city did have problems financing the system. The total cost of the operation in 1972 was \$350,000; revenue was \$192,000; the deficit was \$159,000.^B This deficit increased to \$213,000 in 1973 and approximately \$300,000 in 1974. Again, while the number of passengers increased considerably, the increasing cost of wage and salary increases, and the tremendous increase in the cost of oil and fuel and other

commodities made the system continuously more subsidized by the taxpayers than had earlier been anticipated.

Interest in transit in the Iowa City area is extremely high. There are three agencies in the area that operate compatible transit systems. The city of Iowa City operates a traditional public transit system providing a low fare and reliable service. The University of Iowa operates a loop-route around the campus area utilizing approximately 12 buses and no fare. The suburb of Coralville operates a transit system which feeds into the downtown Iowa City area. The city of Iowa City is presently working on a grant from the Urban Mass Transportation Administration to act as lead agency in providing new equipment to the University system, the Coralville system, and to provide three additional buses for the Iowa City system. This type of cooperation between the University and the cities is, at the present time, unique in the nation and may give some indication of the commitment to public transportation by all agencies in the area.

The city of Iowa City is not eligible for operating subsidies under the Urban Mass Transportation Assistance Act of 1974, because of the lack of population. Present population of the city of Iowa City as ascertained in a special census completed last December is 47,744, slightly under the necessary 50,000 figure. Johnson County, of which Iowa City is the major city, has a population of 75,025. It therefore has sufficient county population. Although the city of Iowa City has over 60% of the total county population, and if the city of Coralville is added with an additional 6,000, there is almost 70% of the population in the county which can be classified as urbanized. However, we fail to meet the requirement that within the county, urbanized areas have a population density of over 1,000. This requirement is not met because of large annexation that occurred in the last few years which reduced the density of Coralville below the required 1,000. Iowa City is well above that density requirement. I am enclosing, as an appendix to this statement, a list of counties from 75,000 to 100,000 that do not now have cities with the necessary 50,000 core.^C There is only one city in

the United States, Sheboygan, Wisconsin, that has a population greater than Iowa City that is not eligible for subsidization. None of the approximately 75 cities and counties on this list has a density ratio near Iowa City's.

Our basic argument and, perhaps that of other cities, is that we have been very generously granted capital subsidies for new buses, but we are extremely tight pressed to meet operating costs. Because of a combination of low fares and increasing ecological concerns, we generated support of the citizens who are interested in utilizing mass transit. The impact on the parking system has been remarkable. Parking revenues have declined since the inauguration of the city operated system and it is estimated that about one half of the new patrons to the system formerly drove their automobiles. As indicated earlier, the first year subsidy to the system was taken out of the general taxing power of the City. Iowa cities are restricted by the State Legislature to spend no more than 30 mills for total general operations of the city. Currently in Iowa City, a mill assessment equates to about \$90,000 in taxes. A deficit of approximately \$300,000 is more than 3 mills or greater than 10% of our existing operating budget. The city has two other sources from which to secure funds in addition to any federal subsidies. One being the option to raise fares. The other is a special allocation of an additional 2 mill levy which can be assessed taxpayers to operate the bus system. The Council has strenuously rejected these two alternatives. The additional tax burden would be met with resistance by many citizens who are now burdened with excessively high property taxes as we all know. The 15¢ fare has been very important in attracting what is called in the industry choice riders; captive riders are those that have no other choice but to continue using the service if it were increased to say 25¢. The attempt, however, is to convince enough people to leave their car at home and use the transit as an alternative source of transportation and we feel that the 15¢ fare is most conducive to making that shift in transportation mode.

In 1973, the Council was faced with the increasing deficit. About this time, federal general revenue sharing was available. The Council strongly debated the feasibility of using the new federal money to make up a transit deficit. Although fiscal authorities within the city argued strenuously that it was unsound economic policy to use revenue sharing funds to meet reoccurring operating expenses, the Council reluctantly allocated these funds. This past year when again the question came up, the two options of increasing taxes and raising fares was again raised and, in fact, the Council tentatively voted to increase fares to 25¢, subject to an increase in the state municipal assistance program. Prior to this year, the State of Iowa allocated 4 million dollars for municipal assistance to all the cities and towns in Iowa. This amounted to approximately \$90,000 to the city of Iowa City, or about 1 mill. The Legislature in this session has proposed an increase in municipal assistance to 12 million dollars. This will enable us to continue our fares of 15¢, at least for the immediate future.

The problem obviously is that we need an additional source of financing to continue to meet the demand of ever increasing costs. Even though Iowa City does not suffer so severe a financial plight as most American municipalities, especially the larger communities in our Nation, it does not have sufficient funds to use for risk capital to play an active and innovative role in transit. The City could increase patronage by extending the level of service, constructing bus shelters, developing a program to market transit (which we have not done so far), increasing parking costs to reduce the number of cars in the downtown area, and integrating the transit system with a campus shuttle system to improve distribution. However, the increased revenues would not cover the increased costs, and therefore, still more subsidy would be necessary.

In summary there's no question that Iowa City has an extremely viable transit system as measured by the three-fold increase in ridership since the city took over the operation of a private firm in September 1971. Yet even with this tremen-

dous response by the public, the city because of increasing costs has needed to secure additional and ever-increasingly larger amounts of subsidies for its system. It has managed to keep its 15¢ fare only by use of revenue sharing and state assistance programs. The restrictions of state limitation of property taxes has restricted this avenue as a source of funds for the system. The city of Iowa City annually subsidizes their system \$4.56 per capita. We realize that this subsidy is not all local taxes, but it is still a drain on revenue that could have been used for other needs within the City. Yet transit is so important to Iowa City that we have used this subsidy to a far greater extent than other cities.

An appendix lists various comparisons of transit operations in cities over 50,000 in the four state area of Iowa, Nebraska, Missouri and Kansas.^D It shows that the local subsidies per capita in these cities, which includes such cities as St. Louis, Kansas City, Lincoln, Des Moines, Cedar Rapids, Columbia, etc., ranges from a subsidy of \$1.10 in Wichita, Kansas, to a maximum of \$5.60 in Dubuque, Iowa. In addition to Dubuque, Iowa, one other city, Springfield, Missouri, had a subsidy greater than \$4.56. The other 12 cities had subsidies averaging less than \$3.00 per capita.

Other measures which will give an indication of the utilization of transit in Iowa City are as follows. The annual riders per capita in Iowa City was 27.8 in 1973, larger than any other city surveyed. The closest being St. Louis, Missouri, with 27.7. Several cities had ridership below 10 per capita. The average is 2.8 in Iowa City which is larger than any city surveyed, the closest being St. Louis with 2.6. Some cities, Columbia, Missouri, and Des Moines, Iowa, and Springfield, Missouri, had figures of 1. to 1.1 riders per mile.

Another chart attached compares operating deficits for cities in Iowa under 50,000 with those of cities over 50,000.^E

In 1973, the 14 systems identified carried 12,600,000 passengers at a cost of \$5.9 million. Revenue for the systems totalled \$3.7 million, resulting in a deficit of \$2.2 million. Only three of the 14 systems listed are privately owned,

the remaining are publicly owned and operated. The figures indicate that of the total bus deficits in the 14 cities, the 7 smaller communities (not eligible for operating subsidies) had deficits of \$575,000 in 1973 and \$650,000 in 1974, or about one-third of the total deficits of the 7 larger communities who do get substantial government assistance.

In the state of Iowa, two transit systems have been discontinued since 1967. Fort Dodge, Iowa (Population - 30,000+) discontinued transit service in July, 1967, and Muscatine, Iowa (Population - 22,000) discontinued service in June, 1971. If federal programs had been available, both might still be operating transit systems. The city of Fort Dodge recently has been studying the possibility of initiating mass transit operations.

What essentially we are arguing for is a continuation and support of a viable mass transit system. Oftentimes, Congressmen are unaware of the contributions that small, rural communities make to national transportation. Too often transit is viewed totally as a large city problem and not that of a smaller community. Congress, I know, is well aware that, in the past, subsidies have gone increasingly to larger cities and small cities have suffered proportionately. What we are asking basically is that under public law 93-503 that the 4 billion dollars allocated to larger communities for operating subsidies be augmented by similar aid to smaller communities. We ask that \$250 million, in contrast to the 4 billion dollars, be allocated for operating subsidies to keep programs like Iowa City viable. A new bus today costs about \$60,000; Iowa City is now subsidizing each bus within the city about \$20,000 per year, therefore, within a ten-year period, the cost of a bus is only a third of the subsidy required to operate it. We are not necessarily asking for additional handouts, but basically equal treatment with larger systems. We feel that the 50,000 population is an extremely arbitrary cutoff point. It has no relationship whatsoever to the viability of any particular transit system. If in fact, Iowa City, as I think I have shown, has an extremely viable system and a high acceptability by its people, why should

we be denied federal subsidies? We would argue strongly that Congress pass the proposed amendment allocating 250 million dollars for operating subsidies, and that these funds be allocated not on a blanket across the board formula such as those already allocated, but rather with the Congress looking at the viability and feasibility of a system and determining some criteria by which to measure how these discretionary funds may be allocated. We have suggested several possible measurements. We feel that whatever reasonable criteria are promulgated by Congress, the city of Iowa City could meet those requirements. Thank you for the opportunity to appear before you today.

MASS TRANSIT -- IOWA CITY, IOWA

#1. 1971 UMTA Grant; Project #IA-03-0004.

Total unaudited project expenditures were \$585,192. UMTA changed the original funding from 50:50% to 2/3:1/3% in August 1973. Purchase was of 12 buses, repair equipment, facilities and land with remodeling of existing facilities. Iowa City's share of \$195,064.15 was obtained from Liquor Profits funds. Note detailed schedule of expenditures.

#2. 1972 Purchase of Buses.

One used bus was purchased from the Ottumwa Transit Lines for \$1,534.00. Vehicle was charged against operating funds.

#3. 1974 Purchase of Buses.

Purchase of two buses was financed through General Revenue Sharing funds. Total cost of vehicles was \$87,454.28.

#4. Vehicle Lease; Ottumwa Transit Lines, Inc.

<u>Year</u>	<u>#Buses</u>	<u>#Months</u>	<u>Amount*</u>
1972	4	3	\$6,000.
1973	4	3	6,000.
1974	4	3	6,000.
1975	3	4	6,000.

* This amount does not include maintenance performed on the vehicles nor major repairs completed while in Iowa City Service.

1971 UMTA CAPITAL GRANT EXPENDITURES

<u>COST CATEGORY</u>	<u>ACCT. #</u>	<u>AMOUNT BUDGETED</u>	<u>AMOUNT EXPENDED</u>
1. Purchase of Buses	10.01.05	\$408,335	\$408,334
2. Purchase of Fare Boxes	10.02.04	2,407	2,406
3. Purchase of Service Truck	10.03.01	2,617	2,616
4. Purchase of Repair Equip.	10.03.02	28,377	19,541
5. Purchase of Spare Engine	10.03.04	6,758	6,757
6. Land and Real Property	10.06.00	110,138	110,138
7. Engineering Service	10.08.01	3,000	3,000
8. Improvement to Property	10.12.00	32,400	32,400
9. Relocation Expense	31.00.00	2,500	--
10. Contingency	32.00.00	<u>4,016</u>	<u>--</u>
TOTAL		\$600,548	\$585,192

APPENDIX B

CITY OF IOWA CITY
Mass Transit System
Summary of Actual & Estimated Financial Statement

	Year Ended 12-31-72 Actual *	Year Ended 12-31-73 Actual	Year Ended 12-31-74 Actual	FY Ended 6-30-74 Actual	FY Ended 6-30-75 Actual & Estimated	FY Ended 6-30-76 Estimated**	Annualized FY 1976 ***
Beginning Balance	\$ -	\$ (110,493)	\$ (49,335)	\$ (217,337)	\$ (242,686)	\$ (107,301)	\$ (107,301)
Expenditures:							
Operation & Maintenance	\$ 310,746	\$ 366,951	\$ 427,430	\$ 388,207	\$ 448,901	\$ 547,953	\$ 567,000
Capital Outlay	1,594	3,112	90,734	90,734	3,300	-	-
Retirement & Insurance	38,565	39,697	40,159	40,159	39,631	43,088	43,088
Expense Total	<u>\$ 350,905</u>	<u>\$ 409,760</u>	<u>\$ 558,323</u>	<u>\$ 519,100</u>	<u>\$ 491,832</u>	<u>\$ 591,041</u>	<u>\$ 610,088</u>
Receipts:							
Operating Revenue (Fares)	\$ 191,723	\$ 195,193	\$ 212,691	\$ 211,794	\$ 224,450	\$ 371,500	\$ 400,000
Federal Aid:							
GRS	-	87,454	211,950	87,454	316,950	210,000	210,000
Capital grants	-	-	-	-	-	-	-
Property tax	48,338	187,763	65,605	194,197	85,564	43,038	43,038
Other	351	508	264	306	243	-	-
Receipt Total	<u>\$ 240,412</u>	<u>\$ 470,918</u>	<u>\$ 490,510</u>	<u>\$ 493,751</u>	<u>\$ 627,217</u>	<u>\$ 624,538</u>	<u>\$ 653,038</u>
Ending Balance	<u>\$ (110,493)</u>	<u>\$ (49,335)</u>	<u>\$ (117,148)</u>	<u>\$ (242,686)</u>	<u>\$ (107,301)</u>	<u>\$ (73,754)</u>	<u>\$ (64,301)</u>
Fares Collected	1,278,153 @ .15¢	1,301,287 @ .15¢	1,417,940 @ .15¢	1,411,960 @ .15¢	1,496,400 @ .15¢	1,486,000 @ .25¢	1,600,000 @ .25¢

* The transit system was capitalized in 1971 with Federal Government assistance at a cost of \$549,792, the City share of which was \$195,064. This included the purchase of 12 (45) passenger coaches and a garage. Buses are amortized on an annual basis.

** These figures do not include the purchase of \$1,290,000 in transit equipment during fiscal 1976 from the Capital Projects Fund. This equipment will be used by the City (3 coaches), the University of Iowa, and the City of Coralville. Iowa City's share of this project is \$36,000 with the balance shared on an 80/20% basis by the agencies and the Federal Government.

*** This column represents a full year operation of service expansion in FY 1976.

APPENDIX C

COUNTY NAME	STATE	COUNTY POPULATION	MAJOR CITY	CITY POPULATION
Jennings	IA.	75,025	Iowa City	47,744 ←
Bay	FL	75,283	Panama City	30,916
Armstrong	PA.	75,590		
Eric	OH	75,909	Sandusky	32,168
Gregg	TX	75,929	Long View	44,397 ✓
Terre Bonne	LA	76,049		
Thurston	WA	76,894	Olympia	22,493
Scioto	OH	76,951	Portsmouth	28,045
Tompkins	NY	77,064	Ithica	12,148
Tuskarawas	OH	77,211		
Morgan	AL	77,306		
Cayuga	NY	77,439	Auburn	34,319
Sussex	NJ	77,528		
Shasta	CA	77,640		
Muskingum	OH	77,826	Zanesville	32,426
Hardin	KY	78,421		
Ontario	NY	78,849		
Wayne	IN	79,109	Richmond	43,800 ✓
Sumter	SC	79,425		
Indiana	PA	79,451		
Jasper	MO	79,852	Joplin	38,424
Sussex	DE	80,356		
St. Landry	LA	80,364		
Merrimac	NH	80,925		
Crawford	PA	81,342		
Cattaraugus	NY	81,666		
Kent	DE	81,892		
Whatcome	WA	81,950	Bellingham	39,797
Lenawee	MI	81,951		
Manitowac	WI	82,294	Manitowac	33,180
Howard	IN	83,198	Kokomo	43,359 ✓
Grant	IN	83,955	Marion	40,043
Allegany	MD	84,044	Cumberland	29,084
Windham	CT	84,515		
Fond Du Loc	WI	84,567	Fond Du Loc	35,330
Robeson	NC	84,842		
Frederick	MD	84,927		
York	SC	85,216	Rock Hill	33,619
Monroe	IN	85,221	Bloomington	43,148 ✓
Wayne	SC	85,408	Goldsboro	26,373
Washington	RI	85,706		
Porter	IN	87,114		
Wayne	OH	87,123		
Jackson	MS	87,975	Moss Point	18,746
Okaloosa	FL	88,187		
Jefferson	NY	88,508	Watertown	30,525
Weld	CO	89,297	Greely	39,167
Florence	SC	89,636	Florence	25,470
Larimer	CO	89,900	Ft. Collins	43,098 ✓
Rowan	NC	90,035	Salsbury	22,486
Catawba	NC	90,873		
St. Charles	MO	92,954		
Aroostook	ME	94,078		
Newport	RI	94,228	Newport	33,866
Jackson	OR	94,533	Medford	27,950
Kennebec	ME	95,306		
Barnstable	MA	96,656		
Sheboygan	WI	96,660	Sheboygan	47,959 ✓
Vermillion	IL	97,047	Danville	42,090 ✓
Manatee	FL	97,155	Bradenton	20,284
Kankakee	IL	97,250	Kankakee	30,529
Marathon	WI	97,457	Wausau	32,395
Ashtabula	OH	98,237		
Chittenden	VT	99,131	Burlington	38,633 ←
Northumberland	PA	99,190		
Centre	PA	99,267	State College	33,167
Steuben	NY	99,546		
Lebanon	PA	99,655		
Humboldt	CA	99,652		

APPENDIX D

JOHNSON COUNTY REGIONAL PLANNING COMMISSION

TRANSIT SYSTEM COMPARISONS

Data for Calendar Year 1973
(Iowa, Nebraska, Missouri, Kansas)

January 20, 1975

URBANIZED AREAS** (50,000+ Population)	1970 POPULATION	ANNUAL RIDERS	FARE	ANNUAL REVENUE	ANNUAL COST	LOCAL SURSIDY (Deficit)	POTENTIAL ANNUAL SURSIDY S-386*	AVE. RIDERS PER BUS MILE	ANNUAL RIDERS PER BUS CAPITA	ANNUAL LOCAL SURSIDY PER CAPITA
St. Louis	1,882,944	52,180,000	25 ¢	17,518,748	23,498,329	5,979,581	7,531,766	2.6	27.7	\$3.20
Kansas City	1,101,787	20,164,601	40 ¢	6,103,134	9,914,039	3,810,895	4,407,148	2.3	18.3	3.50
Omaha	481,776	8,381,702	40 ¢	3,133,558	3,910,339	776,781	1,967,120	1.9	17.0	1.60
Nichita	302,334	1,865,894	30 ¢	616,400	956,515	340,115	1,209,336	1.1	6.2	1.10
Des Moines	255,824	4,100,100	50 ¢	1,486,547	2,128,914	642,367	1,021,296	2.2	16.0	2.50
Lincoln	155,443	2,948,664	50 ¢	703,607	984,500	280,893	613,772	2.0	19.2	1.80
Topeka	132,108	689,497	30 ¢	218,441	481,734	136,577	528,432	1.2	5.2	1.40
Cedar Rapids	132,008	1,000,000	30 ¢	345,157	481,734	136,577	528,432	1.3	7.6	1.00
Springfield, Mo.	121,340	1,343,132	20 ¢	489,599	965,893	557,008	485,360	1.1	11.1	4.60
Waterloo	112,881	598,339	25 ¢	180,516	351,897	171,381	451,524	1.2	5.3	1.50
Sioux City	95,937	1,361,500	40 ¢	411,608	566,274	154,606	383,748	2.1	14.2	1.60
St. Joseph, Mo.	77,223	1,406,997	25 ¢	267,679	580,917	313,238	308,892	2.1	18.2	4.10
Dubuque	65,550	1,315,600	40 ¢	291,400	655,800	364,400	262,200	2.1	30.1	5.60
Columbia, Mo.	59,231	393,600	25 ¢	92,093	261,703	169,610	236,924	1.0	6.6	2.90

IOWA CITY METRO
AREA

Iowa City	46,850	1,303,824	15 ¢	195,569	409,339	213,760	--	2.8	27.8	4.56
Coraville	6,130	135,633	25 ¢	31,637	63,375	31,738	--	1.0	22.1	5.18
(subtotal)***	54,245	1,439,457	--	227,206	472,704	245,498	(216,980)	2.4	26.6	4.52
University CAMBUS	--	2,259,234	0 ¢	0	260,000	260,000	--	4.3	--	--
Metro Area Total	54,245	3,698,691	--	227,206	732,704	505,498	(216,980)	3.3	68.2	9.32

NOTES:

*Potential Annual Subsidy from 1974 Mass Transportation Act (S-386) is estimated at \$4 per capita per year.

**Source of data for urbanized areas: Urban Mass Transportation Administration, Kansas City Regional Office

***Subtotal metro population includes the town of University Heights with 1265 persons (46,850 + 6,130 + 1,265 = 54,245).

MASS TRANSIT IN IOWA

1. Operating deficits for cities under 50,000: *

	<u>1973</u>	<u>1974</u>
Ames	\$ 19,356.	\$ 35,445.
Burlington	53,453.	106,976.
Clinton	147,216.	116,978.
Iowa City	214,191.	255,309.
Marshalltown	19,420.	19,113.
Mason City	18,000.(est.)	18,000.(est.)
Ottumwa	<u>105,696.</u>	<u>99,957.</u>
TOTAL	\$577,332.	\$651,778.

2. Operating deficits for cities over 50,000: *

	<u>1973</u>	<u>1974</u>
Cedar Rapids	\$101,044.	\$191,314.
Council Bluffs	136,551.	182,498.
Davenport	233,879.	301,696.
Des Moines	366,616.	708,171.
Dubuque	444,998.	302,245.
Sioux City	127,722.	324,187.
Waterloo	<u>189,176.</u>	<u>255,892.</u>
TOTAL	\$1,599,986.	\$2,266,003.

* Data compiled by Joann Gross, Department of Transportation, City of Ames, Ames, Iowa.

**STATEMENT OF JOHN V. TUNNEY, U.S. SENATOR FROM THE
STATE OF CALIFORNIA**

Senator TUNNEY. Mr. Chairman, I am pleased to testify in behalf of S. 662, the National Mass Transportation Assistance Act Amendments of 1975. This measure should go a long way to insure the handicapped and elderly equal access to mass transit facilities and vehicles around the Nation.

Today, our public transportation systems are designed with built-in barriers that impede the handicapped, and many elderly persons from using them. Obstacles such as steps, and turnstiles which an able-bodied person passes each day without notice, pose impassable barriers to the handicapped and elderly. They lock senior citizens into a restricted neighborhood, often cut them off from family and friends, and sometimes make it impossible for them to take a job.

These groups have valuable skills to contribute. Yet transportation barriers deny many of them economic and personal opportunities. For the Nation, this is a senseless waste of valuable resources. For the individual, it can mean a life of loneliness, frustration, and despair.

A transportation system which prevents the handicapped and elderly from using it, discriminates against a population which has an equal right to the full advantage of the social and economic opportunities afforded by our society. The rich may be able to surmount the problem by hiring an attendant and by taking taxis.

Whereas 21 percent of the general population live below the poverty line, over 77 percent of the aged, living alone or with nonrelatives, have an income under \$2,000 a year. Thus, mass transit, because of its relatively low cost, is often the only mode of transportation available.

An Urban Mass Transportation Administration study conducted in 1975, found that an estimated 13.37 million handicapped and elderly Americans experience difficulties in utilizing mass transit systems. That is more than the combined populations of America's three largest cities—New York, Chicago, and Los Angeles. Of these 13.37 million persons, an estimated 5.3 million are unable to use mass transit at all, though they would be able to use it if transit facilities were modified and improved to accommodate them.

The benefits are especially great when compared to the relatively minimal cost of making transit systems accessible. In California, the Bay Area Rapid Transit System, which recently began full operation, is 100 percent accessible to the handicapped. All stations have special elevators. Boarding platforms and train interiors present no obstacle to wheelchair movement. The system cost over \$1 billion, but it cost only \$8 million to render the system accessible.

Problems are still posed, however, with regard to feeder systems, those modes of transit which connect outlying areas with highly-developed in-city mass transit facilities. Many feeder systems are not accessible, thereby making the in-city system, like BART, inaccessible to the handicapped and elderly living beyond the last BART station. To date, no concerted effort, with the exception of the development of Transbus, has been made to bring feeder systems and bus mass transit to the level of full accessibility.

Last year I introduced legislation to insure full accessibility of all transit facilities constructed with Federal Urban Mass Transit Act funds. Unfortunately, the legislation was proposed too late in the session for action. I am pleased, therefore, that Senator Williams has introduced comprehensive and similar legislation early in this Congress, and that this committee has begun consideration of this urgent problem.

The legislation specifically mitigates against "separate but equal" facilities for the handicapped and elderly. These groups desperately want integration into the mainstream of American life. The Department of Transportation, while its efforts to promulgate regulations in behalf of the elderly and handicapped have been commendable, has failed to face the potential of "separate but equal" facilities directly, and consequently left its draft regulations open to that possibility. This legislation would firmly close that loophole.

Second, the legislation earmarks funds for the development of barrier-free rural transportation. Thousands of people are currently marooned in rural areas because there is not adequate, or accessible transit. One woman who testified at recent hearings I held, told of an elderly wheelchair-bound citizen who was forced to wheel herself 2 miles to the store and then home because no accessible transit was available. I heard of local initiatives to provide minibus services, but which are hamstrung because adequate funds are not available. This legislation would also provide such funds to local nonprofit groups.

The most important feature of this legislation is the development of local advisory boards which would establish timetables for compliance with this law. At least half the members of these boards would be handicapped and/or elderly people. Their representation is essential.

The argument that accessible transportation costs too much strikes me as hollow. As long as Federal dollars are involved, and as long as Congress has declared it national policy to provide a barrier-free environment for the handicapped and elderly, the benefits will outweigh the cost.

I urge this committee to report this bill to the Senate for early action. The handicapped and elderly will benefit substantially from this legislation, and so will the Nation.

Senator WILLIAMS. Peter Stangl, commissioner of transportation, State of New Jersey, I know has been here and I also know he had to leave for an 11 o'clock appointment, but I am very pleased that Peter Stangl from the New Jersey Department of Transportation is here.

STATEMENT OF PETER E. STANGL, DEPARTMENT OF TRANSPORTATION, STATE OF NEW JERSEY

Mr. STANGL. I appreciate the opportunity to appear before you, Senator Williams, and also I might say we appreciate your assistance in many other things as well, and not the least of which is the subject of our meeting this morning.

The State of New Jersey has long recognized the existence and special nature of the problems of elderly and handicapped individuals who constitute a transportation disadvantaged group because of the lack of public mass transportation service appropriate to meet their needs.

New Jersey established the division on aging in 1957. This early experience allowed New Jersey to make significant contributions to the Older Americans Act of 1965. In 1967 New Jersey established the first State office on aging. New Jersey has now established county offices on aging in all 21 counties, most of which are funded totally with State funds.

A reduced fare program for senior citizens has been in operation since September 1973. Legislation has recently been passed by both houses of the New Jersey Legislature to expand the program so as to meet and exceed requirements of section 5(m). The New Jersey reduced fare program includes nonsubsidized as well as subsidized carriers so as to make available a complete public transportation system for the transportation disadvantaged. Benefits for the elderly start at age 62.

Section 1 of this bill provides that \$250 million of the \$500 million allocated by section 4(c) of the act for "assistance in areas other than urbanized areas" be made available for operating subsidies.

I believe that the entire \$500 million should be made available for operating assistance. Such use should be at the discretion of the designated recipient.

The creation of established public mass transportation corridors in nonurban areas is extremely difficult and requires a disproportionate amount of operating assistance as compared to that required by urban transit systems. The need for operating assistance is acute in instances where the transportation system does not serve a metropolitan area. The lack of funds for operating assistance for new or established rural systems may inhibit further expansion. We believe a restriction on available operating assistance may reduce New Jersey's ability to expand public mass transportation in nonurbanized areas notwithstanding the availability of capital funds.

Under section 2 of this bill, an amendment is made to open transit fellowships to private transit operators. At the same time, such grants appear to have been restricted solely to institutions offering programs having application to the urban mass transportation industry. It is not at all clear that these modifications will provide the necessary training and R. & D. programs to meet the needs of public transportation. It is appropriate at this time to call for a total reevaluation of grants for training programs of UMTA so as to provide for a broad spectra of activities designed to enrich the capabilities in all areas needed by the transportation industry, including management, operations, and engineering. It would be preferable that funds provided for such training be distributed to the States or other designated recipients so that these funds may be best applied to fill the needs deemed most important to the designated recipient. This might include the creation of cooperative research programs between transit operators, educational institutions, and designated recipients in addition to the current programs of universities and other educational institutions.

Section 12(c) of the act is amended by section 5 of this bill to provide for a definition of construction including designing, engineering, and generally "all other expenses incidental to the construction, reconstruction, or acquisition of facilities and equipment for use in public mass transportation."

The Department of Transportation of the State of New Jersey wishes to go on record as strongly supporting this amendment. Presently, it is unclear as to whether preliminary engineering must be funded out of technical subsidy funds under section 9 or can be funded as part of the capital grant under section 3.

The experience of the State of New Jersey has taught us that the elderly have many unusual and special needs. Many difficulties faced by elderly individuals occur in their inability to follow the rapid pace demanded in using modern mass transit. These special needs may be met with existing technology and special care in handling by transit operators. But the needs of the elderly and the problems faced by them are simple when considered in light of the potential needs of the handicapped.

Provisions for handicapped persons demand unusual, special, and expensive modifications to existing transportation systems. Section 16(a) declares that: "Elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services."

This provision raises one basic question: What is the legitimate balance between the overall transportation needs of our population and the special needs of the handicapped?

This in turn subsumes another question: May the right of handicapped persons to utilize mass transportation facilities be met by less expensive alternatives and coordinated public and special mass transportation facilities?

It seems by the inclusion of the requirement for special efforts in the funding of section 5 for operating assistance for mass transportation facilities that it is the intent of this bill to provide for total accessibility to existing facilities by the handicapped. Similar considerations affect section 3 capital costs. Careful consideration should be given to the impact on a rapid rail or bus transportation systems' operation when required to maintain total accessibility for all handicapped persons.

Rapid bus and rail transit systems lure their clientele based on several factors including cost, speed, comfort, and convenience.

Of particular concern is the effect of special handling that must be afforded a handicapped individual. While this special handling may not include additional attendants through the use of specially designed equipment, these individuals will no doubt require extended boarding and departure times. I have no doubt that it is possible to eventually provide each handicapped person with the ability to board and depart a transportation system safely without assistance, but quickly is another question.

These individuals will require additional space on transit vehicles. This will result in a decreased seating capacity for nonhandicapped individuals, thereby reducing the number of passengers that may be carried on a given element of a transit system. The operational capacity of any transportation system is limited by the available seating of the particular vehicle, whether it be bus or rail transportation. For the bus industry, slight delays in boarding cause delays in maintaining schedules and short headways. In addition, shorter headways will be required if the flow of traffic is to remain constant in the face of

reduced seating capacity. During peak hours, this will require additional vehicles with a concomitant increase in congestion and pollution which tend, of course, to detract from the initial advantages of mass transportation.

While it may be possible in many instances to reduce headways by providing additional rolling stock in the bus industry, this may not be possible for rapid rail transit where design capacities have already been reached. The slower boarding and departure times required by these special individuals will slow the individual transit time for the nonhandicapped user. While it is easy to rationalize that the amount of handicapped travel will not substantially slow an individual's trip time, it cannot be emphasized too strongly that current energy and environmental demands cannot afford the loss of any significant ridership. Extended station or stop time must be designed into a schedule whether or not it is used.

When the transit service becomes significantly slowed by the special handling of an individual, a sense of inconvenience is immediately perceived by other individuals using mass transportation. Mass transit users are uniquely sensitive to the cost and convenience of mass transportation. The margin dividing an individual's decision to use mass transportation or the private automobile is a fragile one. This has been consistently demonstrated by the permanent loss of clientele on transit systems where a slowdown or discontinuance of service for any reason has occurred.

While handicapped individuals clearly have the same right to use public mass transportation, the practical realities of marketing mass transportation may well not be able to afford such a luxury under a concept of total accessibility. While the major difficulties in meeting such demands occur during peak hour conditions, our experience in transporting elderly has indicated similar problems arise during off-peak hours as well.

The amended section 16(b)(1) does not make it clear whether or not the provisions of the bill are intended to apply only to new systems and new extensions of existing systems, or to projects for upgrading of existing systems. Neither is it clear whether programs already approved and funded, or for which public hearings have already been held, are included within the provisions of this section.

The special requirements for facilities and equipment in order that handicapped individuals be afforded total access to public mass transportation presents a high cost potential for a very limited benefit to those who would use mass transportation. Special equipment and facilities include elevators at grade-separated stations, special fare collection methods at automated facilities, wheelchair lifts on all buses and grade-separated rail facilities, special emergency exit facilities on vehicles and along limited access right-of-way, as well as a myriad of small design considerations, some of which are undoubtedly beyond the current state of the art. Handicapped individuals unquestionably have the right to use public mass transportation as other persons, but in making a transportation system totally accessible to handicapped individuals, the effects on the system must be carefully considered. The cost of some improvements could be so great as to make the total project financially unfeasible both in terms of initial capital costs

and fares and nonfare revenues required to support it. In the past 2 years, New Jersey's subsidy program jumped from \$43 million in fiscal year 1973 to \$75 million in fiscal year 1975. That has simply allowed us to maintain existing services. Furthermore, the capital cost of standard equipment, without special design features for the handicapped, have increased rapidly. Two years ago, a transit bus could be purchased for approximately \$40,000. Today, that same bus costs \$65,000, and there is no reason to believe that these costs will not continue to rise.

It should be remembered that the Urban Mass Transportation Act is directed to serve the needs of both public and private transportation. If the private transportation industry of New Jersey is to remain viable, and many people doubt that it can, the costs of transit system modifications and facilities will have to be passed on to the rider and the taxpayer. If the cost of the subsidy program continues to increase, and the indications are that it will increase substantially, then new service will perforce be denied.

System capacity, inconvenience, and marketing problems of mass transportation do not address themselves to the real needs of the handicapped. By separating the handicapped into different categories, needs of each category may be addressed to meet its peculiar demands. This does not mean that mass transportation will become less than totally accessible. The special requirements of nonambulatory, handicapped, or those who use special assistance, may be handled in a manner most suitable to their needs. Alternative systems could include special systems coordinated with existing mass transportation facilities, or supplemental systems such as demand activated transportation. This should provide a coordinated segment of mass transportation specially available to handicapped persons. This bill does not address itself to or allow for such an alternative. I understand that various studies are underway or are being formulated to explore some of the issues I have raised.

While highlighting major issues and problems that need to be examined, I want to make it clear that I am in basic agreement with the principles of this proposed legislation. I and my staff are prepared to work with you to achieve the basic objective of making it possible for the elderly and handicapped to get where they need and want to go.

Section 16(a) (2) provides for the creation of a local advisory committee for each geographical area in which assistance under section 3 or 5 is being furnished. Local committees within the region of a designated recipient such as the State of New Jersey might possibly create inconsistent standards. Where a designated recipient has been chosen for its unique capacity to furnish uniform planning with regard to the total public transportation needs of the region, such recipient should not be responsible to several such committees as might result in New Jersey.

We would suggest that the section should provide for a single such committee within the region of a designated recipient.

The section does not clearly indicate who should establish such a committee. We suggest that section 2 should provide for appointment by a responsible public official; in the case of New Jersey, the Governor. Such a designation is obvious when in the case of New Jersey

or a similar region, the recipient's role in dealing with elderly and handicapped persons is preeminent.

I also want to bring to your attention a very serious problem in the implementation of section 5. The State of New Jersey has the responsibility for providing a comprehensive and coordinated statewide transportation system. The State of New Jersey is unique, and that uniqueness was recognized in the conference report preceding the National Mass Transportation Assistance Act of 1974. Congressman Minish stated on the floor that it was the intent of the conference that New Jersey should be the sole and exclusive recipient of section 5 funds as a result of its statewide responsibilities. Contrary to what we feel to be the intent of the legislation and contrary to both State and local wishes, the Delaware River Port Authority, a narrow functional agency—although the Delaware River Planning Commission had agreed not to—it was designated by UMTA as the recipient. We shall continue to work in the New Jersey Department of Transportation to resolve this issue, but we would like to make you aware that it might be necessary to clarify the intent of Congress through legislation and thereby provide further guidance for UMTA in the future.

Section 16(g) of the act is redefined in S. 662 to expressly include "any individual who is nonambulatory, wheelchair bound, or who has semiambulatory capabilities." The impact of this definition should be carefully considered along with the earlier comments on total accessibility. It must be realized that such a definition imposes a severe requirement for public mass transportation. We believe without this express definition, UMTA will have greater freedom in the time and manner in which it may regulate the development of transportation for the nonambulatory. The effectiveness of such programs should be tested before large expenditures are made. In an area where large expenditures may be required for the benefit of a small segment of the urban population, it is important that their effectiveness be assured.

The definition of handicapped is to insure access for all individuals to public mass transportation. The provision for "temporary" incapacities creates a difficult problem in defining eligibility to participate in the reduced fare program of section 5(m). We do not believe Congress intended the benefits of the reduced fare program to apply to an individual with a passing illness or minor ski accident. This situation may be remedied by adding the word "chronic" before the word "illness," the word "permanent" before "injury," and eliminating the word "temporary." The retention of the current definition exposes the reduced fare program to abuse and unreasonable administrative expense.

In conclusion, I suggest that the legitimate needs of our society demands that adequate provision be made for urban transportation facilities and services. The special needs of the elderly and handicapped must be placed in the proper perspective. The right of the handicapped persons to utilize public mass transportation must be met, but flexibility in providing these services must be allowed for the agencies or units of Government involved.

The provisions of sections 16 (a), (b), and (g) should be reconsidered so that the goals for urban mass transportation as set forth in congressional findings may not be jeopardized. Due consideration and

definition should be provided in this legislation so that UMTA will be guided in considering the conservation, ecological, environmental, and economic impact on urban society as a whole.

Senator WILLIAMS. You have raised a lot of points, some of which we did not anticipate.

Mr. STANGL. I understand that. Frankly, Senator, we had an extremely difficult time putting together testimony for this committee. There are a lot of unknowns, I think, and we have had tremendous problems trying to judge what the cost impacts would be both capital and operating, particularly addressing the issue of handicapped at this point, and trying to balance that against the overall needs of other than nonhandicapped people, their ability to use public transportation. It's an area in which I know of no definitive numbers that are available so that you can at least make the economic judgment.

The social judgments are fairly easy to make, I think, but the realities of the dollars and cents, and the impact on public transportation in general, is just not subject to easy answers, and it's caused a great deal of difficulty in trying to say anything definitive in this area.

What we have done is what many other people have done, we have raised a lot of questions, and we don't have a lot of good answers.

Senator WILLIAMS. Now, you suggest one thing that will require a little further thinking through. That is the alternate system, and you mentioned the Transbus. What is the Transbus? Is it in development at the Department as an alternate system.

Mr. STANGL. No, Senator, I did not address that in my testimony. It was in the original document that was before you. I did not refer to it, the Transbus. What I did refer to specifically were demand-activated systems as an alternative, and I would point out that we are not convinced that the only way to go is to alternative systems, and the reason we're not convinced is we really don't know what the costs are. I have heard many people say that the costs are going to be exorbitant to provide total accessibility on existing or future transportation systems. Intuitively, I suspect they are going to be high, but I have no basis to say they are going to be exorbitant and totally prohibitive.

What I'm suggesting is that in reviewing, that we have to look at alternative systems and take a look at providing alternative means of getting the handicapped to where they need and want to go. It may in fact turn out that we can do that better through alternative systems, although I don't know.

Senator WILLIAMS. What are we doing in the State now to comply with the various transportation acts that address themselves to this issue?

Mr. STANGL. Well, one of the first things we have done, we have prepared legislation to carry out what was a reduced fare program for elderly only beyond the age of 62, to include the handicapped on both bus and rail and Interstate Systems. Our program was originally only for bus service. That has passed both houses of the legislature, and we expect the Governor to sign it very, very soon.

Furthermore, we have got an application in to UMTA. We were apportioned under 162(b)—I forget the number sometimes—for the capital funds for elderly and handicapped for some approximately 75 to 80 vehicles that we anticipate getting very soon. We were apportioned in the State of New Jersey approximately \$523,000 to which

we have added approximately \$150,000. Those include vans; they include station wagons. The vans will have lifts and be able to provide transportation for handicapped individuals.

Senator WILLIAMS. Are they operating now?

Mr. STANGL. They are not operating yet, Senator. We don't have the approval from UMTA yet. We expect it very shortly, and as soon as we do, we will go to bid on this equipment and get it out as soon as we can.

Senator WILLIAMS. They will go on existing systems?

Mr. STANGL. No. What we have done is private, nonprofit institutions have made applications to us, and we received well in excess of 300 applications. They are specialized type of programs. They will not be regular fixed-type routes type of operations. They will be special services.

[Complete statement of Mr. Stangl follows:]

TESTIMONY OF PETER E. STANGL, ASSISTANT COMMISSIONER FOR PUBLIC TRANSPORTATION, FOR COMMISSIONER ALAN SAGNER, NEW JERSEY DEPARTMENT OF TRANSPORTATION

The State of New Jersey has long recognized the existence and special nature of the problems of elderly and handicapped individuals who constitute a transportation disadvantaged group because of the lack of public mass transportation services appropriate to meet their needs.

New Jersey established the Division on Aging in 1957. This early experience allowed New Jersey to make significant contributions to the Older Americans Act of 1965. In 1967 New Jersey established the first State Office on Aging. New Jersey has now established County Offices on Aging in all twenty-one counties, most of which are funded totally with State funds.

A reduced fare program for senior citizens has been in operation since September 1973. Legislation has recently been passed by both Houses of the New Jersey Legislature to expand the program so as to meet and exceed requirements of Section 5(m). The New Jersey reduced fare program includes non-subsidized as well as subsidized carriers so as to make available a complete public transportation system for the transportation disadvantaged. Benefits for the elderly start at age 62.

NONURBAN TRANSPORTATION OPERATING SUBSIDIES

Section 1 of this bill provides that \$250 million of the \$500 million allocated by Section 4(c) of the Act for "assistance in areas other than urbanized areas" be made available for operating subsidies.

I believe that the entire \$500 million should be made available for operating assistance. Such use should be at the discretion of the designated recipient.

The creation of established public mass transportation corridors in nonurban areas is extremely difficult and requires a disproportionate amount of operating assistance as compared to that required by urban transit systems. The need for operating assistance is acute in instances where the transportation system does not serve a metropolitan area. The lack of funds for operating assistance for new or established rural systems may inhibit further expansion. We believe a restriction on available operating assistance may reduce New Jersey's ability to expand public mass transportation in nonurbanized areas notwithstanding the availability of capital funds.

FELLOWSHIP ASSISTANCE—GRANTS FOR TRAINING PROGRAMS

Under Section 2 of this bill, an amendment is made to open transit fellowships to private transit operators. At the same time, such grants appear to have been restricted solely to institutions offering programs having application to the urban mass transportation industry. It is not at all clear that these modifications will provide the necessary training and research and development programs to meet the needs of public transportation. It is appropriate at this time to call

for a total re-evaluation of grants for training programs of UMTA so as to provide for a broad spectra of activities designed to enrich the capabilities in all areas needed by the transportation industry, including management, operations, and engineering. It would be preferable that funds provided for such training be distributed to the State's or other designated recipients so that these funds may be best applied to fill the needs deemed most important to the designated recipient. This might include the creation of cooperative research programs between transit operators, educational institutions and designated recipients in addition to the current programs of universities and other educational institutions.

EXPANDED DEFINITION OF CONSTRUCTION TO INCLUDE ENGINEERING

Section 12(c) of the Act is amended by Section 5 of this bill to provide for a definition of construction including designing, engineering, and generally "all other expenses incidental to the construction, reconstruction, or acquisition of facilities and equipment for use in public mass transportation." The Department of Transportation of the State of New Jersey wishes to go on record as strongly supporting this amendment. Presently, it is unclear as to whether preliminary engineering must be funded out of technical subsidy funds under Section 9 or can be funded as part of the capital grant under Section 3.

MASS TRANSPORTATION FACILITIES AND EQUIPMENT TO MEET THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

Elderly

The experience of the State of New Jersey has taught us that the elderly have many unusual and special needs. Many difficulties faced by elderly individuals occur in their inability to follow the rapid pace demanded in using modern mass transit. These special needs may be met with existing technology and special care in handling by transit operators. But the needs of the elderly and the problems generated by them are simple when considered in light of the potential needs of the handicapped.

Handicapped

Provisions for handicapped persons demand unusual, special and expensive modifications to existing transportation systems. Section 16(a) declares that:

"Elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services."

This provision raises one basic question:

What is the legitimate balance between the over-all transportation needs of our population and the special needs of the handicapped?

This in turn subsumes another question:

May the right of handicapped persons to utilize mass transportation facilities be met by less expensive alternatives and coordinated public and special mass transportation facilities?

It is apparent by the inclusion of the requirement for special efforts in the funding of Section 5 for operating assistance for mass transportation facilities that it is the intent of this bill to provide for total accessibility to existing facilities by the handicapped. Similar considerations affect Section 3 capital costs. Careful consideration should be given to the impact on a rapid rail or bus transportation systems' operation when required to maintain total accessibility for all handicapped persons.

Rapid bus and rail transit systems lure their clientele based on several factors including cost, speed, comfort and convenience.

Of particular concern is the effect of special handling that must be afforded a handicapped individual. While this special handling may not include additional attendants through the use of specially designed equipment, these individuals will no doubt require extended boarding and departure times. I have no doubt that it is possible to eventually provide each handicapped person with the ability to board and depart a transportation system safely without assistance, but quickly is another question.

These individuals will require additional space on transit vehicles. This will result in a decreased seating capacity for non-handicapped individuals thereby reducing the number of passengers that may be carried on a given element of a transit system. The operational capacity of any transportation system is limited by the available seating of the particular vehicle, whether it be bus or rail

transportation. For the bus industry, slight delays in boarding cause delays in maintaining schedules and short headways. In addition, shorter headways will be required if the flow of traffic is to remain constant in the face of reduced seating capacity. During peak hours increase in congestion and pollution which tend, of course, to detract from the initial advantages of mass transportation.

While it may be possible in many instances to reduce headways by providing additional rolling stock in the bus industry, this may not be possible for rapid rail transit where design capacities have already been reached. The slower boarding and departure times required by these special individuals will slow the individual transit time for the non-handicapped user. While it is easy to rationalize that the amount of handicapped travel will not substantially slow an individual's trip time, it cannot be emphasized too strongly that current energy and environmental demands cannot afford the loss of even a single mass transit customer. Extended station or stop time must be designed into a schedule whether or not it is used. When the transit service becomes significantly slowed by the special handling of an individual, a sense of inconvenience is immediately perceived by other individuals using mass transportation. Mass transit users are uniquely sensitive to the cost and convenience of mass transportation. The margin dividing an individual's decision to use mass transportation or the private automobile is a fragile one. This has been consistently demonstrated by the permanent loss of clientele on transit systems where a slow-down or discontinuance of service for any reason has occurred.

While handicapped individuals clearly have the same right to use public mass transportation, the practical realities of marketing mass transportation may well not be able to afford such a luxury under a concept of total accessibility. While the major difficulties in meeting such demands occur during peak hour conditions, our experience in transporting elderly has indicated similar problems arise during off-peak hours as well.

The amended Section 16(b) (1) does not make it clear whether or not the provisions of the bill are intended to apply only to new systems and new extensions of existing systems, or to projects for upgrading of existing systems. Neither is it clear whether programs already approved and funded, or for which public hearings have already been held, are included within the provisions of this section.

The special requirements for facilities and equipment in order that handicapped individuals be afforded total access to public mass transportation presents a high cost potential for a very limited benefit to those who would use mass transportation. Special equipment and facilities include elevators at grade separated stations, special fare collection methods at automated facilities, wheelchair lifts on all buses and grade separated rail facilities, special emergency exit facilities on vehicles and along limited access right of way as well as a myriad of smaller design considerations, some of which are undoubtedly beyond the current state of the art. Handicapped individuals unquestionably have the same right to use public mass transportation as other persons, but in making a transportation system totally accessible to handicapped individuals, the effects on the system must be carefully considered. The cost of some improvements could be so great as to make the total project financially unfeasible both in terms of initial capital costs and fares and non-fare revenues required to support it.

In the past two years New Jersey's subsidy program jumped from \$43 million in fiscal year 1973 to \$75 million in fiscal year 1975. That has simply allowed us to maintain existing services. Furthermore, the capital cost of standard equipment, without special design features for the handicapped, have increased rapidly. Two years ago a transit bus could be purchased for approximately \$40,000. Today that same bus costs \$65,000 and there is no reason to believe that these costs will not continue to rise. It should be remembered that the Urban Mass Transportation Act is directed to serve the needs of both public and private transportation. If the private transportation industry of New Jersey is to remain viable, the costs of transit system modifications and facilities will have to be passed on to the rider and the taxpayer. If the cost of the subsidy program continues to increase, and the indications are that it will increase substantially, then new service will perforce be denied.

ALTERNATIVE AND COORDINATED TRANSPORTATION SYSTEMS

System capacity, inconvenience and marketing problems of mass transportation do not address themselves to the real needs of the handicapped. By separating

the handicapped into different categories, needs of each category may be addressed to meet its peculiar demands. This does not mean that mass transportation will become less than totally accessible. The special requirements of non-ambulatory, handicapped or those who use special assistance, may be handled in a manner most suitable to their needs. Alternative systems could include special systems coordinated with existing mass transportation facilities, or supplemental systems such as TRANSBUS or demand activated transportation. This should provide a coordinated segment of mass transportation specially available to handicapped persons. This bill does not address itself to or allow for such an alternative. I understand that various studies are underway or are being formulated to explore some of the issues I have raised.

While highlighting major issues that need to be examined, I want to make it clear that I am in basic agreement with the principles of this proposed legislation. I and my staff are prepared to work with you to achieve the basic objective of making it possible for the elderly and handicapped to get where they need and want to go.

LOCAL ADVISORY COMMITTEE

Section 16(a) (2) provides for the creation of a local advisory committee for each geographical area in which assistance under Section 3 or 5 is being furnished. Local committees within the region of a designated recipient such as the State of New Jersey might possibly create inconsistent standards. Where a designated recipient has been chosen for its unique capacity to furnish uniform planning with regard to the total public transportation needs of the region, such recipient should not be responsible to several such committees as might result in New Jersey.

We would suggest that the section should provide for a single such committee within the region of a designated recipient.

The section does not clearly indicate who should establish such a committee. We suggest that Section 2 should provide for appointment by a responsible public official, in the case of New Jersey the Governor. Such a designation is obvious when in the case of New Jersey or a similar region, the recipient's role in dealing with elderly and handicapped persons is pre-eminent.

DEFINITION OF DESIGNATED RECIPIENT

I also want to bring to your attention a very serious problem in the implementation of Section 5. The State of New Jersey has the responsibility for providing a comprehensive and coordinated Statewide transportation system. The State of New Jersey is unique and that uniqueness was recognized in the Conference report preceding the National Mass Transportation Assistance Act of 1974. Congressman Minish stated on the floor that it was the intent of the Conference that New Jersey should be the sole and exclusive recipient of Section 5 funds as a result of its Statewide responsibilities. Contrary to what we feel to be the intent of the legislation and contrary to both State and local wishes, the Delaware River Port Authority, a narrow functional agency, was designated by UMTA as the recipient. We shall continue to work in the New Jersey Department of Transportation to resolve this issue but we would like to make you aware that it might be necessary to clarify the intent of Congress through legislation and thereby provide further guidance for UMTA in the future.

DEFINITION OF HANDICAPPED

Section 16(g) of the Act is redefined in Senate 662 to expressly include: "any individual who is non-ambulatory, wheelchair bound or who has semiambulatory capabilities."

The impact of this definition should be carefully considered along with the earlier comments on total accessibility. It must be realized that such a definition imposes a severe requirement for public mass transportation. We believe without this express definition, UMTA will have greater freedom in the time and manner in which it may regulate the development of transportation for the non-ambulatory. The effectiveness of such programs should be tested before large expenditures are made. In an area where large expenditures may be required for the benefit of a small segment of the urban population, it is important that their effectiveness be assured.

The definition of handicapped is to insure access for all individuals to public mass transportation. The provision for "temporary" incapacities creates a difficult problem in defining eligibility to participate in the reduced fare program of Section 5(m). We do not believe Congress intended the benefits of the reduced fare program to apply to an individual with a passing illness or minor ski accident. This situation may be remedied by adding the word "chronic" before the word "illness," the word "permanent." The retention of the current definition exposes the reduced fare program to abuse and unreasonable administrative expense.

CONCLUSION

In conclusion, I suggest that the legitimate needs of our society demands that adequate provision be made for urban transportation facilities and services. The special needs of the elderly and handicapped must be placed in the proper perspective. The right of handicapped persons to utilize public mass transportation must be met with alternative and coordinated transportation facilities resulting in a reduced cost in terms of environmental, social and fiscal demands.

The provisions of Sections 16(a), (b), and (g) should be reconsidered so that the goals for urban mass transportation as set forth in Congressional findings may not be jeopardized. Due consideration and definition should be provided in this legislation so that UMTA will be guided in considering the conservation, ecological, environmental and economic impact on urban society as a whole.

Senator WILLIAMS. I think this might be useful. The next witness will be Jack Gilstrap, vice president of the American Public Transit Association in charge of government affairs, and general manager of the Southern California Rapid Transit. I have had an advance on his statement. It might be useful for you to stay for his statement.

Mr. STANGL. I certainly will.

Senator WILLIAMS. Good. Senator Garn?

Senator GARN. I have no questions.

Senator WILLIAMS. All right. Thank you very much.

Mr. STANGL. Thank you, Senator.

Senator WILLIAMS. Mr. Gilstrap, this is what I would describe as a return engagement. We have seen you here before and we are glad to have you back.

STATEMENT OF JACK R. GILSTRAP, VICE PRESIDENT, GOVERNMENTAL AFFAIRS, AMERICAN PUBLIC TRANSIT ASSOCIATION AND GENERAL MANAGER OF THE SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

Mr. GILSTRAP. Senator, it's a great pleasure to be back seeing you again and have a chance to appear before your committee.

My name is Jack Gilstrap. I'm the general manager of the Southern California Rapid Transit District in Los Angeles and vice president of the American Public Transportation Association for governmental affairs.

Senator WILLIAMS. You're accompanied by an apprentice in transportation?

Mr. GILSTRAP. Yes, sir. This is Fred Burke, of governmental relations.

Senator WILLIAMS. I said "apprentice" with a smile. He has been with the program for a long time, and has done very effective work.

Mr. GILSTRAP. Yes, sir. Mr. Burke is going to assist me if we get into certain details that he is particularly knowledgeable on.

Mr. Chairman, I have a prepared statement which I think you have before you, but as sort of a preliminary to that I'd like to make a couple of comments if I might.

I might say in response to what is undoubtedly in the minds of the committee now, having heard from a number of industry representatives, you have heard various opinions about the needs of the elderly and handicapped, about how they ought to be met.

I know that yesterday Mr. Reading from Denver described to you a very successful demand/responsive system in his city and then you also heard from Mr. Ronis of Cleveland who I understand talked about operating problems of a totally accessible bus system.

I'm going to present our thoughts in Los Angeles, but what I would like to stress is that regardless of our varying views, I believe I'm on sound ground to tell you that we do endorse S. 662. We think it's necessary and desirable legislation. There are many good things about it that will help resolve or at least give us a policy within which areas can resolve their needs as far as the elderly and handicapped are concerned.

The 2-year analysis period is a good one. It will help us know what those needs are and I think it will help us see the various ways of meeting those needs. We have to accept the fact that our communities are not all the same and that it may be that a demand/responsive system in one city is the answer because of its geographic layout or size or simply the nature of their population, whereas an approach similar to that that we are following in Los Angeles might be right, making a regional system totally accessible.

We think that may be the answer in Los Angeles, but the point is that we need a consistent program, a consistent policy that permits us to resolve these differences. We need it at the Federal level. We think that S. 662 will help provide this and by its passage the industry and the many communities that are taking advantage of the Federal assistance will have more certainty in the future regarding Federal policy. We certainly urge quick action on your bill.

I'd like now to talk about Los Angeles if I may. As I say, I appreciate this opportunity to talk about the elderly and the handicapped needs and to certainly support your S. 662.

For the past several months the district has been actively participating in the development of a program to design a bus transportation system that will be readily accessible to all members of the general public, including the provision of services to those who are confined to wheelchairs. All our rapid transit planning incorporates provisions to make a fixed guideway facility fully accessible to the elderly and handicapped as well.

You know we do not have a rapid transit system yet in Los Angeles, but we are confident that we will in the near future. Beginning with the resolution issued by our Rapid Transit District on October 22, 1974, we have been actively pursuing the purchase of buses that are fully accessible to meet the immediate needs of these groups. Over the past several months we have been working with the Urban Mass Transportation Administration on specifications which include the following factors:

First, a front door that has a minimum opening of 40 inches. A study of all wheelchairs constructed by American manufacturers indicates that openings must be at least 32 inches wide to allow passage. Because of the design of bus doors and the grab-rails attached to the inside of each panel, a 40-inch door should have a clear opening of perhaps 36 inches. Our present coaches have, at the maximum, 32-inch doors with a 28-inch clear opening, insufficient for wheelchairs.

I might say parenthetically that we have introduced legislation in our State which will permit buses to be, I think it's 6 inches longer permitting a wider door in front without having to totally redesign the bus. We found this to be a problem in discussing this with manufacturers, and we are hopeful that that legislation will pass. We think it will.

Second, a floor not to exceed 21 inches high; this feature will result in lower steps making it easier for all passengers, and I underline all passengers because I think this is the kind of thing that speaks to the general service available to all our passengers. That would include the elderly, the semiambulatory, those carrying packages and small children. Compare this to the present 34-inch floors which are the cause of much difficulty for older people and the semiambulatory.

Third, a ramp or lift device to provide accessibility for wheelchairs, and we believe that should be a passive mechanism that should be out of sight out of use when it is not in use to pick up someone in a wheelchair. We believe such a mechanism is available today.

Fourth, special setting arrangements including an area equipped with accessible tie-downs for wheelchairs. This section will include priority seating arrangements for semiambulatory and elderly patrons directly behind the operating position. I might say here that our specification here that we're working on that I will bring up to date on in a moment call for a minimum of 50 seats, including the space for wheelchair tie-down where we would have drop seats that could be use by regular patrons when the wheelchair was not here.

Fifth, the specifications are oriented around performance, so that the actual design is left to the manufacturer to present to us. In this way, the manufacturers will have the opportunity to develop their own original design. What we have done on that is hold that prebid conference which was held a few weeks ago, and we were frankly encouraged because out of that we did have one of the major manufacturers indicate in writing to us that they could meet these specifications with one exception, and that being that we had proposed a delivery time of 6 to 8 months. They felt it would be closer to 20 to 24 months. As a result of this conference with manufacturers, our Board of directors passed a resolution extending the delivery time from the original 6 to 8 months up to 21 months, which we believe is a positive indication that these buses can be built. This was done on May 7 of this year and transmitted to UMTA 9 days later with appropriate specification revisions. It indicates in my testimony here that it's been 30 days since UMTA received this information. In fairness, it hasn't been that long. I checked this morning and I find that we transmitted those about 3 weeks ago, and we anticipate a signoff on the specifications today. Following that, we would go out to bid, and

I would imagine within 60 to 70 days we ought to have a response to our invitation to bid.

We have recently held a public hearing to discuss another application for the purchase of 320 additional accessible buses, bringing the total to 520.

Our planning department has been working on the development of an accessible system which will use these full-size transit coaches. With the aid of a special consultant who is permanently confined to a wheelchair, our staff has made an analysis of our 224 routes operating within four counties of southern California covering an area 2,230 square miles and serving over 10 million people. Unfortunately, they don't all ride our system, but we try to serve them. At present, our fleet consists of 2,310 coaches which provide service for this complement of lines. The 520 buses will be phased in as replacements in some cases, and to augment the district's many near-term bus improvement programs.

Our citizens' advisory board, consisting of handicapped persons throughout the service area, have concluded that there are no concentrations of the transportationally dysfunctional; rather, they are spread among the general population and have generally the same mobility requirements, performing trips from their residence to work, shopping, entertainment and educational facilities. I think this is very important when we begin to think of what kind of system, in an area this large, can really meet the needs. In active contact with over 25 local, State, and Federal agencies who deal with the elderly and the handicapped, it is our conclusion that no accurate data base exists that identifies this portion of our society. Although we have rough figures on the number of elderly living in Los Angeles County by census tract, we do not and cannot assume their specific individual transportation needs. Various agencies have projected figures for those who are "handicapped" however, each chooses to define this nebulous word differently.

We have, therefore, decided that it is more important to design equipment to meet the needs of the disabled and assign it to regular routes giving these people the same right to mobility as the rest of the general public. This is a common problem, and therefore we certainly applaud your bill specifically calling for a comprehensive report on the transportation needs of these groups, and the progress made in assuring that these needs are met. The district has performed a similar study which identifies the following criteria which will allow us to place these several hundred accessible coaches in service—and you see listed there the information we are gathering about our community. It includes data on hospitals, identification of all colleges and universities, identification of major transportation centers, entertainment activities, major places of employment, all regional shopping centers, and specific routes which connect outlying areas to the remainder of the system to guarantee mobility and shorter travel times.

These criteria are being applied to each line presently operated by the district. Before assigning actual coaches to specific lines, our staff identifies the present and proposed service for the elderly and the handicapped within our service area. There are currently several

programs sponsored by local nonprofit corporations funded through the various Federal programs which offer specialized transportation in local area. Each of these programs should be considered as supplemental service to our fixed route system. By coordinating these special services it is possible to provide a high level of transportation to those in need.

I think this is an important point and element of our plan in Los Angeles. That is, through existing legislation, we find many of these organizations establishing what amount to Dial-A-Ride systems in specific areas of our entire county. In recognizing all of these secondary systems we should make the effort to provide line hual services within each area so that connections are possible. Because of our accentuated peak periods where some lines require greatly increased service, it is our decision to expand the number of accessible coaches as much as possible to maintain offpeak frequencies. By doing this, it is possible to operate accessible equipment on approximately 50 percent of our total scheduled trips during the base period. This figure is based on the acquisition of the number of buses that I have spoken about previously.

We are going to monitor these routes and continue to seek input from the elderly and handicapped community as to the efficacy of the program. It is understood that this is only a beginning. Our board has issued a mandate that all future purchases of equipment will be designed for accessibility so that with each purchase of equipment additional lines will become accessible. Riding checks and questionnaires will play a major role in identifying specific needs of these groups and will indicate adjustments in service and possible changes in the placement of these coaches within our system.

Apart from our program to purchase and operate fully accessible buses, the district has implemented several programs offering reduced fares for the elderly and handicapped. You might be interested in some of our special fare programs for the handicapped and elderly in our community, and I would like to point out that as early as 1961, which is now 14 years ago, our agency began offering reduced fares to our citizens who are over age 65. This was almost 10 years before we began receiving tax support. Our present program offers the following discounts:

- (1) Senior citizens age 62 or older ride for one-half regular fare with no minimum financial requirement.
- (2) Physically, mentally, and emotionally disabled ride for one-half regular fare with a special card issued after an approved application is received.
- (3) The blind ride free.
- (4) Monthly passes, valid on all regular lines for unlimited riding, are offered to senior citizens at \$4 a month.

An interesting point, Senator. We had offered, as you can see, for some 10 years, a reduced fare for senior citizens, and it had always been offered during offpeak periods until about a year ago, and then with help from our local board of supervisors, we felt we could extend it to 24 hours a day, 7 days a week. We did, and we were pleased to see that it worked very well; that our senior citizens police their travel

very well without time restrictions, and as a matter of fact, if any citizen has the opportunity not to ride during the peak period, he usually will do so, and senior citizens do that as a normal course. We have not had difficult financial problems, in other words, because of extending it to 24 hours a day.

I think we also have to talk about costs. Our specifications for accessible buses are anticipated to raise the purchase price by 30 percent. That is anyone's guess, but in any case, you have to accept the fact that as we put more sophisticated equipment on our buses, we are going to increase both the capital cost and the maintenance cost, and it will probably be some additional operating costs resulting from having the entire fleet totally accessible.

We ran into this yesterday in our board of directors meeting, talking about sophisticated equipment. We are putting radios with silent alarms on all of our buses, and one of my directors said—and we are retrofitting some of our old equipment—he said, “That radio system costs more than the bus costs,” and that's true when we go back to a 15-year-old bus, because of the sophisticated nature of the new kinds of radio communication equipment that we are putting on our buses. That's just an illustration that, yes, there will be increased costs. We don't know what they are yet, and as a result of those costs all of us are going to have to look for additional sources of funds.

There's an interesting point here, that with the policies that we're following, we are first requiring a half fare for the elderly and handicapped, then we are equipping our buses to make them more readily accessible to the elderly and handicapped; therefore, the more transportation service we provide the elderly and handicapped, the more these folks ride our bus system, the greater will be our deficit because they are not paying full fare. This is part of the process that we must recognize.

The proposed regulations being prepared by the Urban Mass Transportation Administration are designed to correct many injustices to the elderly and the handicapped, and to improve their mobility. We agree that much can be done to improve this mobility, and our programs are a positive indication that we are working toward this goal. It cannot be expected that any of these programs can be done without additional cost. Funds must accompany any regulations or legislation that require discounted fares or extraordinary features beyond what is presently available.

I would now like to turn my attention to other sections within S. 662 of pertinent interest to the district.

The district heartily concurs with your request for a biennial update of transit needs to be reported to the Congress. We agree that although the current legislation has been and will continue to meet very real transit needs, these needs may change and these changes should be brought before you and your colleagues as you consider grant authorities for transit. The Los Angeles area has been working diligently during the last 6 months to bring rapid transit to this area. As you may be aware, the voters in Los Angeles County overwhelmingly passed a State constitutional amendment last June which would make available State highway funds for the construction of rapid transit fixed guideways. The recent constitutional change in California permitting gasoline tax for transit gives us the best chance ever to obtain local funding of a major rapid transit improvement project.

We also certainly concur with your developing a new definition of the word "construction" to allow capital expenditures for designing, engineering, and surveying all transit facilities. We feel that funding for these activities more properly belongs within the capital grants program rather than the technical studies area.

I should add, too, that your move to provide operating subsidies for small urban and rural systems is very important.

I thank you for this chance to speak before you and express our opinions and tell you a little about Los Angeles, and I'd be pleased to try to answer any questions you might have.

Senator WILLIAMS. Thank you very much, Mr. Gilstrap. We are very, very pleased that you could be here to help us with this legislation.

Now, it's been some time since I have been in Los Angeles to ride any part of the public transit systems. Do you have a mix of public ownership and private ownership?

Mr. GILSTRAP. It's virtually all public ownership now. Our agency operates about 82 percent of the service, and the balance of it is provided by eight municipally owned bus systems in our county, but there is virtually no private operation aside from charter service, service to the airport, and taxi service.

Senator WILLIAMS. I see. You are with the Rapid Transit System, and there is a compatibility with your systems and the other public systems. In other words, you have the transfer. Your lines cross and transfers are made; is that right?

Mr. GILSTRAP. That's right. We have a transfer arrangement, and we work very closely to coordinate our lines. There might be some minor duplication in a couple of areas, but it is not a problem, and we have, I think, a very well coordinated public service in Los Angeles.

Senator WILLIAMS. Now, your system is obviously advanced in planning and developing accessibility for the elderly and the handicapped, and more particularly for the handicapped with special arrangements of lifts, et cetera. This compatibility question presents a problem, I would think, with the other public municipal systems.

Mr. GILSTRAP. Well, Senator, I would imagine that as soon as we have the equipment in operation in Los Angeles, the rapid transit district, that it will be purchased and used by the other systems there, with a couple of exceptions. These other systems operate in fairly self-contained communities. One is Long Beach. Another is Santa Monica, where most of the riding is within the area; but frankly, I think they are as anxious as we are because both of those communities do have considerable elderly communities.

Senator WILLIAMS. Well, a little information can be a very misleading thing, and, as I said, I haven't been there in some years to ride public transportation. The last time I recall going from Century City to where the Los Angeles Dodgers play baseball, and it was four transfers and a little frustration. We departed from public transit, and we found a taxi. Who got lost?

Mr. GILSTRAP. The taxi got lost.

Senator WILLIAMS. Yes; so a little experience can be very misleading.

Mr. GILSTRAP. That's Los Angeles for you. You put your finger on one of the problems in Los Angeles, the very size of our area. A good thing to keep in mind is that we are very proud of operating 2,200

buses. That's one bus per square mile in our service area, and even at this we are about the fifth largest transit system in the country.

Senator WILLIAMS. We have become familiar, sitting here, with the transportation system in Los Angeles. At hearings and during discussions, it impresses me as the most difficult metropolitan area to serve with public transportation.

Mr. GILSTRAP. I think that's true, but since you—

Senator WILLIAMS. You work with no existing rail grid. You have no geographical corridors, as perhaps San Francisco or Seattle does. It's a most difficult situation. I applaud what you're doing, and this statement is certainly in the advance of thinking in terms of transportation for those who we are particularly focusing on in this bill.

Mr. GILSTRAP. We appreciate those comments very much.

Senator WILLIAMS. That's why I suggested to my friend, the Assistant Commissioner from New Jersey, that he stay, and he has. We have our problems in New Jersey as you have yours.

I notice that when you went out for—was it bids on buses?

Mr. GILSTRAP. Yes; the formal bid will go out probably within 2 weeks.

Senator WILLIAMS. I circled something here and I can't find it now, but I noticed that company representatives from Europe were included?

Mr. GILSTRAP. Yes, sir.

Senator WILLIAMS. I was just wondering. We haven't had any comparative discussions of transit in some of the European communities on how they have designed and placed into operation, mass transportation to meet the needs of those who are handicapped.

Are you familiar with any developments in any of the European areas or any other countries?

Mr. GILSTRAP. Well, the information we have, having talked with the manufacturers and visited some of the cities, is that—

Senator WILLIAMS. You have visited them?

Mr. GILSTRAP. Yes.

Senator WILLIAMS. What have they been doing in this area?

Mr. GILSTRAP. Well, they are very concerned, but they have not really solved the problem yet. They still have a high floor on the buses. They expect people to negotiate that floor and those steps. They do, for the most part, have a wider door. I'm talking about buses now—a wider door than we do, which I don't know that it was designed for the elderly and handicapped or not. I doubt it. We are not confident of having the European manufacturers respond to our specifications based on the prebid conference we had. I think we're going to have to do it in this country. I don't think we can look to Europe for the kind of equipment we need.

Senator WILLIAMS. Have you visited any of the newer systems in other countries where they have rapid rail?

Mr. GILSTRAP. Yes.

Senator WILLIAMS. Have they made provision for the non-ambulatory?

Mr. GILSTRAP. Well, I think that they have accessibility to most of the new systems, but of course, so many of the systems in Europe are old, and I don't think they have upgraded those for the handicapped

to the extent that we are even doing in our new systems in the United States.

Senator WILLIAMS. I have had general descriptions of the magnificence of—I think it was the system in Munich.

Mr. GILSTRAP. A beautiful system.

Senator WILLIAMS. Have you been there?

Mr. GILSTRAP. Yes.

Senator WILLIAMS. How do they handle it?

Mr. GILSTRAP. Well, I'm leaning on my memory, and I'm not going to be an authority on that, Senator. I can't remember specifically how Munich handles it, but they do have a very fine system that integrates rail and bus operation, and it's something that I think we could learn from. On this particular point, I can't recall. I can certainly provide you that information, though.

Senator WILLIAMS. When you invited people in for discussions, there was no clear difference in the state of the art between our bus companies and those in other countries?

Mr. GILSTRAP. Not on this point, Senator. We are pleased to be operating in a test two West German doubledeck buses which UMTA helped us obtain, and they are a smash out in Los Angeles. They are beautiful pieces of equipment being used in over-the-road high-speed freeway operation on our San Bernadino Busway Project, and the people are just delighted with them. But they don't solve the problem for the elderly and handicapped, obviously. That's for a test of high capacity equipment.

Senator WILLIAMS. Have you discerned any real interest of manufacturers in this country to get into a substantial manufacturing of buses?

Mr. GILSTRAP. Equipped for elderly and handicapped?

Senator WILLIAMS. Or just bus manufacturers. It hasn't seemed to be a very desirable market for automobile manufacturers to produce buses. Am I right or wrong on that?

Mr. GILSTRAP. Well, we still do not have the kind of market in the United States that they have in Europe. For example, the Leland Bus Co., in England exports from England more buses each year than we manufacture in the United States, just one European bus manufacturer. That has been the struggle, I think, on this particular issue. We have been encouraged by the bid and response from Rohr & Fliple. They have indicated to us they will bid on this specification, can build a bus, and are anxious to do so. General Motors also said they were not ready to commit on that same job.

Senator WILLIAMS. In discussions here on standardization, and that's been one of the problems, I'm told that communities want equipment tailor designed for their situations and have not thought of assembly line production of buses as we have in automobiles.

Mr. GILSTRAP. I think that is changing, though, Senator. On a slightly different vein, I'll give you an example. We are joining with about three or four other properties to develop a specification and go out to bid jointly on an articulated bus, and we hope to be able to do that within the next 60 to 90 days. This is an encouraging sign when you see several properties willing to take a standardized piece of equipment in hopes of saving money and getting it quicker.

Senator WILLIAMS. This has been very, very fruitful and productive, Mr. Gilstrap. I know that Senator Tunney was very anxious to be here, but he is tied up in another hearing where he's testifying. He is a cosponsor of S. 662, and I know that he's very proud of what you're doing in your transit district.

Mr. GILSTRAP. Thank you very much.

[Complete statement of Mr. Gilstrap follows:]

TESTIMONY OF JACK R. GILSTRAP, VICE PRESIDENT—GOVERNMENTAL AFFAIRS, AMERICAN PUBLIC TRANSIT ASSOCIATION, AND GENERAL MANAGER OF THE SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT

Mr. Chairman, members of the committee, ladies and gentlemen, my name is Jack Gilstrap; I am vice president of governmental affairs of the American Public Transit Association, and the general manager of the Southern California Rapid Transit District.

I appreciate the opportunity to present testimony on your bill S. 662 and I would like to comment on transportation services for the elderly and the handicapped.

For the past several months the District has been actively participating in the development of a program to design a bus transportation system that will be readily accessible to all members of the general public, including the provision of services to those who are confined to wheelchairs. All our rapid transit planning incorporates provisions to make a fixed guideway facility fully accessible to the elderly and handicapped as well. Beginning with a resolution issued by the SCRTD Board of Directors on October 22, 1974, we have been actively pursuing the purchase of buses that are fully accessible to meet the immediate needs of these groups. Over the past several months we have been working with the Urban Mass Transportation Administration on specifications which include the following factors:

(1) A front door that has a minimum opening of 40 inches. A study of all wheelchairs constructed by American manufacturers indicates that openings must be at least 32 inches wide to allow passage. Because of the design of bus doors and the grab-rails attached to the inside of each panel, a 40 inch door should have a clear opening of perhaps 36 inches. Our present coaches have, at the maximum, 32 inch doors with a 28 inch clear opening, insufficient for wheelchairs.

(2) A floor not to exceed 21 inches high; this feature will result in lower steps making it easier for all passengers to board the bus, including the elderly, the semi-ambulatory, those carrying packages and small children. Compare this to the present 34 inch floors which are the cause of much difficulty for older people and the semi-ambulatory.

(3) Ramp or lift device to provide accessibility for wheelchairs.

(4) Special seating arrangements including an area equipped with accessible tie-downs for wheelchairs. This section will include priority seating arrangements for semi-ambulatory and elderly patrons directly behind the operating position.

(5) The specifications are oriented around performance, so that the actual design is left to the manufacturer to present to us. In this way, the manufacturers will have the opportunity to develop their own original design.

UMTA has approved the concept of these specifications and suggested to us that a conference be held with the bus manufacturers so comments may be received prior to formal bidding. Such a conference was held before a committee of the whole of the District's Board of Directors on April 14 of this year. Representatives of the three major transit bus manufacturers in the United States, and several from Europe were present. Although several of the above features are not currently being manufactured, none of the manufacturers claimed it was impossible to develop them. Of primary concern in every case was our proposed delivery time of 6 to 8 months. It is necessary to retool the assembly lines to produce such an accessible coach.

Letters were sent from some of the manufacturers after this hearing informing us that it would be possible to manufacture accessible buses within a delivery time of 21 months.

The District's Board of Directors passed a resolution extending the delivery time from the original 6 to 8 months up to 21 months which we believe is a positive indication that these buses can be built. This was done on May 7 of this year and transmitted to UMTA nine days later with appropriate specification revisions. It has now been thirty days since UMTA has received this information and we are still awaiting authority to go to bid.

We have recently held a public hearing to discuss another application for the purchase of 320 additional accessible buses, bringing the total to 520.

Our Planning Department has been working on the development of an accessible system which will use these full-size transit coaches. With the aid of a special consultant who is permanently confined to a wheelchair, our staff has made an analysis of our 224 routes operating within four counties of Southern California covering an area 2,230 square miles and serving over 10 million people. At present our fleet consists of 2,310 coaches which provide service for this complement of lines. The 520 buses will be phased in as replacements in some cases, and to augment the District's many near-term bus improvement programs.

Our citizens advisory board, consisting of handicapped persons throughout the service area, have concluded that there are no concentrations of the transportationally dysfunctional; rather they are spread among the general population and have generally the same mobility requirements, performing trips from their residence to work, shopping, entertainment, and educational facilities. In active contact with over 25 local, state and federal agencies who deal with the elderly and the handicapped, it is our conclusion that no accurate data base exists that identifies this portion of our society. Although we have rough figures on the number of elderly living in Los Angeles County by census tract, we do not and cannot assume their specific individual transportation needs. Various agencies have projected figures for those who are "handicapped"; however, each chooses to define this nebulous word differently. We have, therefore, decided that it is more important to design equipment to meet the needs of the disabled and assign it to regular routes giving these people the same right to mobility as the rest of the general public. We applaud, therefore, your bill specifically calling for a comprehensive report on the transportation needs of these groups, and the progress made in assuring that needs are met. The District has performed a similar study which identifies the following criteria which will allow us to place these several hundred accessible coaches in service:

- (1) Location of all major hospitals, veteran administration facilities and rehabilitation services.

- (2) Identification of all colleges and universities offering programs for the physically handicapped which are funded especially by the California State Department of Rehabilitation (Concurrently, the Chancellor's Office of the California State University and College System has issued guidelines for the establishment of handicapped students' services on their campuses. As a result of this program, most universities and colleges within our service area are not only accessible to the disabled, but are actively recruiting them.)

- (3) Identification of major transportation centers, including regional bus stations, railroad terminals and airports.

- (4) Entertainment activities including such major attractions as Disneyland, Knotts Berry Farm, Marineland, the movie studios and all recreational facilities, including sports centers and civic auditoriums.

- (5) Major places of employment including the business district of each city, industrial centers and office complexes.

- (6) All regional shopping centers.

- (7) Specific routes which connect outlying areas to the remainder of the system to guarantee mobility and shorter travel times.

These criteria are being applied to each line presently operated by the District. Before assigning actual coaches to specific lines, our staff identifies the present and proposed service for the elderly and the handicapped within our service area. There are currently several programs sponsored by local non-profit corporations funded through the various federal programs which offer specialized transportation in local area. Each of these programs should be considered as supplemental service to our fixed route system. By coordinating these special services it is possible to provide a high level of transportation to those in need.

Recognizing all of these secondary systems, we are making every effort to provide line haul service within each area so that connections are possible.

Because of our accentuated peak periods where some lines require greatly increased service, it is our decision to expand the number of accessible coaches as much as possible to maintain off-peak frequencies. By doing this it is possible to operate accessible equipment on approximately 50% of our total scheduled trips during the base period.

The District intends to monitor these routes and seek input from the elderly and handicapped community as to the efficacy of the program. It is understood that this is only a beginning. Our Board has issued a mandate that all future purchases of equipment will be designed for accessibility so that with each purchase of equipment additional lines will become accessible. Riding checks and questionnaires will play a major role in identifying specific needs of these groups and will indicate adjustments in service and possible changes in the placement of these coaches within our system.

Apart from our program to purchase and operate fully accessible buses, the District has implemented several programs offering reduced fares for the elderly and the handicapped. As early as 1961 special low fares were offered to those over age 65. Our present program offers the following discounts:

- (1) Senior citizens age 62 or older ride for one-half regular fare with no minimum financial requirement.
- (2) Physically, mentally and emotionally disabled ride for one-half regular fare with a special card issued after an approved application is received.
- (3) The blind ride free.
- (4) Monthly passes, valid on all regular lines for unlimited riding are offered to senior citizens at \$4 a month.

These programs are effective at all times; seven days a week, 24 hours a day, exceeding present and proposed federal regulations which require such discounts only during off-peak hours. Both of these programs, i.e., capital and operating, require additional money that is not presently available to the transit industry. Obviously, the costs of the reduced fare of elderly and handicapped riders must be met. It must be realized that, regardless of age or physical limitation, these people require seating just like the general public who pay the full fare.

Our specifications for accessible buses are anticipated to raise the purchase price by 30%, requiring more money. Operating costs will increase as well, either by offering fewer seats per vehicle due to spaces for wheelchairs, or through increased maintenance costs. The experience with Transbus has proven that lower floors, while more accessible, increase additional maintenance and constant structural repair. Although a "bus of the future", it remains that such equipment must traverse outdated city streets with dips, high crowns, and irregularities causing hazards to the bus.

Rather, because of higher costs incurred in operation, and inducing ridership through reduced fares, the success of these programs will be directly proportional to the increased deficit; the more passengers we carry, the higher our costs. The burden of this financial problem either must fall on the person paying a regular fare or be borne by greater public subsidy.

The proposed regulations being prepared by the Urban Mass Transportation Administration are designed to correct many injustices to the elderly and the handicapped and to improve their mobility. We agree that much can be done to improve this mobility and our programs are a positive indication that we are working towards this goal. It cannot be expected that any of these programs can be done without additional cost. Funds must accompany any regulations or legislation that require discounted fares or extraordinary features beyond what is presently available.

I would now like to turn my attention to other sections within S. 662 of pertinent interest to the District.

The District heartily concurs with your request for a biennial update of transit needs to be reported to the Congress. We agree that although the current legislation has been and will continue to meet very real transit needs, these needs may change and these changes should be brought before you and your colleagues as you consider grant authorities for transit. The Los Angeles area has been working diligently during the last six months to bring rapid transit to this area. As you may be aware, the voters in Los Angeles County overwhelming passed a State constitutional amendment last which would make available State highway funds for the construction of rapid transit fixed guideways.

We anticipate bringing before the Department of Transportation a program this year which would detail our plans for rapid transit development in Los

Angeles now. We will keep you and your Committee advised as we develop our program. Your calling for periodic updates for transit needs and funding requirements is essential.

Along this same vein, we concur in your developing a new definition of the word "construction" to allow capital expenditures for designing, engineering, and surveying all transit facilities. We feel that funding for these activities more properly belongs within the capital grants program rather than the technical studies area.

I want to thank you for this opportunity to present our thoughts on S. 662 and will look forward to providing you and your Committee reports on our progress in improving transportation in Los Angeles as you consider the development of transit legislation.

Senator WILLIAMS. Our next witness comes from the Delaware Authority for Specialized Transportation and is director of the same, Mr. Thomas Povlitz. And Senator Biden is also unhappy that he is tied up in another committee, since he also wanted to be here. I know Senator Tunney expects to see Mr. Gilstrap later today if he's still here. So we will proceed.

STATEMENT OF THOMAS M. POVLITZ, EXECUTIVE DIRECTOR, DELAWARE AUTHORITY FOR SPECIALIZED TRANSPORTATION

Mr. POVLITZ. Thank you very much, Mr. Chairman.

I am Thomas M. Povlitz, executive director of the Delaware Authority for Specialized Transportation, DAST. Gov. Sherman W. Tribbitt has asked me to represent him at this hearing. Governor Tribbitt has written a letter containing information he wished to have entered in the record. A copy of the letter is attached to this testimony. Governor Tribbitt wished to have several points highlighted:

DAST is a transportation authority, established by act of the general assembly to provide specialized transportation services for the handicapped and transportation for the disadvantaged of Delaware. It has been operating since December 1, 1974. Prior to that, the Delaware Interagency Motor Service, Inc., DIMS, a private non-profit corporation, provided specialized transportation service statewide. DIMS was expanding beyond its funding capabilities and a decision was made to create a public authority to meet the special service needs which were previously unmet.

The DAST system has some interesting characteristics that should be noted:

1. At this time it is a closed system, providing service to persons referred by contract agencies—both public and private. Of the operating revenue, 81 percent is derived from HEW and other human service sources. Thus far, no Urban Mass Transportation Administration UMTA moneys have been utilized.

The DAST/DIMS budget for 1974 totaled \$225,000. The DAST fleet is now up to 40 vehicles; DAST has 45 employees. Seven percent of the DAST budget is spent for administrative and management service. Drivers and dispatcher salaries total 59 percent, and operating expenses, fuel, maintenance, et cetera, totals 34 percent. The projected budget for fiscal year 1976 is \$500,000. Also, \$300,000 is projected from contract revenue, and \$200,000 is budgeted as a subsidy from contract revenue, and \$200,000 is budgeted as a subsidy in the State's general budget.

2. The ridership of the specialized system has increased dramatically. In 1972, 26,000 trips were provided statewide. In 1973, 33,000 trips were provided; 1974 saw an increase to 83,000 trips and the projection for 1975 is 140,000 trips. The projects for 1976 indicate a potential to double the ridership of the system.

3. DAST is mandated to provide service in the most cost effective manner possible. DAST not only operates vehicles but it is obligated to seek interface with existing mass transit and taxi systems. Currently DAST is setting up operating procedures to incorporate them into the project. In this way, existing public and private resources can be utilized.

DAST's experience in operating a specialized transportation system in both urban and rural areas gives it much insight into the benefits to be desired from S. 662. As Governor Tribbitt indicated, the rural operating subsidy would be a tremendous aid. Rural operations can pile up a large deficit due to high miles of operation and relatively low ridership. Operating subsidies for nonurban areas would promote public transportation services. Hopefully, existing providers would be encouraged to increase operations. In many instances, the sole provider might be a taxi operator. Paratransit, the use of taxi cab type vehicles in a mass transit mode, may be ideally suited to rural or suburban operations. Inventories of existing vehicles and service might also be performed in the planning stages to be sure other resources are used.

For example, HEW spends approximately \$1 billion annually in equipment and services for social service transportation projects. Many of these are rural operations. It may be more cost effective to expand existing special service systems than to create new systems. At a minimum, there should be a mandate to coordinate services amongst the various State, local and Federal agencies. Not only could vehicle resources be integrated but perhaps funding sources could be mixed and more moneys made available.

One other point of concern in actually implementing this portion of the project would lie in the 13C problem (labor protection arrangements). DAST is currently negotiating a 13C for an UMTA section 3 Capital Assistance Grant. A problem has arisen over the issue of wage and labor standards. Certainly, all personnel who are engaged in public transportation projects should have their labor standards protected. Yet, when new systems are interfacing with existing transit service areas the issue of prevailing wages and working conditions can arise.

Labor unions are afraid their wages and benefits could be eroded by nonunion, lower scale operations. They are resisting this and demanding the labor standards be set at their limits. This is what DAST is facing now. DAST is a nonunion property that serves an area partly covered by a unionized mass transit contract. If this were done, DAST operating expenses would increase by $2\frac{1}{2}$ times. A rural system interfacing with an urban system could very well face the same problem. An analysis of the 13C protections and how they would impact upon rural operations should be made.

The problems involved in transportation of the handicapped and elderly are very challenging. The thrust at a national policy in this area is a positive one. Delaware has studied and worked with these

groups regarding transportation needs for the past 4 years. Much has been accomplished but there is still more to be done. The following has been noted:

1. The handicapped and the elderly are really different groups. Even within these two broad categories, you have subgroups. Handicaps can range from minor to quite severe. Likewise, age alone may not be a barrier to transportation. The true key to the DAST project is the concept of providing mobility.

Accessibility is a key factor of mobility, but it alone will not guarantee the ability to get from one place to another. Delaware has recognized the needs of the transportation disadvantaged and has moved to fulfill these needs. Many factors have been considered including what the true mobility needs were, how many people needed special care, what would be the cost of providing the service, and how should it be paid, and what methods of providing these services should be used. The problem prompted the creation of a separate agency, DAST, to deal with the issues, plus a formal separation of the specialized and mass transit functions in Delaware.

2. At some point, someone is going to have to define "elderly." Does this mean 60 years of age? Or is it 65, 62, 55, or what? Different Federal programs have different age limits for eligibility purposes.

It would really make administration of projects much easier if some consensus could be reached on the age issue. Once that would be resolved someone might wish to tackle the definition of "handicapped." A usable definition is not that easy to devise. Yet, unless some workable guidelines are developed problems of providing and administering services will present significant obstacles to users and providers of transportation services.

3. Planning efforts for the handicapped and elderly transportation services should include utilization of existing resources. Public and private providers should be integrated into any new plans. Management goals should be established to provide a high level of service at a reasonable cost. The impact of service for the handicapped and elderly should be studied to avoid embarrassing problems. Mobility is a multifaceted problem. Transportation is one component. There are other factors that are beyond the scope of transportation people to control.

4. The inclusion of user input is very vital. The handicapped and elderly riders can provide excellent evaluation and suggestions. They can help sensitize and guide project development. DAST utilizes public forums to get consumer and general public input. This approach works well.

5. DAST performs a coordinating service for other specialized transportation services. The Red Cross and some other private non-profit agencies are involved in the overall DAST program. When their resources are combined with existing mass transit and taxi operations, a good level of service can be established. Additionally, volunteer resources can be effectively utilized, plus capital investments can be monitored and emphasis can be placed on expenditures for actual operations.

6. Under the current section 16(B) 2 program of the UMTA Act of 1964 and the proposed section of S. 662 dealing with grants and loans to private, nonprofit corporations and associations, an issue

has arisen whether these funds would need section 13C coverage. UMTA has thus far argued the 13C protections do not apply since they rule this provision is not appropriate nor applicable and therefore waived.

The Department of Labor and the unions disagree and argue the 13C protections are required for all capital assistance as required by section 2(B) 2 of Public Law 89-562. There is a good chance of litigation if the current section 16(B) 2 moneys are released without 13C signoffs. This will only prolong the problem. If it is the intent of the Congress to exclude the 13C requirement from this program, it should be so stated in the legislation. This decision will obviously have tremendous impact on the entire transit industry.

7. It is hoped the current UMTA rulemaking process for handicapped and elderly services and the Small Bus Study will be utilized in determining the future directions for both specialized transportation services and rural mass transportation services. There are many areas of technological and operational research to be explored. The new rules plus the results of the Small Bus Study should help guide future endeavors. Hopefully, UMTA will utilize portions of its research development and demonstration funds to explore new equipment and service concepts. Pragmatic approaches must be sought to deal with these transportation needs.

In summary, DAST would like to join in support of S. 662. The goals of the bill are certainly very important. We hope consideration will be given to the points we have raised since they could affect the implementation of the bill and its results. Transportation is a very key factory to all of us who enjoy mobility. The impact upon those who are currently transportation disadvantaged is even more profound. This bill deals with far more than just transportation systems and their assorted equipment. People's lifestyles and values will be affected.

Every one of us is a potential user of a specialized transportation service. Some will lose their personal mobility through illness or accident, while most will ultimately be hampered by the process of aging. This subject should, therefore, be a very personal one for all of us. The proper consideration and actions now will help provide us all with a more useful and optimistic future.

Senator WILLIAMS. Thank you very much, Mr. Povlitz. We, unfortunately, don't have the time today to get into a discussion which would be fruitful, but even without that, this is a very helpful statement and you're not far away if we need you we can call on you or write to you.

You do suggest that more work should be done on the definition of elderly and handicapped. You know, it seems to me that the definition in the bill seems to cover the situation. Do you have a copy of the bill?

Mr. POVLITZ. Yes, I do, sir.

Senator WILLIAMS. You could look at that—I just don't see that it is not as comprehensive as any definition should be.

[Letter attached to statement and additional information ordered for the record follow:]

STATE OF DELAWARE,
EXECUTIVE DEPARTMENT,
Dover, Del., June 12, 1975.

HON. HARRISON WILLIAMS,
*Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate,
Washington, D.C.*

DEAR SENATOR WILLIAMS: I am writing in reference to S. 662 in which the State of Delaware has a vital interest.

I am sorry that my schedule does not allow time to appear at one of your hearings which are to be held on June 17, 18, and 19th, however, Mr. Thomas M. Povlitz, Executive Director of the Delaware Authority for Specialized Transportation (DAST), is to appear before your committee on Thursday, June 19th to testify on our DAST approach to providing mobility for the transportation disadvantaged. I feel that his presentation will adequately portray the efforts of the State of Delaware to provide statewide transportation for our elderly and handicapped citizens and I want you to know that I am in thorough accord with the information which Mr. Povlitz will present. In addition, however, I would like to emphasize some points which I earnestly recommend for consideration.

At the present time DAST is not eligible for UMTA funding for either capital or operating grants for services provided outside the defined urbanized areas. We feel it should be eligible for this type of funding on a statewide basis, including rural areas, and it is my understanding your bill would provide this. We desperately need this financial assistance.

In urban areas, such as Wilmington, Delaware, which are served by line-haul mass transit buses as well as demand-responsive vehicles specially designed to accommodate the handicapped, we feel it is a waste of money to equip the big mass transit buses with wheelchair elevators and other special devices. Our aim is that those handicapped persons who need door-to-door service, regardless of age, should get it from DAST. The mass transit system (DART) will accommodate those others who are able to get to the bus stops, regardless of age. Further, we feel any mass transit bus system which must be redesigned and rescheduled to accommodate frequent stops for handicapped persons no longer can be considered "rapid transit." Our intent in creating DAST was to complement the existing mass transit system and provide better service for the handicapped than they could get on specially modified mass transit vehicles.

I think you should know of the difficulty we are encountering in the manner the Department of Labor is administering Section 13(c) of the UMTA Act. They are extending the protective provisions of Section 13(c) to require the signing of agreements with labor unions in transit agencies which are not involved in the UMTA grant under consideration. In our case they are demanding that DAST, a non-union agency, sign a 13(c) agreement with the bus drivers labor union in DART. We feel the intent of Section 13(c) is to protect labor in the agency receiving the grant rather than to protect labor in other agencies. At this point the demands of the Amalgamated Transit Union are so unreasonable that we may be forced to withdraw our pending capital grant request. We are disappointed to note that S. 662 extends the applicability of Section 13(c) to the new grants which will become available. (Page 2, Line 6, S. 662—the reference to Section 5(n).) We ask that your committee look at the administration of these procedures and clarify them in S. 662.

Delaware's creation of DAST represents a pioneer effort in the Nation. It is presently operating on a limited budget and providing limited service. We hope that S. 662 will help us exploit, develop and expand this system to accommodate the needs because we have great faith in its future.

Sincerely,

SHERMAN W. TRIBBITT,
Governor.

DELAWARE STATE SENATE, 127TH GENERAL ASSEMBLY, FIRST SESSION—1973

SENATE BILL NO. 330, JUNE 12, 1973

AN ACT To amend Part II, title 2, Delaware Code, Relating to the establishment of a statewide specialized transportation authority

Whereas, specialized transportation plays an integral part in several programs conducted by the State; and

Whereas, several private non-profit agencies depend upon specialized transportation for delivering health care and vocational rehabilitation services; and

Whereas, a pilot program in providing specialized transportation has proven that non-emergency trips by ambulance services can be reduced; and

Whereas, the General Assembly is committed to providing specialized transportation to eligible clients at least cost to the citizens of the State: Now, therefore, be it

Enacted by the General Assembly of the State of Delaware, That

SECTION 1. Amend Part II of Title 2, Delaware Code, by establishing a new chapter to be designated as Chapter 17 to read as follows:

“CHAPTER 17. SPECIALIZED TRANSPORTATION AUTHORITY

§ 1701. *Definitions*

As used in this Part:

“Specialized Transportation” means those transportation services that are provided to clients deemed eligible for reasons of physical or mental infirmity or for reasons of economic need by a responsible agency.

“Secretary” means the Secretary of the Department of Highways and Transportation.

§ 1702. *Creation of a Statewide Transportation Authority; Appointment of Commissioners; Officers*

(a) Whenever the Secretary of the Department of Highways and Transportation shall have determined that there is a need for specialized transportation in the State, he shall issue to each appointing officer named in this section a certificate of such determination, and as soon as possible thereafter a Specialized Transportation Authority shall be created by the appointment of seven (7) Commissioners who shall constitute the Authority.

(b) The Commissioners shall be residents of the area in which the Authority operates, and shall be appointed initially, in order to stagger terms, as follows:

- (i) four by the Governor for terms of 1, 2, 3 and 4 years, respectively;
- (ii) one by the County Government of each County in the State for the

following terms:

- New Castle County Commissioner, 1 year
- Kent County Commissioner, 2 years
- Sussex County Commissioner, 3 years

(c) Appointments by the New Castle County Government shall be made by the County Executive of New Castle County and appointments by the Kent and Sussex County Governments shall be made by the respective Levy Court, or their successors, thereof.

(d) Following the terms of the initial Commissioners, each successor Commissioner shall be appointed to hold office for a term of three years or until his successor shall have been appointed and qualified. In the case of a vacancy in an unexpired term, a successor Commissioner shall be appointed to serve for the remainder of the unexpired term.

(e) No more than four (4) Commissioners shall be members of one political party.

(f) The Governor shall designate one of his appointees as chairman. The Authority shall select its other officers.

(g) The Secretary of Highways and Transportation or his designee shall serve as a non-voting member of the Authority.

§ 1703. *Filing of Certificate of Appointment; Vacancy*

(a) Forthwith upon the appointment of the original Commissioners, the Secretary and the appointing officers shall execute and file or cause to be filed in the office of the Secretary of State a certificate stating that such appointments have been duly made and setting forth the area of operation of the Authority and the

names and term of office of each Commissioner. Such certificate shall be conclusive evidence of the due and proper creation of the Specialized Transportation Authority.

(b) Each appointing officer shall execute and file or cause to be filed in the office of the Secretary of State a certificate with respect to each appointment of a successor Commissioner stating the fact of such appointment and setting forth the name of the successor Commissioner and his term of office.

§ 1704. *Removal of a Commissioner*

The Governor may remove a Commissioner of an Authority for official misconduct, neglect of duty or incompetence, but only after the Commission shall have been given a copy of the charges against him and an opportunity to be heard in person or by counsel in his own defense. Pending the determination of the charges against the Commissioner, the Governor may suspend him from office. A copy of the charges and the result of the hearing shall be forwarded to the Secretary.

§ 1705. *Oath; quorum; compensation of Commissioners*

(a) Before entering upon the duties of the office, each Commissioner of the Authority shall take and subscribe the oath or affirmation prescribed in the Constitution. Such oath or affirmation shall become of the records of the Authority.

(b) A majority of the Commissioners of an Authority shall constitute a quorum. A majority of the Commissioners present at any meeting constituting a quorum shall be sufficient for any action by the Authority.

(c) The Commissioners of an Authority shall receive their actual expenses incurred while engaged in the affairs of the Authority but shall receive no other remuneration.

§ 1706. *Powers and duties of a Specialized Transportation Authority*

The Specialized Transportation Authority shall be a subdivision of the State exercising public powers and having all powers necessary or convenient to carry out and effectuate the provisions of this Chapter for providing specialized transportation services within its area of operation.

(a) The Authority may:

(1) in cooperation with the Department of Highways and Transportation, develop plans and programs designed to serve those citizens requiring specialized transportation;

(2) acquire, purchase, hold, use and dispose of any property, real and personal, tangible or intangible, or any interest therein necessary for carrying out the purposes of this part, and lease as lessor or lessee any property, real or personal, or any interest therein for such terms and at such rental as the Authority may deem fair and reasonable;

(3) contract with any county, municipality, authority public agency or private company whereby the Authority will receive a fee to provide specialized transportation services;

(4) employ, in its discretion, attorneys, accountants, superintendents, dispatchers, managers, drivers and other such officers, employees and agents as may be necessary in its judgment, and fix their compensation;

(5) apply for and accept and use grants or other assistance from the Federal Government or any agency thereof, and comply with any terms and conditions of such grant or assistance; and

(6) adopt a seal.

(b) The Authority shall:

(1) prepare and submit to the Secretary before September 1 of each year, a plan, program and budget designating the type and amount of service to be provided and designating the amount and source of funds for conducting the service for the next fiscal year. (Which shall commence on the following July 1st.)

(2) make every effort to provide least cost specialized transportation services to those agencies and firms contracting for such services by making use of public transportation, taxicabs, private contractors and/or Authority owned vehicles.

(3) only contract with agencies or firms and not provide service to individuals who are not certified by a contracting firm.

§ 1707. *Veto power of Secretary*

The powers set fourth in paragraphs (a) (5), (a) (6), and (b) (1) of § 1706 shall be exercised by an Authority only with the prior consent of the Secretary.

§ 1708. *Conflict of interest prohibited*

No Commissioner or employee of an Authority shall be in the employ of, or own stock in, or be in any way directly or indirectly pecuniarily interested in any public utility; nor shall any Commissioner, directly or indirectly, receive a commission, bonus, discount or present or reward from any such public utility.

§ 1709. *Exemption from certain laws*

The provisions of Part V and VI, Title 29, and Chapter I, Title 26, shall not apply to a Specialized Transportation Authority.

§ 1710. *Audit*

(a) The books, records and accounts of a Specialized Transportation Authority shall be audited annually by a certified public accountant licensed to practice in the State. Copies of this audit will be furnished to the Secretary, the Auditor of Accounts, and the Chairmen of the Highways and Transportation Committees in the House and Senate.

(b) The Auditor of Accounts may also audit the books, records and accounts of an Authority.

§ 1711. *Exemption from taxation*

All facilities owned or operated by a Specialized Transportation Authority and all property acquired or used by an Authority in connection therewith shall at all times be free from all taxation in this State.

STATE OF DELAWARE, EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NUMBER SIXTY-EIGHT

To: Heads of All State Departments and Agencies.

Re: Delaware Transportation Activities.

Whereas, great emphasis is being directed, both in the State of Delaware and nationwide, toward the provision of adequate and efficient public transportation services; and

Whereas, Chapter 268, Volume 56, *Laws of Delaware*, authorized the creation of Local Transportation Authorities, such as the Delaware Authority for Regional Transit (DART); and

Whereas, Chapter 306, Volume 59, *Laws of Delaware*, authorized the creation of a Specialized Transportation Authority, to wit, the Delaware Authority for Regional Transit (DART); and

Whereas, Executive Order No. 52, July 19, 1974, created the Governor's Task Force for Aviation; and

Whereas, there was created in March 1972, the Governor's Transit Task Force for Northern Delaware, as was mandated by the Urban Mass Transportation Administration of the United States Department of Transportation, as a provision of the Delaware Transit Technical Study Grant DE-09-0002; and

Whereas, numerous Federal laws, regulations, and policies, such as the Federal-Aid Highway Act of 1962, the Urban Mass Transportation Act of 1964, the National Environmental Policy Act of 1969, the Airport and Airway Development Act of 1970, the Regional Rail Reorganization Act of 1973, the Federal-Aid Highway Act of 1973, and the National Transportation Assistance Act of 1974, require certain actions at the State government level, with respect to transportation activities.

Now, therefore, I, Sherman W. Tribbitt, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby declare and order as follows:

1. The Secretary of Highways and Transportation or his designee is authorized to act for the Governor and the State of Delaware in transportation and aviation matters affecting the State of Delaware.

2. The Secretary of Highways and Transportation or his designee shall assure that maximum coordination, and cooperation is maintained with the Wilmington Metropolitan Area Planning Coordinating Council (WILMAPCO), the State Planning Office, and the various Federal Transportation and Aviation activities.

3. The Secretary of Highways and Transportation or his designee shall exercise overall policy, management, and administrative supervision over all state-wide transportation and aviation matters. In this capacity, the Department of Highways and Transportation will:

a. Coordinate all transportation policies and procedures for the State of Delaware with the objective of providing a balanced transportation system at optimum efficiency and cost;

b. Perform all planning of transportation activities for the State of Delaware and conduct such continuing, comprehensive, and coordinated transportation planning activities as shall be necessary to satisfy the requirements of the various Federal laws and regulations;

c. Coordinate all transportation budgets and grants for the State of Delaware;

d. Coordinate the activities of Transportation Authorities created by the State to avoid competition, overlap and duplication of service;

e. Monitor transportation management actions to assure the optimum utilization of transportation services within the State at a minimum total transportation cost to the State of Delaware; and

f. Act as the technical supervisor of all State transportation functions;

g. Prepare for the Governor, certification as to the social, economic, and Delaware as may be required to satisfy all applicable State and/or Federal laws;

h. Hold public hearings, for any transportation activities as may be required to satisfy the various State and Federal laws;

i. Conduct or contract for studies, plans or designs as may be required to satisfy the various Federal regulations and laws;

j. Assure the optimum utilization of all available Federal funds for transportation.

Approved this the 28th day of February, 1975.

SHERMAN W. TRIBBITT,
Governor.

DELAWARE AUTHORITY FOR SPECIALIZED TRANSPORTATION,
Wilmington, Del., June 23, 1975.

Ms. JUDY HEUMANN,
Labor and Public Welfare Committee,
New Senate Office Building,
Washington, D.C.

DEAR Ms. HEUMANN: In my testimony before the Senate Committee on Banking, Housing and Urban Affairs, on S. 662, which I presented on June 19th, I mentioned additional clarification might be considered on the definitions of the terms "elderly" and "handicapped." You have requested that I expand my comments which I am more than happy to do.

The term "elderly" as used in the bill I would presume would refer to a physical condition that would make the use of existing transit modes difficult. That would then seem to refer to a handicap which would be covered by the exclusive use of the term "handicap."

If the concept of age is used to promote a fare reduction, then you present a separate matter. No longer are we speaking of a physical ability or disability to use existing transit, now we are speaking more of economic necessity for reduced rider fare. If you examined the guidelines of a broad spectrum of federal human service programs such as administered by H.E.W., the Administration on Aging, H.U.D.O.E.O. (or its predecessor) and other such programs and V.A. or Social Security, you will note a variety of ages that qualify a recipient for service. These differences make it very difficult to administer multiple funded source programs. Hopefully, at some point, a consensus on the eligibility criteria based on age can be reached. In this way, social service and transportation funds could be pooled to provide greater mobility to senior citizens.

The definition of the "handicapped" can become a very technical and almost absurd battle. I have received data that some transit operators will require passes and doctor's certificates for reduced fare under UMTA Section 5 programs. This to me, imposes an extra burden on a handicapped person. Perhaps a threat toward a functional definition rather than clinical terms. Certainly, the average

transit bus driver or rail car motorman isn't going to be technically competent to rule on physical or mental incapacities. The cost of establishing a sophisticated eligibility standard must be weighed against the cost of monitoring it. Will the potential, unproven abuses really arise and is it cost-effective to guard against the potential? I would hope the concept can be kept simple and workable. Hopefully, the physical barriers to transportation will not be replaced by administrative ones. The goal should be to provide the maximum mobility as soon as possible. Then, to keep upgrading the mobility goals as technology and funding permits.

I hope these comments will clarify my testimony for you. If you need further information, please do not hesitate to contact me. I would appreciate any information on the progress of S. 662 you can provide. I believe this is a very vital bill, and it can provide great assistance to mass transit in America.

Sincerely,

THOMAS M. POVLITZ,
Executive Director.

Senator WILLIAMS. We will call Mr. Charles Webb now, president of the National Association of Motor Bus Owners.

Mr. Povlitz, if you could review section (g) on page 9 of the bill and come around to the side and talk to the staff, I'd appreciate it.

STATEMENT OF CHARLES A. WEBB, PRESIDENT, NATIONAL ASSOCIATION OF MOTOR BUS OWNERS

Mr. WEBB. Mr. Chairman, members of the subcommittee, I'm sure it will be satisfactory with you to have my statement printed in the record of the hearings.

Senator WILLIAMS. I'd prefer it the other way, but we are under a time pressure here that is acute.

Mr. WEBB. I understand.

Senator WILLIAMS. I appreciate that.

Mr. WEBB. My statement does cover one facet of the problem which the other witnesses have not touched upon.

We represent the intercity bus operators and we are heartily in favor of the provision of operating assistance for the improvement of rural transportation. I simply want to mention that there are three types of transportation involved here: The improvement of rural transportation wholly within a rural area; second, wholly within a small urban area; and third, from the rural and the small urban areas to the large urban areas which is the transportation role that the intercity bus operators can play.

I have appended to my statement a series of amendments which, in my opinion, are necessary for the intercity bus operators to play their role in improving rural transportation. If you or the staff have any questions about those I am here in Washington and I'd be delighted to consult with them.

Senator WILLIAMS. Well, I knew you were and with that offer, we will be in touch.

Mr. WEBB. I thank you very much.

Senator WILLIAMS. I will confess that while your statement was appropriately filed in advance, I have not had a chance to read it yet, but I certainly will. Yours is an association of people that have some ideas that I know can be useful to us.

Mr. WEBB. I thank you very much, Mr. Chairman.

Senator WILLIAMS. Thank you very much, Mr. Webb.
[Complete statement of Mr. Webb follows:]

STATEMENT OF CHARLES A. WEBB, PRESIDENT, NATIONAL ASSOCIATION OF MOTOR BUS OWNERS, JUNE 19, 1975

Mr. Chairman and members of the subcommittee, my name is Charles A. Webb. I appreciate this opportunity to appear before you on behalf of the National Association of Motor Bus Owners (NAMBO) to present our views on S. 662 and, in particular, on that provision of the bill which would authorize the payment of subsidies for operating expenses in areas other than urbanized areas.

Our Association has about 450 operator members. They provide bus passenger service to some 15,000 communities listed in the *Official Bus Guide*, of which 14,000 have no other common carrier passenger service. Collectively, the members of NAMBO provide more than 90 percent of the intercity bus transportation in the United States.

Last year the Congress authorized the expenditure of approximately \$2 billion a year for the development and improvement of urban mass transportation. This Congress has approved subsidies of \$1.1 billion over a 2½ year period to support AMTRAK's passenger train service, which is largely confined to major city-pairs. We believe the time has come to launch a major effort for the improvement of public transportation for residents of rural and small urban areas. We are convinced the intercity bus industry can play a vital role in any such program.

Section 4(c) of the Urban Mass Transportation Act of 1964, as amended, provides that not to exceed \$500 million shall be available exclusively for assistance in areas other than urbanized areas but further provides that such funds shall not be available for the payment of operating subsidies. Section 1 of S. 662 would remove that limitation by providing that of such \$500 million not to exceed \$250 million may be used for the payment of subsidies for operating expenses.

Our Association is in complete accord with this objective of the bill. Intercity bus transportation between rural and small urban areas, on the one hand, and urbanized areas on the other, cannot be improved significantly by capital grants alone. In general, intercity bus operators are able to acquire the facilities and equipment necessary to provide adequate bus transportation linking rural and urban areas. Regardless of the availability of government-financed equipment and facilities, however, intercity bus operators will not maintain, extend, or improve service which in all probability would be conducted at a loss.

A program to improve mass transportation for residents of rural and small urban areas involves three types of bus transportation. For transportation wholly within rural areas, greater utilization of school buses would appear to be the most promising approach. For transportation wholly within small urban areas having a population of between 5,000 and 50,000, transit buses, in some cases minibuses, would be used. Intercity bus operators have no particular interest in these two types of rural and small urban transportation.

We believe the most important type of transportation for persons who reside in isolated communities or in communities having no adequate public transportation is the service which can be provided by intercity buses. Those who reside in rural areas and small urban areas should have convenient public transportation to enable them to take advantage of the employment opportunities, health care, shopping centers, educational facilities, cultural activities, and other services concentrated in urbanized areas; that is, in cities having a population of 50,000 or more. This is the type of service provided by intercity bus operators.

Although, as indicated, our members provide intercity bus transportation to some 14,000 communities having no other common carrier passenger service available. The quantity of service provided by intercity bus operators, particularly the smaller operators, has declined sharply over the years. The number of passenger carriers regulated by the Interstate Commerce Commission has declined from about 1,600 in 1950 to some 1,130 in the mid-1960's to 980 today.

Traffic volume decreased markedly, particularly on regularly scheduled routes. In such service, passenger-miles reported by Class I motor carriers of passengers declined from 17.0 billion in 1950 to an annual rate of 16.5 billion in the mid-1960's (down 3 percent) and to a current annual rate of 13.5 billion (down another 18 percent). Although precise figures are not available, service cutbacks were concentrated on routes serving sparsely settled areas and communities not located on the Interstate Highway System.

Over the past 20 years, many routes have been abandoned and over many other routes service has been sharply curtailed. In addition, service is now being performed over many routes at a loss and, in time, operators will find it necessary to discontinue that uneconomical service.

Because of the relative importance of intercity bus transportation in any program to improve mass transportation in areas other than urbanized areas, our Association offers for the subcommittee's consideration a series of amendments to S. 662 which are set forth in the Appendix to my Statement. I will not read our proposed amendments but I would like to summarize them and to respond to any questions you may have.

Of the \$250 million which S. 662 would make available for the payment of operating subsidies, we suggest that not less than \$125 million be available for the payment of subsidies to assist the intercity bus transportation of passengers between rural areas and small urban areas, and between such areas and urbanized areas.

Irrespective of how much money might be available for operating assistance, the funds would be available, as a practical matter, if compliance with the procedure applicable to urban mass transportation assistance were required. If the Congress concludes it is desirable to improve and to extend intercity bus transportation to residents of rural and small urban areas, it should recognize that the procedures designed for urban mass transportation programs simply will not work. For example, it would not be feasible to require a dozen or so communities proposed to be served by an intercity bus route to engage in comprehensive transportation planning, or to require that hearings be held in each such community. Because intercity bus transportation, unlike urban mass transportation, is not localized, a requirement that applications be initiated by the local public bodies of the communities proposed to be served would be impractical.

Accordingly, in the amendments we have proposed, applications for operating assistance would be filed with the State regulatory commission or other State agency responsible for regulating the rates and service of motor carriers. The State regulatory commissions in most States are already responsible for determining whether bus passenger service should be instituted, curtailed, or discontinued.

Our members are convinced they can provide intercity bus transportation to residents of rural and small urban areas much more economically and much more efficiently than any public agency, the employees of which are likely to have very limited transportation experience. Thus, in our proposed amendments we have provided that preference in performing a subsidized rural transportation service be accorded to those private bus operators who are providing or who have provided public passenger transportation over the routes or within the general area of the assisted project.

Under the amendments we have submitted, operating subsidies for the continuation, extension, or improvement of intercity bus transportation would be provided in the following manner. An intercity bus operator who could no longer provide service to rural and small urban communities except at a loss would apply to the State regulatory commission either for authority to discontinue the service or to continue it with Federal operating assistance. If the State regulatory commission found that the service in question was required by the public convenience and necessity, it would forward the application to the Department of Transportation recommending that the service be continued under a contract with the appropriate State agency. Under such a contract, the intercity bus operator might undertake to perform the service found to be necessary at \$1.00 per bus-mile and to return all passenger and express revenues derived from the operation to the contracting agency. Under such contractual arrangements a vast amount of existing service now threatened with abandonment and a vast amount of new intercity bus service could be provided at modest cost, perhaps for as little as 10 or 20 cents per bus-mile.

On many of Amtrak's routes outside the Northeast Corridor, the subsidy on a per passenger-mile basis runs as high as 10 or 15 cents. Under the program we

have proposed, we believe intercity bus transportation could be provided to residents of rural and small urban areas for as little as 2 or 3 cents per passenger-mile.

We also ask your consideration of amendments to other sections of S. 662. We suggest that section 2 of the bill be amended so as to make associations of private transportation operators eligible for grants for training programs as well as private mass transportation operators and to provide that fellowship assistance be available for training persons in rural as well as in urban mass transportation.

NAMBO takes no position on those provisions of S. 662 which would amend section 16 of the Urban Mass Transportation Act relative to the provision of mass transportation facilities and equipment to meet the needs of elderly and handicapped persons. I would like to point out, however, that requirements for effective utilization of urban mass transportation services by elderly and handicapped persons should not be applied without modification to intercity bus transportation services in rural areas. For example, urban mass transportation programs and projects often involve a fleet of vehicles, one or more of which might be designed specially for utilization by elderly and handicapped persons. On the other hand, only a few buses would be involved in any project for the improvement of intercity bus transportation to a particular rural or small urban area. It would not be feasible, of course, to replace conventional coaches with special purpose vehicles.

The intercity bus industry recognizes its obligation to make a special effort to meet the transportation needs of the elderly and the handicapped and we will be most pleased to work with the committee and its staff on language which is tailored to the particular conditions governing the intercity transportation of passengers.

If the committee is receptive to the general purpose of the amendments we have proposed to the pending bill, I will be happy to work with the committee and its staff in perfecting the language in question.

Again I wish to thank the committee for the privilege of appearing here today and presenting the views of the intercity bus industry on this important matter.

AMENDMENTS PROPOSED BY THE NATIONAL ASSOCIATION OF MOTOR BUS OWNERS
TO S. 662

Amend Section 1 of the bill as follows:

Page 1, line 5—Insert "(a)" before the first sentence.

Page 2, line 3—Place a period after "expenses" and strike the remainder of the sentence.

Page 2—Insert the following as new paragraph "(b)"—

"(b) Of such \$250,000,000 referred to in paragraph (a) not less than \$125,000,000 shall be available for the payment of subsidies for operating expenses for assisting the intercity bus transportation of passengers between rural areas and small urban areas, and between such areas and urbanized areas, in order to enhance access of rural and small urban populations to employment, health care, retail centers, education, and public services. Such assistance shall be available on the terms and conditions and subject to the limitations contained in section 2."

Page 2—Insert the following as new section 2 and remember the succeeding sections accordingly:

"SEC. 2. The Urban Mass Transportation Act of 1964 is amended by adding the following new section 17:

"OPERATING SUBSIDIES FOR INTERCITY BUS TRANSPORTATION IN AREAS OTHER THAN
URBANIZED AREAS

SEC. 17. (a) As used in this section—

(1) "State agency" means the agency of the State engaged in the regulation of the rates and service of motor carriers, or, if no such agency exists, the Governor of the State or his designee; (2) "small urban area" means any place not included in an urbanized area and designated by the Bureau of the Census as having a population of 5,000 or more; (3) "rural area" means any area of a State not included in either an urbanized area, or a small urban area.

(b) The Secretary is authorized in accordance with the provisions of this section and on such terms and conditions as he may prescribe to pay subsidies for operating expenses to assist States, local public bodies, and private bus operators in maintaining, establishing, and improving mass transportation by intercity bus. With respect to applications under this section which are approved by the Secretary, all payments shall be made to the State agency.

(c) Any application under this section for the payment of subsidies for operating expenses shall include the following certifications—

(1) that adequate opportunity has been afforded for public hearings pursuant to adequate prior notice;

(2) that the State agency has found a public need exists for the continuance or establishment of the service proposed to be assisted;

(3) that the State agency or the Governor or his designee is willing to accept the responsibilities described in paragraph (2) of subsection (d) of this section; and

(4) that an estimated portion of the total cost of the proposed project to be assisted under this section cannot reasonably be financed from operating revenues—which portion shall hereinafter be called “net project cost.”

Notice of any hearings under this subsection shall include a concise statement of the proposed project and shall be published in a newspaper of general circulation in the geographic area to be served.

(d) No financial assistance shall be provided under this section unless the Secretary finds—(1) applicant has or will have the operating authority required by Federal or State agencies to conduct the assisted intercity bus service; (2) the State agency or the Governor or his designee will provide adequate supervision and control with respect to the performance of applicant's contractual and other obligations under the proposed project, including accounting for the funds paid for operating expenses; and (3) either preference in performing the service was accorded to private bus operators who lawfully are providing or have provided public passenger transportation over the routes or within the general area of the proposed project, or no private mass transportation company is willing to participate in the proposed project on reasonable terms and conditions.

(e) The Federal grant for any project for the assistance of intercity bus transportation under this section shall not exceed the net project cost.

(f) Payments of subsidies for operating assistance shall be subject to the terms and conditions described in sections 3(f), 5(j), and 5(k) of this Act to the extent the Secretary may determine that imposition of the same or similar conditions is necessary or desirable to carry out the objective of improving intercity bus transportation and other transportation in areas other than urbanized areas.”

Page 2, line 14—After the word “operators” insert “or associations of private transportation operators.”

Page 2, line 16—Strike the words “urban mass transportation” and insert after “fields” the words “of public passenger and school bus transportation.”

Page 2, line 19—Strike “mass” and insert “intercity or school bus”; change “industry” to “industries.”

Senator WILLIAMS Mr. Jack Bloom, director of Public Transportation, Burlington, Iowa. Iowa is most prominent here this morning.

STATEMENT OF JACK BLOOM, DIRECTOR OF PUBLIC TRANSPORTATION, BURLINGTON, IOWA

Mr. BLOOM. Yes, I guess it is. Not only that, but our first name has often been misconstrued with our other speaker from Burlington, Vt.

Senator WILLIAMS. Yes, two Burlingtons. Where is Burlington, Iowa?

Mr. BLOOM. Burlington, Iowa, is in the southeast corner of Iowa about 1½-hour driving distance, about 75 miles east of Iowa City.

Senator WILLIAMS. You're due south of Ottumwa?

Mr. BLOOM. No. We're more to the east of Ottumwa. Ottumwa is about 2 hours to the west of us. So it's sort of midway between Chicago and St. Louis.

I will be brief. First of all, I'd like to thank you for giving me the opportunity for speaking on behalf of S. 662. The first half of my speech was based on some of the other transit systems' general remarks, regarding section 5 which did not allow for cities under 50,000 to be granted operating assistance.

Burlington, Iowa, is a fairly sparsely populated town. It is located on the west bank of the Mississippi River in the southeastern corner of Iowa. The population, 35,500, of the urban area, comprised of the cities of Burlington and West Burlington, has remained fairly stable for the past 30 years. Many people in Burlington are sorely dependent upon public transportation, just as they are in other rural and semi-rural areas of the country. Over 18 percent of Burlington's population is over 60 years of age; that is how we comprise our elderly population as far as discount fare go, and they comprise approximately a quarter of the city's bus ridership; more than one-third of Burlington's population is under 18, who comprise 40 percent of all our bus riders. These two age groups comprise the majority of Burlington's transit dependents, along with the low income and handicapped, who do not own or operate a car and are thus greatly dependent upon public transportation in order to receive medical care, go to work or school, or visit the welfare office or friends.

The amount of money it takes to finance a mass transit system to efficiently do all of this is quite large, even for a small bus system—we operate nine buses—like Burlington Urban Service, mainly on the UMTA half-million-dollar grant which provided us with seven buses. One of the buses is provided with a hydraulic electrically operated lift with which we provide transportation for the handicapped.

Our operating costs are approximately \$18,000 a month or \$216,000 per year; 80 percent of these costs go toward ever-escalating wages of bus drivers and shop mechanics, and fuel costs. We have increased service and lowered our bus fare since January 1, 1974, in order to make public transportation more economically accessible to the majority of Burlington's transit dependents, that is, the fare for adults is now 25 cents and for senior citizens over 60, students, and the handicapped, the fare is 10 cents. Even though we have significantly increased our ridership by more than 20 percent, our passenger and charter revenue has still decreased to \$5,000 a month or \$60,000 a year. This leaves the city of Burlington with an annual transit operating deficit of \$156,000, or 47 cents a mile, for fiscal 1975.

There is a 2-mill property tax on our residents which the State legislature has empowered us to levy for the maintenance and operation of the city bus system which will bring in only \$126,000. Thus, the city is left to pay out of its ever-dwindling general fund not only the difference of \$40,000, which is sure to increase in the years ahead, but the local share of \$100,000 of its 1974 one-half million dollar UMTA capital grant, and as well as any future transit capital equipment costs.

This heavy expenditure comes at a time when our already heavily-taxed local citizens are asked to carry a great economic burden to finance many municipal services, just one of which is mass transit, whose capital and operating costs are also skyrocketing. The major source of financing all these municipal services comes in the form

of a local property tax, which is quite regressive in terms of placing the heaviest economic burden on those who most desperately need these services, that is, senior citizens on fixed incomes who rely so heavily on public transportation. Thus the need for operating a public transportation system in a city or town under 50,000 population certainly exists, but current adequate funding, on the Federal, State, and local levels, does not. Finally, it is quite important if S. 662 is passed, that the Federal operating assistance to transit systems in areas other than urbanized areas, be handed out directly to the respective local governmental agency, and not through the State. This process seems to work quite efficiently on both the Federal and local side with the present UMTA capital grant program. Not only will processing Federal rural transit operating aid through the States add an additional layer of unnecessary bureaucracy onto the proposed legislation, but there are many States, like Iowa, that has no established State mass transit division or department at present.

Thus, the moneys would most likely go from the Federal level through the State highway commission, to the specific locality, which more than likely would take a great deal of time. This, of course, is complementary to Administrator Herringer's proposal that the operating subsidies for cities under 50,000 start in fiscal year 1977. We cannot afford, as the rest of the cities spoke before, to wait this long, as well as can't afford to wait for any moneys if it is passed from the Feds to the State and finally to the specific locality. It would take an inordinate amount of time and we are financially pressed right now. We feel we greatly need bus service now.

That is a brief of my testimony, Senator, and once again, I thank you for allowing me to appear as a witness.

Senator WILLIAMS. I am not aware why you made that last point about the route that operating money might take under this program.

Mr. BLOOM. Currently under the program as the amendment to the UMTA Act of 1974, operating subsidies for those transit systems over 200,000 would go to the designated recipient, which is the local transit authority. But areas from 50,000 to 200,000 would go through the State. The State would dole it out, therefore, and maybe this is more of a local problem, but areas I have dealt with in the Iowa Department of Transportation have all been through the highway commission and moneys therefore would take an inordinate amount of time. To be handed out the grants we have got through FHA, and so forth, have taken a lot of time. If this is written as an amendment to the previous amendment to the UMTA Act of 1974, we would like to be included with those areas above 200,000, where the money would be allocated from UMTA to the specific locality as is the case with the capital grant program now.

We feel that our needs are pressing and that we can't wait until 1977 and we also can't wait for the money to go through the State.

Senator WILLIAMS. We have various methods of distribution under the act, but you are worried that it will fall under the formula rather than the capital grant program.

Mr. BLOOM. Correct. That is absolutely correct.

Senator WILLIAMS. If I were you, I would have that concern too. This program should not go the direction you fear because it is not a formula program.

Mr. BLOOM. Right.

Senator WILLIAMS. So it should go to the designated recipient.

Mr. BLOOM. Right, in which case ours would be the city of Burlington and not the State of Iowa.

Senator WILLIAMS. After Abilene, you should come next alphabetically.

Well, I see the concern. If there's any ambiguity, we will certainly, before we are through with the processing and the bill in committee, make sure that it is clarified.

Mr. BLOOM. OK. We certainly hope so.

[Complete statement of Mr. Bloom follows:]

STATEMENT OF JACK BLOOM, DIRECTOR OF PUBLIC TRANSPORTATION,
CITY OF BURLINGTON, IOWA

My name is Jack Bloom and I am Director of Public Transportation for the City of Burlington, Iowa. I would like to thank Senator Sparkman and this subcommittee for giving me an opportunity to speak before it in behalf of S. 662. The last Mass Transit Aid Bill, S. 386 (which became the foundation for section 5 of the 1964 Urban Mass Transportation Act) which went before this subcommittee I believe, did a great deal in meeting the capital needs of transit systems in both rural and urban areas. Section 5, of course, provided federal operating assistance for transit projects and urban areas, but failed to meet the severe operating needs of transit systems in cities or towns under 50,000 population. It is this issue, as well as the means of providing the federal operating aid to the specific localities, and how it all relates to Burlington, Iowa's situation, which I would now like to address.

Burlington, a fairly sparsely populated town, is located on the west bank of the Mississippi River in the southeastern corner of Iowa. The population (35,500) of the urban area comprised of the cities of Burlington and West Burlington, has remained fairly stable for the past 30 years. Many people in Burlington are sorely dependent upon public transportation, just as they are in other rural and semi-rural areas of the country. Over 18% of Burlington's population is over 60 years of age (the elderly comprise 23% of the city's bus ridership) and more than one-third of Burlington's population is under 18 (who comprise 40% of all bus riders). These two age groups comprise the majority of Burlington's transit dependents (along with the low income and handicapped) who do not own or operate a car and are thus greatly dependent upon public transportation in order to receive medical care, go to work or school, or visit the welfare office or friends.

The amount of money it takes to finance a mass transit system to efficiently do all of this is quite large, even for a small bus system (we operate nine buses) like Burlington Urban Service.

Our operating costs are approximately \$18,000/month or \$216,000 per year. 80% of these operating costs go toward ever-escalating wages of bus drivers and shop mechanics and fuel costs. We have increased service and lowered our bus fare since January 1, 1974, in order to make public transportation more economically accessible to the majority of Burlington's transit dependents (i.e. the fare for adults is now 25¢ and for senior citizens, students, and the handicapped, the fare is 10¢). Even though we have significantly increased our ridership by more than 20%, our passenger and charter revenue has still decreased to \$5,000/month or \$60,000/year. This leaves the City of Burlington with an annual transit operating deficit of \$156,000 (or .47/mile) for fiscal 1974. We have levied a two mill property tax on our residents to pay for the operation of the city bus system which will bring in only \$126,000. Thus the City is left to pay out of its ever-dwindling General Fund, not only the difference of \$40,000 (which is sure to increase in the years ahead) but the local share of \$100,000 of its 1974 one-half million dollar UMTA capital grant, as well as any future transit capital equipment costs.

This heavy expenditure comes at a time when our already heavily-taxed local citizens are asked to carry a great economic burden to finance many municipal services, just one of which is mass transit, whose capital and operating costs are also skyrocketing. The major source of financing all these municipal services

comes in the form of a local property tax, which is quite regressive in terms of placing the heaviest economic burden on those who most desperately need these services (i.e. senior citizens on fixed incomes who rely so heavily on public transportation). Thus the need for operating a public transportation system in a city or town under 50,000 population certainly exists, but current adequate funding (on the federal, state and local levels) does not. Finally, it is quite important if S. 662 is passed, that the federal operating assistance to transit systems in areas other than urbanized areas, be handed out directly to the respective local governmental agency, and not through the state. This process seems to work quite efficiently on both the federal and local side with the present UMTA capital grant program. Not only will processing federal rural transit operating aid through the states add an additional layer of unnecessary bureaucracy on to the proposed legislation, but there are many states, like Iowa, that has no established state mass transit division or department at present. Thus the monies would most likely go from the federal level through the state highway commission, to the specific locality, which more than likely would take a great deal of time.

I would like to thank the Senators once again for allowing me to appear as a witness in behalf of S. 662.

Senator WILLIAMS. There is a vote in the Senate, so I'd better get over there, the hearing is adjourned.

[Whereupon at 12:35 p.m., the hearing was adjourned.]

APPENDIX



June 7, 1975

Testimony on behalf of S.662

Gentlemen of the Senate Banking, Housing and Urban Affairs Committee:

ACORN (Arkansas Community Organizations for Reform Now) is a statewide membership organization of over 5,000 low to moderate income senior citizens and families in affiliated neighborhood groups in seven cities in Arkansas. Garland County ACORN has four affiliated groups, three of them in Hot Springs. Today, ACORN members would like to call your attention to Hot Springs, Arkansas, a city of less than 50,000 which would be greatly affected by the passage of S.662.

Hot Springs has the largest number of retired persons in the entire state of Arkansas-- 8,000 in a city of 37,000. The City has applied for an UMTA grant to purchase the local bus company. S.662 would greatly aid the city in purchasing and running the bus company, and more critically to ACORN members, allow for reduced fares for senior citizens. Bus fare now is thirty-five cents, a fare too high for too many on fixed incomes.

Hot Springs, Arkansas is additionally unusual in being a resort and retirement community. Mass transit is essential. The bill before your Committee today is an excellent example of the opportunity you have to pass legislation which is responsive to local differences and needs. ACORN members realize that most cities with a population under 50,000 don't have a bus system; but ACORN members also realize that Hot Springs residents sorely need a mass transit system which is city-owned and economically accessible.

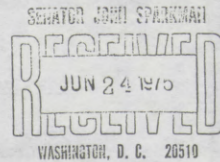
To demonstrate their concern for the passage of S.662, ACORN members have successfully urged the Mayor of Hot Springs and four Hot Springs alderman to write personal letters supporting S.662 to Senators Bumpers and McClellan.

Thank you for your serious consideration of this matter.

Salvatore D. Alessandro
Salvatore D. Alessandro for the
Garland County ACORN Executive
Board

ARKANSAS COMMUNITY ORGANIZATION FOR REFORM NOW
Southwest Regional Office: 126 Hawthorne, Hot Springs: 624-1309

June 17, 1975



Honorable John Sparkman, Chairman
 U.S. Senate Committee on Banking
 Housing and Urban Affairs
 5228 Dirksen Senate Office Building
 Washington, D. C. 20510

Dear Senator Sparkman:

City of Chicago
 Richard J. Daley, mayor

Department of Public Works
 Office of the Commissioner

City Hall Room 406
 Chicago, Illinois 60602
 312-744-3600

M. [REDACTED]
 Marshall Suloway
 Acting Commissioner

As I am sure you are aware, it is local and regional government which ultimately have the responsibility of insuring that all citizens have the means and opportunity to share equally in the benefits of this society. Providing effective and efficient public transportation is a major element of this responsibility. In partnership with Federal guidance and financial assistance, local governments have begun to improve and develop transit systems which will insure that the transportation desires of all their citizens will be met. Senate Bill 662 submitted by Senator Harrison A. Williams, deals with several aspects of the Urban Mass Transportation Act of 1964 which are of great importance to us.

Testimony on this Bill will be heard June 17, 18, and 19 in the Housing and Urban Affairs subcommittee of the Senate Committee on Banking, Housing and Urban Affairs, and I would like to take this opportunity to express the City of Chicago's views on the provisions of the Bill.

The Bill contains six distinct Sections. We support all Sections with the exception of Section 4 (elderly and handicapped transit service). We particularly feel that Section 3, which expands the definition of construction to include engineering and Section 6, which grants UMTA the authority to commit funds over the development period of major projects would be very beneficial to mass transit. However, the primary purpose of this letter is to express our objections to Section 4 which are based on three major areas of concern.

54-920 486

First, in our opinion the provisions of Section 4 of S.B. 662, by adding a new Section 16 to the Urban Mass Transportation Act of 1964, unnecessarily duplicate existing law and preempt the current efforts of the Urban Mass Transportation Administration in implementing the broad policy objectives outlined by the existing Section 16 of the Act. In passing this legislation regarding elderly and handicapped transportation service, Congress clearly recognized that the complexity and scope of the problem demanded that solutions be well-planned and flexible in order to respond to local needs and that specific solutions should not be legislated. Therefore, UMTA, having been given the authority and responsibility to implement the provisions of the Act, is currently in the process of finalizing the necessary regulations and as such, Section 4 would appear premature at this time.

Secondly, it is our feeling that the provisions of Section 4 ignore the significant fact that the mobility needs of many disabled persons can only be met by the development and operation of special transportation systems and that mandating systemwide accessibility is not necessarily the most efficient or cost-effective method of providing such service. The proposed new Section 16(b) would mandate that all projects receiving assistance under the Act shall be made accessible to elderly and handicapped persons. In addition, Sub-section 16(b)(1) would require that: "Effective immediately, any vehicle, building, station or other structure for any new rapid rail system or other grade-separated fixed guideway system...shall be accessible to elderly and handicapped persons." These provisions do not reflect the fact that only making transit systems accessible will do little in terms of providing mobility to citizens who cannot get to and from the accessible systems. Also, the adoption of these sections would preclude both the study and implementation of alternative or special services which must be developed in order to meet the special needs of many of the mobility disabled. Since our goal is to provide mobility, it is our position that all avenues for providing needed transportation services to the elderly and handicapped should be open to immediate study, evaluation and implementation so that the best solutions can be pursued given the character of local transit needs.

Our third concern deals with the language of Section 4 which we feel is ambiguous in several critical areas. The proposed new Section 16(b)(1), if adopted in its present form, could be interpreted to require major capital expenditures which would jeopardize the solvency of our transit systems. For instance, would the language, "...and any other vehicle integrated with such a system..." require that buses or other transit vehicles, new or old providing collection and distribution service to the line-haul facilities must also be fully accessible? And would the language, "...and any other station facility used by the general public shall be accessible to elderly and handicapped persons" require that all old as well as new station facilities would have to be made fully accessible immediately? We do not believe that the Bill's authors intend such broad and far-reaching results, but the language is so ambiguous that it certainly could be interpreted in this manner.

In light of these concerns, we urge that the proposed new Sections 16(a), 16(b), and 16(b)(1) be deleted from Section 4 of Senate Bill 662. Of course, this action would not deter UMTA from requiring the development of transit service for the elderly and handicapped as provided under the existing Section 16, but would simply allow UMTA to proceed with its present activities in this regard.

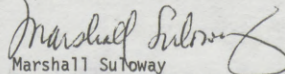
Since S.B. 662 deals with a variety of issues and thereby takes on the form of an omnibus transit bill, we would like to propose two additions to the Bill which are designed to improve two deficient areas of existing transit law.

- I. Section 3(a)(2) and 5(g)(1) of the Urban Mass Transportation Act of 1964 as amended, declare that the development of projects in urbanized areas must be based upon a continuing, cooperative, and comprehensive planning process. In order to insure that local and regional planning organizations have a constant and adequate source of funds available to carry out this process, we suggest that the Act be amended to direct the Secretary to annually set aside one-half per centum of funds authorized for expenditure under each of those Sections. Such amount should be directly apportioned to the local or regional planning agencies based on a formula developed by the Secretary which shall consider but not necessarily be limited to population, status of planning, and metropolitan area transportation needs.

- II. Section 5(b)(2) of the Act should be amended to insure that in cases where state law establishes a regional agency for the purposes of providing public transportation services, such agency shall be the area's designated recipient for all Section 5 funds apportioned on the basis of the urbanized areas within its jurisdiction. In addition, such agency shall be able to expend those funds in a manner and in amounts determined by it. It is essential that regional transportation agencies or authorities have discretion, as provided by State law, to expend funds based upon a regional transportation improvement program which in many cases will not respect corporate or urbanized area boundaries.

In conclusion, we join with you in your concern for establishing a transportation system that will not only enhance the economic and social viability of our nation's urban areas but will also enable all our citizens to enjoy the benefits of our society. We hope these comments will assist you in your evaluation of the legislation before you.

Very truly yours,


Marshall Suroway
Commissioner of Public Works

cc: Members of the Senate Committee on
Banking, Housing and Urban Affairs

HIGHWAY USERS FEDERATION



for Safety and Mobility

OFFICE OF THE PRESIDENT

June 19, 1975

The Honorable John J. Sparkman
Chairman
Subcommittee on Housing and Urban Affairs
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The Highway Users Federation welcomes the opportunity to offer comments on S 662, the National Mass Transportation Assistance Act Amendments of 1975.

We fully support the objective of increasing the travel opportunities of the elderly and the handicapped. These special groups need through home-to-destination-to-home travel service for medical, dental, religious, shopping, personal business and social reasons. They require transportation service that minimizes the need for walking, standing and exposure to weather. Personal security, flexibility, certainty of service and, often, privacy are more critical to these people than to others who require transportation.

Since the local advisory committees called for by S 662 would be constituted largely of the elderly and handicapped, we are confident that provision for their special transportation needs would be emphasized in planning recommendations made by the panels. We support the establishment of these committees.

We also support the preparation of a comprehensive report by the Secretary of Transportation on public transportation needs of the elderly and handicapped. Because we view these needs as important and know they are growing rapidly, we urge that the report be submitted by July 1, 1976 rather than July 1, 1977.

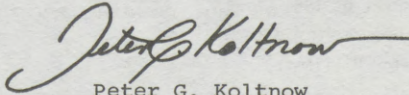
This report, we believe, cannot fail to point out that taxis and personal transportation vehicles are better keyed to the special requirements of the handicapped and elderly than any other transportation mode largely designed and scheduled for the general public. Furthermore, provision for taxi

and/or jitney or other personal transportation service for the subject groups can be made far more quickly than by modifying public transportation vehicles to meet special needs, which would be a slow process. When, as we are confident it will do, the DOT study indicates practical means for providing appropriate personal transportation to these special groups, we expect to lend our complete support.

Meantime, we suggest that the study also consider the possibility of direct subsidies in the form of personal transportation stamps to be used by the elderly and handicapped for their necessary local trips.

We feel it is both proper and desirable for urban areas to provide suitable transportation for their older and handicapped citizens, and commend your efforts to bring this about.

Sincerely,

A handwritten signature in dark ink, reading "Peter G. Koltnow". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Peter G. Koltnow



Department of Transportation

REF. NO. 010.40
1210-0

June 17, 1975

Senator Harrison Williams
Senate Banking, Housing & Urban Affairs Committee
Room 5300, New Senate Office Building
Washington, D.C. 20510

RE: S.622, A Bill to Amend the Urban Mass Transportation
Act of 1964

Dear Senator Williams:

The Iowa Department of Transportation supports S.662, especially Section 1 which would provide operating assistance for projects located in areas under 50,000 population.

Iowa has a total of 957 incorporated places, only 7 of which are urbanized areas with populations over 50,000. Iowa currently has 14 transit systems in operation serving 30 cities. All 7 of the urbanized areas have transit systems and are eligible for the operating assistance currently available under the Urban Mass Transportation Act. The total deficit for these transit systems was \$1,599,986 in 1973 and \$2,266,003 in 1974. All will be applying for federal operating assistance in the near future.

Iowa also has 7 transit systems in smaller areas and their deficits were as follows:

<u>City</u>	<u>1973 Deficit</u>	<u>1974 Deficit</u>
Ames	\$ 19,356	\$ 35,445
Burlington	53,453	106,976
Clinton	147,216	116,978
Iowa City	214,191	255,309
Marshalltown	19,420	19,113
Mason City	18,000	18,000
Ottumwa	105,696	99,957
Total Deficit	<u>\$577,000</u>	<u>\$651,778</u>

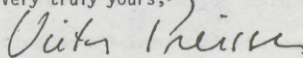
COMMISSIONERS

All of the deficits were subsidized by the respective cities from various tax sources. However, it is becoming increasingly difficult for the cities to cover the rising cost of transit, not only because the available money is not increasing at the same rate as the costs, but because other local needs are assuming more importance. There is no doubt that transit in some form is a valuable and necessary community asset and that federal participation would enable the continuation of such services. As an example, there were two transit systems in Iowa (Fort Dodge and Muscatine) which discontinued service within the past 8 years primarily because it became financially impossible to support the operations. Federal participation would likely have prevented this action.

The Iowa Department of Transportation is concerned about mobility for all of Iowa's citizens, and we therefore also especially support Section 4 which would provide mass transportation assistance to meet the needs of elderly and handicapped persons. Persons over 60 years of age comprised approximately 17% of Iowa's total population in 1970 - the national average was 14.1%. The funds which would be available under this Section would assist in the location of elderly and handicapped persons, determination of their mobility needs, and methods by which those needs might be met. These studies must be accomplished before appropriate transportation can be provided.

The Iowa Department of Transportation supports S.662 and urges passage of this bill.

Very truly yours,



Victor Preisser
State Director

VP:JG:cb

cc: Washington, D.C.:

Senator Dick Clark
Senator John C. Culver
Representative Edward Mezvinsky
Representative Michael T. Blouin
Representative Charles E. Grassley
Representative Neal Smith
Representative Tom Harkin
Representative Berkley Bedell

Iowa:

Bob Josten, League of Iowa Municipalities
Joanne Gross, Office of Program Management
DOT Commissioners
Robert R. Rigler
Stephen Garst
Donald K. Gardner
William F. McGrath
Ann Pellegrino
L. Stanley Schoelerman
Allan Thoms

Iowa (cont'd):

Governor Robert D. Ray
Lt. Governor Arthur A. Neu
Senator Joseph Coleman, Chairman
Senate Transportation Committee
Senator George Kinley,
Senate Majority Leader
Senator Clifton Lamborn,
Senate Minority Leader
Representative Robert Krause, Chairman
House Transportation Committee
Representative Jerome Fitzgerald,
House Majority Leader
Representative Floyd Millen,
House Minority Leader

"THE TRANSPORTATION TYRANNY AND 'THE NEW FORGOTTEN AMERICANS':
THE CASE FOR SENATE BILL 662" A RESEARCH REPORT PREPARED FOR
THE SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS OF THE UNITED
STATES SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
JUNE 17, 18, 19, 1975 HEARINGS ON SENATE BILL 662 "THE
NATIONAL MASS TRANSPORTATION ASSISTANCE ACT AMENDMENTS OF 1975"
BY FRANK RODIO, JR.

I support the enactment into law of Senate Bill 662 of the 94th Congress, "the National Mass Transportation Assistance Act Amendments of 1975." I am part of that segment of our population that I term "the New Forgotten Americans", comprising some 67.9 million handicapped persons -- -- or 6% of the total USA population, -- and some 20 million "senior citizens" over age 65.

"The New Forgotten Americans" face the combined problems of an apparent policy of "benign neglect" adopted by all governmental levels toward their problems and an all too real "transportation tyranny" coupled with the stares and stigmas erstwhile "normal" society focusses upon us.

The "transportation tyranny" is especially prevalent in my own erstwhile "Garden State" of New Jersey which is highly balkanized and urbanized, along with being the most densely populated State in the Union of 50 United States of America having 953.1 persons per square mile, a population distribution being 88.9% urban and 11.1% rural, 21 counties, 567 separate municipalities and 606 school districts.

New Jersey is a transportation - oriented state which spends \$81 on highways per capita annually, 2.2 persons per motor vehicle and an 8¢ per gallon gasoline tax. New Jersey became the first State in the Union to grant state aid in roads construction in 1891 and appropriated \$75,000 on an annual basis.

I reside in rural Winslow Township, Camden County, New Jersey, in the Rosedale section. Camden County is a microcosm of the entire erstwhile "Garden State" of New Jersey ranging from the urban core of Camden City, Gloucester City, Cherry Hill and Pennsauken Townships in the north to rural Chesilhurst and Pine Hill Boroughs and Waterford and Winslow Townships in the south to the older, established suburban municipalities in the middle. Senate Bill 662 of the 94th Congress would have a very positive impact not only upon New Jersey as a whole but upon both North and South Jersey.

Senate Bill 662 of the 94th Congress would have a greater impact upon rural South Jersey in general and the Camden, Burlington and Gloucester Counties region in particular. New Jersey has been described as a State with a "split personality," -- North and South. That description applies not only to geography but also to the ever - present "transportation tyranny" facing "the New Forgotten Americans" as well as governmental services.

Take New Jersey highways as well as the federal Interstate Highway System which was created in 1955. By mid - 1974, some 35,821 miles or 84.3% of the 42,500 mile USA I.H.S. was in use. Another 3,021 miles or 7.1% is under construction. In all, 973 completed miles of highway were added in the past year. Only 895 miles awaited route location approval.

The Camden - Burlington - Gloucester Counties region are rapidly becoming urbanized in South Jersey. Public transportation systems are declining. The region's transportation system has a unique and complex history ranging from "trolley wars" of the 1870's, 1880's, 1920's and 1930's between rival bus companies to the creation of the New Jersey - Pennsylvania Delaware River Port Authority by Congress in 1931 to the establishment in 1969 of the Lindenwold to Philadelphia Rapid Rail Line Proposal by the Port Authority Transit Company, (PATCO), a subsidiary of DRPA.

The "Hi - Speed Line" operated by PATCO is one area where Senate Bill 662 of the 94th Congress can be highly effective in improving transportation facilities and services for "the New Forgotten Americans" in the 3 county and South Jersey region. The line transports passengers over the 14.5 mile line in 22.5 minutes, covering 8 New Jersey stations.

The line was built at an estimated cost of \$94.5 million with total annual ridership growing from 6.1 million in 1969 to 9.5 million in 1971 and in 1973 the daily patronage fluctuated between 40,000 - 50,000 rides. The Public Service Coordinated Transport Company, Southern Division, became the major bus company in the Camden area after 1939.

Now Transport of New Jersey (TNJ), it has never realized a growth in passengers because of competition with the automobile. In a 10 year period between 1947 and 1957 mass transit use to Philadelphia over the Benjamin Franklin and Walt Whitman Bridges fell while daily personal trips by auto increased. Daily personal trips by bus to Philadelphia declined by 60,000 in 1947 to 50,000 in 1957 while daily personal trips by auto increased from 88,000 to 150,000.

Currently TNJ views the "Hi - Speed Line" as competition and is cutting back essential bus service on a regular basis. This should not be the case. TNJ and the "Hi - Speed Line" should cooperate by making available increased transportation facilities and services to "the New Forgotten Americans" as well as to regular patrons.

"Senior citizens" over age 65 comprise 9% of Camden County's population and there are 12,500 potential patrons listed as "handicapped" which comprise that segment of Camden County's population. There are 4,400 persons classified as "handicapped" residing in rural Gloucester County. The Delaware River Port Authority hired consultants to determine where the "Hi - Speed Line" should be extended.

There are several proposals. One, extend it to Berlin Township (West Berlin,) and Waterford Township (Atco) in Camden County. A report projected an increase of 7,600 daily trips if a 3 mile extension is built from Lindenwold Borough to Berlin Township. This station would add some \$200,000 to PATCO'S annual net income.

Projections of increased ridership are based upon the contingency of a construction of a highway which would connect the station with Route 30 and Route 73. An extension to Waterford Township (Atco) would bring the increased ridership to 9,600 but would cause a \$600,000 deficit in PATCO'S net income.

The projected deficit is based upon an anticipated fare increase, (another element of the "transportation tyranny,") with DRPA consultants recommending a Berlin Township extension to Atco, Waterford Township

if provisions for a full operating subsidies from a governmental agency are available.

Camden County's new Freeholder -- Director William J. Simon supports the Berlin to Atco extension regardless of the circumstances. Simon stated in a recent letter to lower Camden County mayors: "...I think it's the Port Authority's responsibility not only to look at things in a profit situation but also on a service situation. It's their responsibility to provide service even if it means the thing won't pay for itself right away."...

The DRPA consultants and staff recommended that the DRPA commissioner move ahead with plans for a 17 mile extension to Glassboro, Gloucester County and a 13 mile extension to Mount Laurel, Burlington County. The Urban Mass Transportation Administration (UMTA) should provide \$480 million of the projected \$601 million cost; New Jersey should provide \$113 million, Pennsylvania should provide \$6 million and Philadelphia should provide \$1.2 million.

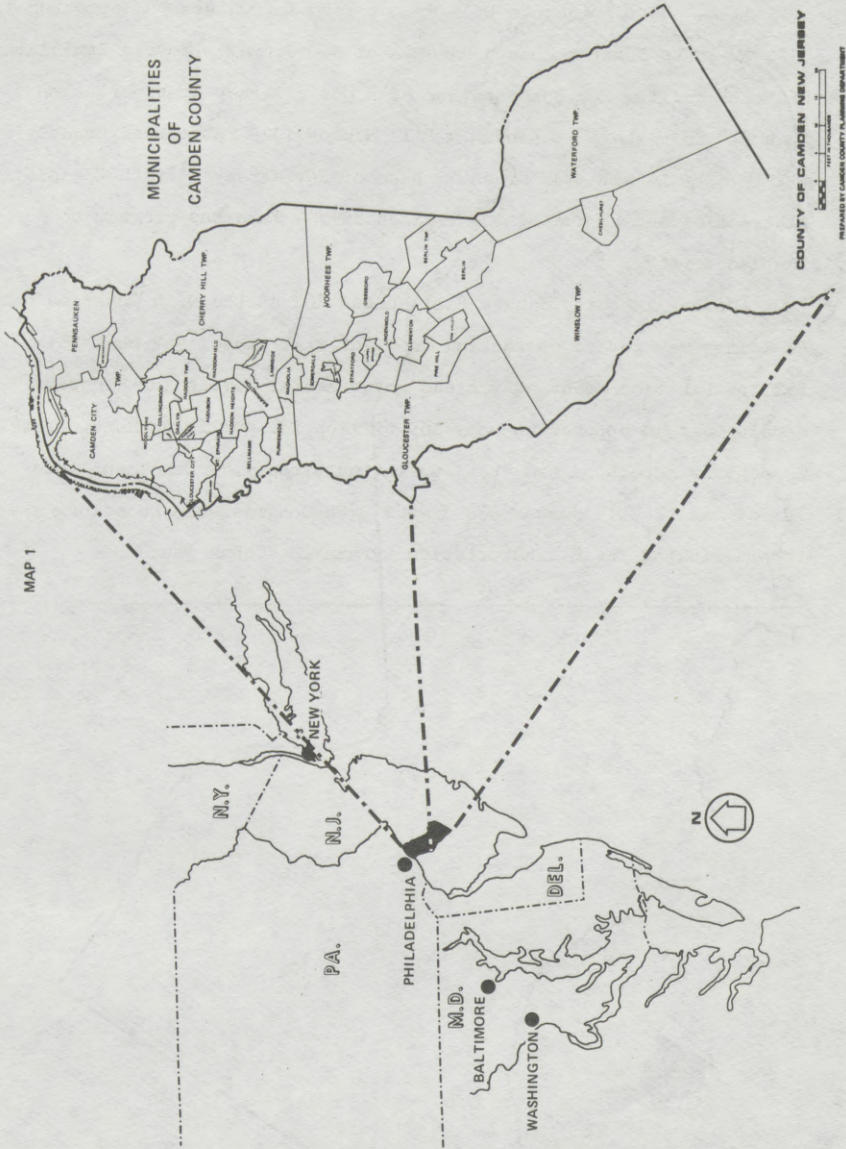
I support the "Hi - Speed Line" extension not only to Mount Laurel, Glassboro, Berlin and Atco but also to Winslow Township in Camden County. I envision the "Hi - Speed Line" with bus feeder routes extended all over South Jersey. Senate Bill Number 662 of the 94th Congress can be utilized in any extension of the "Hi - Speed Line" as it relates to "the New Forgotten Americans" in terms of adequate funding, facilities, services, bus feeder routes, subsidies and accessibility.

Senate Bill Number 662 of the 94th Congress can also complement and support several pieces of legislation that are currently before the 196th session of the New Jersey State Legislature. These are essential and beneficial to "the New Forgotten Americans" in terms of the ever - present "transportation tyranny."

I am referring to Senate Bill Number 1324 introduced on July 24, 1974 by State Senator John J. Horn of New Jersey's Fifth Legislative District providing for disabled persons to ride buses at reduced fares.

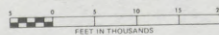
Also, there is Senate Bill Number 1370 introduced on September 9, 1974 by State Senator Joseph Maressa of New Jersey's Fourth Legislative District calling for the creation of a South Jersey Transportation Agency. Then there is Assembly Bill Number 1929 introduced on July 11, 1974 by Assemblyman Ernest Schuck of New Jersey's Fifth Legislative District extending the senior citizen half - fare bus program to disabled persons.

Another inequity Senate Bill Number 662 of the 94th Congress can go a long way toward correcting the fact that since 1947 some \$314 billion has been spent at various governmental levels for highway development as opposed to only \$63 billion for public transit. This is another aspect of the "transportation tyranny." Enactment into law of Senate Bill Number 662 of the 94th Congress can go a long way toward licking the "transportation tyranny." Thank you.





COUNTY OF CAMDEN NEW JERSEY



PREPARED BY CAMDEN COUNTY PLANNING DEPARTMENT

Statement of J. F. Alexander, Secretary of the North Carolina Department of Transportation and Highway Safety, submitted to the Senate Committee on Banking, Housing and Urban Affairs, Regarding S.662 - "A Bill to Amend the Urban Mass Transportation Act of 1964."

June 16, 1975

Mr. Chairman, Members of the Committee, on behalf of the State of North Carolina, I wish to endorse the amendments to the Urban Mass Transportation Act of 1964 proposed in S. 662 discussed herein.

One amendment would permit the use of \$250 million of currently available Federal funds for mass transportation operating expenses in non-urbanized areas.

North Carolina welcomes this amendment. Provision of mass transportation in non-urbanized parts of the State is becoming increasingly necessary. The great majority of the State's low-mobility population (that is, those who are unable or least able to own or operate a private vehicle due to age, health, or monetary reasons) lives in non-urbanized areas. Of the State totals, these areas contain

- . 83% of the families with incomes below poverty,
- . 79% of the disabled in the 16-64 years age group, and
- . 78% of the total population under 18 and over 64 years of age.

The transportation difficulties of these people are exacerbated by the long distances they must travel to reach basic social services or economic opportunities.

In many areas of North Carolina, attempts have been or are being made to provide low-mobility persons with mass transportation services. Private, State, Federal and local funds are being used by private, non-profit organizations to provide specialized mass transportation services in many rural and urban parts of the State. The State in coordination with local governments is currently preparing proposals for funding of rural mass transportation demonstration projects under Section 147 of the Federal Highway Act of 1973. And, nine of the State's twenty municipal mass transportation services are operated in non-urbanized places; eight of the nine are privately owned.

Unfortunately, none of the existing mass transportation services is realizing its potential contribution to society: area coverage and clients served are greatly restricted; vehicles are under-utilized or not used at all; the ability to continue financing the services is becoming increasingly difficult, particularly for the privately owned operations.

To a large extent, these problems are the result of insufficient funds to pay the operating costs of mass transportation. Congress has recognized that the continued viability of urbanized areas' mass transportation depends on Federal assistance for payment of operating subsidies. In 1974, the Urban Mass Transportation Act of 1964 was amended accordingly.

In non-urbanized areas, where population and employment densities are much lower and travel distances much longer than in urbanized areas, operating costs represent an even larger proportion of total mass transportation costs than in urbanized areas. An interagency task force of the Southeastern Federal Regional Council in a report entitled Expanded Metro Mobility states that operation, administration and maintenance costs represent 90% to 95% of total rural mass transportation costs. In short, attempts to resolve the mobility problems of non-urbanized residents will remain ineffective, unless mass transportation operating assistance is provided.

The use of Federal funds for mass transportation operating subsidies in non-urbanized areas would enhance the viability of these services, particularly if used with operating assistance for specialized transit services provided by other Federal agencies. The State of North Carolina, therefore, endorses the relevant amendment contained in S. 662.

At the same time, the State would add that the current level of Federal assistance for mass transportation in non-urbanized areas restricts the positive effects of the amendment. North Carolina strongly encourages the Federal Government to allocate more funds to this area of transportation.

A second amendment to the Urban Mass Transportation Act of 1964 contained in S.662 which we endorse reaffirms and strengthens the national commitment to assure that mass transportation adequately serves elderly and handicapped persons.

The provisions of this amendment, if adopted, would encumber transportation agencies with additional requirements governing receipt of Federal mass transportation funds. Fulfilling the requirements would add costs to the planning and provision of mass transportation.

Nevertheless, the State of North Carolina believes that these additional costs are warranted. The elderly and handicapped, who represent over 21% of the State's population, are often isolated from the mainstream of life because of the restrictions of their age or physical disabilities. The inability of most of these persons to own or operate a private vehicle furthers their social and economic isolation.

The State of North Carolina is committed to the resolution of the transportation difficulties of the elderly and handicapped. On December 12, 1974, the Secretary of the North Carolina Department of Transportation and Highway

Safety and the Secretary of the North Carolina Department of Human Resources signed an agreement, the major objective of which is

"To increase the mobility of the citizens of North Carolina particularly the transportation-disadvantaged, by improving their access to public and specialized transportation systems in urban and rural areas."

We believe that the proposed amendment is supportive of our efforts and, therefore, urge its adoption.

OSWEGO COUNTY LEGISLATURE

Office of Chairman
County Office Building
Oswego, New York 13126

Patrick Lozito, Director
(315) 343-9154

Budget Office
Federal-State Aid

May 29, 1975

Hon. Harrison A. Williams, Jr.
Committee on Banking, Housing and Urban Affairs
Russell Senate Office Building
Suite 352
Washington, D.C. 20510

Dear Senator Williams:

Your new bill, S. 366, which proposes to amend the Urban Mass Transportation Act of 1964, offers a solution to some very critical problems.

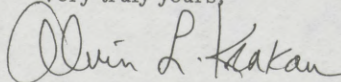
We particularly support the amendment which will make Federal operating assistance available to urban areas which have less than 50,000 population.

Such operating assistance is essential to the provision of transit services in communities such as ours. Under the present Federal legislation and proposed New York State legislation, a county such as ours would be responsible for providing some 75% of the transit operating costs as opposed to counties with urban areas larger than 50,000 population, which will be responsible for 25% of the transit operating costs. Such a disparity is certainly unfair and we hope that your amendments will correct the deficiencies of the present legislation.

We need Federal operating assistance if needed mass transit services are to be continued at adequate levels, and within equitable fare structures. Without such Federal operating assistance, the burden on small local counties will be great.

We would appreciate any efforts which would assure that urban areas under 50,000 population receive the necessary Federal operating assistance to continue efficient and effective mass transit services.

Very truly yours,



Alvin L. Krakau, Chairman
Oswego County Legislature

ALK/mem

Testimony of
James A. McHale
Secretary of Agriculture
Commonwealth of Pennsylvania

Date: June 18, 1975

Mr. Chairman:

I would like to thank you for this opportunity to present testimony in support of Senate Bill 662, in particular, the section which would enable up to \$250,000,000 to be used to underwrite public transportation operating expenses in rural and small urban areas.

The problems of rural public transportation, which are receiving increased attention at the Federal level, have been a priority concern in Pennsylvania for two-and-a-half years. Our State Department of Agriculture has been operating a pilot rural transit system since November, 1972. The tremendous need for improved mobility on the part of rural citizens, as we determined through the demonstration project and related surveys, led Governor Milton J. Shapp to convene a Task Force on Rural Transportation in January, 1974. The final report of this blue-ribbon group described current services, identified needed service improvements and recommended action to remedy the problem for our rural residents.

On the basis of this background, Governor Shapp issued an Executive Order in August of last year which directed my Department to spearhead efforts within State Government to implement adequate and efficient rural transit services throughout the Commonwealth. We view the Governor's commitment to this program with particular enthusiasm, because it underscores the urgent need to address a host of rural concerns, such as housing, employment, economic development and balanced growth.

In Pennsylvania these problems are singularly important, since we have the largest rural population of any state in the nation. And even a cursory analysis reveals the direct relationship between inadequate public transit and thwarted rural development.

We genuinely welcome the increasing emphasis of the Federal Government on rural transportation. Clearly, a strong response on the part of government at all levels is needed to correct the years of official neglect. But my call, and that of the State administration in Pennsylvania, is for government intervention to assure proper coordination and modernization of existing services rather than massive expenditures of tax dollars for a new structure to be placed on top of the old.

Perhaps the two most important lessons we have learned in Pennsylvania as a result of our involvement in rural transit are: 1) transportation resources are not being effectively coordinated; and 2) transportation providers often lack the operating revenues necessary to obtain maximum utilization of their equipment and services.

In recent years, growing amounts of Federal funds have been used to further aggravate this lack of coordination of services. Under often unrelated grant programs, tax dollars have been awarded to a whole host of agencies to purchase vehicles for limited clienteles, such as the elderly, handicapped and low-income. No one will argue that these transportation-disadvantaged groups have a dire need for transit services, particularly in isolated rural areas. However, the net effect of these varied funding programs (which are usually accompanied by severely restrictive eligibility formulas) has been a tragic splintering of services. And for those private

transportation operators who still exist in rural areas, livelihoods have been threatened by no-fare transit programs which are subsidized by tax dollars they have helped provide. In essence this represents unfair competition, and it renders coordination of services difficult.

In Pennsylvania, our plans for developing a statewide rural transportation system are contingent on effective integration of existing (or planned) public transit resources. With the sparse population and topography inherent in our target areas, we are convinced the priority need is for operating assistance to insure that the system we develop is able to provide needed services. The limited Federal funding sources for rural transportation (such as Section 147 of the 1973 Federal Aid Highway Act) are largely, if not completely, restricted to capital assistance. While physical improvements are often essential, such top-heavy allocation formulas favoring capital expenditures tend to both damage prospects for service coordination (by adding still more equipment to current fleets) and eclipse the salient need for operating subsidies.

Senate Bill 662 is important because it will enable transit providers, including beleaguered private carriers, to expand and improve service delivery. Without the availability of operating assistance funds, in a quantity which acknowledges the equal importance of urban and rural public transportation, we will continue our failure to adequately address the needs of rural people for improved mobility.

Thank you.



PORT AUTHORITY TRANSIT CORPORATION
OF

PENNSYLVANIA AND NEW JERSEY
BENJAMIN FRANKLIN BRIDGE PLAZA
CAMDEN, NEW JERSEY 08102

ROBERT B. JOHNSTON
GENERAL MANAGER

PHILA.: 215-922-4600
CAMDEN: 609-963-8300

Testimony of General Manager Robert B. Johnston
before the Senate Subcommittee on Housing and Urban Affairs

Thursday, June 19, 1975

Mr. Chairman, as General Manager of the Port Authority Transit Corporation (PATCO), the operator of a modern, automated, high-speed interurban rail transit system, I welcome this opportunity to appear before the Housing and Urban Affairs Subcommittee of the United States Senate to comment on S.662, a bill to amend the Urban Mass Transportation Act of 1964. I wish to address specifically Sec. 4 of the bill, entitled "Mass Transportation Facilities and Equipment to Meet the Needs of Elderly and Handicapped Persons."

PATCO wholeheartedly endorses the concept of effective transportation service for the elderly and the handicapped. We believe that well planned, pragmatically designed, and properly managed transportation systems are today, in fact, providing this service. But we acknowledge the need for study and improvement.

PATCO regularly transports the elderly and most categories of the handicapped, except nonambulatory persons confined to wheelchairs or similar devices. This is accomplished in unmanned station facilities employing automatic fare collection equipment, and on semi-automated trains operated by one man.

We are aware that ease of accessibility to some of the stations we serve needs improvement, especially for those among our patrons with personal mobility problems. We are moving toward implementation of these improvements, thanks to Federal capital grant assistance. And we pledge our full support for what we recognize as the true goal: increased public transportation mobility for all Americans.

But we neither endorse nor recommend the concept, expressed in the proposed Legislation, S.662, that our rail rapid transit system must be completely accessible to the nonambulatory handicapped confined to wheelchairs or similar devices.

We take this position for reasons of SAFETY, SERVICE, and COST.

SAFETY

Rail rapid transit systems demonstrably are a safe mode of urban public transportation. PATCO has not experienced a single passenger fatality or serious injury in over 6½ years of operation involving more than 520 million passenger miles.

But it is unrealistic to think that situations, hazardous or otherwise, requiring application of emergency procedures will never occur. PATCO has experienced

events requiring evacuation of trains. If the train is not in a station, evacuation is accomplished through train end-doors, usually to another train but sometimes to the roadbed. Such train and station evacuations are not uncommon throughout the transit industry.

S.662 apparently is concerned only with providing the non-ambulatory handicapped accessibility to transportation under normal conditions. This, however, is only a small part of eliminating barriers in the area of rapid transit. Merely improving transportation accessibility does not eliminate the barriers that would still exist for the nonambulatory handicapped should the need for emergency evacuation of a train or station occur. These barriers exist in stations, on trains, and along the right-of-way, especially in tunnel and elevated sections. Failure to eliminate these barriers would, in emergencies, greatly increase the risk to all concerned: the nonambulatory and ambulatory passengers and emergency personnel.

Another safety aspect is that, in a rapid transit environment, the wheelchair itself provides a hazard for its occupant, and the other passengers aboard a train or on a crowded station platform.

Aboard a train, the wheelchair would be most likely to be unsecured (assuming provision of securement devices) at precisely the worst possible times: during acceleration and braking at stations.

On crowded station platforms, the wheelchair at best would be a very potential tripping hazard. At worst it could inadvertently strike and knock down a person.

S.662 does not appear to contemplate these safety aspects. Nor does it contemplate such safety aspects as width of train-to-platform gap, width of train end-doors and aisles, or car-to-car separation.

It is not realistic to provide a wheelchair accessibility to a rail transit vehicle without providing that all doorways (end as well as side) and aisles will be wide enough to accommodate it, and that it can pass from car to car. Aisles should be wide enough to permit a wheelchair to pass a standing person, or vice versa. Failure to provide this width will lead to crowding conditions adverse to the health and safety of all occupants of the vehicle, in both normal and emergency situations.

The Urban Mass Transportation Administration (UMTA), seeking to comply with the sense of existing and proposed legislation, has proposed a set of Requirements* regarding transportation of the elderly and handicapped in rail transit vehicles. Sec. 609.17 (d) of the proposed Requirements was apparently written to avoid the necessity of use of rapid transit vehicle aisles by wheelchairs. It stipulates,

*Department of Transportation, Urban Mass Transportation Administration, Elderly and Handicapped Transportation Services, Codification of Requirements, Federal Register, Wednesday, February 26, 1975, Volume 40, Number 39, Part III.

inter alia, that "at least one wheelchair securement device shall be provided inside the vehicle, as near as possible to the entrance(s) accessible to handicapped persons." But I wish to point out that door failures requiring the cutting-out of door operator mechanisms are among the most common of minor malfunctions on a rapid transit system, including PATCO. The doors adjacent to the proposed securement devices would be no less susceptible to malfunction. This illustrates but one reason why all aisles and doorways, side and end, must be usable by the wheelchair-bound if they are to be provided access to rail transit systems.

PATCO is genuinely concerned that the ramifications of S.662 upon SAFETY in the rail transit environment must be thoroughly evaluated before it is enacted.

SERVICE

To be successful - both from the aspects of moving people safely and furthering the National energy and environmental goals - modern urban public transport must offer auto-competitive SERVICE. That is, it must be so attractive that the motorist will want to use it. This is best exemplified today by fixed-guideway systems operating over exclusive rights-of-way.

A key element of all such systems is high performance vehicles.

PATCO is such a system, operating such vehicles. PATCO has successfully divorced the commuting motorist from his automobile for the trip downtown. Forty percent of our patrons, a survey showed, formerly drove to work; another 13% had never made the trip before. Thus 53% of our patrons are new users of public transportation.

PATCO's public acceptance and efficient, productive operation demand speed. This means maximum feasible vehicular acceleration and braking rates and minimum station dwell times.

PATCO is concerned that the proposed Legislation would lead to a serious degradation of the service levels PATCO now provides for its patrons. Let me illustrate.

An ABT Associates study of the Washington Metro system, commissioned by the U. S. DOT (Contract No. DOT-OS-20022), recommended maximum levels of train acceleration and braking for the safe transport of the nonambulatory handicapped of approximately 2.0 miles per hour per second. The implication of this recommendation is important. The recommended acceleration and braking rates are one-third lower than those PATCO currently employs in safely and successfully transporting its patrons. Slower acceleration and braking rates lead to an increase in overall trip time, i.e., a slower ride.

Section 609.17(d) of the proposed UMTA Requirements, again, requires the provision of wheelchair securement devices. As mentioned in the comments on SAFETY, above, to assure the safety of all persons on the transit vehicle, the wheelchair must be secured at all times when the transit car is in motion, especially during acceleration and braking at stations. To permit this securement would unquestionably add to the dwell time of a train at stations. PATCO's average station dwell time is approximately 12 seconds. Increased station dwell time will lead to an increase in overall trip time, i.e., a slower ride.

Slower acceleration and braking rates and longer station stops create a slower

and less attractive ride. A slower trip coupled with a finite number of transit vehicles can mean fewer car trips, hence seats, provided for service during a given period. Fewer car trips, or seat trips, in a given period mean overcrowding and loss of patronage. PATCO has experienced this phenomenon.* Indeed, addition of two minutes to our rush hours round trip running time translates into loss of a train. And we schedule the absolute maximum number of cars that we can for rush hours service, given the size of our car fleet.

One might argue that too few of the nonambulatory, wheelchair-bound would seek to use rail rapid transit to affect service materially. It must be realized that where close headways are operated at rush hours - as is common on rail transit systems - one wheelchair has the very high potential for slowing operations sufficiently to degrade the entire system's performance.

But the attractiveness of PATCO's service is not totally related to speed. For example, above it was suggested that to assure safety in transporting wheelchairs, vehicle aisles must be sufficiently wide. To accomplish this would, of necessity, materially reduce vehicle seating capacity and/or seat width. This would render PATCO's service much less attractive to the majority of our automobile-oriented users.** Moreover, a universally-observable fact is that standees in rail transit vehicles tend to congregate first around doorways. This slows passenger egress and ingress, thus lengthening trip time.

PATCO urges that the potential for degrading rail transit SERVICE - and the consequences of this degradation - inherent in S.662 be thoroughly assessed before it is enacted.

COSTS

The comments on SAFETY and SERVICE, above, have really been concerned with the broader implications of S.662. Though implications, they are areas which must be assessed and which genuinely concern PATCO. These areas also have a COST factor.

On the subject of SAFETY, the goal of Congress should be to ensure a measure of safety for the wheelchair-bound user of fixed-guideway transit systems comparable to that now afforded the ambulatory user. At the same time, the level of safety experienced by the ambulatory user must not be degraded.

However, to achieve this goal literally calls for nothing less than the wholesale redesign of the Nation's rapid transit systems, existing and proposed, especially in the areas of right-of-way, rolling stock, and station facilities.

*For a six-weeks period following March 13, 1974, PATCO operated its vehicles at a top speed of 40 mph., approximately one-half of normal schedule speed. Normal acceleration and braking rates of 3.0 mph. per second were maintained. This added about five (5) minutes to a one-way trip, terminal to terminal, and forced the scheduling of fewer rush hours car trips. The interrelated effects of a slower trip and severe overcrowding led to an immediate 10% drop in patronage, never fully regained.

**Ninety percent of PATCO's patrons gain access to the line via automobile.

Such redesign, however, would not eliminate the potential for SERVICE degradation, addressed above. Such degradation could be ameliorated by purchasing more rolling stock and hiring more operating personnel. But the fact of increased trip times could not likely be overcome. Consider that wheelchair securement devices would have to be used to ensure safety. With the growing trend to one-man train operation (which PATCO pioneered) - and serious considerations being given to unmanned operations - how could it be determined that the securement device was being used? The answer would seem to lie with some sort of electronic door interlock system. This would increase capital and operating costs, and pave the way for all sorts of operating headaches above and beyond increased trip times by increasing transit vehicle complexity.

The costs, direct and indirect, for rail transit systems to comply with the implications of S.662 must be enormous. But they also are not readily quantified or identified.

But the questions really are: Is the benefit (actual improved mobility and use) of making rail transit systems fully accessible to the nonambulatory handicapped worth the cost? And can the costs - direct and implied - really be avoided if the aim is to introduce the wheelchair into a rapid transit environment with safety?

PATCO urges that an assessment of actual and implied costs and benefits inherent in S.662 be performed before it is enacted.

CONCLUSION

In conclusion, PATCO reiterates its concern over the SAFETY, SERVICE, and COST aspects of S.662, as it relates to the nonambulatory, wheelchair-bound handicapped in a rail rapid transit environment.

We would urge Congress to suspend the enactment of any requirements for immediate, complete accessibility for wheelchair-bound handicapped to rail transit systems, until a thorough analysis of their effect on SAFETY, SERVICE, and COST can be made.

At the same time PATCO urges that the proposed amendments to Sec. 16.(b)(4), Sec.16.(c), and Sec. 16.(d) of the Transportation Act of 1964 be speedily enacted, so that the nonambulatory handicapped and their transportation needs - as well as those of the elderly and ambulatory handicapped - can be clearly identified. This, to PATCO, is the logical first step in true and equitable resolution of this complex matter.

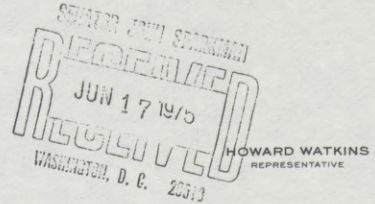
In the short term, specialized, door-to-door transportation is recommended as a means of immediately providing real increased mobility to the nonambulatory handicapped, as well as those elderly and others with severe mobility impairments.

As a transit system operator, public transportation consumer, and taxpayer, I suggest that to forge ahead into the unknown on principle alone will not only degrade the rail transit safety and service environments. It will also create a monumental waste of the taxpayers' monies by providing little, if any, additional real public transportation accessibility and mobility for the nonambulatory handicapped and all others with severe personal mobility impairments.

Thank you.



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June 12, 1975

The Honorable John J. Sparkman, Chairman
 Senate Subcommittee on Housing and Urban Affairs
 Committee on Banking, Housing and Urban Affairs
 3203 Dirksen Senate Office Building
 Washington, D. C. 20510

Dear Senator Sparkman:

Santa Clara County, California, wishes to go on record on the issue of equipping every public transportation vehicle to accommodate handicapped persons as proposed under S. ~~622~~ 662.

We have serious reservations about this approach and as an experienced and innovative transit operator believe that the very necessary service for the handicapped can be more effectively provided by other means.

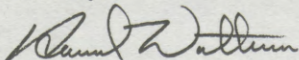
We would point out that equipping every transit vehicle with a lift will be very expensive with a resultant decrease in the overall number of buses UMTA will be able to fund. Also, accommodating wheelchairs on every vehicle will necessarily reduce the number of available passenger seats and lessen ridership volume. Additionally, pickup and discharge of wheelchair passengers will severely affect headways on arterial lines thereby reducing the efficiency and effectiveness of overall transit service.

It is our contention that the needs of the severely handicapped can better and more economically be met by a demand responsive service using specially equipped vehicles from the initial departure point to the destination of the handicapped person.

The Honorable John J. Sparkman
June 12, 1975
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We are about to institute such a service in Santa Clara County with especially designed buses for the handicapped and after consultation with handicapped persons. In view of our continuing experience with demand responsive service, we anticipate an effective transportation system for the handicapped.

Sincerely,

A handwritten signature in dark ink, appearing to read "Howard Watkins", written in a cursive style.

Howard Watkins
Washington Representative

HW/lp

cc: The Honorable William T. Coleman, Jr.
Members, Senate Subcommittee on Housing and Urban Affairs

STATEMENT OF LESLIE G. BERKOWITZ, CHAIRMAN, STATE ADVISORY COUNCIL ON
THE HANDICAPPED, DENVER, COLO.

The purpose of a comprehensive transportation program is to meet the needs of the residents to move around and to participate in the activities of a dynamic urban complex. Transportation facilities are the blood, if you will, of the community providing for an interchange between people engaged in various activities, work, leisure, and learning. In the past this need has been met primarily by automobiles and an auxiliary system comprised of buses. These modes of transportation are clearly no longer sufficient to meet the needs of the large numbers of people which must flow through our metropolitan areas each day. This need is especially great among those who do not have access to the former systems of transportation. This report is to explain the needs of one group of such people, the handicapped.

Handicapped persons are becoming increasingly organized and are beginning to make demands on the community that opportunities that are available to other citizens be available to them. It should be noted that drawing these people into the mainstreams of community life adds significant resources to the welfare of the community as a whole. A study entitled "Employment, Transportation, and Handicapped", estimated in 1968 that 7% of the employable transportation-handicapped were "transportation-sensitive unemployed," and that in addition to the welfare payment that would be saved for those who could work if provided with proper transportation, they would generate annually \$4,388 (Based on Denver, Colorado) each (much higher now as a result of inflation and increased real output) which, in turn, would generate increased income taxes.

I would like to dispell the myth that those in need of modified transportation facilities represent only a small minority of the citizens in a given metropolitan area. The handicapped are comprised not only of people in wheelchairs, but also of people with walking impediments, crutches, and many of the elderly. Perhaps the most comprehensive study done thus far on the need for accessible transportation facilities is entitled "Travel Barriers" and was prepared by Abt Associates, Inc., for the Department of Transportation in 1969. That study points out that the number of handicapped persons experiencing transportation difficulties (in 1969) totaled more than 40 million people or roughly 20% of the population. These figures include 3% of the national population who are chronically handicapped, or 6,093,000 men, women and children, as well as 18 million men and women over the age of 65 years. In addition, there were at least 4.6 million people who were suffering from a serious but short-term illness or injury which restricted their use of existing transportation facilities.

It would be difficult, if not impossible, to make an accurate prediction of the number of people who would use a modified system and the frequency with which they would use one, if available, since an accessible system would add an entirely new dimension to the lives of many individuals who might not even be able to comprehend what mobility might mean to them. A person might now only be thinking in terms of getting to an essential doctor's appointment, while he might take several trips a week to recreational activities, shopping, and other activities in the community if he became aware of a transportation system that was accessible, low-cost, and reliable. Nearly half the sample interviewed in the "Travel Barriers" study said they would take more recreational trips if they had access to a low-cost public transportation system which was usable by them.

The need for a modified transportation system, as well as the benefits to many individuals and to society, are obvious. The specifications which would adapt a transportation system to the use of the handicapped are an engineering problem, but not beyond the scope of current technology. Adequate technology is available to make buses on the main system accessible to those with ambulatory difficulties and those in wheelchairs. These facilities would include lifts for wheelchairs, special tie-downs, modified seating arrangements to accommodate wheelchairs, Braille notification for the blind, and modified walking entrances for those who are semi-ambulatory. In addition, current computer soft-ware is available to accommodate a dial-a-ride bus system which could supplement the main system. Such technology is available, and at a reasonable cost, if metropolitan transportation systems are willing to take advantage of it.

In designing a transportation system accessible to the handicapped and elderly, the Regional Transportation District (RTD) Denver's metropolitan transit system, has sought the assistance of a citizen's task force. Such a citizen's group is indispensable to the realization of the goal of an adequate transportation system for the handicapped. However, such a group should be used not to research demographic data on the handicapped but rather to formulate guidelines for designing supplementary systems and adapting existing systems to fully meet the needs of the handicapped. To accomplish this goal, such a committee must have access to raw data concerning costs, availability, and progress, and must be responsible for monitoring the activities of the transportation system in working towards providing service. In addition, such a citizen's committee would be most effective if it were totally separate from the transportation system's organization, thereby assuring its independence.

Furthermore, it should be noted that the establishment of an auxiliary system and the accessibility of a general system are not mutually exclusive. The transportation needs of the handicapped will not be met by deciding that they either be served with an auxiliary system which could operate somewhat in a door-to-door fashion, or be served by a general system such as a fixed route system which is now being employed which would be accessible. The RTD in Denver has adopted this either/or approach and has chosen the former. In February of this year they inaugurated the Handy Ride system, a subscription bus service, in which individuals complete subscription forms which are used as a basis in establishing fixed routes similar to existing bus routes. However, unlike regular service, Handy Ride gives no flexibility to the individual to alter his schedule, by requiring signing up far in advance of the actual travel date. Such a system is clearly inadequate to fulfill the needs of a person living in a mobile society such as ours. A totally accessible system could have both a general system which is accessible physically and provides extensive flexibility, and an auxiliary system which is accessible and provides a different service concept.

The RTD in their report to this committee on June 18, 1975, stated that "mobility of the handicapped . . . is more important than total vehicle accessibility." They base this conclusion on a study done of elderly persons, and then make the mistake of applying it to the handicapped, although the needs of the two groups are distinct. Only by adopting both approaches—total system accessibility and special service auxiliary systems—will the needs of the handicapped to move freely and easily within our metropolitan area be fulfilled.

STATEMENT OF THE NATIONAL RETIRED TEACHERS ASSOCIATION AND THE AMERICAN ASSOCIATION OF RETIRED PERSONS

The National Retired Teachers Association and the American Association of Retired Persons would like to comment on S. 662, a bill to provide operating assistance for projects located in non-urban areas and to provide for mass transportation assistance to meet the needs of elderly and handicapped persons.

Our Associations strongly support that portion of the measure authorizing the use of Urban Mass Transportation funds for operating assistance for rural and small urban areas. Rural elderly constitute approximately 27 percent of all older Americans. Their isolation is more acute and their income, nutrition and health conditions tend to be significantly worse than those of their urban counterparts. Many of the social services available to elderly persons living in urban areas are inaccessible to rural elderly and lack of transportation is a serious deterrent to meeting their most vital needs. We believe that extending the existing authorization to include operating assistance is a necessary step if new transportation systems in rural and small urban areas are to be developed. While some funding is theoretically available under the Federal Aid Highways Act rural demonstration program, this program is extremely limited in scope and it is our understanding that most funds which are awarded will go toward initial capital expenditures rather than operating costs.

NRTA and AARP also support the idea of making public transportation facilities accessible to elderly and handicapped persons. We feel that persons of limited mobility should certainly have the same right as other persons to make use of mass transportation facilities and services.

However, our Associations would like to point out that "the elderly" are not a single monolithic group with common needs and abilities. The majority of older persons are essentially able-bodied and many of them are already making effective use of public transportation systems designed for the general public. The best way to serve the needs of these older persons is to improve and expand the general public transportation systems which they use.

Some older persons, on the other hand, are feeble, have limited mobility and could be described as "handicapped". Yet these elderly persons have little in common with younger handicapped individuals who are physically vigorous and self-reliant despite the fact that they must depend on a wheelchair, crutches or other aids for mobility. Modifying regular mass transit systems will not adequately meet the needs of elderly persons who are feeble or seriously handicapped because no degree of vehicle modification can eliminate the barriers imposed by the distance from an individual's home to the nearest transportation pick-up point and from the transportation drop-off point to the individual's destination. Nor can vehicle modification eliminate steep hills, heavy traffic or long waiting periods which prevent feeble or seriously handicapped elderly persons from using the general transportation system. For these persons, we believe that specially designed "demand activated" transportation subsystems, such as dial-a-ride services offer the most effective and efficient form of transportation, with door-to-door service and driver assistance in getting to and from the vehicle.

Ideally, our Associations would like to see both total accessibility of general transportation systems and the development of specially designed subsystems for persons who could not make use of a general transportation system even if it were made totally accessible. However, where funds are limited, it may not be possible to pursue both goals simultaneously in the near future. When it is necessary to make a choice between providing mobility—the ability to get from one place to another—and accessibility—the ability to make use of a particular vehicle—our Associations urge that first priority be given to assuring mobility for our elderly and handicapped citizens.

Our Associations do not oppose the provisions of S. 662 pertaining to rapid rail and other grade-separated fixed guideway systems as we feel that these requirements can be met without undue expense or difficulty. We do suggest, however, that the language of Section 16(b)(1) be clarified so that it applies only to new systems and new extensions of existing systems which have not yet been approved or funded. In addition, we suggest that the phrase "and any other vehicle integrated with such system" be eliminated as we do not feel that such a requirement can be made at this time without excessive cost, to the detriment of mobility for older persons.



The first part of the paper discusses the importance of the study of the history of the United States. It is pointed out that the study of history is not only a means of understanding the past, but also a means of understanding the present and the future. The author argues that the study of history is essential for the development of a nation and for the well-being of its people. He states that the study of history is a means of understanding the human condition and of finding solutions to the problems of the world. The author also discusses the importance of the study of the history of the United States in the context of the world. He argues that the study of the history of the United States is essential for understanding the role of the United States in the world and for understanding the challenges that the United States faces in the future. The author concludes that the study of history is a means of understanding the human condition and of finding solutions to the problems of the world.

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