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MASS TRANSPORTATION ASSISTANCE TO MEET THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

GOVERNMENT

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HEARINGS BEFORE THE SUBCOMMITTEE ON SURFACE TRANSPORTATION OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 5010

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

MARCH 30 AND APRIL 6, 1977

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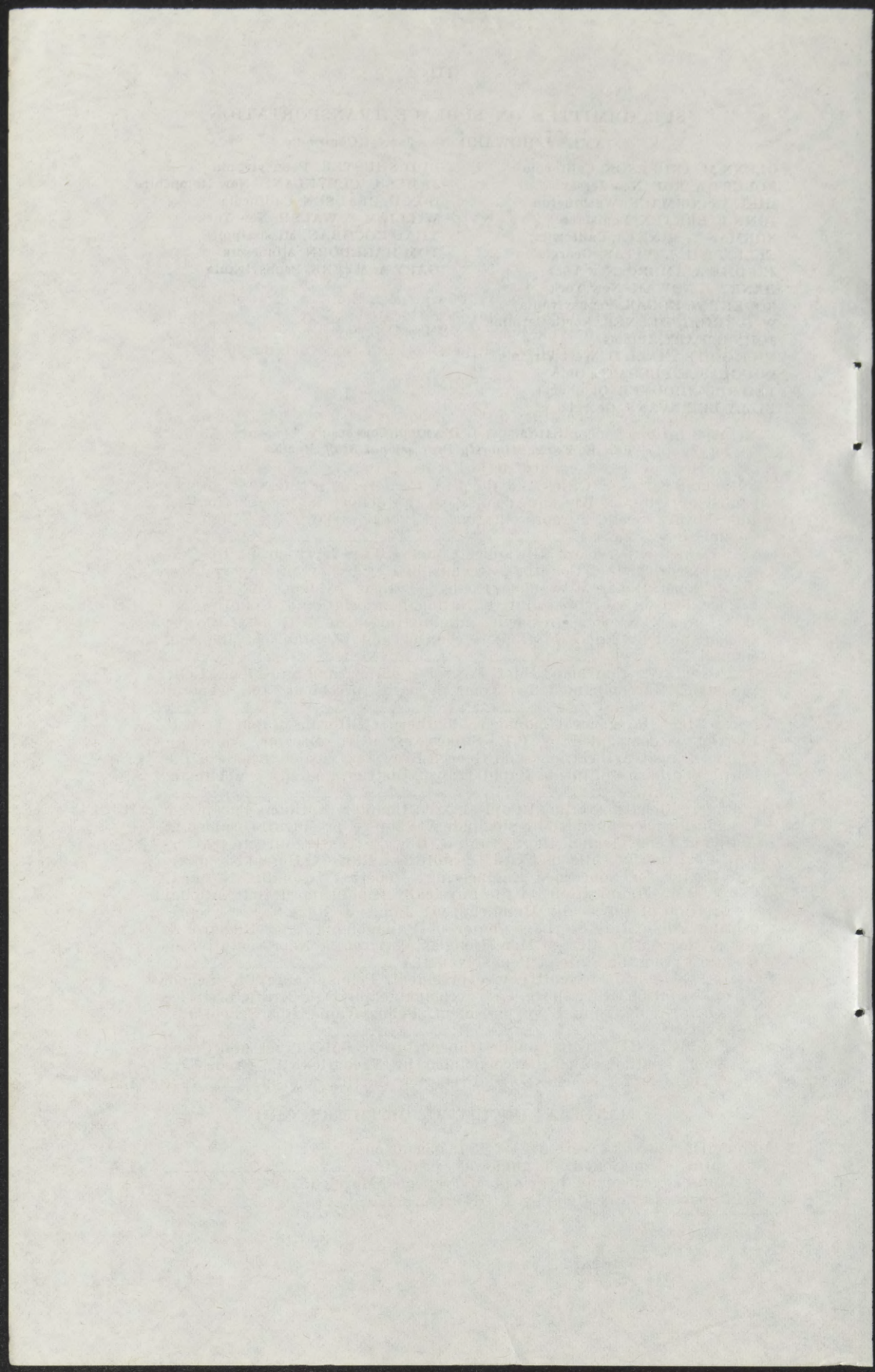
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95TH CONGRESS
1ST SESSION

H. R. 5010

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1977

Mr. HOWARD introduced the following bill; which was referred to the Committee on Public Works and Transportation

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 OPERATING SUBSIDIES IN AREAS OTHER THAN

4 URBANIZED AREAS

5 SECTION 1. The last sentence of section 4(c) of the
6 Urban Mass Transportation Act of 1964 is amended by
7 inserting before the period at the end thereof a comma and
8 the following: "and such \$500,000,000 may be used in such
9 areas for the payment of the cost of construction projects or

1 for the payment of subsidies for operating expenses. Grants
2 for assistance in areas other than urbanized areas shall be
3 subject to the same limitations and requirements as are con-
4 tained in the first two sentences of section 5 (e) and in sec-
5 tion 5 (m), and such other terms, conditions, requirements,
6 and provisions (similar to those which are applicable to
7 grants under section 5) as the Secretary may determine to be
8 necessary or appropriate for nonurbanized areas. In making
9 any grant from such \$500,000,000 for the payment of sub-
10 sidies for operating expenses, preference shall be given to
11 a private bus operator who lawfully has provided transporta-
12 tion to such a nonurbanized area during the one-year period
13 preceding the date of application for such a grant over routes
14 or within the general area for which such financial assistance
15 is to be provided, over any other operator to provide such
16 service in such nonurbanized area”.

17 FELLOWSHIP ASSISTANCE

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

20 “GRANTS FOR TRAINING PROGRAMS

21 “SEC. 10. The Secretary is authorized to make grants to
22 States, local public bodies, and agencies thereof and private
23 mass transportation operators to provide fellowships for train-
24 ing of personnel employed in managerial, technical, and pro-
25 fessional positions in the urban mass transportation fields.

1 Fellowships shall be for not more than one year of training
 2 in public or private training institutions offering programs
 3 having application in the urban mass transportation industry.
 4 The recipient of a fellowship under this section shall be
 5 selected on the basis of demonstrated ability and for the
 6 contribution which he can reasonably be expected to make
 7 to an efficient mass transportation operation. The assistance
 8 under this section toward each fellowship shall not exceed
 9 the lesser of \$12,000, or 75 per centum of the sum of
 10 (1) tuition and other charges to the fellowship recipient,
 11 (2) any additional costs incurred by the educational institu-
 12 tion in connection with the fellowship and billed to the grant
 13 recipient, and (3) the regular salary of the fellowship recip-
 14 ient for the period of the fellowship (to the extent that salary
 15 is actually paid or reimbursed by the grant recipient).”.

16 DEFINITIONS

17 SEC. 3. (a) Section 12 (c) of the Urban Mass Trans-
 18 portation Act of 1964 is amended—

- 19 (1) by striking out “and” at the end of clause (4) ;
- 20 (2) by striking out the period at the end of clause
- 21 (5) and inserting in lieu thereof a semicolon; and
- 22 (3) by adding at the end thereof the following:
- 23 “(6) the term ‘construction’ means the supervising,
- 24 inspecting, actual building, and all expenses incidental
- 25 to the construction, reconstruction, or acquisition of facil-

1 ities and equipment for use in public mass transporta-
 2 tion, including designing, engineering, location survey-
 3 ing, mapping, acquisition of right-of-way, relocation
 4 assistance, acquisition of replacement housing sites, ac-
 5 quisition and rehabilitation, relocation, and construction
 6 of replacement housing;

7 “(7) the term ‘elderly person’ means any person
 8 who is sixty years of age or older;

9 “(8) the term ‘handicapped person’ means any
 10 individual who, by reason of illness, injury, age, con-
 11 genital malfunction, or other permanent or temporary
 12 incapacity or disability, including any individual who
 13 is wheelchair bound, or who has semiambulatory capa-
 14 bilities, is unable without special facilities or special
 15 planning or design to utilize mass transportation facili-
 16 ties and services effectively;

17 “(9) the term ‘Governor’ means the Governor, or
 18 his designate, of any one of the fifty States or of Puerto
 19 Rico, and the Mayor of the District of Columbia; and

20 “(10) the term ‘urbanized area’ means an area so
 21 designated by the Bureau of the Census, within bound-
 22 aries which shall be fixed by responsible State and local
 23 officials in cooperation with each other, subject to ap-
 24 proval by the Secretary, and which shall at a minimum,
 25 in the case of any such area, encompass the entire

1 urbanized area within the State as designated by the
2 Bureau of the Census.”.

3 (b) Subsection (a) of section 5 of the Urban Mass
4 Transportation Act of 1964 is hereby repealed.

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

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

10 “MASS TRANSPORTATION FACILITIES AND EQUIPMENT TO
11 MEET THE NEEDS OF ELDERLY AND HANDICAPPED
12 PERSONS

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

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

18 “(2) special efforts shall be made in the planning,
19 design, construction, and operation of mass transporta-
20 tion facilities and services so that the availability to
21 elderly and handicapped persons of mass transportation
22 which they can effectively utilize will be assured; and

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

1 “(b) (1) The Secretary shall require that projects re-
 2 ceiving Federal financial assistance under this Act shall be
 3 planned, designed, constructed, and operated to allow effec-
 4 tive utilization of mass transportation services by elderly and
 5 handicapped persons who are unable without special facilities
 6 or special planning or design to utilize such facilities and
 7 services effectively. The Secretary shall not approve any
 8 program or project under this Act unless he finds that the
 9 program or project complies with the requirements mandated
 10 by this section.

11 “(2) (A) The Secretary shall, as a condition of making
 12 any grant or loan under this Act, require that every bus
 13 manufactured after which is purchased or oper-
 14 ated using such grant or loan by the applicant and which
 15 is for use by the general public for public mass transportation
 16 purposes either be accessible, or be readily capable of being
 17 made accessible, to elderly and handicapped persons. The
 18 preceding sentence shall not apply to any bus manufac-
 19 tured after for which a procurement contract was
 20 entered into before if any part of the purchase
 21 price of such bus is paid by the first purchaser of such bus
 22 in good faith for purposes other than resale from a grant
 23 or a loan under this Act.

24 “(B) The first grant or loan made to an applicant after

1 the date of enactment of this paragraph for the purchase
2 of buses manufactured after shall be subject to
3 the condition that at least 50 per centum of all such buses
4 purchased by the applicant with such grant or loan shall
5 be accessible to the elderly and handicapped. No grant or
6 loan shall be thereafter made to such applicant for the
7 purchase of buses until such applicant has made a full and
8 complete investigation and study of the transportation serv-
9 ices being provided to the elderly and handicapped in the
10 area served by such applicant and reports the result of such
11 study to the Secretary. Any grant or loan made to such
12 applicant after submission of such study for the purchase of
13 buses shall be subject to such requirements as the Secretary
14 determines necessary as to the percentage of buses accessible
15 to the elderly and handicapped which must be purchased
16 with such grant or loan.

17 “(3) Effective immediately, the service proposed to be
18 provided for elderly and handicapped persons shall be pre-
19 sented at the public hearing required as part of the applica-
20 tion process for assistance under section 3 of this Act.

21 “(4) Effective immediately, all technical study grants
22 made under section 9 of this Act in support of local trans-
23 portation planning shall include work elements necessary to
24 produce by July 1, 1978, a comprehensive local plan for

1 meeting the mass transportation needs of elderly and handi-
2 capped persons within the geographical area included in the
3 study.

4 “(c) The Secretary shall establish a National Ad-
5 visory Council on Accessibility of Mass Transportation at
6 least 50 per centum of the members of which shall be elderly
7 and handicapped persons. The Advisory Council shall advise
8 and consult with the Secretary on all matters relating to mass
9 transportation for elderly and handicapped persons.

10 “(d) On or before July 1, 1978, the Secretary shall
11 prepare and submit to the Congress a comprehensive report
12 on the mass transportation needs of elderly and handicapped
13 persons, including information generated under technical
14 study grants subject to the requirements of subsection (b)
15 (4) of this section; research, development, and demonstra-
16 tion activities undertaken in furtherance of the national goal
17 set forth in subsection (a); and the progress made in assur-
18 ing the effective utilization by elderly and handicapped per-
19 sons of mass transportation services and facilities assisted
20 under this Act, and shall recommend additional measures to
21 assure such effective utilization.

22 “(e) In addition to the grants and loans otherwise pro-
23 vided for under this Act, the Secretary is authorized to make
24 grants and loans—

25 “(1) to States and local public bodies and agencies

1 thereof for the specific purpose of assisting them in pro-
 2 viding mass transportation services which are planned,
 3 designed, and carried out so as to meet the special needs
 4 of elderly and handicapped persons, with such grants
 5 and loans being subject to such terms, conditions, re-
 6 quirements, and provisions as are applicable to grants
 7 and loans made under section 3 (a), and for the pur-
 8 poses of all other laws, any grant or loan under this
 9 subsection shall be deemed to have been made under
 10 such section; and

11 “(2) to private nonprofit corporations and associa-
 12 tions for the purpose of assisting them in providing trans-
 13 portation services meeting the special needs of elderly
 14 and handicapped persons for whom mass transportation
 15 services planned, designed, and carried out under para-
 16 graph (1) are unavailable, insufficient, or inappropriate,
 17 with such grants and loans being subject to such terms,
 18 conditions, requirements, and provisions (similar inso-
 19 far as may be appropriate to those applicable to grants
 20 and loans under paragraph (1)), as the Secretary may
 21 determine to be necessary or appropriate for purposes
 22 of this paragraph.

23 Of the total amount of the obligations which the Secretary
 24 is authorized to incur on behalf of the United States under
 25 the first sentence of section 4 (c), 2 per centum may be set

1 aside and used exclusively to finance the programs and
2 activities authorized by this subsection (including adminis-
3 trative costs).

4 “(f) Of any amounts made available to finance research,
5 development, and demonstration projects under section 6
6 after the date of the enactment of this section 1½ per centum
7 may be set aside and used exclusively to increase the infor-
8 mation and technology which is available to provide im-
9 proved transportation facilities and services planned and
10 designed to meet the special needs of elderly and handi-
11 capped persons.”.

12 LOAN FORGIVENESS

13 SEC. 5. (a) The Secretary of Transportation may con-
14 vert equipment and facilities loans heretofore made under
15 section 3 (a) of the Urban Mass Transportation Act of 1964
16 or title II of the Housing Amendments of 1955 (42 U.S.C.
17 1492), to grants under the conditions set forth below. A
18 grant agreement for the acquisition, construction, reconstruc-
19 tion, or improvement of facilities and equipment under sec-
20 tion 3 (a) may provide for forgiveness of principal and
21 interest on a loan previously made in lieu of a cash grant in
22 the amount forgiven. Such grant shall be subject to such
23 terms and conditions as the Secretary may deem necessary
24 and appropriate, taking into account the degree of com-
25 pletion of the project financed with the loan.

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

13 BUS INSPECTIONS

14 SEC. 6. The Urban Mass Transportation Act of 1964 is
 15 amended by adding at the end thereof the following:

16 "BUS INSPECTIONS

17 "SEC. 18. (a) No State or local public body thereof
 18 shall be eligible for any grant, loan, or other financial assist-
 19 ance under this Act unless the State requires systematic in-
 20 spection of all buses operating in intrastate and interstate
 21 commerce in such State, including schoolbuses, at least once
 22 every six months for safety purposes, including, but not lim-
 23 ited to, steering, brakes, lights, and horn. Any such State in-
 24 spection requirements shall be deemed to meet the require-
 25 ments of this section unless the Secretary determines such

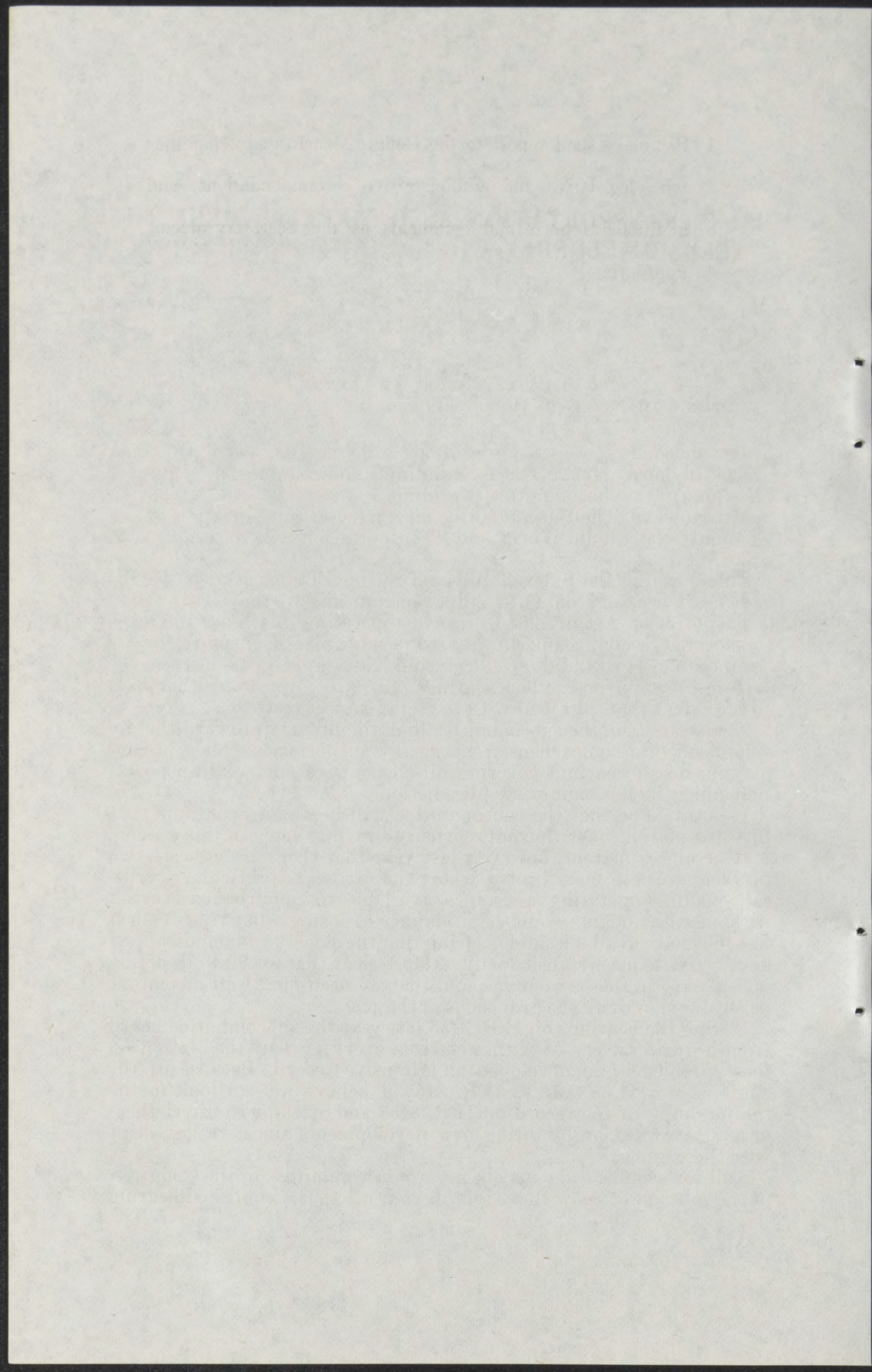
1 inspection requirements do not meet the requirements of this
2 section. The Secretary shall not approve any State inspection
3 system requiring inspection of any bus which has been in-
4 spected within the past six months in any other State in ac-
5 cordance with that State's system of inspection approved by
6 the Secretary.

7 “(b) This section shall take effect in each State six
8 months after the date of enactment of this section unless im-
9 plementing legislation is required in a State in which case it
10 shall take effect in that State six months after the end of the
11 next regular session of the State legislature which begins
12 after the date of enactment of this section.”

13 STUDY OF FEDERAL SOCIAL SERVICE TRANSPORTATION

14 SEC. 7. The Secretary is authorized to study the
15 transportation component of those Federal programs and
16 projects providing social services. Upon completion of such
17 study, the Secretary shall propose a plan to centralize or
18 modify the transportation component of such Federal pro-
19 grams and projects to make the delivery of transportation
20 services financed by Federal funds, in whole or in part,
21 more efficient, more cost effective, and to avoid duplication
22 of services by furthering cooperation among all Federal
23 departments and agencies with jurisdiction over such trans-
24 portation services. On or before September 30, 1978, the

1 Secretary shall report to the Congress such study, together
2 with legislative and administrative recommendations, and
3 additional reports and comments as the Secretary deems
4 appropriate.



MASS TRANSPORTATION ASSISTANCE TO MEET THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

WEDNESDAY, MARCH 30, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:16 a.m., in room 2253, Rayburn House Office Building, Hon. James J. Howard, chairman of the subcommittee, presiding.

Mr. HOWARD. The Subcommittee on Surface Transportation of the Committee on Public Works and Transportation will please come to order.

This morning the Subcommittee on Surface Transportation begins 2 days of hearings on H.R. 5010, amendments to the Urban Mass Transportation Act of 1964 to provide operating assistance for projects located in nonurbanized areas, to provide mass transportation assistance to meet the needs of elderly and handicapped persons, and for certain other purposes. The hearings will also cover four other bills to the extent that they deal with the same subject matter.

Two years ago, the subcommittee took the first step toward the development of a comprehensive national transportation policy in conducting broad hearings covering all elements of surface transportation under the subcommittee's jurisdiction.

It is my hope that the subcommittee will be able to continue that forward movement with comprehensive hearings later in this session.

It became apparent, however, last year that there are at least two problem areas in mass transit where the needs are particularly critical—making operating assistance available to nonurbanized areas, without which many would be in danger of losing what transit services they have available, and insuring that the elderly and handicapped have access to mass transit facilities. It is clear that expeditious action is necessary in these two areas, and that we need not await a comprehensive review of all the provisions of the act.

During the hearings on H.R. 3155 last year the subcommittee heard from a great variety of witnesses from every part of the Nation on these problems and developed an extensive record. Because of the similarity of H.R. 5010 to H.R. 3155, I believe we can look to the thoroughness of the record on H.R. 3155 and attempt to direct these hearings toward highlighting new developments since we last dealt with these issues.

And for members who may be new to the committee, or the Congress, or the subcommittee, we have sent to your offices the published hearing

record on H.R. 3155 from the last Congress. Other copies are available here at the subcommittee hearings this morning.

I am confident that these hearings will lay the groundwork for legislation which is truly responsive to rural transit needs and the needs of our elderly and handicapped citizens.

The bill as introduced offers a different approach in dealing with the needs of the elderly and handicapped. I am not wedded to any particular approach as a solution to this problem, but it has become apparent that there will have to be some give and take by the various interests involved.

As the subcommittee proceeds to sort out the varied aspects of accessibility, we must of necessity look to the new regulations under development by the Department of Transportation.

But I want to make it very clear that neither this bill nor these hearings is in any way intended to prejudice Secretary Adams' decision on the Transbus—which he has promised to announce by May 27.

It is now my pleasure to recognize the ranking minority member of the subcommittee, the gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. Thank you very much, Mr. Chairman.

As we open these first hearings of the Surface Transportation Subcommittee during the 95th Congress, I would just like to take this opportunity to commend our distinguished chairman for the exemplary manner in which he has conducted the subcommittee during the Congress past, and express my personnel enthusiasm for the agenda for this Congress.

We will be considering a tremendous variety of surface transportation proposals, all of which are important, and some of which will be controversial. But under the able leadership of our chairman, I am confident that this subcommittee can continue in the vein of cooperation developed over the last Congress, and report out meaningful and responsive transportation programs that will serve the best interests of all transportation consumers.

On behalf of the minority, let me again express my thanks to the chairman for his consideration and willingness to work closely with the minority, and express my willingness to work closely with him in the future.

With respect to the legislation which is the subject of the hearings today, let me echo the chairman's remarks by stating that the subject matter is critically important. And it is my hope that the problems we encountered in reporting this bill last year can be overcome.

This subcommittee, and each of its individual members, has received a wealth of testimony indicating the need for systems in rural areas—in fact, indicating that that need is as great or greater than in some urban areas.

The section mandating accessibility requirements for the elderly and handicapped is equally important. And I would like to say for the record that I am deeply concerned about it, and am strongly committed to a policy that will lead to a reasonable accessibility for disadvantaged persons in our society.

I am approaching this subject with an open mind, and will carefully consider the hearing record established last year, as well as new testimony presented during this and subsequent hearings.

I want to make it very clear that we should not accept a smokescreen type approach. I shall work hard toward developing a meaningful proposal that will serve the real needs of the elderly and the handicapped, that is, making it possible for them to get from their homes to their destination—and not just a proposal that looks good on paper, but is unrealistic and unworkable.

H.R. 5010 is a positive step in that direction. While I am still not convinced the approach taken in this proposal is the optimum one, I share with the Chairman his earnest desire to use this as a starting point in developing a bill we can all live with, and that maintains the integrity of the UMTA program and our Nation's fiscal objectives.

I look forward to hearing the witnesses today, Mr. Chairman. I appreciate this time given to me to make my opening remarks.

Mr. HOWARD. Thank you.

Do any other members wish recognition?

If not, the Chair would like to state we do have a long list of witnesses today. The schedule originally had been for the House to meet at 3 p.m., and we felt we could have completed our hearings within that time. However, the House will be in session beginning at 12 noon today.

The subcommittee will remain in session, with the exception of the time that will be necessary to answer quorum calls and for voting.

I also wish to thank the witnesses who had been scheduled earlier today for their cooperation so that we can meet the difficult transportation needs of some other of our witnesses who have to make rather early flights.

So, for the first witness this morning, the Chair is happy to recognize the Honorable John C. Burton, the deputy mayor of New York City who is representing the National League of Cities and the United States Conference of Mayors.

Mr. Burton, we are very happy to have you with us today. Please introduce, for the record, the people accompanying you, and then proceed as you wish.

TESTIMONY OF HON. JOHN C. BURTON, DEPUTY MAYOR, NEW YORK CITY, REPRESENTING THE NATIONAL LEAGUE OF CITIES AND THE U.S. CONFERENCE OF MAYORS, ACCOMPANIED BY PETER J. KIERNAN, COUNSEL TO THE DEPUTY MAYOR FOR FINANCE; AND EDWARD SEELY, A REPRESENTATIVE OF THE NEW YORK CITY PLANNING COMMISSION

Mr. BURTON. Thank you, Mr. Chairman.

My name is John C. Burton. Accompanying me today, is Peter J. Kiernan, counsel to the deputy mayor for finance; and Edward Seely, a representative of the New York City Planning Commission.

Mr. Chairman, on behalf of Mayor Abraham D. Beame and the people of the city of New York, I want to thank you for this opportunity to discuss current and important issues of urban mass transportation.

I wish to thank you also on behalf of the National League of Cities and the United States Conference of Mayors. The city of New York is proud to articulate the policies of these important organizations.

In 1974, after a lengthy and most difficult debate, the Congress made two very fundamental decisions that committed the United States Government to participate in the construction and maintenance of efficient mass transportation facilities and to assist in their operations. Both principles encountered resistance, particularly operating subsidies. But both have proven to be sound investments in the quality of life for urban residents in their right to be mobile.

The evidence of the appropriateness of these commitments is obvious:

Of the \$7.1 billion authorized to be obligated for discretionary capital grants for 6 years, all but \$700 million already has been spent or committed. These funds will bring a new vitality, jobs, and mobility to our cities. Included in this will be the new Queens subway in New York City which will permit extension of the subway to growth areas of the city, while relieving overcrowding on existing lines. It will continue the historic role of the city's rapid transit system—a unifier of a divergent and separated populace.

The cost of the new Queens subway to its projected date of completion in 1985 will be \$1.859 billion, and \$1.137 billion of this amount is uncommitted. I believe this demonstrates that the \$700 million remaining in the 1974 authorization will be not nearly sufficient to fund the nationwide commitment the Congress undertook in 1974, and that the commitment is a proper one that should be renewed. Of the \$1.6 billion disbursed thus far under the section 5 formula grant program, over 90 percent has been obligated for operating maintenance.

In 1974 Mayor Beame led the Nation's cities in the struggle for the principle of operating assistance. This subcommittee was responsive to that need. But while the principle survived, the vehicle for its deliverance ultimately was heavily compromised.

New York City has more than 30 percent of the national transit ridership. Nevertheless, under the section 5 formula, the city receives only 10.7 percent of the annual section 5 authorization.

There is a basic inequity in this formula. The Congress adopted operating assistance because there was a demonstrable need for it and because the case for it was compelling. But the formula under which this assistance is allocated recognizes neither need nor usage factors.

We are mindful of the fact that the administration does not wish to undertake a major new bill this year, but that does not mean that certain obvious inequities cannot be addressed, nor that there cannot be a full agenda for action.

The major purpose of the adoption of section 5 by the Congress was to maintain levels of service. Nevertheless, since the section 5 program has been in effect, the New York City Transit Authority has been forced to cut services several times because of insufficient funds.

For example, the transit authority is cutting bus service by 10 percent on all routes. Previously non-rush hour service on 25 percent of the routes was curtailed. As a result, waiting times have been increased by 5 to 7 minutes during rush hours, and by as much as 20 minutes during non-rush hours.

With regard to the subways, the transit authority has eliminated over 200 daily train trips, has halted various shuttle and express serv-

ices, has reduced the length of non-rush hour trains by 60 percent and has doubled waiting times.

Furthermore, 14 percent of the subway system's token booths either have been permanently closed, or are open only part time.

All of this is contrary to the intent of the 1974 act, and some of it is because the political compromise that led to the adoption of the formula grant program was not fair to New York City and to many, many others.

These service reductions were not caused by any major cuts in the city's support of transit. In fact, at the height of the city's fiscal crisis, transit was the only major city activity that did not sustain a significant reduction in city funding, although reduced fares for school children were curtailed. Local contributions to the New York City Transit Authority exceed Federal contributions by about 6 to 1; and local contributions to the city's private bus lines, which as an aggregate constitutes a transit system larger than those of Baltimore, Detroit, or Pittsburgh, exceed Federal contributions by about 8 to 1.

While the act's objective of maintaining service has not been met fully, the fears that prevented the passage of a more adequate program have not materialized.

In 1974 the Congress said it did not wish to subsidize local transit fares. In September 1975, the New York City transit fares rose 43 percent and became the Nation's highest.

In 1974 the Congress said it did not choose to throw money down the rathole by subsidizing large labor costs. In 1977 the wage rates of New York City Transit Authority employees will be ninth among the Nation's largest cities.

In 1976 the Transport Workers Union and the Amalgamated Transit Union settled for no-cost labor contracts. All cost of living increases cannot exceed the Consumer Price Index, and in no event can exceed 6 percent, and must be paid for by productivity savings that are measured by an independent auditor. Moreover, there has been a policy of full attrition since 1975.

There is no doubt, of course, that without the assistance that was forthcoming, the New York City transit system would have collapsed, or some other governmental service sacrificed on its behalf. But that is not the proper question. Rather, given the Congress' intent to assist mass transit, how can it do so most effectively, and how can it accomplish the most good?

It is recognized that in the midst of an ongoing program it is not likely that the Congress would be willing to change the section 5 formula. It is also believed, at least by the city of New York, that it is not politically realistic to expect the Congress to be able to pass a nationwide formula premised, in part, on need or usage, that is fair to the very large cities that have fixed rail transit systems such as New York City, Boston, Chicago, Philadelphia, Cleveland, and San Francisco and that have most of the Nation's ridership.

Accordingly, the league, the conference and the city of New York believe that the Congress should adopt a new operating grant program that does not adversely affect any urbanized area's entitlements under the existing statute. Such a new section, we believe, should be a discretionary grant program by which the Secretary could make grants in accordance with criteria promulgated by the Congress.

We recommend that the criteria include the following:

First: The importance of transit to the locality, as evidenced by usage factors such as ridership and vehicle miles traveled;

Second: Whether local government is paying a fair share of operating costs;

Third: Whether local transit riders are paying a fair share of operating costs, as evidenced by the proportion of operating expenses covered by fare box revenues, that portion is currently 55 percent in New York City.

Fourth: Whether transit managers are acting effectively to control operating costs, as evidenced by rates of increase in operating costs in relation to the rate of increase in the local Consumer Price Index;

Fifth: Per capita energy consumption which reflects public transit usage versus public transportation;

Sixth: Other measures that reflect the value of public transportation to the community that it serves.

If the Congress deems it appropriate to make this new grant section eligible for capital projects, then other capital-oriented criteria should be promulgated.

However, it should be noted that more than 95 percent of all applicants for section 5 assistance applied for operating assistance, and that the suggested purpose of the proposed new section is to correct the inequities inevitable caused by the section 5 formula and to address particular needs as they arise that are consistent with the congressional intent expressed in the 1974 act.

Moreover, the league and the conference would also support an approach by which the Congress would require the Secretary to develop a formula premised on these or similar criteria for the supplementary operating program.

The request of this subcommittee to the Budget Committee for \$195 million for additional section 5 funding would be sufficient to meet national needs. Adoption of this section for fiscal year 1978 is not inconsistent with the Secretary's plan to propose a comprehensive transit package, nor would it interfere with this subcommittee's inclination to accommodate the new administration.

With reference to the capital program, it is clear that there is not enough present authority both to complete projects which UMTA supports, and to provide recurring capital replacement despite the scrutiny with which the Urban Mass Transportation Administration (UMTA) has considered capital applications in recent years.

Recently, Transportation Secretary Adams has said he favors a large discretionary capital fund for major projects with a 5-year rolling authorization, and with a 1-year advanced appropriation.

I believe that the Congress could increase the contract authority of section 3 at this time to meet obligations UMTA reasonably can be expected to have without violating the congressional budget control procedures or the Secretary's stated wishes.

Representative Edgar has proposed a funding level for section 3 to carry out the intent of the 1974 act. The league and the conference support this approach.

I would also like to make two observations concerning the capital funding policies of UMTA. It was reported yesterday that the President has advised Secretary Adams to avoid costly, heavy rail com-

mitments wherever possible, and the Secretary responded that this has been UMTA's practice for several years.

Obviously, heavy rail systems have a legitimate place in the urban environment. For example, it is difficult to imagine that New York City could have developed as it has without a subway system.

The point is that the type of transit investment for any city should be determined by the particular methods of each proposal, not mandated legislatively.

In addition, it is important to realize that any new transit system, particularly a rail system, requires a funding provision for capital depreciation. We believe that depreciation funding has not been given proper attention by UMTA.

For example, in New York we must allocate at least 45 percent of our capital funding for the replacement of capital plant and equipment such as tracks and subway cars and buses. Last year, however, 80 percent of the funds we received were for new rail construction.

It is shortsighted for UMTA to finance the construction of new systems while ignoring the needs of those already in operation. And it is unwise to build new systems without adequate provision for their capital maintenance.

In general, New York has been treated fairly by UMTA. But New York has the largest transit system in the world, and its needs are commensurate with its advantages. This is true of all major systems, and I believe the Congress should increase existing authorizations to meet those needs.

There are two final items, Mr. Chairman. After 3 years of experience a serious deficiency has been exposed with respect to the maintenance of effort section of the act. The Congress intended this section to prevent Federal operating assistance from being substituted for local funds by providing that a recipient of Federal operating assistance must receive from State and local governments no less than their average contributions for the 2 previous fiscal years.

On its face, this section discriminates against those municipalities that contributed substantially to the development and operation of transit systems prior to the advent of Federal operating assistance. Moreover, it rewards those localities that did nothing previously to assist local transit operations. But what is particularly deficient is the administration of this section.

A recent experience in New York City is illustrative. The city and State of New York provide about \$400 million of assistance to the transit authority. In the first year of the Federal operating program, the TA received less than \$40 million, with the result that the Federal aid was overmatched by a ratio of approximately 10 to 1.

In the current fiscal year, the city and State are required to maintain about \$400 million of assistance in order to qualify for about \$78 million in Federal aid. In September of 1976, however, the board of education of the city of New York, an independent entity, reduced its purchase of transportation service from the transit authority by \$16 million in order to free funds for educational services for disabled children.

As a result, the TA fell \$2 million below its maintenance of effort requirement of \$392 million, as that requirement was interpreted by UMTA. The city argues that the board of education is a separate

entity and that its purchases of service do not constitute the payment of a subsidy by the city.

Nevertheless, former UMTA Administrator Patricelli ruled that the payments are a subsidy, and if not restored, he would disallow the TA's fiscal year 1977 section 5 grant. Since neither the city nor the State of New York controls the board of education, the city was caught in a classic dilemma; either it could replace a cut it did not make with funds it does not have, or it would lose the benefit of \$78 million of Federal assistance, even though the city and State are overmatching the potential Federal grant by a ratio of more than 5 to 1.

Mr. Patricelli maintained the Congress intended the maintenance of effort provision to be an all or nothing requirement, and further intended to include all local governmental payments regardless of whether they were purchases of service.

This clearly could not have been the intent of the Congress. It completely discourages any management improvements that would reduce the necessity of local funding, and it unduly penalizes those areas that do the most to assist local transit and, therefore, have the most severe maintenance of effort requirement.

We request you to rectify this situation either by suspending maintenance of effort beyond a certain overmatch condition such as 3 to 1, or by establishing a substantial compliance criterion which would provide for a pro rata reduction in Federal assistance, if the maintenance of effort requirement were not completely met.

Finally, in your deliberations we suggest that you consider the need to provide funding for the costs of transit security. Rapid transit crime may be the greatest deterrent to ridership in big city transit systems, and is an inordinately expensive service for a local government to provide.

Thank you for your attention.

I would like to express my appreciation to the other witnesses today who permitted me to testify before them in order that I could meet a commitment back in New York early this afternoon.

Mr. HOWARD. Thank you very much, Mr. Burton. We appreciate your testimony.

We realize your expertise is more in the city of New York. Although you were talking for the U.S. Conference of Mayors and National League of Cities, your testimony was almost totally devoted to New York City.

You have projected a date of completion of 1985 on the Queens subway system. We are concerned about the fact that a great deal of this money, of this amount, is uncommitted, even though we are talking about 8 years in advance.

Another point that you make is this basic idea of talking about a 1-year advanced appropriation. You speak about whether you will get 1 year in advance, or possibly 2 at the outside. And then beyond that there is a great deal of uncertainty as to what the program may be, or what your share may be, or what may be appropriated, or what may be available, which perhaps puts you at a disadvantage in trying to protect, with any confidence, an improvement of the city system, or a project that may take 8 or 10 years.

Now, we heard a great deal about the fact that our mass transit money is gone. And much of this has to do with the fact that projects may take 8 or 9 years. We hear the money for that must be set aside and put in a bank so you know it will be there when you need it, even though you have many years to go before you actually use the money.

Now, in the highway program, as of February 28, there was something like \$9 billion in the Highway Trust Fund, \$9.1 billion. However, there were projects that were approved and are ongoing that may take many years to complete, and they amount to something over \$21 billion, or \$22 billion. Yet the State highway officials are not saying we have to get \$13 billion today and put it in the bank, because somewhere down the line we have projects going that will cost that amount of money.

Why do you think the mass transit people are so very concerned about getting more money right now, but the highway people, who have the same kind of a situation, are not that concerned about it?

Mr. BURTON. Well, I think that the planning commitment that is undertaken in connection with mass transit facilities is a long-term commitment, Mr. Chairman, which has many corollary and related commitments associated with it.

While I certainly recognize that highway commitments are also of a long-term nature, I believe that the characteristics of the long-term transit planning do require more comprehensive analysis of corollary effects as well as route planning, which impacts on many other aspects of the urban environment. And I think these are the factors that make it imperative that we be confident that the funding will be available.

Now, I do not think that we are suggesting that the money be put into the bank in any cash sense, but rather that it be committed to be available at a later date.

Mr. HOWARD. Why are the highway people not concerned about this?

Mr. BURTON. Well, I would hesitate to speak for the highway people. I believe the only thing I can suggest to you is that the mass transit planning horizon is a long-term planning horizon that has a great many corollary effects upon an urban community. It goes into real estate planning, and many other aspects, as well as many other interrelationships that must be considered.

In addition, of course, while at the present time the Highway Trust Fund is only a certain amount, there is a guaranteed source of funding that exists within the Highway Trust Fund, Mr. Chairman, that does not exist in the urban mass transportation area.

Mr. HOWARD. Thank you very much. Was my question as obvious as I thought it was?

Would you feel that it might be in the better interest of the rural American communities involved in mass transit, Mr. Burton, that they could do their planning with more confidence, and over a long range, if there were some kind of a mass transit trust fund set up, which would make a certain basic amount of money available every year.

If that were the case, you would have some confidence that there would be money available, and you could make your plans on a more stable basis than you do now?

Mr. BURTON. I would think that would be the case.

Mr. HOWARD. Thank you very much.

Many other things that you stated in here I can agree with. I can see we very often have to hear from the people who are receiving the money and have to work with it. Many of our legislative intents and the ideas as we set things up seem fine from this end, but when you actually have to work with them, there are other factors that come in that may not be available to us—and that has to do also with the local effort and contribution. And it has to do with the fact that if there is operating subsidy in money, that there not be an inducement that that might be utilized for the city to alleviate itself of other things or use the money in a way they may not use it if they had to pay a substantial portion themselves.

And I am glad you did bring that out.

Thank you very much for your testimony.

I recognize the gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman.

I am very much intrigued by that part of your testimony which points out the need for an essentially in-place system—such as New York has in terms of capital requirements—that the need is largely to replace existing capital facilities.

And last year, however, 80 percent of the funds received from the Federal Government were for new rail constructions.

So I am very sympathetic to that statement, and I think you made a contribution by calling that to our attention.

I wonder, however, if there is not an inherent problem within that kind of pattern, Mr. Burton, that if the Federal Government were to provide more funds for the replacement of capital facilities as opposed to new capital add-on facilities, would that not then create the inducement for you to move from maintenance to replacement?

Would you not then be encouraged to spend less on maintaining existing capital facilities, or at least would it get to that marginal point after so many years in the life of a capital facility, you know, where the question will be facing you, do you spend money to maintain that facility further or, since there is more money available from the Feds, instead do you ditch the maintenance and replace it?

Would this not shift that maintenance and replacement financial evaluation you would make?

Mr. BURTON. There is no question but that in looking at a particular economic decision, Congressman, that the availability of money from the Federal Government affects that particular decision, and it would affect it in the way you suggest.

However, it would seem to me that what we have been suggesting here today is that it is of extreme importance that there be operating assistance provided to the urban systems as well as capital maintenance programs.

Mr. SHUSTER. I am not really referring to operating assistance.

Mr. BURTON. No.

But bear in mind that the normal maintenance is part of the operations of the system. And it may well be that one of the approaches that could be taken would be that in looking at operating assistance, to find some way of emphasizing the importance of maintenance and perhaps tying part of that to the maintenance program, Congressman, so that you do not bias the decision.

I mean, this is just one possible approach that could be taken.

What you say cannot be denied, that where you are looking at a particular decision and saying shall we increase maintenance or shall we replace a facility when the cost of replacing it is significantly supported by the Federal Government—and if maintenance is not supported by the Federal Government—well, it tends to bias you in the direction of replacement.

However, bear in mind—

Mr. SHUSTER. Is there any way to provide any built-in protection against schooling that decision?

That is what I am concerned about. I do not really see one.

Mr. BURTON. The only way that I can suggest—and this is not an idea that is carefully thought out—is that it may be possible that operating assistance could be, in part, assigned to maintenance type activities. In other words, that there could be some match in the maintenance area that would be, in some way, equivalent to the match in the capital improvement area so that you would get equivalent incentives and you would not skew the decision.

Mr. SHUSTER. Let me turn to another subject that is dear to my heart.

What is the fare box charges that you now levy per mile, or however you do it?

What does a New York commuter pay?

Mr. BURTON. The transit fare is 50 cents.

Mr. SHUSTER. And that was increased?

Mr. BURTON. That was increased from 35 cents in 1975.

Mr. SHUSTER. And what does that entitle a rider to?

Mr. BURTON. He may ride the length of the subway system for 50 cents.

Mr. SHUSTER. So, in effect, that is a one-way trip to work?

Mr. BURTON. It is a one-way trip.

However, he may have to combine a bus and a subway, in which case it would cost him \$1.

Mr. SHUSTER. OK.

If he is using the subway system, it is costing him a dollar a day to get to and from work.

Now, what portion of that dollar—I mean, that is his dollar—

Mr. BURTON. That is correct.

Mr. SHUSTER. That is the price he is paying.

Now, what is the real cost?

Mr. BURTON. The fare box covers approximately 55 percent of the cost of the system.

Mr. SHUSTER. \$1.90?

Mr. BURTON. Something like that.

Mr. SHUSTER. And that 90 cents comes proportionately as Federal, State, and local in what proportion?

Mr. BURTON. Twenty-four percent is coming from the city, 6 percent from the Federal Government—no; that is of the 45 percent, Congressman, 24 percent comes from the city, 6 percent comes from the State, and 6 percent from the Federal Government.

Mr. SHUSTER. So that roughly 13 or 14 percent comes from the Federal Government of the total?

Mr. BURTON. No.

Six percent from the Federal Government—oh, I see. Yes.

Mr. SHUSTER. Of the 45 percent, roughly 14 percent of the total cost is Federal subsidy.

Now, the average working person in rural America drives 10 miles to work. And depending upon how you slice that, that is 10 cents a mile—and most people say that is low these days—that is about \$1 one way. So the average person in rural America is spending about \$2 to drive his car to work. And, of course, he has no choice, generally speaking.

The amount of public transit that is available or, indeed, reasonably could be available in rural areas is miniscule. So he is faced with paying \$2 out of his own pocket.

Now, he is paying for the roads over which he travels because he is paying a user tax; he is paying both a State and Federal gasoline tax, as well as an excise tax. So that rural traveler is paying his own way, and he is also paying, through his Federal income tax, some portion of that 14 percent of the Federal subsidy which is going to New York City and the other cities of America.

Do you think it is fair that the rural citizen not only pay essentially the full cost of his own transportation in rural areas, but also contributes to the subsidized cost of transportation for people who live in urban areas?

Mr. BURTON. Well, I think it is very difficult to assess the cost of automobile transportation.

There are, of course, the direct costs of the car and the road. And these are paid for by user taxes—although the question of which user pays for what is a question on the road tax.

However, of course, there are many corollary costs which are associated with automotive transportation, you know, which go to environmental costs. They go to many costs that are associated within the society with automotive control. And there are various other elements of this sort so that it is difficult—

Mr. SHUSTER. Of course, you have these kinds of social costs with mass transit, too.

Mr. BURTON. Well, in the first place, when one looks at the environmental and energy consumption implications of mass transit, it is far more effective. Mass transit uses less energy.

Within New York City, for example, there is 55 percent less—well, the per capita energy consumption within New York is 55 percent less than the national average.

And so when you look at many of these variables and you say what would happen—

Mr. SHUSTER. Of course, that is because people are traveling shorter distances as well.

Mr. BURTON. In part.

The difficulty with numbers is that they have many different variables and ways you can array them. But I think the thing to me that seems to be the relevant decision variable is what would be the cost to society were there not mass transit subsidized in urban areas?

And to the extent that you are looking at a variety of results that would occur from this—such as greater unemployment in part if the fare box had to assume a higher proportion of the costs and—

Mr. SHUSTER. Let me interject here.

Mr. BURTON. I mean there are many corollaries.

Mr. SHUSTER. Let me interject here that I am absolutely convinced—and I was not convinced a couple of years ago—but today I am absolutely convinced it would be folly to try to collect the real costs from the fare box. It would be counterproductive. I am absolutely convinced we have to find a way to get more people riding mass transit in our major urban areas. I am deeply committed to that.

As I say, I was not a few years ago, but I am today.

What I am now wrestling with is the equity of the various parts of our society. There is no doubt in my mind that it must be subsidized.

But what I am wrestling with now is what is the fairest kind of subsidy?

Is it indeed fair for the fellow or the woman from rural America to be paying through general taxes an amount of subsidy which is equal to the subsidy being paid by the individual who lives in urban America?

It seems to me that the individual who lives in urban America has a much greater stake directly, and indeed indirectly, too, in the success of urban mass transit than does the person in rural America—even though that person in rural America does have some stake.

But it seems to me the person in rural America has a different stake than the urban dweller and the order of magnitude is different.

Therefore, it seems to me while there should be a subsidy, there should be some recognition of true equity in order to provide that people from urban America should be bearing a larger proportion of that subsidy than the people from rural America.

Mr. BURTON. Well, the pursuit of equity is, of course, elusive on occasion. However, I would say that in trying to look at how a problem is dealt with, it is difficult to draw the boundary and say you look, for example, just at transportation services. You may look also, for example, at the amount of tax revenues that are derived from urban people on a per capita basis versus the amount of tax revenues that are derived in an urban environment.

And there are a variety of factors that have to be considered.

So I would grant you that if you were looking only at the area of saying here are people who are driving to work, and this particular cost is higher for them than it is for the rider in the city, and part of the reason for that, but not all, is the subsidy that is granted to the rider, well, I would agree with that.

But the question of whether that is equity and how that problem of equity is bounded, Congressman, is a challenging problem of public policy.

Mr. SHUSTER. I am very much in agreement with Chairman Howard's proposal that we consider the 2 percentage points from the upper limit of the corporate income tax, the corporate profit. I say that because while there are certain exceptions to this, I think it is generally true that the major corporations of America are focused in and around our great urban centers. And, therefore, by some stretch of the imagination, one might crudely conclude that there is a greater stake that they have in the success of our urban centers than perhaps the rural areas of America.

It seems to me there is at least some equity in dealing with this urban-rural mix, if you take that kind of approach.

What do you think about that?

Mr. BURTON. I would guess I would say I am not fully aware of it. The proposal is to take the last two points of the corporate tax and treat them as part of this—

Mr. SHUSTER. Put it in the mass transit trust fund.

Mr. BURTON. I think it depends on how it is structured.

Offhand—and I cannot tell you that I have thought profoundly about this—I think—

Mr. HOWARD. If the gentleman would yield.

I would like to say this is one area that has been discussed, among others, including the fare box. The fare box would be the most obvious thing to look at first, but obviously that is out of the question. We have looked at a way bill tax perhaps on cargo of trucks and rail. That was considered but it was said that would create an imbalance.

The past administration had talked about reducing the corporate profits tax on the largest corporations—those with incomes of \$50,000 or more, from 48 to 46 percent, which I do not see happening. But that 2 percent would be about \$2 billion which is close to what we are talking about and what we are appropriating now.

In fiscal year 1978 it is estimated that that 48 percent would be about \$60 billion, so that 2 percent would be maybe \$2 $\frac{1}{3}$ billion.

Now, that has been suggested as a way.

A lot of people do not know about it. And what we are trying to do here is to get into a stabilized funding mechanism for mass transit. We mention the 2 percent corporate tax to set this out as one possible way of doing it. No one is wedded to that idea or feels any pride of authorship. But we would like people back in New York City and everywhere else to be aware that this is being thought of. And if anybody has a better and a fairer way to create a stable funding mechanism, we would love to hear about it.

And in continuing now for a moment, we do recognize, in working with the numbers, who pays what. I know the people of New Jersey, from their income tax, pay money that goes into a subsidy for the farm program. In some ways this keeps the prices up for the consumer, but apparently it is in the national interest.

In education, more New Jersey money goes to other States for education that we get. But in some other areas, like when it comes to dirty water, New Jersey can beat everybody. And I guess New York is the only one who has more of a need there than we do.

So, in that kind of a program, we expect we will get more than the other States.

And we hope it will all balance out. That is why we have a united 50 States rather than 50 separate ones.

So I am very happy to have Mr. Shuster bring out this fact. But I want everybody to realize that in all these programs that we have for the good of all the people, sometimes some of the programs look like they are unequal but, maybe, in another case it balances out.

We would like to get some response from some people—and we are getting off H.R. 5010 right now—but some response on this idea of how we can in a substantial and stable way fund all surface transportation in this country so that communities will be confident enough—whether urban, rural, mass transit, waterways, highways—to make long-range plans and thereby use their money more sensibly rather than in a patchwork way.

Mr. BURTON. Mr. Chairman, rather than to respond off the cuff to that, I would like to submit a written response for the record if that is OK.

Mr. HOWARD. Without objection, that will be accepted and made a part of the record.

[The following was received for the record:]

THE CITY OF NEW YORK,
OFFICE OF THE MAYOR,
New York, N.Y., July 1, 1977.

*House Public Works Committee,
Rayburn Building, Washington, D.C.*

"The City of New York believes that a Mass Transit Trust Fund should be created to finance transit capital and operating spending. The City believes that a likely funding source of the trust fund could be a portion of the revenues to be derived from the so-called "well head" tax on crude oil domestically produced.

Transportation related expenditures including the manufacturing of transportation related equipment accounts for about 41% of all energy consumption in the U.S. and most of this is petroleum based. Therefore, it is sensible to let petroleum and energy taxation finance the government's share of the transportation investment.

The creation of a transit trust fund with a Highway Trust Fund and the Airport Trust Fund should have an adequate funding base for local government transportation spending to permit necessary long range planning."

Mr. SHUSTER. I have nothing further, Mr. Chairman.

Mr. HOWARD. Before we go on to the other members, the Chair would like to recognize the leader of all of us on this committee who has been very active, not only in our principal concerns, but also has the basic responsibility for water resources, waterways, public buildings, and grounds, and public works jobs' bills and such, the honorable chairman of our full committee, the gentleman from California, Mr. Johnson.

The CHAIRMAN. Thank you, Mr. Chairman.

I am very glad that you are holding these hearings. You are going to develop a very fine record with some very fine witnesses.

The bill that you are holding the hearings on is a very serious matter to this committee, along with the other matters you just spoke to.

It is a grave responsibility for the full committee to try and coordinate its work to cover the spectrum with which we are confronted and come through with legislation that meets the problems that we face in a timely way.

And certainly your Subcommittee on Surface Transportation has a broad spectrum to deal with.

I look forward to seeing your subcommittee demonstrate expertise in moving good legislation.

Thank you.

Mr. HOWARD. Thank you.

The gentleman from North Carolina.

Mr. HEFNER. Thank you, Mr. Chairman.

Mr. Chairman, I am very interested in some of the comments that have been made.

I am a newcomer on this committee, but I have been involved on the Commerce Committee with railroads. I do feel perhaps you neglected to mention a couple of other areas of interest, such as Amtrak and ConRail.

I know in North Carolina we have some people who are not really concerned about Amtrak or ConRail and the Northeast railroads or

mass transit. I would assume that everything in the area of mass transit is not going to be considered equitable to all of the people across the country.

But when we start considering energy legislation, in my opinion, that is going to tie in very closely with both urban and rural mass transit. And there are going to be some decisions, in my opinion, that will be made and that will not be particularly popular with the masses of people, but there are some things, in my opinion, that will have to be done.

And I was glad to hear the Chairman allude to the fact that maybe we can get some kind of trust fund set up for mass transit. And, of course, the other trust fund people get a little bit anxious when you start talking about mass transit.

Well, I think the Chairman has some good ideas on how we can move in this area. And I am looking forward to being involved in this very popular and needed legislation.

Thank you, Mr. Chairman.

Mr. HOWARD. I thank the gentleman.

I would just like to state you cannot talk about mass transit, commuters, and such things, without talking about the railroad or Amtrak and ConRail. However, we have not talked about railroads because this subcommittee does not have the jurisdiction over them, and may not have it for several years. However, we recognize it is all part of one problem.

The gentleman from Mississippi.

Mr. COCHRAN. Mr. Chairman, I was just going to ask the witness how our former colleague, Bella Abzug is doing in his town. We know that she would have participated in this session today. We know she was a very vocal spokesman for your city.

Mr. BURTON. I believe Ms. Abzug is extremely busy and enjoying the benefits of living in New York City once again.

Mr. COCHRAN. I have no further questions.

Mr. HOWARD. The gentleman from Georgia, Mr. Evans, a new member of this committee.

Mr. EVANS. I do not have any questions, but I would like to say I am very much interested in the problems in this area and would like to help in any way I can and work with all of you. And I appreciate the people of New York helping subsidize the peanut program.

Mr. HOWARD. The gentleman from Georgia, Mr. Levitas.

Mr. LEVITAS. Thank you, Mr. Chairman.

I had a number of observations to make but, in light of Mr. Shuster's comments, I will not make them because I think you have articulated them much more eloquently than I could have.

I think it is fortunate you have raised these questions; but, Mr. Burton, with regard to your testimony concerning the section 5 program, I am somewhat concerned about this whole idea of the extent to which operating subsidy will be granted and whether the fact that 90 percent of the section 5 funds have been used for operating subsidy is good policy.

The concern I have really gets to the question of where it ends and how much are we talking about?

Do you have any figures that would indicate the extent to which the subsidy need would exist if we continued at a funding level or a use level of 90 percent over the next 5 years?

Mr. BURTON. No; I have no data. I do not know if anybody else has any.

Mr. LEVITAS. Does the criteria include, among other things, whether local government is paying a fair share of operating costs?

Do you think such a requirement, which could be statutorily imposed, should be established so that there is some link between the amount of local revenue being allocated to operating costs and the amount of Federal grant money the local government could obtain for operating costs on a matching basis?

Mr. BURTON. Yes; that seems to me to be a reasonable criterion to put in.

The question of the desirability of having a legislatively mandated formula, a formula produced by, for example, the Secretary in response to legislatively mandated criteria, or a more discretionary program yet—well, there are issues that obviously run on both sides of that.

But certainly the criterion you have suggested, Congressman, seems to me to be a reasonable one—whatever approach is taken.

Mr. LEVITAS. The reason I think there needs to be some type of either statutory or regulatory criterion is that without standards, the practice has been for almost unrestricted use of section 5 money for operating purposes.

In some instances, and I am sure this is not the case in New York and it is not the case in Atlanta, it has been reported to me that this money is looked upon as sort of found money, and that there is less restraint or guardianship exercised over its expenditure.

I do not mean misuse, but when the demands for higher wages and other demands come in, this is looked upon as a pot that we can use because we do not have to tax the local people directly to meet these costs.

Mr. BURTON. This, of course, is what the maintenance-of-effort requirements were intended to deal with. And I think the concept of maintenance-of-effort requirements is a sound one.

Operating assistance is a part of a revenue pot out of which expenses must be paid. However, I would say that as long as it does not represent a dominant part that it will not, I think, significantly change the incentives to sound management.

In the face of New York City's crises, there have been substantial efforts in the transit authority to improve efficiencies and to hold wages at a certain level. I think we have been successful in doing these two things. And I do not believe that there is any reason to think that the presence or absence for that matter of a Federal operating assistance would have affected these managerial initiatives.

Now, the absence of a subsidy would certainly have adversely affected the availability of transport, I think, in the city of New York or, if the decision was made, the availability of other services. But, in New York, the 1976-77 operating costs of the transit system increased by 2.8 percent, as opposed to a 6-percent increase in the cost of living.

So that I think there is no necessary connection until such time as the Federal operating money becomes such a large proportion that the manager no longer feels the disciplines that can be imposed by the municipality.

Mr. LEVITAS. In that connection, and as a final observation, it would seem to me that using a linkage between local government taxing for operating subsidy purposes and the attraction of Federal funds for

operating purposes would constitute a built-in self-restraint on the demands which Congress would receive from local operators. There would be no such restraint in the absence of such a linkage.

I commend you for including this in your recommendations to the committee for consideration.

Thank you, Mr. Chairman.

Mr. HOWARD. Thank you very much.

In closing, where you state: "Recently the Transportation Secretary has stated he favors discretionary power"—I think, more recently, after looking into all of these programs, the Secretary has indicated that he really would like as little discretionary power as possible and would like the Congress to make a lot of these decisions.

Thank you very much for your testimony. We certainly appreciate it.

We will be looking forward to the information you will be sending us for the record.

Next, and we thank them for giving up their leadership position this morning in the testimony, we have Mr. Jack R. Gilstrap, general manager of the Southern California Rapid Transit District, representing the American Public Transit Association, accompanied by Mr. B. R. Stokes, executive director.

Mr. Gilstrap, thank you very much for your appearance today. If you would, for the record, please introduce the other people who are with you.

Mr. HOWARD. And the Chair would like to recognize and should have done so before, our chairman, Mr. Johnson, for any comments.

The CHAIRMAN. Mr. Chairman, I just want to welcome the witnesses who are now at the table. They come from the great State of California. I am sure they are going to present a very good paper and a lot of good information. They are experts in their own fields.

They are here to give us the best of their wisdom. I am sure it is going to be helpful to the committee.

Mr. HOWARD. Thank you.

Mr. Gilstrap, the full text of your prepared statement will appear at this point in the record.

[Statement referred to follows:]

STATEMENT OF JACK R. GILSTRAP, GENERAL MANAGER, SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT, AND GEORGE BREWSTER, VICE CHAIRMAN OF THE BOARD, SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT AND CITY COUNCILMAN, TORRANCE, CALIF., ON BEHALF OF THE AMERICAN PUBLIC TRANSIT ASSOCIATION

Thank you very much, Mr. Chairman.

I am pleased to be here today on behalf of the American Public Transit Association, the Nation's operators of urban public transit systems.

I want to begin by congratulating you for your leadership in focusing attention on the need for a mass transportation trust fund.

There is no question that a trust fund provides the most effective means of funding a major capital program.

In the airport and highway areas, the trust fund device has provided long-range stability and continuity to pressing national capital programs.

We, in the public transportation community, are ready to work with you on this issue and to review the various potential means of funding such a device.

We would also like to express our confidence in Secretary of Transportation Brock Adams.

APTA was encouraged by the Secretary's statement on February 25, 1977, to the Senate Subcommittee on Housing and Urban Affairs.

He said, "This administration obviously views mass transit as a program which will continue for the foreseeable future."

This statement of commitment to federal mass transportation assistance does much to reassure the nation's transit riders, operators, and local elected officials on the intentions of the new Administration.

In addition, the Secretary stated that "we all share a goal of reducing federal involvement in local decision making . . ." and "we should also seek to simplify the mechanics for delivering federal assistance . . ."

We were particularly pleased at these statements since we have become concerned over the increasing burdens of delay and administrative procedure which sometimes seem to overwhelm the Urban Mass Transportation Administration.

Particularly in small and medium size areas, transit operators often must struggle to benefit from the transit assistance program.

We are hopeful that reforming grant delivery is one of the Secretary's short term goals.

We are also hopeful that, as part of his promised comprehensive program review, he considers new and innovative mechanisms to reduce federal involvement in the use of transit assistance funds.

Mr. Chairman, we welcome this opportunity to work with your Subcommittee on various proposals to amend the Urban Mass Transportation Act of 1964.

We believe that some of these issues should be considered after the evaluation of program options and alternative program structures promised by Secretary Adams.

Some, however, should be considered by Congress at this time, including funding the transit program.

We believe that such an effort can be undertaken in a manner fully consistent with trust fund concepts and Secretary Adams' views.

I should like first to address the complex and difficult problem of providing services for elderly and handicapped citizens of our urban areas.

The means of providing such services have been debated intensively by public transportation operators, local elected officials, and affected interest groups.

Public transit operators across the United States currently are developing and implementing unique and effective plans to meet the public transportation needs of elderly and handicapped persons.

They are responsibly implementing regulations issued on April 30, 1976, by the Urban Mass Transportation Administration.

Mr. Chairman, we have sent to each of the committee members a compendium of articles from the APTA weekly newspaper, "Passenger Transport," describing elderly and handicapped services in 46 of America's cities.

We also have published a report of our Committee for the Mobility of the Elderly and Handicapped, which has been sent to each of the committee members.

I request permission to insert both of these publications in the record at this point.

APTA supports the principle of local decision making.

This means that each urban area, based on its population and on information it can gather on local needs and problems, must make its own decision as to the best way to provide public transportation services to elderly and handicapped persons.

We have before us several alternatives to Section 16 of the Urban Mass Transportation Act.

H.R. 199 and H.R. 1245 require that all equipment and facilities purchased with federal funds be designed to allow accessibility by elderly and handicapped persons.

Chairman Howard's bill, H.R. 5010, mandates the Secretary to require that all buses must be manufactured so that they either contain accessibility features or are readily capable of being made accessible.

H.R. 5010 also requires that 50 percent of all buses purchased with Urban Mass Transportation funds shall be purchased with accessibility features.

H.R. 4821 requires that mobility for elderly and handicapped persons be available in each urbanized area.

It mandates that the Secretary of DOT determine that the requirement is being met by an applicant's demonstration of plans or programs for fixed route accessible vehicles or substitute services that provide coverage and service levels comparable to those on the regular route system.

This language allows the Secretary to require the use of a portion of grants or loans to purchase accessible buses to meet the mobility requirement if he determines that the local program is inadequate.

Of these proposals, we believe that two have particular merit: the design and manufacture requirement in H.R. 5010 and the Secretarial determination provision in H.R. 4821.

Each local area must make its own decision as to whether it is providing the best level of service and the best use of available dollars by making its fixed route vehicles accessible or by providing substitute door-to-door services to elderly and handicapped persons.

We believe that in order for this local choice to work, equipment which offers the accessibility option must be available.

The mandate in H.R. 5010 that requires manufacturers of buses to provide vehicles that readily can be made accessible provides this assurance.

We support this provision.

It would assure that our bus fleet would be capable of becoming accessible at the discretion of each local area in accordance with its needs.

We do not, however, support the provision of H.R. 5010 which would require that 50 percent of transit vehicles be purchased with accessible equipment.

We would prefer the Secretarial determination based on mobility contained in H.R. 4821. Public transit operators, in cooperation with social service agencies and planning organizations and elderly and handicapped persons in each urbanized area, must make their own determination as to how best to provide mobility.

They are willing to take the burden of documenting their programs to the Secretary of Transportation.

I would like, Mr. Chairman, at this time to address several other areas of H.R. 5010 starting with operating subsidies to non-urbanized areas.

APTA supports providing the same flexibility to non-urbanized areas that currently is available to urbanized areas.

Although we agree with the proposed language in H.R. 5010, we would prefer a separate authorization for assistance to the non-urbanized areas.

This would provide a more sound statutory basis than the language currently in section 4.

APTA supports the provisions of H.R. 5010 which broaden the applicability and increase the flexibility of Section 10 grants for training programs.

We also support the provisions of H.R. 5010 which broaden the definition of engineering, which provide for forgiveness of certain loans, and which require a study of federal social service transportation.

Now I would like to turn to the status of the UMTA section 3 and section 5 programs, and what we believe are immediate needs for Congressional action as proposed in H.R. 4821.

The section 3 discretionary capital assistance program has reached a critical point financially.

The Urban Mass Transportation Administration has made multi-year commitments to major projects to facilitate local decision making and local financing.

From available contract authority, UMTA has made an informal set aside for the full amount of the project or package of projects.

This setaside procedure creates a good faith presumption which enables local and state governments and the transit operator to take project initiation steps.

The setaside is of particular political significance to the local elected official since local actions are backed up by a formal UMTA acknowledgement that the Federal Government will make funds available.

Once the multi-year commitment is made, UMTA makes obligations against the setaside at levels consistent with the actual financial needs of the project.

Figure 1 (which you all have copies of and which I would like included in the record) (see page 23) lists all of the commitments made in this manner by the Urban Mass Transportation Administration, the obligations made against those commitments, and the balance of these commitments that will exist at the beginning of fiscal year 1978.

Of the \$7.1 billion made available by the National Mass Transportation Assistance Act of 1974 for section 3 contract authority, approximately \$4.2 billion have been committed to projects in 14 American cities.

Obligations against these projects will have reached approximately \$1.5 billion by the end of fiscal year 1977, leaving a balance of approximately \$2.7 billion which still is set aside towards these projects.

Figure 2 (which you also have and which I also would appreciate your including in the record) (see page 23) describes the status of the contract authority under this set aside procedure at the beginning of fiscal year 1978.

The contract authority balance will be approximately \$3.3 billion, including \$2.7 billion set aside for the commitments and about \$600 million for obligations to other projects.

President Carter has proposed that \$1.35 billion be obligated during 1978.

With no new authority enacted during calendar year 1977, this fiscal year 1978 level will leave no budget authority for fiscal year 1979.

In addition, under these constraints, no additional commitments can be made during calendar years 1977-1978; indeed, no additional commitments can be made until new authority is enacted.

Secretary Adams has asked that no new money be authorized this year because he wants time to develop a major new legislative proposal for the entire transportation area, including highways and railroads as well as transit.

He contends that if we disregard the funds set aside for the commitments, there will be sufficient authority for obligations in fiscal year 1978 and fiscal year 1979.

He proposes to disregard the "set aside system" for two years until legislation can be developed, proposed, and enacted.

He would hope to have new authority for fiscal year 1980, and resume the "set aside" commitment system.

He prefers that Congress wait until next year to authorize new Section 3 funds.

If the Adams procedure is followed, no additional commitments will be made until new legislation is enacted.

In his testimony before the Senate Committee on S. 208, Secretary Adams made this request for postponement of legislation.

However, he said that "under most conceivable structures, much of the current discretionary capital program would likely continue as a free standing authority for which multiyear authorizations will be proposed."

He went on to suggest a five-year rolling authorization that includes a one-year advance appropriation as an effective way to do this and still be in compliance with the Budget Control Act.

If no new legislation is passed and the set aside procedure is abandoned, the present commitments are put in jeopardy and new commitments are disallowed.

The Secretary said he is going to need a discretionary fund regardless of his future proposal.

Why not legislate money this year to avoid the problems so long as it would not impinge on the Secretary's stated options?

Indeed, Congressman Edgar seems to have had such a compromise in mind to accommodate the Secretary, when he introduced H.R. 4821, a three-year extension of section 3 funds with the rolling authorization and one-year advance appropriation described by Secretary Adams.

If the Public Works Committee agrees with Secretary Adams that no additional money for section 3 should be enacted at this time, we still believe there is need for legislation.

The Secretary is stating he will go off the "set aside system" for two years (1978-79) or until new legislation is enacted.

If this is done, it is important to local elected officials, states, and public transit operators that the Congress concur in this decision.

We would urge the enactment of legislative language that would authorize this transitional procedure for a two-year period; and would authorize the Secretary to make additional commitments, beyond existing authority, in anticipation of new legislative authority.

We believe that such legislative language is vital to protect the status of the existing commitments and the viability of local initiation actions underway.

This amendment to the UMT Act also could spell out the commitment procedure so that it has statutory authority.

I would like to turn to the formula grant program authorized in Section 5 of the Urban Mass Transportation Act.

The impact of this program, and particularly the operating assistance option it provides, has been outstanding.

In many of the nation's urban areas, transit ridership has risen in response to the public commitment to increase service levels and transit accessibility.

For example, between 1971 and 1975, ridership increases reached 67 percent in Los Angeles, 0.4 percent in Chicago, 13 percent in San Francisco, 2 percent in Washington, D.C., 17 percent in Pittsburgh, 24 percent in Minneapolis-St. Paul, 7 percent in Baltimore, 30 percent in Seattle, 13 percent in Miami, 115 percent in San Diego, 31 percent in Atlanta, 27 percent in Cincinnati, 48 percent in Kansas City, 79 percent in Denver, 102 percent in San Jose, 58 percent in Phoenix, 47 percent in Portland, Oreg., 17 percent in Providence, 23 percent in Norfolk-Portsmouth, 110 percent in Sacramento, 41 percent in Eugene, Oreg., 44 percent in Madison, and 12 percent in Salt Lake City.

Service increases and innovative policies have been made possible by the availability of local, state, and federal operating assistance.

This operating assistance has grown with the realization that public transportation is a service, and the manner in which the expenses of public transportation are provided are a matter of public policy.

Fares are seen as a form of user tax on the service.

Each local area must make a decision as to the level of funding to be provided from the general tax base of various levels of government.

This perception of transit financing has allowed transit operators, and local, state, and federal officials to concentrate on increasing ridership while at the same time controlling the increasing cost of transit service.

Many of our larger cities are experiencing increasing difficulty in maintaining required levels of service and in maintaining transit ridership levels.

These areas, in some cases, have begun to increase fares and to reduce service.

They are in need of a greater share of federal operating assistance.

The Section 5 formula, however, is not responsive to local subsidy needs in some of the larger cities due to its basis in population and population density.

We have found in fact that on a per passenger or per vehicle mile basis, the section 5 formula delivers a wide range of funds.

One of the problems is the impact of the existence of commuter railroad services on the need to subsidize public transportation.

In the northeastern cities covered by the Conrail takeover, and assisted by emergency commuter rail subsidies under section 17, and in other cities that have other commuter rail services, there is a pressing need for additional operating support.

We believe that the best possible option to assist these urban areas whose currently apportioned funds are not adequate is to provide supplementary section 5 assistance under a new formula.

The formula should direct the funds to the areas of greatest need.

We have exhaustively analyzed the possibility of changing the existing formula and the developing of a new formula.

Our conclusion is twofold: the existing formula and the promised six-year delivery of funds should not be changed; and, a new formula should be used to deliver additional section 5 funds.

The formula should give greater weight to transit ridership, local financial effort, density, passenger miles of travel, and/or other criteria which give greater weight to need.

We also believe that federal participation in the national aggregate cost of subsidizing public transportation should be raised from the current level of approximately 15 to 18 percent to one of approximately 30 percent.

An additional \$250 million a year, as proposed in H.R. 4821, would approximate this level.

We have noted, with great interest, the amount recommended by the full Public Works Committee to the House Budget Committee of \$195 million for section 5 and \$55 million for section 17.

Taking into account the commuter rail problem and the need to modify Section 17 so that it directs funds to all areas that have commuter rail services, we believe these levels are reasonable, and we were greatly pleased to see that they were proposed.

This completes my prepared testimony, Mr. Chairman.

My colleagues and I will be glad to answer your questions.

FIGURE 1.—UMTA PLEDGES AND COMMITMENTS (AS OF JAN. 20, 1977)

	Total	Pre-NMTA	NMTA total	Obligations through 197Q	Balance Sept. 30, 1976	Fiscal year 1977 obligations	Balance Sept. 30, 1977
Sum—certain projects:							
Baltimore	573.0	73.0	500.0	176	324.0	¹ 129.0	195
Atlanta	800.0	120.0	680.0	387	293.0	185.0	108
Philadelphia	240.0		240.0	25	215.0	¹ 85.0	130
Subtotal	1,613.0	193.0	1,420.0	588	832.0	399.0	433
New start commitments:							
Buffalo	269.0		269.0	8	261.0	NA	NA
Detroit	600.0		600.0		600.0		600
Miami	575.0		575.0	15	560.0	NA	NA
Subtotal	1,444.0		1,444.0	23	1,421.0	70.0	1,351
DPM commitments:							
Houston	33.0		33.0		33.0	NA	NA
Los Angeles	101.0		101.0		101.0	NA	NA
St. Paul	45.0		45.0		45.0	NA	NA
Cleveland	41.0		41.0		41.0	NA	NA
Subtotal	220.0		220.0		220.0	15.0	205
Rail modernization commitments:							
Philadelphia	120.0		120.0		120.0		120
Chicago	208.5		208.5		208.5	¹ 103.5	105
North New Jersey	479.0	3.0	476.0	115	361.0	50.0	311
Subtotal	807.5	3.0	804.5	115	689.5	153.5	536
Bus commitments:							
Seattle	124.3	36.3	88.0	50	38.0		38
Denver	² 200.0		200.0		200.0	¹ 20.4	179.6
Subtotal	324.3	36.3	288.0	50	238.0	¹ 20.4	217.6
Total	4,408.8	232.3	4,176.5	776	3,400.5	657.9	2,742.6

¹ Best guess.² Commitment stated \$100,000,000 to \$200,000,000.

NA—Not available.

FIGURE 2

Status of Section 3 Contract Authority, October 1, 1977

	Billions
NMTA	\$7.125
Obligated	3.793
Balance	3.332
Set aside for commitments	2.743
Balance	.589

Proposed 1978 budget

Obligations against commitments	\$0.845
Other obligations	.505

TESTIMONY OF JACK R. GILSTRAP, GENERAL MANAGER, SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT, ACCOMPANIED BY B. R. STOKES, EXECUTIVE DIRECTOR, AMERICAN PUBLIC TRANSIT ASSOCIATION, AND GEORGE BREWSTER, VICE CHAIRMAN OF THE BOARD, SOUTHERN CALIFORNIA RAPID TRANSIT DISTRICT, AND CITY COUNCILMAN, TORRANCE, CALIF.

Mr. GILSTRAP. Thank you, Mr. Chairman, and members of the committee.

I would like to begin by introducing my colleague on my left, who is one of my bosses at the rapid transit district of Los Angeles. He is Mr. George Brewster, vice president of our board of directors, and a city councilman in the Los Angeles area.

And we have here Mr. Bill Stokes, who is vice president and the executive director of the American Public Transit Association.

Mr. Brewster will be making some brief comments at the conclusion of my presentation.

I am very pleased to be here today on behalf of the American Public Transit Association, the Nation's operators of urban public transit systems.

I want to begin by congratulating you for your leadership in focusing attention on the need for a mass transportation trust fund.

There is no question that a trust fund provides the most effective means of funding a major capital program.

In the airport and highway areas, the trust fund device has provided long-range stability and continuity to pressing national capital programs.

We in the public transportation community are ready to work with you on this issue and to review the various potential means of funding such a device, and would be glad to give you our very best thinking on issues you raised this morning, Mr. Chairman.

We would also like to express our confidence in Secretary of Transportation Brock Adams.

APTA was encouraged by the Secretary's statement on February 25, 1977, to the Senate Subcommittee on Housing and Urban Affairs.

He said:

This administration obviously views mass transit as a program which will continue for the foreseeable future.

This statement of commitment to Federal mass transportation assistance does much to reassure the Nation's transit riders, operators, and local elected officials on the intentions of the new administration.

Mr. Chairman, we welcome this opportunity to work with your subcommittee on various proposals to amend the Urban Mass Transportation Act of 1964.

We believe that some of these issues should be considered after the evaluation of program options and alternative program structures promised by Secretary Adams.

Some, however, should be considered by Congress at this time, including funding the transit program.

We believe that such an effort can be undertaken in a manner fully consistent with trust fund concepts and Secretary Adams' views.

I should like first to address the complex and difficult problem of providing services for elderly and handicapped citizens of our urban areas.

The means of providing such services have been debated intensively by public transportation operators, local elected officials, and affected interest groups.

Public transit operators across the United States currently are developing and implementing unique and effective plans to meet the public transportation needs of elderly and handicapped persons.

They are responsibly implementing regulations issued on April 30, 1976, by the Urban Mass Transportation Administration.

Mr. Brewster will be discussing some of these key issues in his testimony.

Mr. GILSTRAP. We have before us several proposed changes to section 16 of the Urban Mass Transportation Act. We have H.R. 199 and H.R. 1245 and H.R. 5010 and H.R. 4821.

Of those proposals, we believe that two have particular merit—the design and manufacture requirement in H.R. 5010 and the secretarial determination provision in H.R. 4821.

Each local area, we believe, must make its own decision as to whether it is providing the best level of service and the best use of available dollars by making its fixed route vehicles accessible or by providing substitute door-to-door services to elderly and handicapped people.

Mr. HOWARD. Excuse me, but on that one, you know, we did hear many of them have substitute door-to-door transportation and phone type operations where you could phone for a ride, but you had to call 3 days in advance. We would hope that the door-to-door would be able to improve on that somewhat because this is one of the things that disturbed us in the last Congress; that is, in some of these areas you have to know by Monday that you were going to the doctor on Thursday.

Mr. GILSTRAP. Yes, sir.

Mr. Brewster, in his comments, will be addressing our thinking on that matter. And if I may, I will continue.

We believe that in order for this local choice to work, equipment which offers the accessibility option must be available. And we have horror stories to tell you here about Los Angeles, but I will leave that for Mr. Brewster.

The mandate in H.R. 5010 that requires manufacturers of buses to provide vehicles that readily can be made accessible provides this assurance.

We support this provision.

It would assure that our bus fleet would be capable of becoming accessible at the discretion of each local area in accordance with its needs.

We do not, however, support the provision of H.R. 5010 which would require that 50 percent of transit vehicles be purchased with accessible equipment.

We would prefer the secretarial determination based on mobility contained in H.R. 4821. Public transit operators, in cooperation with social service agencies and planning organizations and elderly and

handicapped persons in each urbanized area, must make their own determinations as to how best to provide mobility.

They are willing to take the burden of documenting their programs to the Secretary of Transportation.

I would like, Mr. Chairman, at this time, to address several other areas of H.R. 5010 starting with operating subsidies to nonurbanized areas.

APTA supports providing the same flexibility to nonurbanized areas that currently is available to urbanized areas.

Although we agree with the proposed language in H.R. 5010, we would prefer a separate authorization for assistance to the nonurbanized areas.

This would provide a more sound statutory basis than the language currently in section 4.

APTA supports the provisions of H.R. 5010 which broaden the applicability and increase the flexibility of section 10 grants for training programs.

We also support the provisions of H.R. 5010 which broaden the definition of engineering, which provide for forgiveness of certain loans, and which require a study of Federal social service transportation.

Now, I would like to turn to the status of the UMTA section 3 and section 5 programs, and what we believe are immediate needs for congressional action as proposed in H.R. 4821.

The section 3 discretionary capital assistance program has reached a critical point financially.

The Urban Mass Transportation Administration has made multi-year commitments to major projects to facilitate local decisionmaking and local financing.

From available contract authority, UMTA has made an informal set-aside for the full amount of the project or package of projects.

This set-aside procedure creates a good faith presumption which enables local and State governments and the transit operator to take project initiation steps.

The set-aside is of particular political significance to the local elected official since local actions are backed up by a formal UMTA acknowledgement that the Federal Government will make funds available.

Once the multiyear commitment is made, UMTA makes obligations against the set-aside at levels consistent with the actual financial needs of the project.

Our figure 1 (see page 23) lists all of the commitments made in this manner by the Urban Mass Transportation Administration, the obligations made against those commitments, and the balance of these commitments that will exist at the beginning of fiscal year 1978.

Of the \$7.1 billion made available by the National Mass Transportation Assistance Act of 1974 for section 3 contract authority, approximately \$4.2 billion have been committed to projects in 14 American cities. They are listed on the chart.

Obligations against these projects will have reached approximately \$1.5 billion by the end of fiscal year 1977, leaving a balance of approximately \$2.7 billion which still is set aside toward these projects. That is on the far column on the right.

Figure 2 (see page 23) describes the status of the contract authority under this set-aside procedure at the beginning of fiscal year 1978.

The contract authority balance will be approximately \$3.3 billion, including \$2.7 billion setaside for the commitments, and about \$600 million for obligations to other projects.

President Carter has proposed that \$1.35 billion be obligated during 1978.

With no new authority being enacted during calendar year 1977, this fiscal year 1978 level will leave no budget authority for fiscal year 1979.

In addition, under these constraints, no additional commitments can be made during calendar years 1977-1978; indeed, no additional commitments can be made until new authority is enacted.

Secretary Adams has asked that no new money be authorized this year because he wants time to develop a major new legislative proposal for the entire transportation area, including highways and railroads as well as transit.

He contends that if we disregard the funds set aside for the commitments, there will be sufficient authority for obligations in fiscal year 1978 and fiscal year 1979.

He proposes to disregard the set-aside system for, we understand, 2 years until legislation can be developed, proposed, and enacted.

He would hope to have new authority for fiscal year 1980, and resume the set-aside commitment system at that time. He prefers that Congress wait until next year to authorize new section 3 funds.

If the Adams procedure is followed, no additional commitments will be made until new legislation is enacted.

In his testimony before the Senate committee on S. 208, Secretary Adams made this request for postponement of legislation.

However, he said that under most conceivable structures, much of the current discretionary capital program would likely continue as a free standing authority for which multiyear authorizations will be proposed.

He went on to suggest a 5-year rolling authorization that includes a 1-year advance appropriation as an effective way to do this and still be in compliance with the Budget Control Act.

Now the trouble with all of this, in our judgment, is that if no new legislation is passed and the set-aside procedure is abandoned, the present commitments are put in jeopardy, and new commitments are disallowed.

The Secretary said he is going to need a discretionary fund regardless of his future proposal.

Our question is why not legislate money this year to avoid the problems so long as it would not impinge on the Secretary's stated options?

Indeed, Congressman Edgar seems to have had such a compromise in mind to accommodate the Secretary, when he introduced H.R. 4821, a 3-year extension of section 3 funds with the rolling authorization and 1-year advance appropriation described by Secretary Adams.

If the Public Works Committee agrees with Secretary Adams that no additional money for section 3 should be enacted at this time, we still believe there is need for legislation.

The Secretary is stating that he will go off the set-aside system for 2 years, 1978-79, or until new legislation is enacted.

If this is done, it is important to local elected officials, States, and public transit operators that the Congress concur in this decision.

We would urge the enactment of legislative language that would authorize this transitional procedure for a 2-year period; and would authorize the Secretary to make additional commitments, beyond existing authority, in anticipation of new legislative authority.

We believe that such legislative language is vital to protect the status of the existing commitments and the viability of local initiation actions underway.

This amendment to the Urban Mass Transportation Act also could spell out the commitment procedure so that it has statutory authority.

I would like now to turn to the formula grant program authorized in section 5 of the Urban Mass Transportation Act.

The impact of this program, and particularly the operating assistance option it provides, has been outstanding.

In many of the Nation's urban areas, transit ridership has risen in response to the public commitment to increase service levels and transit accessibility.

For example, between 1971 and 1975, and I will not attempt to list all of those cities you see in the testimony. I will cite one, though: ridership increases reached 67 percent in Los Angeles. Of course, there are higher figures in other cities, and some lower.

But in any case, it is a picture of success, and section 5, we feel, has been a major factor.

Service increase and innovative policies have been made possible by the availability of local, State and Federal operating assistance working together.

This operating assistance has grown with the realization that public transportation is a service, and the manner in which the expenses of public transportation are provided are a matter of public policy.

Fares are seen, in our judgment, as a form of user tax on the service. Each local area must make a decision as to the level of funding to be provided from the general tax base of various levels of government.

This perception of transit financing has allowed transit operators, and local, State and Federal officials to concentrate on increasing ridership while at the same time controlling the increasing cost of transit service.

We already heard from New York this morning, but many of our larger cities, particularly, but not exclusively, eastern cities, are experiencing increasing difficulty in maintaining required levels of service, and in maintaining transit ridership levels.

These areas, in some cases, have begun to increase fares and to reduce service. You heard from New York as to what actions they have already taken. They are in need of a greater share of Federal operating assistance.

The section 5 formula, however, is not responsive to local subsidy needs in some of the larger cities due to its basis in population and population density.

APTA has found in fact that on a per passenger or per vehicle mile basis, the section 5 formula delivers a wide range of funds.

One of the problems is the impact of the existence of commuter railroad services on the need to subsidize public transportation. You heard that discussed this morning briefly.

In the northeastern cities covered by the ConRail takeover, and assisted by emergency commuter rail subsidies under section 17, and in other cities that have other commuter rail services, there is a pressing need for additional operating support.

APTA believes that the best possible option to assist these urban areas whose currently apportioned funds are not adequate is to provide supplementary section 5 assistance under a new formula. The formula should direct the funds to the areas of greatest need. That is a lot easier said than done.

We have exhaustively analyzed the possibility of changing the existing formula and the developing of a new formula.

APTA's conclusion is twofold: the existing formula and the promised 6-year delivery of funds should not be changed; and, a new formula should be used to deliver additional section 5 funds.

The formula should give greater weight to transit ridership, local financial effort, density, passenger-miles of travel, and/or other criteria which give greater weight to need.

Mr. Chairman, I would like to add a couple of side comments here. I would urge that we take great care in our dealing with this formula. I am sure you would expect these comments coming from California.

The eastern cities are those primarily seeking a change, although they are not the only ones. We face the same kind of problems in Los Angeles, of course.

But in helping our eastern friends, and our large metropolitan areas, it should not be done at the sacrifice of the small and medium systems, the transit systems in the Midwest and in the Far West—because these urban centers also need help.

Now, I think sometimes we forget that out in our part of the country many of our cities developed following Federal policies, that is, following Federal highway policies, that permitted the development of the suburbs. So we followed the housing policies, which lead to the urban sprawl that we have heard so much about.

But nevertheless, that is the lifestyle we have. We depend to a great extent on the automobile. So it would be very unfair, in my judgment, and these are not APTA comments, there are my comments—we feel it would be unfair, and perhaps politically impractical to use an allocation formula which penalizes western cities because of their urban form—and this urban form, as I indicated was fostered to a great extent by Federal policies—and take resources they might need, and divert them to other cities when, in fact, much of the success story in section 5, as you have seen, is in the Midwest and in the West.

And the other part of the issue is that the job of attracting people from their automobiles is much more difficult. And per rider, the cost of getting a man out of his automobile, or a woman out of her automobile—and that sometimes is even harder—is perhaps greater per passenger than it is in those eastern cities, where you have the density and the urban form that fosters transit use.

I would like to add another comment on a slightly different point. That is that we have great concern for our small and medium system members of our association when it comes to dealing with the UMTA

fund delivery system. By that I mean some of our cities, some of our members are not so worried about new and greater appropriations, they are just worried about how to get the money that is already there, and this is because of the detail, the redtape that seems to have evolved from this program.

We believe that somehow this process has to be given a careful look. And, frankly, we are encouraged to some extent by Secretary Adams' comments on this matter, when he appeared on S. 208.

He said then,

We all share a goal of reduced Federal involvement and local decisionmaking, and we should also seek to simplify the mechanics for assistance.

The reality is that the current procedure seems to ignore some important facts. One of them is the tremendous costs of the process to us in Los Angeles. We calculate we spend about \$1 million a year just handling the grants, the paperwork, trips back and forth to Washington, and all of that. Magnify that by the many systems across the country, and you begin to see the problems in simply delivering the funds where they are needed.

And a second point I would like to give you on this is that many of the procedures seem to ignore the fact that we have tried, true and duly elected locally appointed officials running these transit systems. They are the people who run the systems. They know the business. They are the ones who are responsive and responsible to the local elected officials. And much of their decisionmaking has been usurped by Washington. And we do not think that is the quickest or the best way to have this done.

And I would just simply say, Mr. Chairman, that these are my extra thoughts.

Mr. HOWARD. Perhaps it has not been noted enough, but one of the three or four major objectives of this subcommittee in this Congress—and I'm not only talking about trust funds, and changes in formulas, and bridge programs, and such—is the very real problem of all our transit systems regarding the regulations and the redtape that is involved.

We think we can do something about it, with the help of the local people, with the help of the people on the receiving end of the money, with the help of the responsible architects and engineers, and the environmentalists, who have a very proper concern. We do intend to see how we can all get together and in many ways cut perhaps the time and the paperwork almost in half.

I think it can be done without detriment to any of the concerns that we have. And this is also one of our main objectives in this Congress.

The objective is not only to make it easier for the programs to be underway, and to serve the public as soon as possible, but also to save billions of dollars that are wasted by delay because of inflation—and some of this delay is just unnecessary.

So we feel we have a dual purpose in doing that. And that is one of our major objectives. We found in our redtape hearings, and this was on another subcommittee, the Wright subcommittee some years ago—that it was the people on the receiving end in the States who could really give us the best input as to practical ways of how we could improve the delivery systems of these programs.

So we will be looking for your help in the Congress on that. We think it is one of the biggest things we can accomplish.

Mr. GILSTRAP. Mr. Chairman, you have made our trip from California to Washington by those comments. And I would like, if I may, to turn now to my colleague, who is one of the tried and true elected officials, Mr. George Brewster, for a few brief comments on the matter you raised at the outset—and that is service to the elderly and handicapped.

Mr. BREWSTER. Thank you, Jack.

Mr. Chairman, my name is George Brewster. I am appearing here today in my civil role as vice president of the board of directors of the Southern California Rapid Transit District, which is headquartered in Los Angeles, Calif. And I do welcome the opportunity to appear before this distinguished and important group, and to provide you those certain views of the Southern California Rapid Transit District, as it applies specifically to the problems of providing adequate public transportation for the elderly and the handicapped, and the disabled.

We at the SCRTD are unique in our dedication to providing accessible transportation for the elderly and the handicapped. We have pioneered the concept of the fully accessible regional and local transit system.

We forged ahead of regulations and legislation that have the same common aim. And the board of directors of the SCRTD, on October 22, 1974, did adopt a resolution instructing our staff to include provisions for the elderly and the wheelchair handicapped in preparing specifications on all new buses to be acquired by the district.

Our staff has pursued those instructions very vigorously, and in the face of considerable difficulty, and in the face of considerable discouragement.

Mr. Gilstrap said I had a horror story to convey to you. Let me illustrate that with a little bit of history, and just capsulize our efforts to buy accessible buses.

The SCRTD staff worked with manufacturers, and with the UMTA for more than 18 months in a sincere effort to obtain what is known as a low-floor bus that had lifts or ramps. We invited bids on 200 such buses. Those bids were finally scheduled to be received by our district on April 20, 1976.

That fateful day came and went, and no bids came. This disappointing development created a new and immediate problem for us at the Southern California Rapid Transit District. We had, therefore, no new buses on order. We had a serious need to replace some of our aging units. In order to bring these new buses to our fleet, and to replace the obsolete buses, which were long overdue for phasing out, we issued new specifications for a standard 34-inch floor height bus with a lift for the wheelchair handicapped, and with a 6-inch kneeling capability.

We managed to get an order of 200 such buses placed with AM General Corp. in October 1976. So, thus, after more than 2 years of effort, we finally have what we consider to be half a loaf. And that is, we have settled, settled, out of necessity, for a bus which will have a lift for the wheelchair handicapped, but which does little for the aged, and those with ambulatory handicaps, or burdens of one kind or

another, since it will have neither the low floor, nor even an 8-inch step riser.

We expect to receive our first deliveries this summer, and to begin placing these buses into the service shortly thereafter, Mr. Chairman, sometime in the fall.

We are still actively seeking a truly accessible bus for the elderly, and the handicapped, and the disabled, such as the transbus concept, which we hope UMTA will revitalize.

And our goal is to eventually have not a 10-percent, nor a 50-percent, but a 100-percent accessible fleet.

The Southern California Rapid Transit District believes that an interim measure might be the requirement that all new buses have a 24-inch effective floor height, and an 8-inch step riser. And it urges that that level of design performance be considered for mandate as soon as possible.

Now, that should not be a major, or even insurmountable, technical problem. It is a standard of design which should be suitable for the whole traveling public.

Admittedly, this move falls far short of achieving our goals, and of achieving the transbus goals, but it is, nonetheless, one more step down that rocky road to a fully accessible bus, and it is something that could be done soon. And that is why we are for it.

However, with regard to the other half of the loaf that we are unable to obtain, those features of transbus which we feel are essential, we believe should include the low floor, as being of the utmost importance. Nothing higher than 22 inches for kneeling should be acceptable.

And, frankly, the 17-inch floor, which you will recall was one of the design objectives of transbus, is even more desirable since it eliminates any interior steps, and permits the use of a ramp.

Mr. HOWARD. Excuse me, if I may interject?

When we talked about transbus, in the last Congress, and the 17-inch floor, we were told that it would involve a completely new and different kind of transmission system for that bus. And also the wheels, which are smaller for that bus, have not yet been developed to the strength capacity needed. They put the additional cost for such adjustments somewhere in the area of \$22,000 per bus.

Is that your feeling on the claims that were made, or the statements that were made on it?

Because if that is true, then are we postponing and putting off—because of the cost—the kind of practical service we could give to the handicapped?

Mr. BREWSTER. Well, Mr. Chairman, as I said earlier, we do encourage moving ahead with whatever technology is currently available, and getting as close as we can to the standards.

We recently, 2 or 3 weeks ago, testified over in the Department of Transportation, at the transbus hearings, Mr. Chairman. We testified encouraging the revitalization of that program, encouraging an SCRTD effort to bring about the technology and make it readily available. And our line of logic there, Mr. Chairman, was that if that technology could be brought to where it was convenient, and available, and applicable, that a market could be demonstrated that would be

sizable, and that would then therefore bring down the unit costs of those buses substantially.

Mr. HOWARD. So we have been hearing concern about a \$22,000 per bus additional cost, compared to other methods used in buses, such as higher buses, and buses with lifts, where you are talking about \$6,000 per bus. And so the cost was different and that was a concern. Then, of course, there was also the factor of this very low bus causing problems, or having problems in hilly areas, or snowy areas.

Mr. BREWSTER. There may be a lot of problems.

Mr. HOWARD. So there was discussion about the bus being that low, and with wheels that small, on these hilly areas and snowy areas, and that that might be a problem.

But I was just wondering whether or not those figures are still as solid as they seemed to be when we had these hearings last year.

Mr. BREWSTER. I think they probably are. I am not in a position to comment on that, but I think I can say that our own order of 200 AM General buses have a price penalty for the lifts on the order of \$10,000. This is just for the lifts.

Mr. HOWARD. Well, this is talking about when you get into a substantial program, and where you do have a great number of them going.

I think the figures were that above a 24-inch floor level, you could use the normal transmission, and tires, and such things. But the costs were really in a whole new ball game if you went below the 24 inches.

Mr. BREWSTER. I believe that may be a perfectly valid statement, Mr. Chairman, but it is our feeling in the Southern California Rapid Transit District that an adequate R.T.D. & E. program has yet to be pursued to fully work out the technology involved.

Mr. HOWARD. Excuse me, you said 200, and all of them are equipped?

Now, why did you decide on all being equipped, when some people are talking about 50 percent now, and others are saying it is difficult to put any firm percentage on it?

And you say you did that for all of them. Was that to make up for the ones you did not have, or do you feel you should have a policy of having all of them done that way?

Mr. BREWSTER. This is our policy. This is our local option.

I will touch on this in a moment. It is our board policy, that we will have a 100-percent accessible fleet. So in order to phase that in—and we are not retrofitting—but in order to phase that in, in all new buses we will buy what we can buy in the maximum way of accessibility. That is our policy. That is the Southern California Rapid Transit District's policy. It may not be another district's policy.

At the Southern California Rapid Transit District, Mr. Chairman, we strongly support the provisions of the alternately proposed changes to section 15 of the Urban Mass Transportation Act, those changes that require that all equipment and facilities purchased with Federal funds be designed with features which would allow better and easier utilization, not only by the elderly, and the handicapped, and the disabled—not only by them, but when you get right down to it, really, by all people.

We also support the transit industry's view that the specific selection of equipment should be a matter of local option. Thus we do not necessarily support the provision in H.R. 5010 that would require that

50 percent of all buses purchased with UMTA funds should be purchased with accessibility features.

As we have stated previously, we at the Southern California Rapid Transit System District are committed to a 100-percent accessibility program, and that is based upon rather extensive studies, and interviews, and meetings with local municipal leaders, with social leaders, with senior citizens, with handicapped consultants, and persons in our area. But we recognize that other cities and other districts may have other circumstances and requirements.

And we have come to the conclusion, for instance, that in our area of the country it is economically unfeasible for us to provide adequate demand-response types of services, such as the Dial-A-Ride that was mentioned earlier, Mr. Chairman, in our service area, which is 2,280 square miles.

That is why we at SCRTD want to equip all of our buses so that the elderly and the handicapped can ride on them, and so that—again, parenthetically—others will find them easier and more convenient to board as well.

It happens to be our belief that a large number of the transit properties will likewise, in time, voluntarily gravitate to a fully accessible system, Mr. Chairman, as just good, prudent business.

All of the projections that are available to us out in California at the SCRTD indicate that there will be many more elderly people in the years ahead, and they will represent a larger percentage of the population.

You know, statistics, I think, prove rather conclusively that in the future each of us here in this room is either going to be deceased, or is going to be elderly.

Those of us who avoid the former, statistics show that one out of three are going to at some time suffer, perhaps only temporarily, a disabling handicap of some kind or another.

Moreover, not only will there be more elderly and disabled people, but there undoubtedly will be more transit-dependent persons than ever.

For one thing, the price of owning and operating an automobile is certainly going to increase over the years. And this can only mean that there will be relatively fewer and fewer senior citizens who will be able to afford their own automobiles, and be driving a car.

Examinations for drivers' licenses are becoming more stringent all the time. It will be more difficult for the elderly and the disabled to qualify for a license to drive, I would project. And this will further increase the number of transit-dependent persons.

We at SCRTD subscribe wholeheartedly to the compassionate reason for providing accessible public transportation for the elderly, and the handicapped, and the disabled, but we also believe that, from a marketing point of view, these people represent a greatly underestimated market, and a market that will be expanding in the future for transit properties.

And we believe, as I stated earlier, that it will prove to be just good business to have a fleet of buses that not just the elderly, and the handicapped, and the disabled, but all people can board easily and with convenience.

I would like to add a personal comment of my own in closing, Mr. Chairman, if I may.

I would like to add a rather simple, personal, generalized statement that really does not take much in the way of auto disincentives—whether they be done for environmental or for energy conservation purposes—to place heavy burdens on existing transit capabilities and capacities.

We experienced that in the fuel shortage of the winter of 1974-75 as an excellent example out in our area.

A major expansion of the transit market is, again, in my personal opinion, unavoidable. We would like to be able to plan for that, because a public policy of disincentives, again in my personal view, is one day going to be unavoidably in line with the use of the private automobile.

The automobile system has a problem, and the problem is that it is too good. You know, it is too popular, it is too attractive, and it is badly abused.

The social costs of the automobile are enormous. And it will have to have some negatives built into that system, some penalties assigned to it if we are to get the total transportation system of this overall country back in balance.

Those are my personal views, and do not reflect those of the board of Southern California Rapid Transit District.

Mr. Chairman, I would like to thank you gentlemen for allowing me the privilege of bringing these thoughts to you this morning.

Mr. HOWARD. Thank you very much.

There is a basic difficulty we have had with this bill since we started as to the elderly and handicapped. In many areas of the country we have found, and it has been documented, that enough has not been done. Some areas are avoiding the issue.

Therefore, we feel that we must toughen it up. And in toughening it up, you find that you do get into some impractical situations, because all communities are not alike—especially if we are talking about rural and small-town communities.

When we talk about the 50-percent requirement, we have many areas in the country—such as in my own district, where perhaps 95 percent of the people who live in that community are over 60 years of age, and maybe over 65 years of age.

There are some rare communities like that in the country. And 50 percent would not be an adequate number, if we stick to that minimum.

Certainly, also in my district, and I am sure in other districts, especially the suburban areas, we have new suburban towns where people live from the time they are young and first married, and then they move on to another town. And we can go through those communities and have a tough time finding anybody over 40 years of age in the whole community. So a flat 50 percent, or any percent, does not apply there.

Of course, we do have handicapped in all communities, and handicapped of all ages. So this is something that we are wrestling with, and are going to need an awful lot of help on, to get the best compromise, or the best solution, whatever it might be.

As to the noncompliance—and I harken back to the days of the 55-mile-an-hour speed requirement—you may be aware of statements that were made in the New York Times about the kneeling buses that never kneel.

Do you have this as much of a problem? Because of the attitude of the drivers or mechanical malfunction where sometimes the buses will not kneel? But are you aware of the statements and articles that were printed that there was great objection to it, because the drivers will not take the time to use the kneeling device, on the buses?

Mr. GILSTRAP. I have not seen the articles, but——

Mr. HOWARD. Well, without objection, we will make copies of the articles and letters to the editor related to that point and have them placed in the record at this point.

[The following was received for the record:]

[From the New York Times, Mar. 8, 1977]

NONKNEELING BUSES

To the Editor: because of the inaccessibility of mass transportation, a large population of handicapped and senior citizens are isolated within their own communities. In an attempt to help remedy this problem, the Metropolitan Transit Authority has purchased kneeling buses at a very high cost, and intends to purchase still more. However, the majority of those buses are not kneeling because of mechanical failure and the indifference of the drivers. Until those problems are corrected, the kneeling buses are no more than a very expensive form of tokenism.

S. TED ANTHOLES,
Ridgewood, N.Y., March 1, 1977.

(The writer is executive director of the rehabilitation group P.R.I.D.E.)

[From the New York Times, Mar. 12, 1977]

M.T.A. SAYS DRIVERS WILL NOT BOW TO MAKING THEIR NEW BUSES KNEEL

(By Ralph Blumenthal)

Remember the "kneeling" buses? Well, most of them haven't been.

Introduced here with fanfare more than a year ago, the 398 buses, costing more than \$22 million, were equipped with special airbags that lowered the front end four and a half inches for easier boarding by the elderly and the handicapped.

But to save time or effort the bus drivers—who must activate the device—have refused to bow to the innovation, according to the Metropolitan Transportation Authority. The drivers, in turn, charge that many of the gadgets are out of whack.

What both sides seem to agree on is that kneeling is not one of the things the new buses are doing.

"I've seen lots of old people get on and the buses haven't kneeled once," said Carl Romalis of Staten Island, a member of the Committee for Better Transit, a citizens watchdog group. Several bus drivers questioned in spot checks in Manhattan recently insisted that their kneeling device was out of order.

DRIVERS GET ORDERS

Manufactured by the Flxible Bus Company of Loudonville, Ohio, at a cost of \$55,707 apiece—including about \$450 for the kneeling feature—the first of the 398 buses went into service here in December 1975. They now run on routes all over the five boroughs, intermingling with the other 4000 buses, and are identifiable by serial numbers between 7500 and 7900.

The kneeling device, in successful use in buses in other cities, lowers the front part of the bus so that the bottom step is nine inches above the ground instead

of the normal 13.5 inches. This puts the step three inches above a six-inch-high curb.

But in view of a widespread refusal of drivers to lower their buses for appropriate passengers, said Harold L. Fisher, acting chairman of the M.T.A., drivers are now being specifically ordered to bring the buses to their knees.

When other board members at yesterday's monthly M.T.A. meeting objected that it took 13 seconds to lower the bus and 8 seconds to raise it again instead of the approximately five and three seconds promised by Flixible and that this would disrupt bus schedules and traffic, Mr. Fisher replied, "If it impacts on traffic, so be it."

John Lawe, president of Local 100 of the Transport Workers Union, representing the 10,000 drivers, blamed the problems on a high degree of mechanical malfunction.

Frederick D. Wilkinson, Jr., the Transit Authority's executive officer for bus service, was concerned that there had been some mechanical problems recently from snow salt in the microswitches. But he called the unions' contention "absolutely wrong" and estimated that no more than 25 of the kneeling devices were out of order.

Both sides have a kind of deadline for settling the problem. The Flixible Company has just turned in the low bid—\$68,817—on a new order of 310 kneeling buses for the city. Delivery of the new batch is expected to start by the end of the year.

Mr. GILSTRAP. Occasionally we have trouble getting the operators to turn the air-conditioning on, because it takes a little power out of the motor, and that is power that we all like. But I think those things can be done, Mr. Chairman.

I think I am inclined to think the technical problem of the kneeling bus is much more of an issue than the handling of a bus by the operator. And that, by the way, is one of the reasons we are a little skeptical about meeting the lower floor needs with a kneeling feature, because we have a hard time imagining that kneeling going on, up and down, every bus stop, and lasting very long.

That is a personal comment.

Mr. HOWARD. One further thing. We did talk in a general way regarding the mass transit industry not being assured of funding, not having the ability to develop long-range programs as the railroads and airports and highways have had.

And we heard a lot of testimony that it was a very simple problem to solve, we could just simply take the amount of money needed for a good healthy mass transit program out of the existing Federal Highway Trust Fund. We are wondering what your position might be now regarding this particular fund as a means of funding all surface transportation.

Mr. GILSTRAP. Well, Mr. Chairman, I am glad you asked that question, because coming from Los Angeles, and operating one of the largest bus systems in the United States, and using the streets and freeways as our right-of-way, and a major element of our system, there is no way that we could see diverting funds from the highway program to satisfy the transit system, because that would be simply creating two inadequately funded programs, where we already probably have two.

Our understanding of the impact of inflation on the highway program is that highways, unlike most of the other Federal programs, that highways—perhaps one of the few, really—that in real dollar program expenditures, it has gone down instead of up in recent years.

So I would not want you to think that we—and I am sure I speak for our administrator, Mr. Stokes—are going to divert funds, going to divert existing funds from the highway program into transit.

We will not, because we do not think that is the answer to either of our needs.

Mr. HOWARD. Thank you.

I have a chart here which has U.S. budget comparisons in real dollars from 1971 through 1975, in a base of billions of dollars, involving defense construction, veterans employment, housing, higher education, environmental protection, and highways and comparing what the funding is, the funding due to inflation, and considering inflation during those years.

Among all the domestic programs, the highway program suffered the only diminution of resources during the period of 1971 to 1975, that is, from an effective use of \$5 billion down to \$3.2 billion, which shows a decrease of somewhere around 36 percent, and only about 64 percent available.

Without objection I would like to have this chart placed in the record at this point.

I offer this because I think it does clear up what has been a misconception, and it does show that unfortunately there are no simple ways to solve this big problem we do have today.

[The following was received for the record:]

U.S. BUDGET COMPARISON

[In billions of dollars—1971 base]

	1971	1973	1975
Defense construction.....	34.7	32.4	29.4
Veterans.....	6.1	6.4	6.1
Employment.....	2.1	3.2	3.3
Housing.....	.8	1.6	1.8
Education.....	3.9	3.6	4.0
Higher education.....	1.6	1.5	1.7
Environment protection.....	.6	.7	1.4
Highways.....	5.0	4.6	3.2

Note: Among domestic programs, the highway program suffered the only diminution of resources due to inflation in the period 1971-75.

Mr. HOWARD. The gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. Mr. Chairman, I certainly appreciate the testimony. I think it has been very complete and constructive.

I have no further questions, Mr. Chairman.

Mr. HOWARD. The gentleman from North Carolina, Mr. Hefner.

Mr. HEFNER. Thank you. I note here that the California city seems to do better than any other across the Nation as far as increases in service go.

Now, were you extremely low before, or have you just done a good job?

You know, increases can mean what you want them to mean.

Mr. GILSTRAP. That is right.

Well, we were not as high as we would like to be, but we were carrying enough ridership so that we were about the fourth or fifth largest system in the country. And this increase, in our judgment, is a real one, Congressman, and it is attributable to a combination of the Federal funding program and local funding.

And I want to take a moment at this point to congratulate our local elected officials. Our county board of supervisors took Federal revenue-

sharing money and followed the general interest expressed by the Congress, that it go into certain areas, Congressman, and they picked out transportation.

And 2 or 3 years ago they committed some \$30 million for a program of reduced fares and expanded service. And that is what has done it in Los Angeles. And plus, if you pardon a little local pride, I think probably there is more willingness to experiment and innovate there than in maybe some areas.

We have a busway, and we have a park-and-ride program, and we have gone out and been innovative.

Mr. HEFNER. I would think you have done a good job too, to educate the people.

One other thing that bothers me about the total accessibility buses. It seems to me—and I do not know how you handle it—that if you only use 50 percent of your buses—or whatever that percentage is—the handicapped people cannot always decide when they want to use mass transit. It appears to me that there needs to be a move over a period of years to have total accessibility to all buses. And I commend you on the fact that this is your goal.

I realize we do not have the funds to mandate this, but this seems to me to be a noble goal, because, as I say, the handicapped people cannot decide 2 or 3 days ahead that they need to see a doctor, or whatever.

Mr. GILSTRAP. You have perceived the realities, Congressman, and that is that based, at least on our studies, we find the handicapped people are just like anybody else as to where they want to go, and when they want to go, and when they must travel, and that is the crux of our program, that is, to provide accessibility that they may ride when and where anyone else travels in our system.

Mr. HOWARD. The gentleman from Georgia.

Mr. EVANS. No questions.

Mr. HOWARD. The gentleman from Illinois.

Mr. FARY. No questions, Mr. Chairman.

Mr. HOWARD. We certainly wish to thank you very much for your testimony. We would like you to know we expect your organization will be back here several times during the next 2 years as we develop what we feel will be the future transportation direction for surface transportation in our country.

Thank you very much.

There is a quorum call going on now. The subcommittee will adjourn to meet at 1:15 p.m., in this room.

[Whereupon, at 12:15 p.m., the subcommittee recessed, to reconvene at 1:15 p.m., the same day.]

AFTERNOON SESSION

[Whereupon, at 1:20 p.m., the subcommittee reconvened, Hon. James J. Howard, presiding.]

Mr. HOWARD. The subcommittee will come to order.

This afternoon we will continue our hearings on the bill, H.R. 5010 and related bills.

The first witness we have this afternoon is Mr. Daniel Casey, Supervisor, Milwaukee County, Wisconsin, representing the National Asso-

ciation of Counties; accompanied by Henry M. Mayer, director of operations, Milwaukee County Transit System; and Sandra Spence, legislative representative.

Welcome to the subcommittee. We are very thankful for your appearance and grateful for your patience.

We have copies of your prepared statement.

Without objection, that will be made a part of the record at this point.

[Statement referred to follows:]

STATEMENT OF THE NATIONAL ASSOCIATION OF COUNTIES¹; ON AMENDMENTS TO THE URBAN MASS TRANSPORTATION ACT (H.R. 5010); PRESENTED BY DANIEL CASEY, SUPERVISOR, MILWAUKEE COUNTY, WIS., ACCOMPANIED BY HENRY M. MAYER, MANAGER OF OPERATIONS, MILWAUKEE COUNTY TRANSIT SYSTEM

We appreciate the opportunity to testify today on amendments to the urban mass transportation act which will have a significant impact on the services provided by county government or with county funds.

Our basic policy, as expressed in the American County Platform, recognizes the vital need for improved public transportation to serve a wide variety of national goals which we support: "Many urban and rural areas have generated a need for public transportation due to the national energy crisis, congestion of highways, air pollution, environmental concerns and the mobility needs of the transportation disadvantaged, including those people who cannot or prefer not to drive automobiles".

We support extension of the existing transit authority, with gradually increased funding. However, we understand that the hearings today are to focus on specific aspects of the existing program, and that you will have more comprehensive hearings later this year. We will, therefore, limit our remarks to a few important areas which need immediate attention, primarily those addressed in H.R. 5010.

IMPROVING MOBILITY

One of the most critical and immediate issues is how best to meet the mobility needs of the elderly and handicapped. We urge you to look at this issue in the broad context within which transit has become an essential public service. We urge you to consider the numerous and varied national goals served by public transit systems, as set forth in the quote from our American County Platform above. Only within that broad context is it possible to begin working toward a solution of the specific problems involved in improving mobility for those who are not ambulatory.

NACo policy, expressed in an attached resolution, recognizes the isolation our elderly and handicapped citizens experience as a result of their inaccessibility to public transportation facilities. We recognize the need of these groups for services which can be secured only if transportation is available. And we recognize the high cost of much transportation which is currently available to these transit-dependent groups.

We believe, however, that there are significant operational differences in providing service to ambulatory and non-ambulatory groups. We urge you to recognize the absence of any one proven "best" solution. We urge you to recognize the significant geographic, social, economic variations in local communities throughout the nation. We urge you to recognize that a solution to serving the mobility needs of the elderly and handicapped may vary significantly from one community to another.

While some counties are choosing to purchase only buses accessible to persons in wheelchairs, other counties prefer to provide for mobility needs through alternative approaches. At the same time, hundreds of counties, especially in non-

¹ The National Association of Counties is the only national organization representing county government in the United States. Through its membership, urban, suburban and rural counties join together to build effective, responsive county government.

The goals of the organization are to:

Improve county government;

Serve as the national spokesman for county government;

Act as a liaison between the nation's counties and other levels of government; and

Achieve public understanding of the role of counties in the federal system.

urbanized areas, are struggling to find a way to provide *any* public transportation to the elderly, the handicapped, the poor and other transportation dependent groups.

We believe that requiring all buses to be accessible will raise the cost sufficiently to delay actions of some counties to test other approaches to meeting mobility needs of particular groups through Dial-A-Ride, subsidized taxi service and other paratransit modes. We further believe that the vast majority of our disabled citizens might be better served by service methods more appropriate to their particular needs than access to fixed route transit buses.

Until there is better information on the usefulness of providing accessible buses, we believe a legislative mandate requiring any particular percentage of new bus purchases to be accessible is inappropriate. There are a number of transit operations which have chosen to purchase only accessible buses. These include systems in San Diego, Santa Clara and Los Angeles Counties, California. When these buses are delivered and operated, we will be better able to determine whether they do, in fact, assure elderly and handicapped persons the same right to utilize mass transportation. Until then, we oppose a specific requirement that any percent of new buses must be accessible.

The requirement in H.R. 5010 that fifty per cent of new bus purchases be accessible presents a particular hardship for small urbanized areas and especially for non-urbanized areas. Many of these areas currently have no public transportation service. To force untested requirements on them when public support and funding for transit is just emerging, regardless of any information about the population to be served, would further unnecessarily delay efforts to improve service in these areas.

If the committee decides to retain the percentage requirement for accessible new buses, we would urge you to provide a waiver for non-urbanized areas and for other new entrants into the transit program.

Our local elected officials are increasingly finding ourselves at the spot where the buck stops. As federal and state legislators mandate new and expanding services or requirements, we face the citizens who want to know where their share is. And we are the ones who must pick up whatever bill remains when the federal and state funds are used up. This is true in health, in welfare, in criminal justice—and in transit. At the local level, when we commit ourselves to a worthy goal, we must have the funds available to back up our commitment. We think the same principle should hold true for the federal government for that reason, we suggest tying any specific mandate for accessible buses to a specific amount of federal funds for that purpose.

IMPROVING SERVICE IN NONURBANIZED AMERICA

In spite of the fact that only about one percent of expenditures of our federal public transportation agency (UMTA) have found their way into non-urbanized areas, we think the need is great. Our nation's population trends show movement to smaller places. Latest figures show that 48 per cent of our population now lives outside of urbanized areas. It's past time that we start meeting the public transportation needs of these areas.

The national association of counties very strongly supports section 1 of H.R. 5010. We think this provision would begin to give rural areas more equitable treatment under our nation's public transportation program.

Since a NACo representative testified at length last year urging enactment of a similar provision in H.R. 3155, we will shorten our formal statement by attaching an excerpt from that testimony for the record. It will serve as a reminder of the need. In addition, we have attached to our formal statement a report prepared by the National Association of Counties Research Foundation. This report summarizes the results, to date, of an on-going survey of just what rural counties are already doing to meet the transportation needs of our rural citizens—mostly without the aid of our mass transit funding programs, but with a variety of other federal, state and local funds.

Although the bill itself does not address the administration of the funds for non-urbanized areas, we think a few general comments are appropriate. NACo policy calls for mandated use of the funds by UMTA. Current law suggests only that "not to exceed \$500 million" shall be available for non-urbanized areas. Various UMTA officials have told us that this language is permissive only and is not a mandate to use the funds. We think they should be required to take more initiative in meeting the needs of non-urbanized areas.

For example, even though the \$500 million set-aside was provided in late 1974, there are yet no guidelines for use in applying for these funds. The authority in H.R. 5010 for the secretary to waive unnecessary requirements is essential. But we also need report language or some other means to require UMTA to address non-urbanized needs.

In addition, our policy recommends that administration of funds should be on a discretionary grant basis initially, with gradual transition to state or local allocations as states or local governments develop administrative capacity and funding commitments.

IMPROVING COORDINATION OF TRANSPORTATION SERVICES

One of the obvious facts which is clearly documented in our survey of rural public transportation service is the social service nature of this transportation. Our resolution on the need for coordination of social services transportation—in both urban and rural areas—is attached. It suggests the great need for Federal action in this area. We therefore strongly support section 7 of H.R. 5010 which would authorize the secretary of transportation to initiate a study of the transportation component of federal programs and projects providing social services. A case study performed by NACo's aging project documents shows how one county—Cape May County in rural New Jersey—is addressing this issue.

We understand the general accounting office has been conducting a study of Federal legislative and administrative impediments to improved coordination of social services transportation. We think this study will provide an excellent base for a policy-oriented analysis to determine how best the Department of Transportation could initiate improved federal action to support local coordination. We would urge you to include a specific dollar level authorization to finance this study.

IMPROVING ADMINISTRATION OF 13 (C)

Another major concern of county officials—and it relates both to rural transportation needs and to the needs of the elderly and handicapped—is the administration of section 13(c) of the urban mass transportation act. We have some very serious concerns with the manner in which section 13(c) labor protective provisions have been administered by the department of labor. We are beginning to secure evidence that 13(c) requirements and procedures are unnecessarily thwarting the good faith efforts of local government to provide needed public transportation service. We believe that this is particularly true in efforts to expand service in non-urbanized areas and in paratransit developments aimed at improving mobility of the handicapped and the elderly. We urge the committee to review the administration and impact of 13(c) provisions on transportation service.

Mr. Chairman and members of the committee, that concludes our formal statement. Copies of NACo policy resolutions supporting the positions expressed in our testimony are attached for the record. We deeply appreciate the opportunity to present our views on this vital legislation. We are now ready to answer any questions you may have.

RESOLUTION ON PUBLIC TRANSPORTATION PRIORITIES

Whereas, continued orderly development of our nation's public transportation systems requires assured continuity of funding; and

Whereas, sufficient time has elapsed for the identification of certain areas where legislative and administrative improvements could lead to improved and expanded service and increased efficiency; and

Whereas, county governments are becoming increasingly involved in the public transportation function as a result of the major national expansion of transit funding through the 1974 National Mass Transportation Assistance Act, increasing attention to transit as an alternative for movement of people in all local areas, increasing attention to various national and local goals including energy conservation and reduction of air pollution, and the need to meet mobility needs of special groups of the American public, such as handicapped, elderly, rural and others.

The Transportation Steering Committee of the National Association of Counties urges that: Careful attention be paid to the need for amendments to the Urban Mass Transportation Act of 1964, as amended, including:

A two-year extension through 1982 of the Urban Mass Transportation Act of 1964, which authority will otherwise expire in 1980;

Increase in the federal funding level to permit expansion in funding for the final two years of the current authorization and gradually increasing levels of funding thereafter;

Emphasis in any increased funding for urbanized areas for Section 5 formula grants to retain maximum local flexibility in determination of use of funds, with a provision, as used in highway law, that Section 5 funds not obligated after 3 years be re-allocated among other urbanized areas;

Establishment of a special authorization for a public transportation program outside of areas eligible for the Section 5 formula grant program, with fair share of funding, mandated use of such funds by the federal agency, authority for use of such funds for operating purposes to the same degree to which they may be used for such purposes in urbanized areas, federal administration on a discretionary basis initially with gradual to state or local allocations as state or local governments develop administrative capacity and funding commitment;

Clarification of the role of local elected officials¹ in the decisionmaking process for transportation planning, operations and funding, including amendment in transit and highway law to provide opportunity for designation of Metropolitan Planning Organizations by local elected officials;

Required inclusion of local elected officials or their designees on the governing board of public transportation operating agencies which utilize federal funds;

Clarification of Congressional intent to attain resolution of critical problems in the administration of Section 13(c) labor protective provisions which contribute to inflationary factors in transit operations, inhibiting expansion of needed commuter transit and initiation of sorely needed special services to address the special needs of handicapped, elderly, rural and other transit disadvantaged groups;

Clarification of Congressional intent regarding mandated services for the handicapped and elderly, recognizing the operational differences in serving ambulatory and non-ambulatory persons and assuring maximum local flexibility in determining how best to meet the particular mobility needs of local populations;

A mandate for the federal public transportation agency to assume responsibility for improving coordination of the scores of costly, inefficient special transportation services being funded through hundreds of separate federal health and social services types of programs for particular client groups.

(Adopted by NACo Transportation Steering Committee December 15, 1976.)

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; and

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; and

Whereas, the elderly and handicapped are among those least able to afford the high cost of most transportation services which are available to them; and

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 Appropriations Act by mandating immediate accessibility of the elderly and handicapped to public transportation facilities; and

Whereas, UMTA is considering regulations on accessibility standards and bus design; and

¹ From the *American County Platform*: "Responsible local officials should be defined in federal and state law as those local officials who are elected and directly accountable to the public whom they serve and who have jurisdiction over matters relating to highways, transit, and airports. Such officials have capability to raise the required matching money for federal funds. These officials may delegate their authority to act to subordinates or to regional or state associations."

Whereas, the significant problems of planning, design, and operations may result in serious delays in procurement and increase in cost of equipment and service to all members of the general public.

NACo urges that: Congress and UMTA clarify their requirements to:

Recognize the national goal of maximum mobility for the elderly and handicapped;

Provide appropriate levels of funding and opportunity to search for alternative equipment design and service methods to assure speedy implementation of this goal;

Recognize the significant operational differences in providing service to ambulatory and to non-ambulatory elderly and handicapped;

Assure that any requirements for vehicle design will require only minimal performance standards and encourage the greatest possible flexibility and choice of design to meet individual community needs;

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 non-ambulatory groups in a manner which will not impair transit service to non-handicapped members of the general public.

(Adopted, June 30, 1976, Salt Lake City, Utah.)

RESOLUTION ON RURAL TRANSPORTATION

Whereas, in the landmark National Mass Transportation Assistance Act of November 26, 1974, Congress directed the Urban Mass Transportation Administration to set aside \$500 million of Section 3 capital grant funds for use in non-urbanized areas¹; and

Whereas, 48 percent of the American people live in such non-urbanized areas; and

Whereas, the poverty rate is higher and distances to be traveled greater in such areas; and

Whereas, many non-urbanized Americans are therefore more immobile than other Americans; and

Whereas, UMTA has thus far expended only approximately one percent of its funds to serve 48 percent of the American public; and

Whereas, the National Association of Counties strongly supports a "fair share" for rural America;

The NACo Transportation Steering Committee urges that Congress and the Department of Transportation correct the inequity of public transportation expenditures to assure that the transit needs of non-urbanized America are addressed immediately, through:

Immediate passage of legislation permitting use of non-urbanized capital funds available under Section 3 of the Urban Mass Transportation Act for operating purposes as well, at local option;

Specific actions to inform counties and other public entities in nonurbanized areas of the availability of Section 3 funds;

Specific actions to simplify application procedures for qualified public entities in non-urbanized areas;

Establishment of a specific organizational focus within UMTA with adequate and qualified personnel, specifically assigned responsibility for technical assistance and administration of the simplified procedures for a capital grant program for non-urbanized areas;

Specific action to promote coordination of federal transportation expenditures by such programs as Title XX Social Services, Aging, Headstart, Appalachia, Community Services, and scores of others that are providing needed transportation in non-urbanized areas, but serving only their own specific client groups rather than overall public transportation needs.

(Adopted, June 30, 1976, Salt Lake City, Utah)

¹ Non-urbanized area is a reference in Urban Mass Transportation legislation which limits most UMTA programs to areas defined by the Census Bureau as exceeding 50,000 population.

RESOLUTION ON NEEDED COORDINATION OF PUBLIC TRANSPORTATION SERVICES FOR
THE TRANSPORTATION DISADVANTAGED

Whereas, existing public transportation services are inadequate or non-existent in most areas of the country, and

Whereas, this deplorable situation has resulted in the inaccessibility to health, educational and social services, and centers of employment, shopping and other needs of millions of Americans who are "transportation disadvantaged" including the elderly, the handicapped, the poor, youth, and those in rural areas, and

Whereas, the myriad of federal agencies which are the source of funds for services to people have therefore often found it necessary to finance special transportation services for their separate, specialized clientele groups, and

Whereas, this practice has resulted in the existence of hundreds of inefficient, uncoordinated, costly, and often unsafe federally funded vehicles and transportation programs at the local level, and

Whereas, current legal and administrative requirements and practice make it difficult for responsible local elected officials to respond appropriately to the needs of the transportation disadvantaged in a coordinated, cost-effective, safe, and efficient manner: Now, therefore, be it

Resolved, That the Transportation Steering Committee of the National Association of Counties urges the following actions to remedy this situation and improve accessibility of the transportation disadvantaged to need services:

1. The Congress should direct a thorough analysis by the General Accounting Office of the myriad of federally-funded fragmented and uncoordinated transportation components of the hundreds of categorical health, educational, and social service programs serving disadvantaged Americans; this study should include a cost-benefit analysis and an identification of legal and regulatory impediments to the coordination of transportation services at the local level. The Congress should then enact legislation aimed at correcting any legal impediments to coordination of transportation services for the transportation disadvantaged.

2. The Department of Transportation should undertake a special initiative to fund coordinated, county-wide demonstrations of safe, efficient, cost-effective public transportation services aimed at eliminating needless duplication and inefficiency in transportation components of existing health, educational, and social service programs throughout the county.

3. The Office of Management and Budget should direct all federal agencies which currently fund transportation components under existing health, educational, and social service programs to initiate public transportation services meeting the needs of all such existing programs. This should include authority to issue waivers against regulatory impediments such as use of vehicles purchased by one program from being used to serve clients of other programs.

4. The Office of Management and Budget should also issue a special notice to all A-95 Clearinghouse agencies instructing them to analyze grant applications which include transportation components to assume maximum feasible efforts to encourage coordination and minimize unnecessary duplication of vehicle purchases and service operations and to report back to the OMB of all situations where legal and regulatory impediments interfere with such efforts.

5. The National Association of Counties should undertake a special effort to inform its member counties of opportunities for county governments to improve mobility of the transportation disadvantaged by providing efficient, safe, and cost-effective service to the specialized clients of federally-funded service programs under contractual arrangements with the various categorical programs.

(Adopted by NACo Transportation Steering Committee Oct. 22, 1975.)

RESOLUTION ON TRANSPORTATION LABOR PROTECTIVE AGREEMENTS SECTION 13(c)

Whereas, Section 13(c) of the Urban Mass Transportation Act of 1964 requires as a precondition to UMTA assistance, "fair and equitable" arrangements to protect the interests of employees by such assistance; and

Whereas, the determination of what is "fair and equitable" is made only by the Secretary of Labor without benefit of written regulations; and

Whereas, before making this determination, the Secretary of Labor submits proposed labor protective agreements to unions representing affected employees; and

Whereas, the Secretary of Labor typically submits such proposals to many labor organizations, even where there is only a very minimal potential interest involved; and

Whereas, the Secretary of Labor sets no limit on the length of time such organizations may take to review the proposed agreement and such review often results in unreasonable and unnecessary delays in funding; and

Whereas, the effect of this practice is to allow labor organizations to hold hostage needed UMTA grants; and

Whereas, the pressure on transit officials to sign these agreements in order to assure continuity of public transportation service cannot realistically be ignored; and

Whereas, these pressures make management of transit operations in an orderly, efficient and cost-effective manner impossible.

NACo urges that: The Administration continue and expedite their presently ongoing effort of analyzing the status and effect of the 13(c) process with the intent of having UMTA and/or the Department of Labor implement administrative changes immediately establishing a more orderly and simplified procedure for automatic and/or semi-automatic certification as long as a valid and binding 13(c) agreement is already in force.

This action be taken with the further intention of UMTA and/or the Department of Labor ultimately issuing formal guidelines and/or regulations regarding 13(c) certification.

The following suggestions for improvement be considered within the context of the above resolve and of the basic principle that unless an interested party can affirmatively demonstrate the need for a change in a prior agreement, certification should follow:

Certain routine capital and operating grants should receive automatic certification and that UMTA should develop a certain set of criteria to clearly define and identify "routine" projects

Substantive grant applications should include the following minimum procedures:

Final application including a negative declaration and a declaration to abide by 13(c) if dismissal or displacement should nevertheless occur, should be submitted to local union(s) 10 days prior to filing with UMTA,

13(c) certification should be automatic unless a petition by an interested party is made within a specific time frame,

Provisional certification should be granted under a strict time limit even under petition,

If impasse occurs, the Secretaries of the Departments of Transportation and Labor, or their designees, should utilize discretionary powers to reach a binding determination.

Further consideration be given to:

The need for a review of the appropriateness and relevance of the provisions and use of the so-called "model agreement" negotiated and signed by the American Public Transit Association (representing management) and the Amalgamated Transit Union and Transport Workers Union of America,

The need to separate application of agreement provisions appropriate for rail transit employees which are based upon 19th century rail provisions from those appropriate for modern transit system employees,

The need to ensure that state collective bargaining laws will apply to local transit public employee labor relations and shall not be preempted by the Secretary of Labor.

(Adopted, June 30, 1976, Salt Lake City, Utah)

NATIONAL ASSOCIATION OF COUNTIES EXCERPT SUMMARY FROM 1976 TESTIMONY ON
H.R. 3155

Let's look at what's happening in public transportation in non-urbanized America. In May 1976, the Washington Post described the growing phenomenon of the long distance commuters traveling our nation's new "country roads". Many of the rural commuter transit systems are being set up by private industry, or, as reported in the Post, by private individual initiative in which rural America prides itself.

One system, described only briefly in the Post article, was set up under the initiative of six cooperating counties in North Central Pennsylvania. Appalachian Regional Commission funds are helping with the start-up costs of this subscription type of commuter service provided through a multi-county public authority. Unfortunately, there are only 397 counties in Appalachia and similar funds are not available to cover initial operating costs in other areas of the country.

Another phenomenon is reaching epidemic proportions around the country, however. That is the growth of small, special transportation systems. These are set up with federal health and social service type of program funds. They are typically limited by law, regulation or "turf" problems to serving limited clientele groups.

The Administration on Aging (AOA) spent an estimated 20 percent (\$16.2 million) of their Title III Community Services funds for transportation projects, mostly in non-urbanized areas. An unknown additional amount went into transportation from the Title VII Nutrition programs. Hundreds of community action agencies throughout the nation are involved in similar undertakings. Many are using their outreach and referral program funds to purchase, maintain and operate vehicles to transport their client groups. According to one estimate, \$3,468,000 in direct Community Services Administration funds went into transportation programs in fiscal '75.

In addition to direct transportation expenditures for demonstration programs such as the one in North Central Pennsylvania described above, Appalachian Regional Commission health and child development funds have been used to purchase vans to transport rural people to needed services. An annual estimated \$300,000 in "hidden" costs are believed to be going into transportation of clients to Appalachian health services. An estimated 7 percent of funds spent for day care programs by ARC (about \$840,000) are being used for transportation annually.

An unknown number of other federal health and social service funding programs are using service dollars to buy buses and vans, pay drivers, and support other operating costs.

The results are spotty service, uncoordinated systems, sometimes unsafe, inadequately maintained vehicles. Buses carrying senior citizens to a lunch program pass buses carrying headstart children. The aging program may have one 15-passenger van, but that doesn't help if 100 senior citizens are eligible for the nutritious lunch program, but don't have transportation. Meanwhile, the vocational rehabilitation program may have a bus which it uses only in the early morning and late afternoon. But there are turf problems and there are perceived restrictions on the use of funds to serve the elderly, or funds to serve the mentally handicapped. The result is inefficient use of federal funds, we think.

A study of the transportation costs of approximately 400 categorical human service projects in Chattanooga, Tennessee, conducted by HEW, showed that transportation costs these projects an average \$2.93 per "client mile". This was the start of a "services integration" project where coordinated transportation projects serving the categorical programs cut these costs to about 55¢ per mile.

Although we think the crazy-quilt pattern we have described is unfortunate, it is understandable. It is understandable because these are programs serving people. When an isolated senior citizen needs to get to a health clinic, a drug-store, or just to a grocery store to buy food, concerned program managers and elected officials will find a way to provide for the need—in this case, transportation.

There is no question about it—the need is great. A study in the state of Iowa has shown that in 54 of 99 counties, 10 percent of all households have no automobile. The County Commission on the Aging surveyed Iowa County senior citizens and found that improved transportation is their number one need. (Iowa County has a population of 16,000. The largest town—Marengo, the county seat—has 2,800 people.)

There was a recent study in Charlotte County, Florida, which shows the other side of the coin. Many fixed income senior citizens there were found to be foregoing important needs such as nutritious food, quality medical care and decent housing simply because the absence of public transportation necessitates that they own a car. The high cost of automobile ownership, maintenance and operation could be avoided if public transportation were available. (Yet the dependence of the county on a property tax base which is particularly discriminatory against fixed income seniors, precludes the county from budgeting the total cost of operating a public transportation program.)

A survey conducted by a NACo-Community Services Administration project in Alabama showed the kind of exploitation experienced by those who simply can't afford to maintain an auto. There, many cases were documented where the "black market" transportation system—neighbors and other unlicensed private individuals—charged more to transport people to services than the service was worth; for example, transportation to food stamp distribution centers that cost more than the food stamps were worth. This practice is, we understand, fairly common in many rural poverty areas. But an unmet need exists because rural America is home for a disproportionate number of what are called "transportation disadvantaged" groups—the elderly, young children, the poor, and others.

UMTA analyses show, for example, that rural areas, with one-third of the U.S. population, include half of the nation's poor. Among rural elderly in one-person households, 70 percent are poor. The largest percentage of elderly poor reside in rural places of less than 2,500. In summary, according to UMTA, "the transportation disadvantaged, people with no access to private auto or public transportation, generally constitute a larger proportion of total population in non-urbanized areas than they do in urbanized areas".

But the existing pattern of special service transportation springing up to serve these groups represents not only a problem (uncoordinated and inefficient use of resources). It also offers an opportunity.

NACo, and many county governments throughout the nation, are exploring ways to provide coordinated, cost-effective special transportation services. The result, we hope, could develop into systems of rural public transportation available to all.

Cape May County, New Jersey, has developed a model approach. There, the county department of transportation operates buses which serve various "client" groups. The county seeks reimbursement from aging, vocational rehabilitation and other federally-funded health and social service programs. It is exploring with the state government the possibility of reimbursement under Title XX of the Social Security Act for transportation provided for welfare recipients. These reimbursable programs provide a base of support for the county operation so that general county financial support for the system becomes a reasonable budget item.

The county unit of government—in most states—is the major direct delivery agent for most of the public health and social service programs which deal with the special "client" groups who are frequently among the "transportation disadvantaged."

County government—in forty states—is also responsible for local transportation roadbeds—those "country roads" over which buses transport rural people.

In most states, county government is the only government, at the local level, that has jurisdiction over all the people, whether they reside in town or out of town.

For all these reasons, we believe that county government offers a logical unit for facilitating the operation of public transportation in rural America. We have underway, in cooperation with DOT and UMTA, a thorough exploration of alternative county roles, such as:

- Direct operator of public transportation services;

- Coordinator of existing intra-county public and private systems and applications to initiate new systems;

- Participant or promoter of multi-county operations established cooperatively by two or more counties;

- Funding agent to provide local funds and coordinate use of federal funds to maximize service in a cost-effective manner.

But in spite of the list of activities we have documented thus far, nowhere have we identified a really ideal, coordinated, full service public transportation system with the range of service needed in rural America.

It is recognized that urban transit cannot support itself from the farebox. The same is true in rural America.

Fiscal '75 was the first full year after the 1974 authorization of a \$500 million "set-aside" of UMTA funds for non-urbanized areas. In that year, UMTA obligated \$17,276,408 in these areas. Although this represented an increase in actual dollars over prior years, it was only 3.5 percent of the \$500 million and it was slightly over 1 per cent of total UMTA obligations that year. This is the same approximate percentage of total UMTA funds obligated outside of urbanized areas since the beginning of the mass transit program in 1964.

In our "Fair Share for Rural America" campaign, NACo has pointed out that only 1 per cent of direct public transportation funds have found their way into

non-urbanized areas. This is so in spite of the fact that non-urbanized areas are now home to 48 per cent of the American people, and in spite of the fact that many people outside of urbanized areas, particularly those outside of "built-up places",¹ are among the most transportation disadvantaged.

Besides the historic legislative focus on "urban" when it comes to public transportation, there are two specific problems in current law which impede UMTA's ability to respond to needs outside of urbanized areas:

Lack of authority to provide operating funds; and

Lack of authority to waive unnecessarily complex legal requirements which are irrelevant in less densely populated areas, i.e., red tape.

We believe that the availability of small amounts of operating funds would facilitate the development of coordinated public transportation services in non-urbanized areas.

RESULTS OF SURVEY ON COUNTY INVOLVEMENT IN RURAL PUBLIC TRANSPORTATION

The Rural Public Transportation Project of the National Association of Counties Research Foundation has surveyed 54 public and specialized transportation systems serving rural areas. All are operated or supported by cash or in-kind contributions from counties.

These transportation systems are located in eight of ten federal regions.² Ten serve counties with populations of less than 25,000. Twenty single-county systems and two multi-county systems serve a county or counties with populations between 25,001 and 100,000 residents. Eight single-county and two multi-county systems serve areas of between 100,001 and 200,000 people. Five single-county and eight multi-county systems serve a county or counties exceeding 200,000 population.

No responding transportation systems are completely within an urbanized area. Six single-county and three multi-county systems serve part of an urbanized area. Two single-county and one multi-county system serve counties without any urban place of 2500 or more residents. All other counties served by the respondents have at least one municipality of 2501 to 49,999 residents.

Counties play a variety of roles in the responding systems. They operate 19 systems. They created and/or support nine systems organized as public transit authorities. Counties provide cash and/or in-kind contributions to 25 additional systems operated by non-county agencies such as community action programs (CAP's) or area agencies on aging (AAA's).

Counties make cash contributions to 44 of the 54 responding systems. They supply in-kind contributions as follows:

	<i>Systems</i>
Vehicle maintenance-----	18
Insurance coverage-----	17
Employees funded by the Comprehensive Education & Training Act (CETA)-----	23
Rent-free office space-----	25
Supply information on routes and schedules-----	16
Coordinates responding system with other systems-----	16

The responding systems operate between one and 37 vehicles. Thirty operate five or fewer vehicles. Seventeen systems operate between six and twenty. Only five systems have more than twenty vehicles.

Many different funding sources were used by responding systems to acquire vehicles. Individual systems frequently used several sources. Older Americans Act funds and county tax revenue were the most frequently named sources (by 24 and 17 respondents respectively). Other funding sources were used as follows:

	<i>Systems</i>
Community Services Administration-----	11
UMTA 16(b)(2) program-----	7
UMTA section 3 program-----	5
UMTA/FHWA section 147 program-----	5
State grants-----	5
HEW-----	4

¹ UMTA generally defines these as "places of 2,500 or more."

² There were no responses from Region I (New England) where county government is weak or Region VIII (Colorado, Montana, North & South Dakota and Wyoming).

All but one system responding serve the elderly. Twenty-one of the 54 systems are open to the general public. Other clienteles are served as follows:

	<i>Systems</i>
Low-income people-----	42
Handicapped people-----	43
Students-----	20
Commuters-----	13

Almost all responding systems transported riders to shopping, health care, human services and recreation programs. Forty-four systems take elderly riders to on-site meals funded by the Older Americans Act Title VIII. Many systems transport riders to work, Head Start and other education centers.

Good ridership response was cited as a major success by many respondents. Cooperation of the county or between the county and cities within it, also was mentioned by several of the transportation systems responding.

Lack of funds, especially for operating expenses was the problem most frequently listed in answer to the open-ended question "what have been your problems and successes with this public transportation service?" Other problems such as inability to serve everyone needing transportation, not enough vehicles, and vehicles needing replacement, were related to lack of funds.

Mr. HOWARD. You may introduce yourself and proceed as you wish.

TESTIMONY OF DANIEL CASEY, SUPERVISOR, MILWAUKEE COUNTY, WIS., REPRESENTING NATIONAL ASSOCIATION OF COUNTIES, ACCOMPANIED BY HENRY M. MAYER, DIRECTOR OF OPERATIONS, MILWAUKEE COUNTY TRANSIT SYSTEM; AND SANDRA SPENCE, LEGISLATIVE REPRESENTATIVE, NAC

Mr. CASEY. Thank you, Mr. Chairman.

Mr. Chairman, I am Daniel Casey, supervisor, Milwaukee County, Wisconsin, and I am a member of the Transportation Policy Steering Committee of the National Association of Counties.

I appreciate the opportunity for us to present our views on this important legislation.

As an elected legislator from Milwaukee County, where we are facing particular problems around the issue of accessibility to mass transit vehicles, I want to share some of our experiences and concerns with you.

I have with me, to participate in our discussion of the Milwaukee situation. Mr. Henry Mayer, director of operations of our transit system. We are also accompanied by NACo's legislative representative for transportation, Ms. Sandra Spence.

So that we will have time to discuss Milwaukee County's experiences with you, I will briefly summarize our official NACo statement.

The National Association of Counties strongly supports the multiple national goals within which transit has emerged as a vital public service—energy conservation, reduction of congestion and pollution, and mobility needs of all our citizens.

Our main point to make here today, I believe, is this. We strongly advocate the need for local flexibility in determining how best to meet the needs of special groups of transportation-dependent people, based on local situations. We oppose blanket Federal mandates requiring one particular approach to meeting the needs of nonambulatory people.

Also I might point out we strongly support the idea of an additional separate trust fund for the purpose of funding mass transit. That is a subject that was discussed at length this morning.

We strongly support section 1 of H.R. 5010, which would improve public transportation in nonurbanized areas. The need is great. We think our written statement and testimony presented to this subcommittee last year will document that.

We strongly support section 7 of H.R. 5010 which would authorize the Secretary of Transportation to undertake a study of the transportation component of federally funded health and social service programs and we suggest you include a specific dollar authorization to finance this study.

Finally, we recommend that the subcommittee consider holding oversight hearings on the administration and impact of 13(c) labor protective provisions. This provision had a very important and necessary purpose in 1964 when it was first enacted. We think much has changed since then and a thorough review is needed.

At this point I would like to introduce Mr. Mayer.

Mr. MAYER. Mr. Chairman, my name is Henry M. Mayer. I am manager of operations and chief executive officer of the Milwaukee County Transit System. I have been employed in the mass transit industry for 30 years, and for the past 10 years I have been the manager of the day-to-day operations of this urban transit system which serves the city of Milwaukee and Milwaukee County.

Mr. Chairman, at this time, which is my first appearance before your committee, I might say I appreciated your questions and the questions of a lot of the members of your committee this morning which show an appreciation of the problems of the transit industry and of the elderly and of handicapped.

It was very pleasing for me to hear those questions.

As a manager of this transit system that carries over 900,000 passengers each week, roughly equivalent to the total population it serves, and also as a handicapped person who, for the past 7 years, has depended on crutches and/or a wheelchair for mobility, I am particularly aware of the transit system's responsibility to serve the general public and also the necessity to provide the mobility handicapped person with a reasonably-priced and adequate means of transportation.

A problem has occurred in this matter, however, with the passage of laws by Congress which have been interpreted by some handicapped and some courts to mean that every bus, streetcar, rapid transit car, or other form of transportation which has been purchased with the aid of Federal funds must be fully accessible to every American, no matter how handicapped he might be or whether or not such handicapped person wants to ride such vehicle or whether or not he would be better off using some other form of transportation.

As usual, no one seems to ask a representative group of handicapped what they would really prefer or what would best suit their needs.

But rather than speak in generalities, I would like to address myself to what the effect of these promises of Congress and the resultant unfulfilled expectations for the mobility handicapped has meant to an actual transit system—the Milwaukee County Transit System.

Less than 2 years ago, on July 1, 1975, Milwaukee County acquired the assets of the local mass transit system. Although it had been one of the more successful and longest lived privately operated transit systems, continuous fare increases, service cuts, and older buses were

the future of Milwaukee transit riders unless Milwaukee County stepped in.

After almost 2 years of county ownership, fares have not been increased and were, in fact, reduced 20 percent upon takeover, but there have been precious few service improvements and no new buses.

The bus fleet, which averaged 13 years of age in 1975—when the county took it over and now is 2 years older—now averages 15 years, which is beyond the expected life of any bus. A remarkable job by our maintenance personnel has kept over 470 buses in daily operation of an active fleet of only 518 buses. Meanwhile, maintenance costs, however, are up 30 percent. Road calls have increased 25 percent as the buses have increased in age.

Immediately upon county takeover, specifications were prepared and bids requested for 100 new buses as the first step in the orderly replacement of all old equipment. Specifications did include then available improvements to make buses more accessible to handicapped—improved grab rails, stanchions, step lighting, nonskid flooring, and power assist doors were some of those features.

In November 1975, American General was the low bidder at \$63,400 per bus. But before the bid could be accepted, a court action was begun by three wheelchair-bound citizens to enjoin Milwaukee County from purchasing any new equipment that was not fully accessible to the handicapped and to further enjoin UMTA from granting any funds to Milwaukee County to purchase such equipment. The U.S. Court of the Eastern District of Wisconsin granted a temporary injunction on December 24, 1975, and made the injunction permanent last month in February 1977.

The irony of all of this is as follows:

One: Milwaukee County Transit System was anxious to get on with improving the transit system, including available state of the art improvements for accommodating the handicapped. The system was less than 6 months old when the injunction was granted.

Two: The buses specified were the most accessible buses available at the time. There were—with the exception of five retrofitted buses in San Diego—and still are no fully accessible buses being operated in regular urban service in the United States. Sixty such buses are about to be delivered to St. Louis right now. And you heard this morning 200 more will be delivered to Los Angeles sometime this summer.

Three: Milwaukee County has available to its handicapped citizens, two private bus firms who cater to the wheelchair-bound handicapped with specialized equipment and personnel and door-through-door service. One of these firms pioneered this type of service in the country. At the time of the lawsuit, Milwaukee had what was, possibly, the outstanding handicapped transportation service of any city in America.

Four: The problem in Milwaukee was not so much the availability of service. It was a question of paying for it.

Five: Of the 950,000 people that live in the area served by our transit system, a few wheelchair-bound riders who might conceivably be expected to prefer and ride regular route service and who, in my opinion, could be better served by an alternate service, have caused poorer service for almost everyone and prevented us from extending service to many.

Since public takeover, we have extended half-fares to all handicapped persons and, what we believe is unique in the transit industry, free fare to the attendant of those handicapped persons if they have one.

We have installed grab rails inside the front doors of our buses. We have placed decals behind certain seats reserved for the elderly and handicapped. We have bus cards in our buses urging other riders to observe the reserved seats.

We are about to complete a study of the needs of the mobility handicapped in urbanized Milwaukee and the best means of meeting those needs. The handicapped and elderly and their representatives are actively participating in the design and decisionmaking of this study.

Milwaukee County supports the overall concept of this bill and supports the intent to provide transportation to all Americans, non-handicapped and handicapped alike. We support the idea of manufacturers being required to build buses with wheelchair accessibility capability or to be convertible to such capability.

We believe, however, that a mandated 50 percent of buses purchased to have lifts could be a disservice to handicapped and nonhandicapped riders in some cities. Perhaps Milwaukee's ultimate decision will be to equip 50 percent of its buses with lifts, but we believe that should be Milwaukee's decision.

As a matter of fact, Mr. Chairman, the decision would probably be for 100-percent accessibility or zero percent accessibility. We have a 50-percent transfer ratio in Milwaukee. And, frankly, if you were going to go this route of providing mobility to handicapped people, it seems to me unless it was 100 percent, I cannot really conceive of something less than that being adequate transportation for handicapped people.

Snow and ice, a broken sidewalk or no sidewalk, a 300-foot or maybe 1,300-foot distance—and in Milwaukee a 1,300-foot distance is the average distance between bus routes—or a wide street can stop the journey of any wheelchair just as surely as a bus stop.

We heard this morning where one transit system in Los Angeles has 100-percent vehicle accessibility or is trying to get it. As a matter of fact, for many communities, what would appear to be the cheapest way of doing this is to invest—

Mr. HOWARD. Excuse me. There is a vote on the House floor.

The subcommittee will recess for approximately 15 minutes so that the members may vote.

We hope you will stay so that we can get to some discussion on this.

The subcommittee stands in recess for approximately 15 minutes.

[Short recess.]

Mr. HOWARD. The Subcommittee on Surface Transportation will please come to order.

I have just a question or two I would like to ask.

One general question regards the local people making the decisions. I think that everyone would agree with this Jeffersonian idea that the best government is the least government; the closer to the people, the better the decision.

That type of thing is easy to agree to. But the reason the Federal Government is in so many, many areas is because the local people either could not or would not or did not take the responsibility.

Education is one example. According to the Constitution, it is a local right and a State responsibility, and there is nothing pertaining to the Federal Government.

But seeing what the States and the localities were and were not doing about the education of the young people, it became obvious that somebody had to move forward and raise the tax money to provide for the services—otherwise, we would have had a much lesser educated people. That goes to the area of health care and transportation also.

So even though it is very easy to agree about the local people doing all these things, the Federal Government has probably been forced into many more areas than it would like to be involved in because something had to be done.

And with the exception of the Interstate Highway System, which is a national program and meets a national need, many of them could have been handled at a local level.

Mr. CASEY. Mr. Chairman, I think our response to that is that we are concerned about the mandated solutions we give to the problem.

I wish Mr. Mayer could give us some insights as to the actual operations of this mandated solution and what its effect will have on our operation.

Mr. HOWARD. Well, we agree 50 percent in some areas will not be necessary, and in some areas it will be too little.

Mr. MAYER. As I said, to have 50 percent is like having half a rope.

Mr. HOWARD. Well, we have operated for 10 years requesting that the local areas give due consideration to accessibility for elderly people and the handicapped.

If you look across the country, you may find some communities have done an excellent job, but you will find some communities have taken advantage of the lack of a mandate and have done little or nothing.

And as to this accessibility, perhaps the real vital need is for the handicapped more than for the elderly. The handicapped in many areas are not as numerous and, politically speaking, they are probably less of a factor than the majority of people who are worrying about taxes and what-not.

I remember a few years ago when we had difficulty, those of us in New Jersey, with the mayor of the city of New York, Mayor Lindsay. Mayor Lindsay needed more money for the operation of his city. And they came upon—and perhaps this was the first time—the idea of a commuter tax on the people from New Jersey who work in New York City. And we went in and objected rather strenuously. And there was Mayor Lindsay, just before a reelection attempt. He had a big decision to make to get this money he could either put an additional tax on the people of the city of New York who could either vote for him or against him, or instead he could put that tax on the people coming from New Jersey who could not vote for or against him.

And his decision was made rather easily. And we may have started something like that around the country.

What we have been looking for over the last 10 years was a way that we could be assured that a sensible and decent program would be given at local areas.

Now, some of the areas that may have done this very well, you know, would object to the Federal Government mandating a way of doing it

that would even be counterproductive in their areas, because they have done their job.

But then again you have these other people who are doing little or nothing.

There is one question I have.

Milwaukee has had a very good system that considers the elderly and the handicapped. The most recent program, I understand, was held up because some elderly and/or handicapped brought suit against Milwaukee.

Now, I have just one question, and maybe you can tell me it briefly, but why did they bring this suit?

Mr. MAYER. This was one of a series of similar suits being brought across the country. I would have liked to have thought it was used to bring their plight to our attention.

Now, the Biaggi amendment, I think, was passed in 1970 or 1971. And I admit darn little was done about it, Mr. Chairman, to interpret it as to what we should do. And we ended up with a lawsuit that I think was as much against UMTA—and they were a codefendant—as it was against us for, in fact, not doing anything to develop the standards that were to be used.

But, Mr. Chairman, you keep using the word accessibility, and I maintain the word we should be talking about is mobility, and you should be mandating mobility for the elderly and the handicapped.

Mr. HOWARD. All right, we can change that.

Every time I have used the word "accessibility," put in "mobility."

Mr. MAYER. But we are hung up on this word "accessibility."

You heard Los Angeles this morning saying they are going to make all their buses accessible. I could give you a long argument, but I will not take the time, and say they are going to end up with 3,000 accessible buses, but they are not going to end up with mobility for handicapped people.

They are going to meet the letter of your mandate but not have mobility for handicapped people.

It would be much cheaper for Milwaukee to put elevators on every bus than to really meet the mobility problems for the handicapped by providing them the special service that many of them need. If that is the only thing I say here, then I will be happy.

Mr. HOWARD. Well, suppose, just as the municipalities wish, suppose we just have the mass transit money go out and do not even say "Do something about the elderly and the handicapped." Suppose we find then that Milwaukee does a wonderful job and the elderly and the handicapped feel they really have a program that is just right for their needs, but we find many, many areas of the country that do nothing for it.

So then where are we?

I would like that answer. We are not trying to force any specific ideas on anybody. We just want something that will work better than what we have had around the country.

Mr. MAYER. Good question.

I think that mobility and my ability to move, or any handicapped person's ability to move around is definable, Mr. Chairman. I think it is definable within terms of traveltime or just having service available, you know, as to how long he will have to wait for that service

to come and to how much he should pay for it, how much he can pay for that mobility.

I think that can be defined rather than the general terms we have now.

Mr. HOWARD. Would you care to give us a rough outline of your definition of it?

Mr. MAYER. I would say that he should be able to make a trip—again depending upon the size of the community—in perhaps an hour.

Mr. HOWARD. What about communities like Cleveland where they have a 2- or 3-day wait, and you have to call in ahead of time.

You say within an hour, but they do not have that.

Mr. MAYER. I think in many cases a handicapped person who is going to work or is going to a medical situation that he knows about a week ahead of time, I think he can certainly reserve that trip and cooperate with the system. But I think there should be some facility—and I hope the handicapped people would not abuse it—where he could make this quick trip if he had to. And I think this could be worked out. Maybe it would not be an hourly trip, but it would be a sort of combination of those two. I think we would have the cooperation of the handicapped people to do this.

Mr. HOWARD. Do you feel there ought to be some regulatory, if not legislative, wording in there—

Mr. MAYER. Perhaps.

Mr. HOWARD [continuing]. Because it is not being done now under the system we have. And you seem to be implying the Federal Government ought not to say anything about it or put anything in. We do not have it now, you know.

Mr. MAYER. I think we have to have some input here from the handicapped people, Mr. Chairman, that is realistic. And I think we have many spokesmen for the handicapped people that I have heard that are unrealistic. They are suggesting constitutional rights rather than practical objectives.

Mr. HOWARD. In talking about the funding we have now, an additional cost of buses—and this was just handed to me—it might cost on the Federal level \$100 million additional out of \$3 billion.

Mr. MAYER. Fifty cents for every man and woman and child in the country to provide transportation for the elderly and handicapped?

Mr. HOWARD. Well, out of \$3 billion.

Ms. SPENCE. That is the capital, I believe, that you are referring to?

Mr. HOWARD. Yes.

Ms. SPENCE. Then there would be additional operating costs to maintain those.

Mr. HOWARD. Which would certainly not be an overwhelming thing.

So it is a problem we have, and we do not want to put the burden of saying you have to do this here and there. I mean I have seen two extreme cases in my own district where 50 percent is not good and is not nearly enough for one of my towns which has a great number of elderly people. But it is more than adequate for one of my development towns which have hardly anyone over 40 and very few disabled.

So I agree with you, it is very difficult. I just do not think the answer is to just do nothing and hope that everyone will really make an effort.

Mr. MAYER. No; it is not.

Mr. HOWARD. So we would appreciate any advice you could give us on this.

Mr. CASEY. The planning function is the thing that is missing. We have to start with a goal and then develop a plan to meet the goal. We have to set up standards of what we are talking about here.

Our problem is that if you have lifts on all of our buses, you are going to serve only part of the handicapped and not all of them. There will be a lot of people who cannot get to the bus stops.

Mr. HOWARD. The nonambulatory?

Mr. CASEY. Not only that, but you are going to affect all of our schedules and you are going to create longer leadtimes. You are going to have much higher operating costs.

Mr. HOWARD. Well, just finishing what you are saying, I agree with all of those things but—

Mr. CASEY. So, therefore, what you need, Mr. Chairman, is a plan that is going to serve the needs of the handicapped people and move in the direction of reaching the goals that are established.

Mr. HOWARD. The idea of not having enough knowledge and information and planning, well, there were hearings from the last Congress on this bill. I do not know whether they were made available to you or not. So it is not as though this is something brand new and we are trying to mandate something without having looked at all the effects of it.

So it is a very difficult thing, and we are not tied to an immediate time frame. You know, we have looked at this obligation these communities have had for 10 years. We have seen that in many, many areas because there was no mandate, that this need was just ignored. And we want to get some movement in a sensible way but in a way that will not permit the people who get the mass transit funds, which are paid for out of the Federal Treasury and which is contributed to by all people—including the elderly and the handicapped—to just write off the elderly and handicapped.

And, of course, it is a very unfair thing for us to be talking in such generalities about this when there are many, many communities who have really made an effort and have a very fine program going.

But what we are saying is we feel there are too many who have not and have used the legal loophole of there being no mandates to ignore this minor segment of our population, because they can afford to ignore it.

I am glad you brought this out. You can see we have been struggling for months.

The gentleman from Pennsylvania.

Mr. SHUSTER. Thank you.

I would like to pursue a little further to make sure that I understand the record. Even if we were to mandate, you have these lifts in every bus.

I think what I heard you say was that not only would this not solve the problem for many of our elderly and for the handicapped, it also would not solve the problem for many of those in wheelchairs because many people in wheelchairs, and I happen to have personal experience in my own family with this matter, an immediate member of my family in a wheelchair for 13 years, and the problem is getting from the house to where they want to go.

So by simply having a bus that is a few blocks away from the house, it does not resolve the problem, at least for some substantial percentage.

Mr. MAYER. In the city of Milwaukee, I would say from the first of December to the first of April, unless you live within 20 feet of the bus stop and 20 feet of the bus stop where you are going, you are prevented from using this. How do you get to the bus stop?

Mr. SHUSTER. How about the people in residential homes who have stairs in the home?

Mr. HOWARD. Of course no one says do not do anything more if it is needed.

Mr. CASEY. Our alternative is the use of funds in our particular area of the handicapped.

Mr. HOWARD. How do the handicapped feel about it?

Mr. MAYER. The possibilities are (1) to contract with them to provide the service. You have sort of a food stamp program for handicapped people; if you are a green card holder, that entitles you to ride in taxicabs; if you are a blue card holder, maybe that entitles you to ride with a ramp and you would present a coupon and the provider of that transportation would get paid for it.

Mr. HOWARD. Is that a pretty common thing in cities?

Mr. MAYER. Is that done? No. I am not saying that that is done.

Mr. HOWARD. Oh, I thought that is what you were saying.

Mr. MAYER. Is that done? No, I am not saying that that is done.

As a matter of fact, the handicapped service that we have now, about 98 percent of their clientele are health—are moving for health or educational purposes and I would say about 80 percent of it is paid by title XIX medicaid type.

Mr. SHUSTER. Could you give any estimate as to what percentage of people in wheelchairs have their transportation problems handled by mandating lifts on buses as opposed to providing the door-to-door service?

Mr. MAYER. A wild guess, if our 500 buses were equipped with lifts, I would guess that that might be used on any individual ones every 2 or 3 weeks. In other words, I am talking about 20, 30 people a day that might do this, I think there are some that would do it, college students, younger people. I think it would be a very lucrative type of use and would have a tremendous—to equip our 500 buses with lifts, you are talking \$5 million to accommodate—do you want to be real generous and say 50 people a day, that would be a wildly generous estimate.

Mr. HOWARD. What is the alternative, then?

Mr. MAYER. The alternative I think is the one I just mentioned that we do have a lot of private purveyors of service. A lot of these people can be taken care of by taxicabs and Congress has mandated that they shall not pay more than somebody who rides a regular bus.

You mandated that. I guess that means that even if they took a cab we would have to let them ride for 25 cents, which is the fare for handicapped people in Milwaukee. I do not think there would be as much use as people believe.

Mr. HOWARD. Just to clear up one thing, there is nothing in the law that says that.

This would be done by regulations by the Department downtown. We pass a broad policy statement and then rely on—

Mr. MAYER. It could well be.

Mr. HOWARD. This may be the fundamental flaw in the whole system, relying on the bureaucracy downtown to write the regulations that go in.

Mr. CASEY. We, from our planning experience in the past couple of months, motivated I am sure, we of course are concerned about the problem. We know that this whole program—the idea of lifts on the buses—is going to complicate and increase the cost substantially.

We do not think that particular aspect of the problem is going to do it totally. The easiest thing for us would be to order 100 buses with the lift on it.

Mr. SHUSTER. The cost of the lift equals the cost of a whole minibus which could be dedicated exclusively and door-to-door service the handicapped.

Mr. MAYER. We will probably order buses in the next month or two.

As it sits right now, we are going to order those buses with lifts. We need buses and the way the situation is right now, we will order them with lifts by court order.

Mr. HOWARD. We may have a lot of time on that because I do not know anybody building buses at the moment and I think it is 18 months to 2 years to get one now.

Mr. MAYER. Our youngest bus is 10 years old.

Mr. HOWARD. And we have a long way to go because we are told the maximum capacity of the bus industry for construction of buses is something like \$300 million for 1 year. These are the figures that we have.

Mr. MAYER. About 15 to 20 a day.

Mr. HOWARD. How much mass transit money could be used in purchasing new buses even in that length of time? Of course, maximum capacity could be changed.

The gentleman from Illinois.

Mr. FARY. No questions, Mr. Chairman.

Mr. HOWARD. Thank you very much. We put most of our questions on handicapped and rural mass transportation.

We certainly appreciate your views on overall mass transportation and funding. But rather than go into that now, we will be holding hearings for months and months on that and we will expect that you will have the counties respond to that and be here again so that we can talk to that to a greater degree.

Thank you very much. We appreciate your testimony and appearance.

The next witness before the subcommittee is a panel composed of—we do not know whether they are all here now—Richard Hedding, National Capitol Area Chapter, National Paraplegic Foundation; Sieglinde A. Shapiro, president, Disabled in Action of Pennsylvania, Inc.; Frank G. Bowe, executive director, American Coalition of Citizens With Disabilities; Ralf D. Hotchkiss, director, Center for Concerned Engineering; Robert F. Conklin, representing the National Congress of Organizations of the Physically Handicapped and National Association of Physically Handicapped; and also scheduled to be the next witness, Mr. Richard A. Kieley, who is a legislative aide of our colleague from the State of Pennsylvania, Congressman Douglas Walgren.

I have a statement of the low-floor ramped bus plaintiffs, prepared by the American Coalition of Citizens With Disabilities, Inc.; Disabled in Action of Baltimore; Disabled in Action of New Jersey, Inc.; Disabled in Action of New York, Ltd.; Disabled in Action of Pennsylvania, Inc.; National Capitol Area Chapter of the National Paraplegia Foundation, Inc.; National Caucus on the Black Aged; National Congress of Organizations of the Physically Handicapped, Inc.; National Council of Senior Citizens, Inc.; Paralyzed Veterans of America, Inc.; Pennsylvania Association of Older Persons, Inc.; and United Cerebral Palsy Association of Pennsylvania.

This is dated March 30, 1977, and without objection that statement will be made a part of the record at this point.

[The following was received for the record:]

STATEMENT OF THE LOW-FLOOR, RAMPED BUS PLAINTIFFS

I. THE ACCESSIBILITY MANDATE

My name is Sieglinde A. Shapiro. With my colleagues I am here on behalf of the low-floor, ramped bus plaintiffs, twelve national and state organizations of the elderly and the disabled with a membership of 5.5 million Americans. We are plaintiffs in *Disabled in Action, et al. v. Coleman, et al.*, and *amici curiae in Lloyd, et al. v. Regional Transportation Authority, et al.*, (7th Circuit) and *United Handicapped Federation v. Andre* (8th Circuit) and other related cases seeking to enforce the repeated mandate of the United States Congress requiring that all federally financed public transit—and buses in particular—be as fully accessible to the mobile disabled and elderly as the state of the art will allow.

Five times since 1970 the Congress has enacted legislation to guarantee disabled and elderly people equal access to public transportation. In Section 16 of the Urban Mass Transportation Assistance Act of 1970, Section 165 of the Federal-Aid Highway Act of 1973, Section 105 of the Federal-Aid Highway Act Amendments of 1974, and Section 315 of the Department of Transportation and Related Agencies Appropriations Act of 1975, the Congress affirmatively directed the Secretary of Transportation to assure that federally supported mass transit equipment and facilities are designed so that all mobile disabled and elderly people can effectively utilize public transportation. In Section 504 of the Rehabilitation Act of 1973, adopting verbatim the provisions of Title VI of the Civil Rights Act of 1964, and applying to handicapped people its prohibition of exclusion, denial of benefits, and discrimination in any program receiving federal financial assistance, the Congress again affirmed its accessibility mandate.

The Congress was clear that these five enactments required that all new federally assisted mass transit equipment meet the needs of the elderly and the handicapped and that as transit vehicles are replaced and new facilities designed, they are to be rendered as maximally accessible as the state of the art will support.¹ The history of the statutes is explicit that the Congress rejected separate transit systems for mobile disabled and elderly people both because they are more expensive² and because they would further segregate the elderly and disabled from society.³

¹ The analysis of the plain meaning of the five statutes and of the legislative history is set out fully in our *amici curiae* brief in *United Handicapped Federation v. Andre* (No. 76-1369), now pending in the 8th Circuit Court of Appeals. A copy of the *Andre* brief is submitted for the record of this hearing.

² The Congressional rejection of separate specialized services as a substitute for fixed route accessibility is set out in the legislative history recited at pp. 61-62, 69, 82 of the *Andre* brief.

³ The Department of Transportation's cost-benefit studies confirm the Congressional judgment: Separate systems would cost 3 to 5 times more than making all buses accessible. U.S. DOT, Transportation Systems Center, "An Inflationary Impact Statement of UMTA's Proposed Elderly and Handicapped Regulations," 19-23, 32-33 (Mar. 4, 1976). An independent survey by the American Public Transit Association estimates that substitute services would cost 10 to 25 times more than the annual cost of replacing the nation's bus fleet with fully accessible low-floor, ramped buses. APTA, "Costs of Implementing Regulations on Elderly and Handicapped Transportation Services" (Jan. 16, 1976).

The Department of Transportation has always understood what the Congress' accessibility mandate requires—that every bus, rail car, and station supported with Federal funds be made as fully accessible as technology will allow.

In the first authoritative construction of the accessibility mandate by the Department of Transportation, Acting General Counsel, J. Thomas Tidd, concluding a careful analysis of the legislation, said:

"[U]niversality was intended . . . [T]he reasonable objective of this statute would here seem to be to extend use of mass transit to those elderly and handicapped persons whose conditions otherwise permit of sufficient personal mobility and independence as would make use of such services a reasonable expectation. A paraplegic, for example, who, although confined to a wheelchair nevertheless has the intelligence and independence to effectively function in most day-to-day activities, would clearly be among those who could 'reasonably expect' to be able to use mass transit facilities and services.

Such an individual can be employed, can shop, dine out, or visit friends; he must, under the statute, be given the opportunity to effectively utilize the relevant mass transit facilities and services in order that those abilities might be realized. Also, note that . . . [thus] the substantial compliance rule becomes a dynamic concept; as knowledge and technology advance, those who might reasonably expect to use mass transit facilities and services increase, and the statutory obligation thus expands." (Footnotes omitted and emphasis supplied). Acting General Counsel, Department of Transportation, Interpretation of Section 165(b) of the Federal-Aid Highway Act of 1973 (November 27, 1973).

In affidavits submitted under oath to eight courts between March of 1975 and May of 1976, then Urban Mass Transportation Administrators Frank C. Herringer and Robert E. Patricelli stated:

"UMTA will develop and promulgate by regulation a standard specification for use by its grantees in transit bus procurement which will provide to elderly and physically handicapped persons mass transportation which they can effectively use."⁴

Recently testifying before Judge Richey, former Administrator Herringer again confirmed that:

"[M]y understanding, and from my lawyers, generally speaking, in the area of access for the elderly and the handicapped, accessibility, was that we were to do everything—according to the law, we were to do everything feasible to provide total accessibility to the elderly and the handicapped. Tr. p. 80, February 3, 1977 Hearing, *AM General Corporation v. Department of Transportation*.⁵

Five times repeated by the Congress and perfectly well understood by the Department of Transportation, the accessibility mandate is yet to be effectively implemented.

The technology now exists to finally carry out the accessibility mandate. That technology—demonstrated and proven through the TRANSBUS program—now makes available a low-floor, ramped bus accessible to over 13 million elderly and handicapped Americans⁶ whose disabilities range from arthritis, palsy, multiple sclerosis, and muscular dystrophy to pregnancy, heart condition, and respiratory ailments which render access by steps impossible or prohibitively difficult, painful or risky.

Last summer, Urban Mass Transportation Administrator, Robert E. Patricelli, had pending before him the matter of issuing specifications for the next generation of buses to be funded under the federal mass transit programs. Because of the long-life of buses—12 years on the average—and because of the need to amortize the costs of a new design over a sufficient number of years, any decision on new bus specifications determines the figure of transit buses for several years, even decades.

At hearings before the Department of Transportation on May 5, 1976 and as recently as fifteen days ago, two manufacturers—Rohr and AM General—testi-

⁴ The affidavits are set out in full in the low-floor, ramped bus plaintiffs' amici curiae brief to the Eighth Circuit in *United Handicapped Federation v. Andre*. (Appendix VII).

⁵ The full history of the Department's contemporaneous readings of the Congress' accessibility mandate is set in the *Andre* brief at pp. 46-55 and the low-floor, ramped bus plaintiffs' Mar. 15, 1977 statement before the Secretary of Transportation at pp. 30-35.

⁶ U.S. DOT, Transportation Systems Center, "The Handicapped and Elderly Market for Urban Mass Transit" 9 (1973). Of the 13.3 million transportation handicapped Americans, the Department estimates that 6.9 million are over age 65 and 6.4 million are disabled.

fied that low-floor, ramped buses could be rolling off the production line by 1979 given effective action by the Department.

Mr. Patricelli did not comply. Instead on July 27, 1976, he abandoned the low-floor, ramped bus even while affirming its technical feasibility and its benefits to elderly and handicapped people (41 Fed. Reg. 32287) and sought to clear the way for a non-accessible and exclusionary bus proposed for production by General Motors.⁷

Two major lawsuits addressed to the July 27 decision was filed last summer and are now pending. One—the first accessibility suit to directly address the duty of the Department of Transportation under the Congressional mandates to proceed with the low-floor, ramped bus—was filed in the Eastern District of Pennsylvania by our national coalition of disability and elderly groups. The Southern California Rapid Transit District—which along with Metro Seattle has been most vigorous in seeking the low-floor, ramped bus—and the State of California, among others, have joined the suit as *amicus curiae* for plaintiffs.

The second suit, in the District of Columbia, was commenced by AM General against the Department of Transportation to enforce the 1973 Brademas Amendment to the Urban Mass Transportation Act barring the use of federal funds "to support procurements utilizing exclusionary or discriminatory specifications." 49 U.S.C. § 1602(a) (1). This suit, in which General Motors has recently intervened as a defendant, alleges, *inter alia*, the existence of a private agreement between the Department and General Motors to use federal funds to underwrite the production of General Motors' RTS II—whose specifications no other manufacturer can meet—to the delay and exclusion of the production of the low-floor, ramped bus—whose specifications all three manufacturers can meet. This suit was brought against the background of 50 years of General Motors' dominance of the bus industry and a Department of Justice antitrust action against General Motors concluded by settlement in 1965. In early September the Department of Transportation was forced to agree to a court order rescinding its approval of grants to a consortium of five transit authorities for the purchase of 390 of General Motors' non-accessible and exclusionary RTS II buses.

On January 18, 1977, the first of the many earlier transit access cases to reach a Court of Appeals was decided by the Seventh Circuit. In that case, the *Lloyd* case, in which our national coalition participated as friends of the court, the Court of Appeals held that Section 5044 of the Rehabilitation Act of 1973⁸ imposes affirmative duties upon federal transportation officials and extends affirmative rights to all transportation handicapped elderly and disabled, which can be enforced in the courts. In particular the *Lloyd* Court held that Section 504 requires that mass transit be adapted to accommodate the mobile disabled and elderly and that "the provision of unnecessarily separate services is discriminatory." The Court of Appeals sent the case back to the district court "for reconsideration in light of Transbus developments."

Last month, the new Secretary of Transportation, Brock Adams, announced the reopening of Mr. Patricelli's decision to abandon the low-floor, ramped bus. Secretary Adams has undertaken to review the matter in each of its dimensions: assuring full accessibility for all mobile disabled and elderly people, making certain that the best bus is available to the American public, and supporting competition among the three bus producers and maintaining each of them healthily in the industry. Our organizations believe that carefully and correctly weighed against each of these objectives, a decision will be reached to require the use of the low-floor, ramped bus specifications as promptly as possible.

⁷ The specifications which Mr. Patricelli adopted at General Motors' urging last July 27 called for a floor height of 29 inches adjusted to 24 inches through the use of a kneeling feature and capable of being equipped with a wheelchair lift option. As more fully explained in Section III of our testimony, pp. 26-35, the low-floor bus specifications provide for an adjustable floor height of 15 inches which allows for effective use of a ramp which is usable not only by persons in wheelchairs but by nearly 13 million other mobile disabled and elderly people who experience difficulties negotiating steps. Amazing, the very same manufacturer which pressed the 29 inch floor height and wheelchair lifts to meet the accessibility mandate, has recently requested the Secretary of Transportation to delay the effective date for such designs until 1978. Letter dated Feb. 24, 1977 to Honorable Brock Adams, from Robert W. Truxell, General Manager and Vice President of General Motors.

⁸ Section 504 is copied verbatim from the Civil Rights Act of 1964, and like Title VI on grounds of race, directs that "no individual shall—by reason of his handicap—be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

Two weeks ago, the Department of Transportation held hearings at which our national coalition and Rohr and AM General informed Secretary Adams of the need for the prompt requirement of low-floor, ramped bus specifications for all new buses purchased with federal financial assistance. Interim procurement policies were announced the day before the hearing which the Secretary stated would not prejudice the prompt mandate of a low-floor bus with an access ramp. 42 Fed. Reg. 13817. A final decision is pledged by May 27.

The task now is to see that the Congress' existing mandate guaranteeing elderly and handicapped Americans equal access to public transportation is finally implemented. Your continued leadership and assistance as individual Representatives, as a Committee, and the Congress itself can guide the new Secretary's decision to the conclusion you have five times enacted so that the highest technology bus is a reality and urban mass transit is improved in all of this nation's cities.

II. THE LOW-FLOOR, RAMPED BUS AND THE BENEFITS TO THE DISABLED, THE ELDERLY AND ALL TRANSIT RIDERS

My name is Frank G. Bowe. I am Executive Director of the American Coalition of Citizens with Disabilities.

Buses are the dominant form of public transit in our nation's cities. Eighty percent of the vehicles used in urban mass transit are buses. Approximately 75 percent of the seven billion passengers who use mass transit each year use buses, for fifteen billion passenger miles of travel annually.⁹ From 42 percent to 52 percent of the people living in urban areas, exclusive of suburbs, reside within two blocks of public transportation.¹⁰ At least 60 percent of the urban elderly and handicapped population live within two blocks of public transit.¹¹

The impact of buses upon the quality of life of 13.3 million elderly and disabled Americans¹² who are handicapped by the long-standing high-floor, multiple step design of buses—even continued in the so-called advanced design buses—as well upon all present and potential transit users, justifies significant attention being given to improving this means of public transportation. For mobility—or the lack of it—is at the very heart of all our capacities to live independently and to participate fully in society.

In 1967, during the final years of the Johnson Administration, the National Academy of Engineering conducted an intensive panel study, in which all elements of the mass transit industry participated, to specify the design characteristics of a new generation of buses, the purpose: "to take the largest possible single step forward in bus technology and design within the existing state of the art." The National Academy concluded that the low-floor bus was "the most desirable means—within the existing state of the art—for improving bus transportation," rendering the bus "not only . . . easy and comfortable to use but . . . usable readily and without embarrassment by the physically and economically handicapped, the aged, the pregnant woman, the businessman, and the young adult."¹³

In the Transbus Research and Development Project, conducted with the three American manufacturers (General Motors, AM General, and Rohr) of full-size buses, the Department of Transportation expended \$27 million to design, develop, test and evaluate a low-floor bus. The final reports on the Transbus Project were released in April, 1976. The reports concluded that a low-floor, single step bus with a ramp which can be rapidly extended to provide easy boarding is technologically feasible and constitutes an improved, maximally accessible, attractive and cost-effective bus which can now be put into production.

The benefits of the low-floor bus—the page citations which follow are to U.S. DOT, "Transbus Operational, Passenger and Cost Impacts" (Booz-Allen Applied

⁹ American Public Transit Association, "Transit Fact Book," Tables 6, 12, and 13 (1975).

¹⁰ U.S. DOT, "An Inflationary Impact Statement of UMTA's Proposed Elderly and Handicapped Regulations" II-27 (Feb. 11, 1976).

¹¹ U.S. DOT, Transportation Systems Center, "The Handicapped and Elderly Market for Urban Mass Transit" II (1973).

¹² U.S. DOT, Transportation Systems Center, "The Handicapped and Elderly Market for Urban Mass Transit" 9 (1973). Of the 13.3 million transportation handicapped Americans, the Department estimates that 6.9 million are over age 65 and 6.4 million are disabled.

¹³ National Academy of Engineering, "Design and Performance Criteria for Improved Nonrail Urban Mass Transit Vehicles and Related Urban Transportation Systems," 32 (1968).

Research and Simpson & Curtin: Transbus Document TR 75-002, July 7, 1976—include:

- Boarding time halved (p. 32) ;
- Trip-time reduced 10 percent (p. 15) ;
- Revenue miles-per-driver's-wage dollar increased 5 percent (p. 16) ;
- Ride quality, e.g. temperature, noise and vibration—the latter two reduced by 70 percent—approaches that of passenger cars (pp. 29-31) ;
- Passenger, traffic and pedestrian accidents, and insurance costs, substantially reduced; boarding/alighting accidents by 20 percent; on-board accidents by 35 percent; traffic accidents costs by 25 percent total insurance costs by 20 percent (pp. 26-27) ;
- Ridership increased up to 10 percent (*exclusive* of the elderly and the handicapped) (pp. 43, 60) ;
- "Improvement for the elderly will be significant only on the low-floor design" (p. 60) ; "accessibility for the handicapped can only be achieved on a low floor at a reasonable additional cost and without introducing significant operational problems" (pp. 29, 60) ;
- Increased handicapped ridership alone will reduce operating deficits by 4 percent to 10 percent. U.S. DOT, Transportation Systems Center, An Inflationary Impact Statement of UMTA's Proposed Elderly and Handicapped Regulations 25 (March 4, 1976).

In addition to its benefits for the general ridership and to urban mass transit itself, the low-floor, ramped bus is accessible to 13.3 million disabled or elderly Americans who cannot negotiate steps. From time to time the last Urban Mass Transportation Administrator was wont, wrongly, to frame the accessibility issue as one of accommodating wheelchair users only. The low-floor bus provides access both to all wheelchair mobile persons and to an additional nearly 13 million elderly and handicapped persons whose disabilities range from arthritis, palsy, multiple sclerosis, muscular dystrophy to pregnancy, heart condition, and respiratory ailments which render access by steps impossible or prohibitively difficult, painful or risky.

The low floor is the key to all of these benefits—for they depend upon a low center of gravity and upon safe and easy ingress and egress by ramp or a single step, both of which require the low floor. The Transbus Project Reports compared the low-floor, ramped bus with the current "new look" bus and with the RTS II and found the RTS II significantly short in each of the benefit dimensions cited above.

The alteration of the RTS II floor height from 34" to 29" with a further 5" kneel adopted by the last Administrator upon General Motors suggestion at last May 5's hearings, but not effectuated, does not alter that benefits analysis. The difference between a riding height of 29" and 22" and between an effective entry floor height of 24" and 17" (or 15") is critical both for those benefits which depend upon center of gravity and those which depend upon ramping and a single low step. Only a low floor bus allows for effective use of a ramp (and for some a single step) to provide easy, safe and speedy boarding for elderly and handicapped passengers and for everyone else as well.¹⁴

Let us not underestimate the benefits of the low-floor, ramped bus to other riders. They are just as stark and profound.

The story is told of a large mid-western university which installed curb cuts throughout the campus. There was much discussion (and, in fact, a serious survey was made and published) about why. The maintenance crew said it was so that they could move heavy equipment easily. Students said it was so that they could bicycle freely. Junior faculty said it was so that they could push baby carriages. Jocks said it was so that they could jog. It is a fact, though not always readily recognized, that whatever improves the world and makes it functional for the disabled and the elderly improves the world for everybody else too. That fact is vividly confirmed by the low-floor, ramped bus.

In 1975, during the testing of the Transbus prototypes in revenue service in four cities (Seattle, New York, Miami and Kansas City) and in showcase visits to three other cities (Atlanta, Washington and Philadelphia) 11,000 riders and

¹⁴In addition to the Department's own reports, see the following memoranda from within the Department which conclude for the low-floor, ramped bus: Memorandum dated Apr. 18, 1975 on "APTA 'Transbus Concern' Letter Dated Mar. 18, 1975—Issues and Answers"; Memorandum dated Jan. 30, 1976 from Associate Administrator for Research Development, George J. Pastor to Administrator, Robert E. Patricelli on "High Floor or Low Floor vs. High Floor with Low Steps in Buses"; Memorandum dated June 22, 1976 from Associate Administrator for Transit Assistance, Jerome C. Premo to Administrator Robert E. Patricelli on "Transbus Policy Statement."

potential riders were surveyed. They were asked to indicate their satisfaction and preference for 31 major bus features of the Transbus. Of all the items investigated, including body design and overall appearance, the low-floor with its ease of entry and egress consistently received the greatest positive response and was ranked as the most valued of the 31 features.¹⁵ On a scale of 100, the single seven inch interior front step and the ease of getting on and off scored 92 percent and 88 percent respectively.¹⁶ The comfort and ease of ingress and egress and of the ride itself all depend upon the low floor. And so do the derivative transit system benefits: trip time reductions up to 10 percent; improved service dependability and driver productivity; safety and insurance cost reductions of 20 percent; and projected increases in ridership of up to 10 percent, exclusive of the elderly and the disabled.¹⁷

On the Department of Transportation's studies, the capital cost of the low-floor, ramped bus is expected to be 12.5 percent more than the current new look bus—on a base average price during the last full year of competitive bidding of \$66,000.¹⁸ The increased cost of the RTS II was expected to be 5.5 percent. The single bid on the Houston consortium's RTS II averaged at \$88,000, a price which shocked the last UMTA Administrator.

The expected real cost increase for the low-floor bus is well within the bounds, given the benefits of the low floor, and may be expected to actually come within those bounds if price competition is recreated and maintained in the industry. While workloads will shift as they would with any truly new and improved bus, maintenance and repair costs remain constant on a unit basis.¹⁹ By a wide margin the low-floor, ramped bus accessibility for all fixed route transit buses is less costly than substitute separate systems. The latter would cost 3 to 5 times more than fully accessible fixed routes by the Department of Transportation's calculations,²⁰ and 14 to 21 times more by APTA's calculation which shows separate systems costing \$1,750,000,000 annually.²¹

The net cost-benefits of the low-floor, ramped bus were quantified by the Department of Transportation only in terms of return to employment by handicapped persons who can secure jobs when public transit is accessible.

Although 86% of the disabled people of labor force age (17-65) have the ability to work, the labor force participation rate for disabled is only 44% compared to 65% for the general population.²² Access to transportation is a necessary condition for employment for all disabled persons. Urban mass transit routes are laid out, of course, to maximize coverage of job destinations, and 60% of the urban disabled live within two blocks of transit routes. For some 13% of the disabled population (or over a million seven hundred thousand), inaccessible transportation is the major factor in their unemployment.²³

The employment of disabled adults resulting from accessible public mass transportation would significantly increase their standard of living and produce a substantial net economic benefit. The average annual net income for employed disabled adults is \$8,000 (1976 price levels), more than double the estimated average combined payment of \$3,000 per year in federal and state income subsidies received by the unemployed disabled individual.²⁴ In addition, the reduction of governmental income support payments and generation of federal and state income taxes resulting from the disabled adults finding jobs would create

¹⁵ U.S. DOT, "Analysis of Low Floors for Transit Buses, Executive Summary" (January 1976). U.S. DOT, "Transbus Operational, Passenger, and Cost Impacts" 62 (Booz-Allen Applied Research and Simpson & Curtin: Transbus Document TR 75-002, July 27, 1976).

¹⁶ Simpson & Curtin, "Transbus Public Testing and Evaluation Program, Final Report" Table 7 (January 1976).

¹⁷ U.S. DOT, "Transbus Operational, Passenger, and Cost Impacts" 42-44, 58-62 (Booz-Allen Applied Research and Simpson & Curtin: Transbus Document TR 75-002, July 7, 1976).

¹⁸ U.S. DOT, "Transbus Operational, Passenger, and Cost Impacts" 54 (Booz-Allen Applied Research and Simpson & Curtin: Transbus Document TR 75-002, July 7, 1976).

¹⁹ U.S. DOT, "Transbus Operational, Passenger, and Cost Impacts" 54 (Booz-Allen Applied Research and Simpson & Curtin: Transbus Document TR 75-002, July 7, 1976).

²⁰ U.S. DOT, Transportation Systems Center, "An Inflationary Impact Statement of UMTA's Proposed Elderly and Handicapped Regulations" 19-23, 32-33 (Mar. 4, 1976).

²¹ APTA, "Costs of Implementing Regulations on Elderly and Handicapped Transportation Services," 8 (Jan. 16, 1976).

²² U.S. DOT, Transportation Systems Center, "An Inflationary Impact Statement of the Urban Mass Transportation Administration's Proposed Elderly and Handicapped Regulations" 40-43 (Mar. 4, 1976).

²³ U.S. DOT, Transportation Systems Center, "An Inflationary Impact Statement of the Urban Mass Transportation Administration's Proposed Elderly and Handicapped Regulations," 40-43 (Mar. 4, 1976); ABT Associates, "Travel Barriers, Transportation of the Handicapped" 23-24 (U.S. DOT, Office of Economic and Systems Analysis, August 1969).

²⁴ U.S. DOT, Transportation Systems Center, "An Inflationary Impact Statement of the Urban Mass Transportation Administration's Proposed Elderly and Handicapped Regulations" 52-55 (Mar. 4, 1976).

a net economic benefit of \$300 million to \$500 million annually for every 100,000 disabled individuals who join the ranks of the employed.²⁵

These economic benefits alone, conservatively based on the employment of only 100,000 of the employable disabled, yield a favorable benefit-cost ratio on the low-floor, ramped bus of 2:1 to 7:1.²⁶ In the event, given Congressional requirement in Section 503 of the Rehabilitation Act of 1973, that all federal contractors take affirmative action to employ handicapped people, greater benefits—even counting just employment—may be expected.

In addition to the quantified employment benefits there are many benefits to disabled people from the low-floor, ramped bus that were not quantified and many others which may not be quantifiable, but are nonetheless important. Volumes of studies, including the recent Comprehensive Service Needs Study conducted for the Department of Health, Education, and Welfare by the Urban Institute pursuant to Section 130 of the Rehabilitation Act of 1973 and numerous reports of the President's Committee on Employment of the Handicapped show dramatically, and our own experience confirms, that accessible transit is vital to our independence. From another perspective, those studies show that the purposes of many governmental programs and the effectiveness of such spending are frustrated by the inaccessibility of public transit. Vocational rehabilitation, public education, employment and medical services are designed to undergird independent and productive living by disabled citizens. Where those programs are effective in their own terms, very often an independent and productive life is estopped by the inability, because of the design of transit, to travel about freely or at all.

We can all think of the many services the aged need and society provides, many costing little money, but unless the elderly have a way to get to them these benefits are lost. If the elderly are kept prisoners in their own homes, physical and mental deterioration are rapid and their need for health services increases.

As the Department of Transportation's impact report shows, there would be social benefits (as well as economic benefits) from extending to disabled and elderly persons the equal opportunity to work, study, to participate in recreational activities, and from the increased contribution to community activities of disabled and elderly.²⁷ Increased mobility would provide the opportunity for integrated socialization—socialization absolutely necessary for a health self-image and ability to perform.

Both from an economic and a social point of view, the answer has to be the low-floor, ramped bus. Statements advising that the highest technology, highest benefit leads us to a bus floor no higher than 30 inches or that the so-called advanced design bus would be a step in the right direction—meaning a gradual phasing in of the more modern, technologically superior, low-floor, ramped bus—are simply wrong. The technology and the benefits, by any sensible and decent reading which values better urban mass transit in the United States leads us to the low-floor, ramped bus. As the final report of the Transbus Research and Development Project concluded:

"The benefits of Transbus over Interim bus and current production buses are rider-oriented. This offers the potential for patronage improvements and greater support from local political organizations responsible for transit funding. Specific benefits are related to passenger safety, accommodation of the elderly [and the mobile disabled] and service dependability. . . . Transbus with the low floor will have the greatest impact for achieving a lasting impact on the public."²⁸

III. THE MAXIMALLY ACCESSIBLE BUS GIVEN THE STATE OF THE ART

My name is Ralf D. Hotchkiss. I am Director of the Center for Concerned Engineering. I am a member of the Boards of Disability Rights Center, the National Paraplegia Foundation, and founding board of the American Coalition of Citizens with Disabilities, Inc. For eight years I apprenticed in an engineering training program at Woodward Governor Company, Rockford, Illinois, co-authored "What to Do With Your Bad Car" (with R. Nader 1971), "Small on Safety"

²⁵ U.S. DOT, Transportation Systems Center, "An Inflationary Impact Statement of the Urban Mass Transportation Administration's Proposed Elderly and Handicapped Regulations" 56-57 (Mar. 4, 1976).

²⁶ U.S. DOT, Transportation Systems Center, "An Inflationary Impact Statement of the Urban Mass Transportation Administration's Proposed Elderly and Handicapped Regulations" 19-23 (Mar. 4, 1976).

²⁷ U.S. DOT, Transportation Systems Center, "An Inflationary Impact Statement of the Urban Mass Transportation Administration's Proposed Elderly and Handicapped Regulations" 50-52 (Mar. 4, 1976).

²⁸ U.S. DOT, "Transbus Operational, Passenger, and Cost Impacts" 61-62 (Booz-Allen Applied Research and Simpson & Curtin: Transbus Document TR 75-002, July 7, 1976).

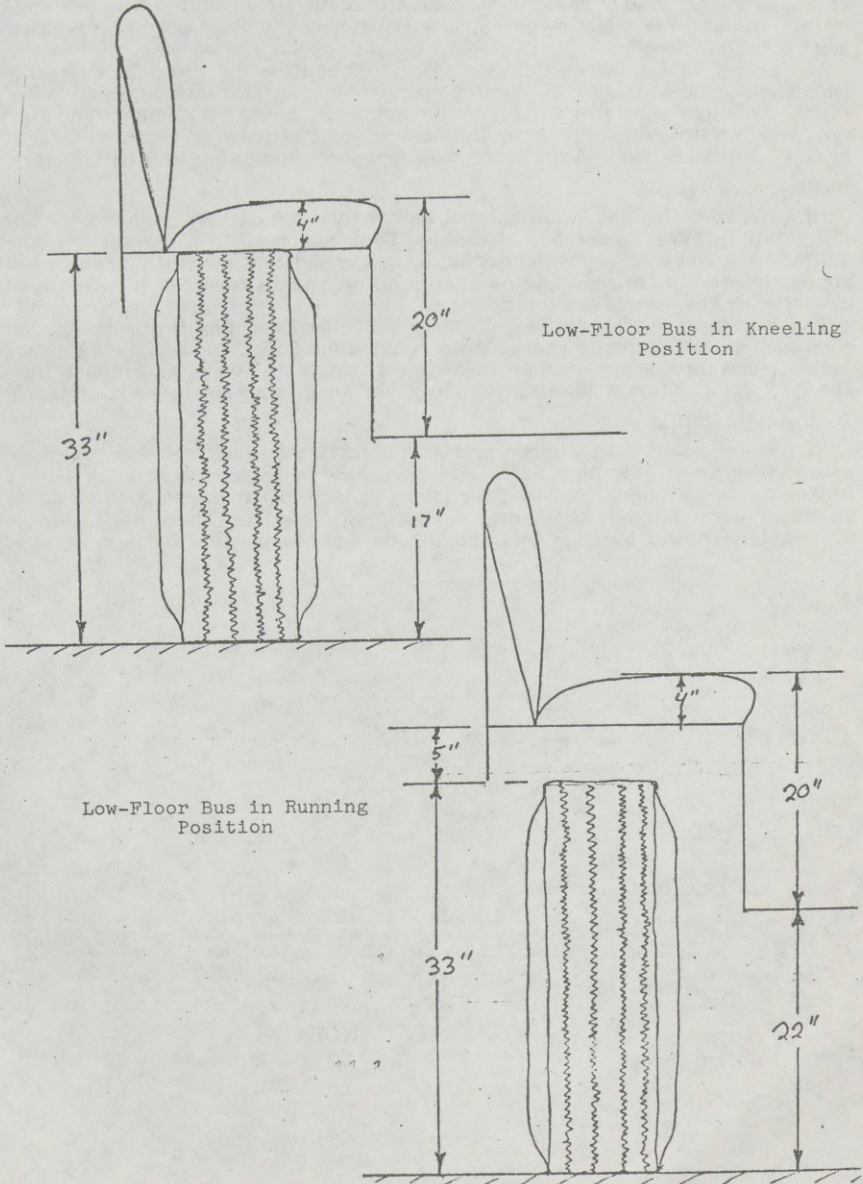
(with Center for Auto Safety), and "The Low Cost Housing Hoax" (Mobile Homes) (with Center for Auto Safety).

A. Floor Height

A 22-inch bus floor height is available within the present state of the art. The major factor in determining bus floor height is the diameter of the front wheels. The smaller the front wheels are the lower the floor can be.

The smallest wheel available that will support the front end of a full size city bus has an outside diameter of 33 inches. It is the J50C-16.5 or equivalent which will support the over 6000 pound weight exerted by a fully loaded bus.

When the bus is moving about 5 inches clearance is needed above the wheel to allow it to bump up and down over rough spots. When the bus is stationary it can be lowered or "kneeled" until the wheel well sits on the top of the wheel. This lowers the entire bus by about 5 inches. (See illustration.)



In order to maximize the number of seats on the bus a seat is placed on the wheel well. The seat and the wheel well add another 4 inches to the 33 inch length of the wheel when the bus is in a kneeling position. The seat is thus 37 inches off the ground when the bus is kneeling. The distance from the seat to the floor can be no greater than 20 inches to insure passenger safety and comfort. This leaves 17 inches from the kneeled floor height to the ground.

When the bus returns from its kneeled position to its traveling position, the distance from the floor to the ground increases to 22 inches.

B. Tires

There is no doubt that 33 inch tires which can carry a load of over 6000 pounds are within the state of the art. These are, I understand, available in Europe—the 275/70 R 17.5 low cross-section tires manufactured by Phoenix Gummiwerke AG have a 33 inch diameter and an adequate load capacity. It is thus clear that the present unavailability of this tire from U.S. manufacturers can be explained by the lack of demand. There is no reason that the tires could not be available in time to meet any effective date of the Department of Transportation requirement for a low-floor bus.

In June of 1976 General Motors told this Committee that “serious tire problems have occurred in just the limited operation of the Transbus vehicles—all of which use these very small diameter experimental tires.” We understand that the early failures which did occur were due to specific tire defects. These defects, in fact, were corrected and the subsequent tire performance has been satisfactory.

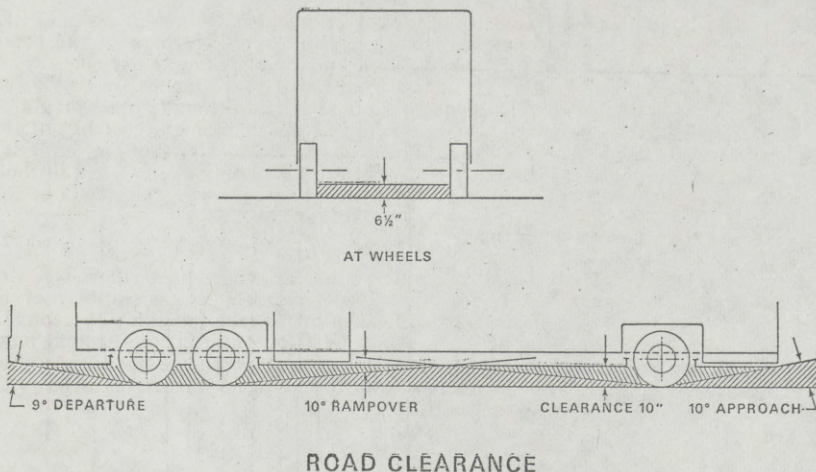
C. Clearance

In June 1976 General Motors stated before this Committee: “A low floor bus can result in lower underbody clearance. Thus compared to a current bus configuration, a bus with a low floor could be less capable of negotiating ramps and approaches to hills in some parts of the country.” APTA also has raised ground clearance as an obstacle to a low floor bus.

The low floor bus as built to Transbus specifications has the same ground clearance as the current General Motors and Rohr buses. Indeed, the Transbus ground clearance is higher than the current AM General bus and higher than the RTS II. A diagram showing the low floor bus ground clearance is attached.

D. Maintainability

APTA has raised maintenance problems occurring in the Transbus prototype as an objection to low floor buses. The Transbus prototypes were put together to test the operation of the low floor bus, and were never intended to be maintained by normal repair shops over a long period of time. There are no insurmountable technical barriers to arranging the bus components for easy service.



APTA has also opposed a mandated low-floor bus with the objection that the equipment was less than proven and unreliable. At the same time, APTA recommends that the Advanced Design Bus should have studies made of its operational experience and plans be formulated as to the practicality of conducting a developmental program regarding whatever suspension system, tires, power train or other elements need refinement. APTA has taken the confusing position that studies of the Advanced Design Bus will lead to the development of an adequately tested low-floor bus. We hope you understand better than APTA that the low-floor and the RTS II are basically different bus designs.

Following is a copy of a 1968 advertisement by General Motors showing a photograph of their operating prototype of the RTS. At that time General Motors described the low floor bus as "the shape of things to come." There is no valid technical reason for General Motors' present opposition to the low floor bus.

NEW STYLING WITH A "FIRST CLASS" LOOK

JET-SMOOTH TURBINE POWER

It's the RTX (Rapid Transit Experimental) . . . GMC Truck & Coach Division's exciting new test vehicle . . . the most beautifully styled motor coach ever put on wheels.

It shows the shape of things to come. Its handsome styling upgrades yesterday's bus "image" to a new level. For the passenger it's a dream. Would you believe it can "kneel"? Lowering its height so you can get aboard more easily?

Note the extra large windows. They give the rider visual projection . . . a feeling of spaciousness.

The passenger floor is 12" lower than current models, saving one deep step up and down.

There are new ideas in seating—a lounge type arrangement for more privacy—and 60 cubic feet per passenger just like first class air travel! There are padded vinyl effects. And pile carpeting yet.

Exterior and interior illumination is boldly innovative with triple headlights, variable-level fluorescent interior lights and under-seat lamps to brighten the aisles.

RTX is innovative in construction. Designed in 5-foot lengths, it can be scaled down to 35, 30 or even 25 feet by taking out sections.

RTX demonstrates GMC leadership in bus design, an example of imaginative GMC development programs. RTX is rapid transit *with route flexibility*—on smooth-running, quiet rubber tires.

E. Maximum Access

Given that 22 inches is currently the lowest practical floor height, I would like to describe the best method of accommodating the largest segment of the population at the lowest cost and in the safest and most efficient way possible.

The basic bus floor height of 22 inches is dropped to 17 inches by the kneeling feature. The entranceway can be dropped about an additional 2 inches through the use of special tricks such as a gentle ramp in the floor near the front of the bus. To provide maximum access for the disabled and elderly, then, an effective floor height of 15 inches is possible. General Motors is simply dead wrong in their assertion that a 29 inch floor height would in any way serve the needs of the elderly and handicapped.

F. Ramp Entry

Ramp slopes must be gentle, or at a low angle, for wheelchair riders to enter or exist a bus independently. If the angle becomes steeper, assistance may be needed. The slope at which assistance is needed varies from person to person, although generalizations can be made. A study by RRC International found most wheelchair riders to have difficulty over a 10 degree slope and to need assistance over 14 degrees. A slope over 18 degrees was found to be hazardous even with assistance. (See chart.)

RAMP SLOPES For 22" Floor Bus w/20" Vestibule $\Rightarrow$ 15" KNEELING HEIGHT

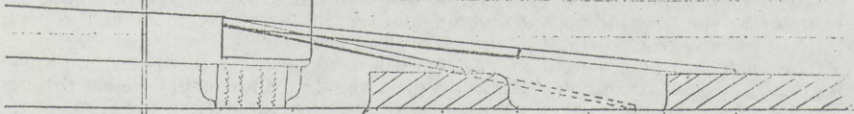
Ramp Length	Slope To 6" CURB			Slope To STREET LEVEL		
	Rise	% Rise	Angle	Rise	% Rise	Angle
4 Feet	1 in 4.8	21%	11.8°	1 in 3.2	31.2%	17.4°
5 Feet	1 in 6	16.6%	9.4°	1 in 4	25 %	14°
6 Feet Single Telescoping	1 in 8	12.5%	7.2°	1 in 4.8	21 %	11.8°
7 Feet	1 in 9.3	10.7%	6.1°	1 in 5.6	17.8 %	10.1°

Slope Usability: RRC EVALUATION, October, 1976

0-10° Upper Limit of Unassisted Entry Without Difficulty. Limited By Upper Torso Impairment AND Strength.

10°-14° Upper Limit of Unassisted Entry With Difficulty. Assistance Required Often On Exit.

14°-22° Not Negotiable Without Assistance. Hazardous Even With Assistance Above 18° Due To Loss Of Control.



Seven Foot Telescoping Ramp

A 5 foot ramp extending from a 15 inch high entranceway to a 6 inch high curb would slope 9.4 degrees, assuming the roadway to be level. If there were no curb, the slope would increase to 14 degrees. The 14 degree slope is reasonably safe, though many wheelchair riders would require assistance. Shortening the ramp to 4 feet would bring the slope at street level dangerously close to the 18 degree danger level.

While a 4 foot ramp could be fit under the entranceway floor when not in use, a ramp longer than 4 feet would require some special means of extension, such as telescoping. Once telescoping has been introduced, it is possible to extend the ramp length even further. At seven feet, for example, the slope to ground level would be close to 10 degrees.

The telescoping ramp could be controlled by the driver to adjust to different boarding situations. While a short ramp extension could be used for normal curbs, the long ramp would be available for street level entry and to span the gap when the bus is unable to pull up to the curb.

A handrail can be included as part of the ramp mechanism. This would enable ambulatory disabled and the elderly who would need the handrail for safety to board the bus more readily. The handrail would enable those who cannot manage steps at all to board the bus as well. While exact figures are not available, this group makes up a significant portion of the disabled population.

Another benefit of the ramp is that it can be used by the general public, and can shorten boarding time. In the tests with the Transbus prototypes, boarding times were significantly reduced because the buses had fewer stairs. A switch to ramps reduces the number of stairs to zero, and thus further shortens boarding time. When a wheelchair passenger is followed on the ramp by several walking passengers the time lost in deployment then can be made up by faster overall boarding time.

G. Step size

Extensive research into the dynamics of climbing and descending stairs has shown that a maximum riser height of 7 inches and a minimum tread depth of 11 inches are optimal for safety. Risers over seven inches were found to cause more stumbling while the test subjects were descending stairs than ascending. Fitch, Templer, and Corcoran, "The Dimensions of Stairs," *Scientific American*, October, 1974, pp. 82-90.

With an effective floor height of 15 inches in the front, a low floor bus can have an initial step of 2 inches from a 6 inch curb followed by a single 7 inch step inside the bus. The first step would be 8 inches up from street level.

Because the low floor bus has only one inside step, the tread depth can be wide enough to insure safety.

The high floor bus has none of these advantages; it must instead have multiple inside stairs which are higher and shallower. Entry and exit are thereby made slower and more dangerous. The vestibule in the high floor bus is smaller and thus more crowded during peak use.

The high floor bus can only afford wheelchair access with a lift rather than a ramp. The lift can accommodate only one wheelchair rider at a time and takes more deployment time than a ramp. None of the other passengers can use that entrance while the lift is in use.

In addition the lift is much more expensive to purchase and maintain and is dependent on electric or hydraulic equipment for its operation. The ramp can be operated manually in case of a breakdown in the automatic system, while the lift cannot.

It is my conclusion that the Congressional mandate for city bus systems to be accessible to virtually all of society is fully attainable within the state of the art. An immediate Department of Transportation requirement for a 22 inch floor height would be the most cost effective way of meeting this goal fast enough to satisfy the pressing need of the disabled and elderly who are presently excluded from public bus transit.

IV. SPECIAL SERVICES

My name is Richard W. Hedding. I am a member of the National Capitol Area Chapter of the National Paraplegia Foundation.

As a plaintiff in the first successful accessibility suit which resulted in the barrier-free design of the METRO system, I find it hard to understand why bus systems should not also be rendered totally accessible. Being a frequent user of the METRO system, I find it embarrassing and degrading when travelling with colleagues to have to leave a METRO station and then hail a cab to complete the rest of my trip to my office or a museum, when my friends can hop into a bus.

Separate specialized services cannot substitute for the full accessibility of all urban transit vehicles travelling the general transit routes in the cities of America. It is a matter both of principle and of pragmatics. The notion of separate but equal services for any segment of American society is repugnant. Our form of government categorically rejects separate but equal. The legislative history shows that precisely these concepts of dignity and justice were at the center of the Congressional mandate of full accessibility of all vehicles on all fixed routes.

The pragmatics, as always, require a lengthier articulation, but just as clearly they show that separate specialized services cannot substitute for full route

accessibility. An illustration may tell the tale. There are 5,000 to 10,000 persons who use wheelchairs living in the metropolitan area served by WMATA. Suppose only 20 percent were employed and each called dial-a-ride the appropriate time in advance for a ride to work between 7 a.m. and 8 a.m. A prohibitive number of special vehicles, at prohibitive cost, would have to be available within that one hour to transport these 1,000 to 2,000 workers to and from such diverse locations as Bowie, Maryland, and Fairfax, Virginia to downtown Washington.

On the other hand, WMATA has over a thousand buses on the road during commuter time. If they are low-floor, ramped buses, these people could all get to work on time in the ordinary course, and cost of the transit operation, and with the pleasure of travelling the city with strangers, neighbors, destination cohorts or merely a newspaper. Frank Bowe has recited the comparative costs of separate specialized services sufficient to substitute for accessible fixed routes. Separate substitute services cost 3 to 5 times more, according to the Department of Transportation's Inflationary Impact Statements and 14 to 21 times more, according to APTA's calculations. As the most recent Congressional address of the question, by the Senate Banking, Housing, and Urban Affairs Committee, puts it:

"While your Committee has received conflicting estimates of the capital cost of fleetwide accessibility, and operating costs, information provided by Los Angeles, Seattle, and San Francisco indicates that the additional amount of money needed to purchase accessible buses is nominal compared to the high cost of purchasing and operating an equitable alternative transportation system."

The same judgments about cost, along with the matter of dignity and justice, lies at the heart of Congress' rejection of separate substitute services, consistently and persistently, since the first expression of the full accessibility mandate in 1970.

There is still another pragmatic reason why separate substitute services must be rejected. And it partakes of principle as well. One of the reasons why separate but equal is inherently unequal is because it is unstable. The same unhappy human and societal instinct which since Plato causes a society to separate out those who are regarded as different and somehow inferior also makes it unlikely that separate but equal facilities and services will really be equal. They are more likely to be bargain basement services, masked to seem equal. Further even if the facilities and services are in fact equal, when the crunch comes on budgets, for example, they will be the first to go. Both points are perfectly visible in the every day world today. Separate services are created, or partly created, and then they disappear—virtually every day. Accessibility which is an integral part of a general use system, however, will not disappear, because the general system will not disappear.

Further, separate systems are totally impractical for persons with temporary or transient travel needs. For example, if I were to visit Denver, Chicago, or Los Angeles, I may very well be ready to return home before I have obtained information about the nature of a special services in these cities, established eligibility, and bided my time on a waiting or advanced reservations list.

As the Seventh Circuit Court of Appeals held in *Lloyd* "unnecessarily separate services are discriminatory" and prohibited by Section 504.

There is, of course, a place for specialized transportation services, and a very important place, not as a substitute for universal fixed route accessibility but rather in non-urban communities where there is no mass transit, as feeder links to accessible fixed routes in urban areas and for disabled and elderly people who are non-mobile. And that, exactly, is the place given to specialized services for the elderly and disabled in the statutory scheme. Section 16(b)(2) of the Urban Mass Transportation Act provides for grants to support private non-profit groups and associations in providing transportation to elderly and handicapped persons where general mass transit is "unavailable, insufficient, or inappropriate." General mass transit is "unavailable" in non-urban areas where there is no mass transit. General mass transit is "insufficient" in urban areas where the fixed route coverage leaves distances between routes that need to be bridged by feeder lines for people who live too far from the fixed routes. General mass transit is "inappropriate" for people who are non-mobile and thus could not use accessible routes in any event.

Specialized services are sensible and very important in such circumstances. However, specialized services cannot, under the statutory scheme, be a substitute for fully accessible fixed routes nor can they continue to be invoked to delay, impede or blunt the full accessibility mandate.

II. AFFIRMING THE ACCESSIBILITY MANDATE

My name is Robert F. Conklin. I represent the National Congress of Organizations of the Physically Handicapped and the National Association of the Physically Handicapped.

We are very pleased and encouraged that each time the Congress has enacted bills authorizing the expenditure of federal funds for the purchase of buses and other mass transit equipment, it has directed that they be planned and designed so that we disabled and elderly citizens can have equal access to public transportation.

Beginning with the Urban Mass Transportation Assistance Act of 1970, the first large scale mass transit grant program, through the Federal-Aid Highway Act of 1973 and the 1974 Amendments thereto, authorizing the application of federal highway funds to mass transit projects, and continuing up to the National Mass Transportation Assistance Act of 1975 and Section 504 of the Rehabilitation Act, you have mandated that our needs be met.

This Congress now has before it bills to extend the urban mass transit program—the National Mass Transportation Assistance Act of 1977. We are gratified to see five provisions being introduced along with the new authorization bill that seek to address the matters which we have testified to today—namely, that your existing mandate assuring us equal access to public transportation finally be made effective through the issuance of the low-floor, ramped bus specifications.

Before turning to the specific bills which are now before this Committee, we would like to merely say that if we were asked today to draft a bill, we would state "issue the low-floor, ramped bus specifications, immediately." But whatever the final language reported by your Committee, whether it be "issue the low-floor, ramped bus specifications, immediately," or an operational standard directing the Secretary of Transportation to issue specifications which will "assure all mobile disabled and elderly people effective use of buses, trains, and trolleys, it is essential that you affirm the accessibility mandate. As Sieglinde Shapiro set out in opening our testimony, the Department of Transportation officials have always understood your accessibility mandate, as reflected in their own contemporaneous reading of the statutes, to require that all federally financed public transit be as fully accessible to the mobile disabled and elderly as technology will allow. Affirming that mandate now, will leave no doubt with the new administration regarding the Congress' commitment to the realization of our rights.

As for the five bills introduced before your Committee:

H.R. 199.—We support H.R. 199 and endorse it unreservedly. This bill would require every bus, vehicle, and facility financed under the urban mass transit program to be accessible to mobile disabled and elderly people.

H.R. 1245.—We approve of H.R. 1245 which provides that all federally assisted public mass transit facilities, equipment, and services be adapted to accommodate the needs of elderly and handicapped persons, as held by the Seventh Circuit Court of Appeals in *Lloyd v. Regional Transit Authority*. If we might add, the accessibility requirement of H.R. 1245 is not properly considered a requirement of "special programs" but rather one of "programs as special as those provided to non-handicapped persons." The range of individual differences already accommodated by governmental programs is most often greater than the additional range necessary to include the handicapped. In transportation, for example, the width of doors and seats, and the height of steps and floors have been set to accommodate a very great range of difference among users, in height and girth. The range of individual difference already accommodated by such design is greater than the additional range that would be accommodated by facilities which do not exclude the handicapped. Programs like transportation regularly accommodate individual difference. Requiring these regular programs to accommodate additional differences does not change them into "special programs" but rather into regular programs which are not discriminatory.

H.R. 3029.—We can neither endorse nor approve of H.R. 3029 for the very reason that although it directs the Secretary of Transportation to issue specifications for a fully accessible bus, it provides for so many exceptions such as the nature of the vehicle, its proposed use, and commercial availability, that the provisos may very well result in delaying or impeding the issuance of the low-floor, ramped bus specifications.

H.R. 4821.—We do not support H.R. 4821 because it provides for an accessibility standard addressed to only persons who use wheelchairs and would permit separate systems to be created when the requirements of wheelchair users, as well as nearly 13 million other disabled and elderly Americans who do not rely on wheelchairs but nonetheless have difficulty climbing steps, could be accommodated through the low-floor, ramped bus. We are most concerned that some officials might view H.R. 4821 as a Congressional endorsement of separate systems, an option that has rightfully been rejected in the past, and necessitate further litigation in the courts.

H.R. 5010.—We can neither endorse nor approve of H.R. 5010 since it speaks in terms of percentages of bus fleets being accessible to the elderly and handicapped. Apart from this requirement being inconsistent with your existing mandate, we feel that it ignores the realities of the marketplace. The three bus manufacturers have repeatedly stated that they will produce only one design bus and for very good reason. The demand for new buses is so small—5000 buses per year—that it does not allow the three manufacturers to invest in the production of more than a single design bus, either the low-floor, ramped bus or a nonaccessible bus. If price competition is to be maintained in the industry, as well as the public assured the highest technology bus, the government which pays for 80 percent of the cost of the bus should set the standard for the single design bus by issuing the low-floor, ramped bus specifications.

While we urge you to adopt the provisions of H.R. 199 and H.R. 1245 or to act on our initial recommendation and just say "issue the low-floor, ramped bus specifications, immediately," our hope is that, in any event, the new Secretary of Transportation sees to it that your accessibility mandate is effectively implemented, finally, by promptly issuing the low-floor, ramped bus specifications by May 27, as pledged.

We ask your continued, renewed, and faithful assistance, as individual Representatives, as a Committee, and as the Congress, in guiding the new Secretary's decision on effectuation of the mandate you have five times repeated.

Mr. HOWARD. We wish to welcome you to this subcommittee.

TESTIMONY OF RICHARD HEDDINGER, NATIONAL CAPITOL AREA CHAPTER, NATIONAL PARAPLEGIC FOUNDATION, ACCOMPANIED BY SIEGLINDE A. SHAPIRO, PRESIDENT DISABLED IN ACTION OF PENNSYLVANIA, INC.; FRANK G. BOWE, EXECUTIVE DIRECTOR, AMERICAN COALITION OF CITIZENS WITH DISABILITIES; RALF D. HOTCHKISS, DIRECTOR, CENTER FOR CONCERNED ENGINEERING; ROBERT F. CONKLIN, NATIONAL CONGRESS OF ORGANIZATIONS OF THE PHYSICALLY HANDICAPPED AND NATIONAL ASSOCIATION OF PHYSICALLY HANDICAPPED; AND JAMES J. RAGGIO, ESQ., REPRESENTING PUBLIC INTEREST LAW CENTER OF PHILADELPHIA; AND RICHARD A. KIELEY, LEGISLATIVE AIDE TO HON. DOUGLAS WALGREN OF THE STATE OF PENNSYLVANIA

Mrs. SHAPIRO. If I might introduce myself, I am Sieglinde Shapiro, better known as Siggie, and I will start out with a brief history of what we feel is the accessibility mandate and then what we have done, which we think will be helpful, is to break down the question of equal access to mass transportation into various aspects. Why the low-floor, ramped buses is best for everyone, the state of the art, the question of special services which you have heard a lot up to date about and affirming this mandate.

So as stated in our statement, and I will try to summarize, we are here representing 5.5 million handicapped and elderly people.

We are plaintiffs in *Disabled in Action, et al. v. Coleman, et al.*, and amicus curiae in *Lloyd, et al., v. Regional Transportation Authority, et al., 7th Circuit and United Handicapped Federation v. Andre*, 8th Circuit and other related cases seeking to enforce the repeated mandate of the U.S. Congress requiring that all federally financed public transit, and buses in particular, be as fully accessible to the mobile disabled and elderly as the state of the art will allow.

In our statement we have a history of the five times that this was mandated, section 16 of the Urban Mass Transportation Act of 1970, all the way through to section 504 of the Rehabilitation Act.

You may see some of us wearing rather large 504 buttons today and that is because we feel this is our Civil Rights Act and was cited here in our argument for accessible transportation.

Section 504 of the Rehabilitation Act of 1973 adopted verbatim the provisions of title VI of the Civil Rights Act of 1974 and applied to handicapped people its prohibitions of exclusion, denial of benefits and discrimination and that is what we are all about. The history of the statute is explicit that Congress has rejected separate transit systems for mobile disabled and elderly people both because they are more expensive and because they would further segregate the elderly and disabled from society.

The Department of Transportation has always understood what the Congress' accessibility mandate requires and that is that every bus, rail car, and station supported with Federal funds be made as fully accessible as technology will allow.

Acting General Counsel J. Thomas Tidd said, and I will just quote a couple of sentences here that:

Universality was intended. That a paraplegic, for example, who, although confined to a wheelchair nevertheless has the intelligence and independence to effectively function in most day-to-day activities.

Just to cite a couple of cost-benefit analyses, DOT did a study which said that separate systems would cost three to five times more than making all buses accessible and APTA themselves did a study which says that it would cost 10 to 25 times more than the annual cost of replacing the Nation's bus fleet with fully accessible low-floor ramp buses.

In affidavits submitted under oath to eight courts between March of 1975 and May of 1976, then Urban Mass Transit Administrators Frank C. Herringer and Robert E. Patricelli stated:

UMTA will develop and promulgate by regulation a standard specification for use by its grantees in transit bus procurement which will provide to elderly and physically handicapped persons mass transportation which they can effectively use.

Recently testifying before Judge Richey, former Administrator Herringer again confirmed that, according to the law:

We were to do everything feasible to provide total accessibility to the elderly and handicapped.

Five times repeated by the Congress and perfectly well understood by the Department of Transportation, the accessibility mandate is yet to be effectively implemented. The technology now exists to finally carry out the accessibility mandate. The Transbus program now makes available a low-floor ramp bus which would be accessible to

over 13 million elderly and handicapped Americans whose disabilities range from arthritis, palsy, multiple sclerosis, and muscular dystrophy to such things as pregnancy, heart condition, and respiratory ailments which render access by steps impossible or prohibitively difficult, painful, or risky.

At hearings before the Department of Transportation on May 5, and as recently as 15 days ago at the Transbus hearings, Rohr and AM General, manufacturers of buses, said that ramped buses could be rolling off the production lines by 1979 given effective action by the Department.

Mr. HOWARD. Could I interrupt you there for questions just as we go through? We do not want to delay it but we do have the statement of accessibility to the degree to which technology permits.

Mrs. SHAPIRO. Right.

Mr. HOWARD. We have heard testimony that on the low floor of the Transbus, the 17-inch bus, there would be additional expense for the kind of transmission needed, which has not yet been developed, and for development of the size tires which would be strong enough for that kind of a bus. I am just wondering whether that puts a snag in the existing technology thing?

Do you agree that this is still a problem, because if it is true, then we cannot assume that the Transbus can be in operation until they get through whatever technology they need to be able to provide the kind of tires that will work on it.

Mrs. SHAPIRO. It is an argument that we have heard very often and I would like to refer that to our technical expert Ralf Hotchkiss.

Mr. HOTCHKISS. It is not a problem.

Mr. HOWARD. You are saying that they do have the tires, that they make them?

Mr. HOTCHKISS. Absolutely.

Mr. HOWARD. I wonder why they would say they do not have them.

Mr. HOTCHKISS. It is kind of funny where they would pick them—

Mr. HOWARD. I will tell you what I would like to have, because of what we have been hearing, if you could get it to us—a written statement that if Transbuses were to be in operation or could be in operation tomorrow or 6 months from now, whatever, that there would be no problem regarding the new transmission or the tires.

If you could get us some information, without objection, it will be made a part of the record because it is something that has come up time and time again about the practicality of Transbus and we would appreciate that.

Mrs. SHAPIRO. Mr. Chairman, as I said before when we first began, we tried to address a lot of the questions that we have been hearing all day in our testimony and we do not want to read verbatim our testimony, obviously. But I think we may have some of the answers to some of those questions in Ralf's statement, in particular, and in the question of separate systems.

Mr. HOWARD. We are also going to talk about the Transbus limit in hilly areas and snowy areas.

Mrs. SHAPIRO. We would be happy to address that. Would it be possible for us to just run through this?

Mr. HOWARD. We will try not to interrupt. Go ahead.

No, really, go ahead, you are doing fine.

Mrs. SHAPIRO. Thank you, Mr. Chairman.

OK, just for a little more background. It was mentioned that there are a lot of lawsuits brought and there are a couple we would like to mention.

First, the one in which we are involved, the low-floor, ramped-bus plaintiffs, which was the first accessibility suit to directly address the duty of DOT under congressional mandate to proceed with the low-floor ramped bus, that was filed in the eastern district of Pennsylvania by our National Coalition of Disability and Elderly Groups. The Southern California Rapid Transit District, which along with Metro Seattle has been most vigorous in seeking the low-floor, ramped bus, and the State of California, among others, have joined the suit as *amicus curiae* for plaintiffs.

Also, the second suit, in the District of Columbia, was commenced by *AM General v. The Department of Transportation* to enforce the 1973 Brademas amendment to the Urban Mass Transportation Act barring the use of Federal funds to support procurements utilizing exclusionary or discriminatory specifications.

We feel this is the core of our whole argument. This suit in which General Motors has recently intervened as a defendant alleges, *inter alia*, the existence of a private agreement between the Department and General Motors to use Federal funds to underwrite the production of General Motors' RTS II, the specifications no other manufacturer can meet, to the delay and exclusion of the production of the low-floor ramped bus, the specifications all three manufacturers can meet.

And so, let us move on down to January 18, 1977, where we had a favorable decision in the Seventh Circuit Court of Appeals in the *Lloyd* case, in which our national coalition participated as friends of the court. That court held that section 504 of the Rehabilitation Act of 1973 imposes affirmative duties upon Federal transportation officials and extends affirmative rights to all transportation handicapped, elderly, and disabled, which can be enforced in the courts.

In particular, the *Lloyd* court held that section 504 requires that mass transit be adapted to accommodate the mobile disabled and elderly and that the provision of unnecessarily separate services is discriminatory. The court of appeals sent the case back to the district court for reconsideration in light of transbus developments.

Last month, the new Secretary of Transportation, Brock Adams, announced the reopening of Mr. Patricelli's decision to abandon the low-floor, ramped bus. Secretary Adams has undertaken to review the matter in each of its dimensions: Assuring full accessibility for all mobile disabled and elderly people, making certain that the best bus is available to the American public, and supporting competition among the three bus producers and maintaining each of them healthily in the industry.

Our organizations believe that, carefully and correctly weighed against each of these objectives, a decision will be reached to require the use of the low-floor, ramped-bus specifications as promptly as possible.

Interim procurement policies were announced the day before that transbus hearing and a final decision is pledged by May 27, which happens to be the last day of the White House Conference on the Handicapped. I do not know if you know that but we are very excited about

that. The White House Conference on the Handicapped and May 27 is the last day of that conference.

Mr. HOWARD. That is also the day of Secretary Adams' decision on Transbus also.

Mrs. SHAPIRO. Exactly. The task before us now, we feel, is to see that the Congress existing mandate guaranteeing elderly and handicapped Americans equal access to public transportation is finally implemented. Your continued leadership and assistance as individual Representatives, as a committee, and the Congress, itself, can guide the new Secretary's decision to the conclusion you have five times enacted so that the highest technology bus is a reality and urban mass transit is improved in all of this Nation's cities.

I would like to turn it over now to Dr. Frank Bowe who will address why the low-floor, ramp bus is best for everyone.

Mr. BOWE. Before I get started, would you like to ask some questions before I go ahead?

Mr. HOWARD. No. I think we understand your position.

Just one thing, not being an attorney, how much weight do you think is carried by these decisions which you have now which would preclude any action by UMTA to distribute funds to mass transit in the country unless they do comply with some of these decisions that were made?

You feel right now that with the decisions you talked about, you are in a pretty good position where nothing much can be done in mass transit unless they comply?

Mrs. SHAPIRO. We are saying that the laws are there. It has been mandated five times and now it is—

Mr. HOWARD. We mandate general policy and the courts have pretty much stated that you cannot use this money because you do not have the kind of accessibility which must be had. It must be a sort of strong position for you.

If you can, give me the legal ramifications of that in nonlegalistic terms so that I can understand it.

Mrs. SHAPIRO. I would have to refer you to our lawyer.

Mr. RAGGIO. I am James J. Raggio from the Public Interest Law Center of Philadelphia. We are representing the national and State groups in the low-floor, ramped buses suit and also filed amicus curiae briefs in the suits that have been appealed to the court of appeals. The only court which has issued an injunction today is in Milwaukee, Judge Warren, in the Federal district court in Wisconsin. That injunction was made permanent back in February and the transit authority is enjoined from expending any funds for buses until a suitable plan for suitable relief is worked out among the parties and that is underway right now.

Mr. HOWARD. Does this mean that the parties would have to go back to the judge and say they have worked it out?

Mr. RAGGIO. Right, that is one of the things that I think the judge is looking for but the court has not gone into specifics in terms of what that relief would entail.

Mr. HOWARD. Is that the seventh circuit?

Mr. RAGGIO. No, that is Milwaukee. The seventh circuit, a judge in the Federal district court in Illinois, ruled on the five accessibility

mandates and said that they were nearly precatory, meaning that the Congress was just being wishful.

The Department of Transportation attorneys argued before the court that the Congress was just puffing and that has been the argument around the country, it is just puffing, but the seventh circuit said no, when the Congress enacts a bill it is enforceable and sent it back to the district court to retry the case. They also laid down some general guidelines, affirmative rights, we must adapt facilities, retry this case in light of the transbus developments. That case will now be winding its way back to the courts.

We feel there is very good ground to move for injunctive relief in these suits but these are matters which are still being framed by the parties and I do not think it would be fair to discuss them further. Whether or not that will be a productive strategy is another question but we feel that the basis is here.

Mr. HOWARD. Thank you. I hope that word "precatory" does not get around too much.

If you would care to continue, please.

Dr. BOWE. Mr. Howard, then I would be pleased to go ahead.

I would like to make a point that you do not have to go to Wisconsin or Illinois as to what effects this will have. I would like to invite you right here in Washington to go to the Metro station, Gallery Place, and those of you who will recall when the Metro was built, they said I want this train station to be accessible to everyone who might use it, whether they are elderly and handicapped. And they are telling us they cannot afford it. They do not have the money to make it accessible to some people who are disabled and handicapped.

I want to talk to you very briefly. I am not going to read my prepared testimony, because you have that. But let us look at the question of the cost and ask ourselves to what extent is that going to be the factor that is going to be determined in the attitudes that you are finding, and the kinds of statements that you are hearing, and let us look at whether we can identify what the realities are that we are being confronted with.

I think it might be clarifying for all of us to ask who are the people who would benefit, who are they, when we say we want this mandated? Who is it going to help? Well, the typical response is it will help people like Mrs. Shapiro and others in wheelchairs. That is true. It will help the 500,000 people in wheelchairs, that is 500,000 people, and we do feel very strongly that if any individual in this country is a taxpayer and law-abiding citizen who can use that public transportation system, that should be corrected but that is still 500,000 people and they can say the cost-benefit ratio is too low.

Now, you also have another several million people in this country who are handicapped and elderly. They may have difficulty in climbing or perhaps a heart condition. They have different problems. We are talking now about 13 million people. That is still a minority in this country.

So perhaps you can buy the idea that the costs are too high because we are only serving some of the people by mandating transbus. But that is not what you find in the Department of Transportation.

We took surveys and you may be surprised to learn that they are telling you that the transbus is—what it would do is increase rider-

ship to people who are not elderly or handicapped. Because they are saying that the average normal Americans are the kinds of people who will benefit from this bus. This is not a minority thing or people in wheelchairs. This is American people.

Let me give you an example. You will recall the fights we had with the accessibility and what we do is put up some ramps that were parallel with the steps. We are surprised how many people took the ramp instead of the steps. Have you not done that yourself? They are going on the ramps and not on the steps. It is more convenient for them. You have mothers pushing carriages, it is more convenient for them.

This is an example of the needs that we need to make to you; but if you make this country accessible to disabled people you are very likely making it for all of us and the Department of Transportation, I have some figures, pages 16 and 17 of my testimony. These are rather striking figures. The transbus would enable you to reduce the trip time 10 percent and when you are talking about the cost of labor involved, you are talking about an increase of 5 percent of the value that you are getting out of that money.

Do you want me to continue? I understand the bell has rung. I cannot hear those bells.

Mr. HOWARD. Excuse me, we have the second bells and we will return in about 10 or 15 minutes and continue with your presentation.

The subcommittee stands in recess for approximately 15 minutes.
[Short recess.]

Mr. HOWARD. Would you continue with what you have now?

Mrs. SHAPIRO. Yes; Mr. Bowe had to leave so I am going to take over for him if that is all right.

Mr. HOWARD. We will continue the hearings on H.R. 5010 and related bills.

A point about costs, perhaps that we talked about already. I do not believe that we are going to make and advancements in mass transit in this country at all if we are going to look for an economically feasible system, meaning a system that is going to, in any way, pay for itself.

We have to look to many other areas as energy conservation, things that would be difficult to weigh, such as air pollution control and many others, if we are going to have a system justified at all.

I personally feel that we are never going to be able to do it on a dollar-and-cents basis and should not consider that that should be a must.

There was an article recently in the Wall Street Journal talking about the last 5 years of mass transportation and the great ridership increase that it has made.

We have seen some great increases. The article stated that there has been a basic increase of 8 percent in mass transit ridership in the last 4 or 5 years. Later in the story it was also mentioned that the deficit in mass transit over the same period were increased something like 400 percent.

So although we want the best and most efficient use of the taxpayers dollars, I believe that this is one area where perhaps the benefits are not going to be able to be provided on a balance sheet or a

ledger, and must be considered to be in some other areas such as a lot of medical research funding that we do. I think there are so many intangibles in it that we cannot expect to have a balanced ledger in it.

Mrs. SHAPIRO. I would like to address that in three brief points.

First of all: Environmentally, when we had the gasoline crisis, the disabled were faced with a real problem and DIA in New York, in particular, took the problem to the streets and said, if you are going to start gas rationing, that is it for us.

The only way we can get around now is by private automobile. We recognize that the society is moving toward mass transportation for those reasons and it is necessary.

Secondly: As far as cost is concerned, I would like to state some of these figures because I think they are very, very important and I think that DOT's own studies and UMTA's own studies and even—say that the net economic benefits are better and that it is cost effective.

Boarding time is halved on buses.

OK. The trip time is reduced by 10 percent. Revenue miles per drivers' wage dollar are increased by 5 percent, ride quality approaches that of an automobile which makes it much more pleasant for everybody and that means more people are going to want to use mass transit and so there we help our position probably.

Ridership is increased up to 10 percent exclusive of the elderly and handicapped of whom we are talking this afternoon. Increased handicapped ridership alone will reduce operating deficits by 4 percent to 10 percent.

We heard a lot of arguments today about operating deficits and problems and I hope that we will be able to adjust that later on.

Mr. HOTCHKISS. Just the bottom line 10 percent means that you can have 10 percent less buses and have the same service.

Mr. HOWARD. Of course, at this time there are some minuses also, meaning the time schedule that must be met by people who would do this vis-a-vis their own automobile, where they would not have to meet a schedule, such as a bus schedule.

Mrs. SHAPIRO. I am not quite sure what you are saying.

Mr. HOWARD. If I am going to get a bus I have to get it at a set time.

No. 2, is the distance of walking a problem for someone there, in a private automobile you go with whom you wish or no one. So those are just three other things.

Mrs. SHAPIRO. That goes for everyone.

Mr. HOWARD. That is on the total, yes.

Mrs. SHAPIRO. OK.

I would like to reemphasize what Dr. Bowe said and that is, from time to time the last Urban Mass Transportation Administration was wrong to make this accessibility issue accommodating wheelchair users only and as far as we are concerned wheelchair users are only 500,000 people in this country and we are talking about a bus that is going to serve the entire country.

I would like to emphasize that fact, the total accessibility environment.

A story is told of the large midwestern university where they ramped curbs and they asked those people why those curbs were ramped, and junior faculty member said, so we can use our baby carriages,

joggers said, so it is easier to jog, theater students and maintenance men, so we can move our props and equipment more easily, therefore more accessible environment is better for everybody.

During the testing of the Transbus prototypes in four cities and in showcase visits to three other cities, 11,000 riders and potential riders were surveyed and they were asked to indicate their satisfaction and preference for 31 major bus features of the transbus.

Of all the items investigated—this is page 18—the low floor with its ease of entrance and egress, consistently received the greatest positive response.

Although 86 percent of the disabled people of labor force age 17, to 65, have the ability to work, the labor force participation rate for disabled is only 44 percent compared to 65 percent of the general population.

Access to transportation is a necessary condition for employment for all disabled persons.

Urban mass transit routes are laid out, of course, to maximize the coverage of job destinations, and 60 percent of the urban disabled live within two blocks of transit routes.

And two blocks, we feel, is not that much of a hardship.

For some 13 percent of the disabled population, or over 1,700,000, inaccessible public transportation is the major factor in their unemployment.

One of my friends who is a paralyzed veteran, has said that 87 percent of the paralyzed veterans in this country state as the one reason, the major reason, they are unemployed is because they do not have access to transportation.

The employment of disabled adults resulting from accessible public mass transportation would significantly increase their standard of living and produce a substantial net economic benefit.

The average annual net income for employed disabled adults is \$8,000, more than double the estimated average combined payment of \$3,000 per year in Federal and State income subsidies, received by the unemployed disabled individual.

In addition, the reduction of governmental income support payments and generation of Federal and State income taxes resulting from the disabled adults finding jobs, would create a net economic benefit of \$300 million to \$500 million annually for every 100,000 disabled individuals who join the ranks of the employed.

You see the footnote where we got those figures. That is those economic benefits are conservatively based on the employment of only 100,000 employable disabled people, yield a favorable benefit cost ratio on the low-floor, ramped but of 2 to 1 to 7 to 1.

Volumes of studies, including the recent comprehensive service needs study conducted for the Department of Health, Education, and Welfare by the Urban Institute, pursuant to section 130 of the Rehabilitation Act of 1973, and numerous reports of the President's Committee on Employment of the Handicapped show dramatically, and our own experience confirms, that accessible transit is vital to our independence.

From another prospective, those studies show that the purposes of many governmental programs and the effectiveness of much spending are frustrated by the inaccessibility of public transit.

Vocational rehabilitation, public education, employment, and medical services are designed to undergird independent and productive living by disabled citizens.

We cannot do that if we do not have access to transportation.

As the final report of the Transbus research and development project concluded, the benefits are rider oriented. Transbus with the low floor will have the greatest impact for achieving a lasting impact on the entire public and what we are saying is that the low-floor, ramp bus is best for us and it is best for everyone else, too.

[Whereupon, Mr. Shuster assumed the chair.]

Mr. SHUSTER. Mr. Hedding?

Mr. HEDDINGER. My name is Richard Hedding.

I am a member of the National Capitol Area Chapter of the National Paraplegia Foundation.

As a plaintiff in the first successful accessibility suit which resulted in the barrier-free design of the Metro system, I find it hard to understand why bus systems should not also be rendered totally accessible. Being a frequent user of the Metro system, I find it embarrassing and degrading when traveling with colleagues to have to leave a Metro station and then hail a cab to complete the rest of my trip to my office or a museum when my friends can hop into a bus.

Separate specialized services cannot substitute for the full accessibility of all urban transit vehicles traveling the general transit routes in the cities of America. It is a matter both of principle and of pragmatics. The notion of separate but equal services for any segment of American society is repugnant. Our form of government categorically rejects separate but equal. The legislative history shows that precisely these concepts of dignity and justice were at the center of the congressional mandate of full accessibility of all vehicles on all fixed routes.

The pragmatics, as always, require a lengthier articulation, but just as clearly they show that separate specialized services cannot substitute for full route accessibility. An illustration may tell the tale. There are 5,000 to 10,000 people who use wheelchairs living in the metropolitan area served by WMATA. Suppose only 20 percent were employed and each called dial-a-ride the appropriate time in advance for a ride to work between 7 a.m. and 8 a.m. A prohibitive number of special vehicles, at prohibitive cost, would have to be available within that 1 hour to transport these 1,000 to 2,000 workers to and from such diverse locations as Bowie, Md., and Fairfax, Va., to downtown Washington.

On the other hand, WMATA has over 1,000 buses on the road during commuter time. If they are low-floor, ramped buses, these people could all get to work on time in the ordinary course, and the cost of the transit operation, and with the pleasure of traveling the city with strangers, neighbors, destination cohorts or merely a newspaper. Frank Bowe has recited the comparative costs of separate specialized services sufficient to substitute for accessible fixed routes. Separate substitute services cost 3 to 5 times more, according to the Department of Transportation's inflationary impact statements and 14 to 21 times more, according to APTA's calculations.

As the most recent congressional address of the question, by the Senate Banking, Housing, and Urban Affairs Committee puts it:

While your Committee has received conflicting estimates of the capital cost of fleetwide accessibility, and operating costs, information provided by Los Angeles, Seattle, and San Francisco indicates that the additional amount of money needed to purchase accessible buses is nominal compared to the high cost of purchasing and operating an equitable alternative transportation system.

The same judgments about costs, along with the matter of dignity and justice, lies at the heart of Congress' rejection of separate substitute services, consistently and persistently, since the first expression of the full accessibility mandate in 1970.

There is still another pragmatic reason why separate substitute services must be rejected. And it partakes of principle as well. One of the reasons why separate but equal is inherently unequal is because it is unstable. The same unhappy human and societal instinct which since Plato causes a society to separate out those who are regarded as different and as somehow inferior also makes it unlikely that separate but equal facilities and services will really be equal. They are more likely to be bargain basement services, masked to seem equal. Further, even if the facilities and services are, in fact, equal, when the crunch comes on budgets, for example, they will be the first to go. Both points are perfectly visible in the everyday world today.

Separate services are created, or partly created, and then they disappear—virtually every day. Accessibility, which is an integral part of a general use system, however, will not disappear, because of the general system which will not disappear.

Further, separate systems are totally impractical for persons with temporary or transient travel needs. For example, if I were to visit Denver, Chicago, or Los Angeles, I may very well be ready to return home before I have obtained information about the nature of a special service in these cities, established eligibility, and bided my time on a waiting or advanced reservation list.

As the Seventh Circuit Court of Appeals held in *Lloyd*, "unnecessarily separate services are discriminatory" and prohibited by section 504.

There is, of course, a place for specialized transportation services, and a very important place, not as a substitute for universal fixed route accessibility but rather in nonurban communities where there is no mass transit, as feeder links to accessible fixed routes in urban areas and for disabled and elderly people who are nonmobile. And that, exactly, is the place given to specialized services for the elderly and disabled in the statutory scheme.

Section 16(b) (2) of the Urban Mass Transportation Act provides for grants to support private nonprofit groups and associations in providing transportation to elderly and handicapped persons where general mass transit is unavailable, insufficient, or inappropriate. General mass transit is unavailable in nonurban areas where there is no mass transit.

General mass transit is insufficient in urban areas where the fixed route coverage leaves distances between routes that need to be bridged by feeder lines for people who live too far from the fixed routes. General mass transit is inappropriate for people who are nonmobile and thus could not use accessible routes in any event.

Specialized services are sensible and very important in such circumstances. However, specialized services cannot, under the statutory

scheme, be a substitute for fully accessible fixed routes nor can they continue to be invoked to delay, impede or blunt the full accessibility mandate.

I want to thank you for the opportunity to testify.

Mr. SHUSTER. Thank you very much.

You are next up, so I think we should go ahead.

Mr. HOTCHKISS. Next, we have Mr. Conklin.

Mr. CONKLIN. My name is Robert F. Conklin.

I represent the National Congress of Organizations of the Physically Handicapped and the National Association of the Physically Handicapped.

We are very pleased and encouraged that each time the Congress has enacted bills authorizing the expenditure of Federal funds for the purchase of buses and other mass transit equipment, it has directed that they be planned and designed so that we disabled and elderly citizens can have equal access to public transportation.

Beginning with the Urban Mass Transportation Assistance Act of 1970, the first large-scale mass transit grant program, through the Federal-Aid Highway Act of 1973 and the 1974 amendments thereto, authorizing the application of Federal highway funds to mass transit projects, and continuing up to the National Mass Transportation Assistance Act of 1975 and section 504 of the Rehabilitation Act, you have mandated that our needs be met.

This Congress now has before it bills to extend the urban mass transit program—the National Mass Transportation Assistance Act of 1977. We are gratified to see five provisions being introduced along with the new authorization bill that seeks to address the matters which we have testified to today—namely, that your existing mandate assuring us equal access to public transportation finally be made effective through the issuance of the low-floor, ramped bus specifications.

Before turning to the specific bills which are now before this committee, we would like to merely say that if we were asked today to draft a bill, we would state “issue the low-floor, ramped bus specifications, immediately.”

But whatever the final language reported by your committee, whether it be issue the low-floor, ramped bus specifications, immediately, or an operational standard directing the Secretary of Transportation to issue specifications which will assure all mobile disabled and elderly people effective use of buses, trains, and trolleys, it is essential that you affirm the accessibility mandate. As Sieglinde Shapiro set out in opening our testimony, the Department of Transportation officials have always understood your accessibility mandate, as reflected in their own contemporaneous reading of the statutes, to require that all federally financed public transit be as fully accessible to the mobile disabled and elderly as technology will allow. Affirming that mandate now, will leave no doubt with the new administration regarding the Congress' commitment to the realization of our rights.

As for the five bills introduced before your committee:

H.R. 199. We support H.R. 199 and endorse it unreservedly. This bill would require every bus, vehicle, and facility financed under the urban mass transit program to be accessible to mobile disabled and elderly people.

H.R. 1245. We approve of H.R. 1245 which provides that all federally assisted public mass transit facilities, equipment, and services be adapted to accommodate the needs of elderly and handicapped persons, as held by the Seventh Circuit Court of Appeals in *Lloyd v. Regional Transit Authority*. If we might add, the accessibility requirement of H.R. 1245 is not properly considered a requirement of special programs but rather one of programs as special as those provided to nonhandicapped persons.

The range of individual differences already accommodated by governmental programs is most often greater than the additional range necessary to include the handicapped. In transportation, for example, the width of doors and seats, and the height of steps and floors have been set to accommodate a very great range of difference among users, in height and girth and girth. The range of individual difference already accommodated by such design is greater than the additional range that would be accommodated by facilities which do not exclude the handicapped. Programs like transportation regularly accommodate individual difference. Requiring these regular programs to accommodate additional differences does not change them into special programs but rather into regular programs which are not discriminatory.

H.R. 3029. We can neither endorse nor approve of H.R. 3029 for the very reason that although it directs the Secretary of Transportation to issue specifications for a fully accessible bus, it provides for so many exceptions such as the nature of the vehicle, its proposed use, and commercial availability, that the provisions may very well result in delaying or impeding the issuance of the low-floor, ramped bus specifications.

H.R. 4821. We do not support H.R. 4821 because it provides for an accessibility standard addressed to only persons who use wheelchairs and would permit separate systems to be created when the requirements of wheelchair users, as well as nearly 13 million other disabled and elderly Americans who do not rely on wheelchairs but nonetheless have difficulty climbing steps, could be accommodated through the low-floor, ramped bus. We are most concerned that some officials might view H.R. 4821 as a Congressional endorsement of separate systems, an option that has rightfully been rejected in the past, and necessitate further litigation in the courts.

H.R. 5010. We can neither endorse nor approve of H.R. 5010 since it speaks in terms of percentages of bus fleets being accessible to the elderly and handicapped. Apart from this requirement being inconsistent with your existing mandate, we feel that it ignores the realities of the marketplace. The three bus manufacturers have repeatedly stated that they will produce only one design bus and for very good reason.

The demand for new buses is so small—5,000 per year—that it does not allow the three manufacturers to invest in the production of more than a single design bus, either the low-floor, ramped bus or a non-accessible bus. If price competition is to be maintained in the industry, as well as the public assured the highest technology bus, the Government which pays for 80 percent of the cost of the bus should set the standard for the single design bus by issuing the low-floor, ramped bus specifications.

While we urge you to adopt the provisions of H.R. 199 and H.R. 1245, or to act on our initial recommendation and just say "issue

the low-floor, ramped bus specifications, immediately," our hope is that, in any event, the new Secretary of Transportation sees to it that your accessibility mandate is effectively implemented, finally, by promptly issuing the low-floor, ramped bus specifications by May 27, as pledged.

We ask your continued, renewed, and faithful assistance, as individual Representatives, as a committee, and as the Congress, in guiding the new Secretary's decision on effectuation of the mandate you have five times repeated.

Now, if I might just comment additionally, I am one of the users of such a system and I know both ways, before the handicap I used the normal buses in the cities in Long Island and also in Chicago, and have traveled on buses and subsequent to being handicapped I have used public transportation in many cities and I am not getting to the age where low-floor buses would be accessible to me.

This would fill my need in the category of mobility handicapped. Mobility handicapped are not limited to us or of the few who cannot get out of the house. If they can get to the corner, they would go all over town and that is why we are anxious to see that these people can be fully mainstreamed in the life of America today.

Mr. SHUSTER. I would suggest that if you wait for Mr. Howard to come back, we have Mr. Parsells, or we have one more panel.

I would suggest that we have Mr. Parsells and then wait until Mr. Howard gets back.

Mr. Chairman, members of the subcommittee, I'm delighted to have this opportunity to welcome and introduce to you Mr. George M. Parsells, of Harrisburg, Pa.

Mr. Parsells is executive vice president of the Pennsylvania Bus Association and the Pennsylvania School Bus Association, representing over 500 municipal and private transit operations throughout the Commonwealth of Pennsylvania.

I believe Mr. Parsells is uniquely qualified to comment on the proposal before this subcommittee today because Pennsylvania has (1) the largest rural population in the Nation, (2) the largest elderly population living in nonurbanized areas, and (3) the largest handicapped population living in nonurbanized areas. Thus, he has had practical experience in dealing with the subject matter of H.R. 5010, and can view it from a perspective we on the subcommittee do not enjoy.

Mr. Parsells, welcome to the subcommittee, and I look forward to hearing your testimony.

TESTIMONY OF GEORGE M. PARSELLS, EXECUTIVE VICE PRESIDENT, PENNSYLVANIA BUS/SCHOOL BUS ASSOCIATION, HARRISBURG, PA.; ACCOMPANIED BY DALE KRAPF, FIRST VICE PRESIDENT, AND FRANK LEVY, PRESIDENT, PENNSYLVANIA BUS/SCHOOL BUS ASSOCIATION

Mr. PARSELLS. Gentlemen, I have with me Mr. Frank Levy, the president of the School Bus Association, and Mr. Dale Krapf, first vice president of the Pennsylvania School Bus Association.

I have a brief statement.

I am the executive vice president of the Pennsylvania Bus Association and the Pennsylvania School Bus Association.

I appreciate this opportunity to come before you and tell you something about the Pennsylvania Bus Association and the Pennsylvania School Bus Association.

The Pennsylvania Bus Association is a nonprofit trade association representing both private and municipal transit operations throughout the Commonwealth of Pennsylvania as well as privately owned intercity companies.

The Pennsylvania School Bus Association, as the name implies, represents privately owned school bus operations throughout the Commonwealth.

On a combined basis, these two organizations have a membership of 500 companies and form an umbrella representing both privately owned and publicly operated passenger transportation systems in Pennsylvania.

Now, we are here to testify in support of the preference clause in H.R. 5010, and one of the things I am very concerned about in this particular bill is that this is legislation for nonurbanized areas and so oftentimes I have seen as a person who represents an association on a State level, that the rural areas of our Nation often are faced with promises that are unfulfilled and a dignity denied.

I think Pennsylvania and the association that we represent have one very important thing to say to this committee.

First of all, Pennsylvania has the largest rural population in the Nation; not the largest geographical area, but the largest rural population.

We also have the largest elderly population living in rural areas and the largest handicapped population living in nonurbanized areas.

H.R. 5010 has an admirable purpose in connection with operating subsidies in areas other than urbanized areas by providing a preference for private bus operators.

My purpose in appearing before you today, since I represent three different specific means of transportation in our Commonwealth, namely members of APTA, like SEPTA, and members of NAMBO, like Greyhound and Continental, and members of National School Transportation Association, like these gentlemen here, that we want to clarify this term "private bus operator" to make certain that it does include school bus operators within their proper sphere of transportation in nonurbanized areas.

While nonurbanized areas are served substantially by private bus operators providing service, pursuant to certificates of public convenience issued by the Interstate Commerce Commission, and/or State regulatory bodies, there are, nevertheless, important rural areas wherein elderly and handicapped persons reside that are not served by either municipally operated transit or privately owned certificated carriers.

The point I want to make is that in these areas you do have a school, and where you have a school, you have a school bus operator.

In fact, I have been impressed in listening to the number of representatives of these fine handicapped groups and I have heard mention that there is not a form of transportation in these rural areas that is equipped to handle the elderly and the handicapped.

Well, it might be interesting to know that every day in the Commonwealth of Pennsylvania, as in all of the other States, in the rural areas there are especially equipped vans run by either school districts or operated by private school bus operators, that are transporting disabled children, and handicapped people, on a regular 5 day a week basis.

These people have a continuing experience in doing just this thing that is being proposed. How do we handle? How do we set up a transportation system to meet the needs of, as this bill addresses itself to, the elderly and the handicapped in the rural areas? To answer just this one section, that school bus operators, at least in the Commonwealth of Pennsylvania, are already doing this on a day-by-day basis, if not with the elderly, certainly with the handicapped in specially equipped type 2 vehicles, which, for your information, is a van, 16 passengers or less.

So we have experience and what I am saying is: It is submitted that in some areas private school bus operators should be utilized to provide service for the elderly and the handicapped and that they should be recognized and provided for in any legislation proposing operating subsidies for the transportation of this segment of the public.

Since a question has arisen as to whether or not the term "private bus operator" does include private school bus operators, we are suggesting and requesting that H.R. 5010 be amended to separately include within the applicable definitions, a definition of the term "private bus operator" to include not only certificated carriers, but private school bus operators where they are operating and providing service in areas not served by existing municipal or privately certificated carriers.

There are a number of things that I have listened to today and I certainly would like the chairman—or to address some questions concerning his proposal or his inquiry about a mass transit trust fund because I think it is a tremendous idea and I would like to say something from our standpoint, as to what we think it might do.

[Whereupon, Mr. Howard assumed the chair.]

Mr. HOWARD. Before we recognize the gentleman from Pennsylvania, we are going to be on this for 1 month. We need somewhere over, I think, \$2 billion a year and we are holding a contest to see who can come up with the best, fairest means of getting that amount of money, and we will be talking about this until next January before we have to mark up a bill on it.

With the time that we have, anything that you have got to tell us about it, we would like to hear from you. We will be holding hearings on that broad legislation through the early spring, late summer, and all of the fall on it.

I recognize the gentleman from Pennsylvania.

Mr. SHUSTER. Thank you, Mr. Chairman.

I certainly appreciate your testimony, Mr. Parsells.

I want to be sure I understand it, the thrust of what you are suggesting.

You are suggesting that, particularly in rural areas across America, there are schoolbuses sitting and really not in use during certain hours of the day and in these, at least many of these rural areas, there is no bus service and the schoolbuses could be used to transport the elderly

and the handicapped, in fact, reasonably at cost, which would have to be lower than the cost of going out and creating a new bus system where none exists, in sparsely populated areas, is that a fair statement of your—

Mr. PARSELLS. That is precisely what I am trying to get across.

You see, where a schoolbus is contracted with a school for 180 days of service, which is the normal school term—if, for example, that vehicle were to be utilized, especially the specially equipped vehicles that are already in the existing fleets for transporting handicapped children, or transporting children, and these children are not all small children, some of these children are 6 feet tall, these vehicles are already in an existing use, however, they are only being used for the school.

And there are these hours from 9:30 a.m. to 2:30 p.m., as well as after school that these vehicles could be utilized.

These are vehicles that, for all intent and purposes, we agree with the chairman and understand, that mass transit is never going to be a paying proposition, however, with all three segments of the bus industry working together, carrying out their role, there are elements within the existing surface transportation system that could be utilized, thus, the total cost would not be as great to the Nation.

Mr. SHUSTER. Is it your intention that these schoolbuses would provide general transportation services to the general public or be limited to the specialized service to the elderly and handicapped?

Mr. PARSELLS. I would say it this way: That where there is not a certificated carrier or where there is not mass transit operation in existence, providing the normal transit line service, that the schoolbus can be utilized to transport the elderly, the handicapped, and the fellow going to work, or the person going and doing their shopping especially in these off-hours, because the schoolbus or a school vehicle is only utilized 4 hours out of every day and in the Commonwealth of Pennsylvania, in the 67 counties, we have 18,000 school buses.

Now, 4,500 of these vehicles are the type 2 variety, or the van variety, and of that number there is a significant portion that are especially equipped. Now, this is the reason you have a van.

A van is usually for a special service, so the majority of the 4,500 vehicles that we have in the Commonwealth of Pennsylvania are already equipped to handle specialized transportation needs.

Mr. SHUSTER. Well, thank you very much.

I think your suggestion certainly seems to have economic common-sense to it.

If the vehicles are sitting there and not being used—I assure you that we will give very serious consideration to your suggestion.

Thank you very much for testifying before the committee.

Mr. HOWARD. Thank you.

The gentleman from West Virginia.

Mr. RAHALL. I do not have any questions.

I just want to thank the gentleman for testifying and for me this is a new bill and one that I am looking forward to working very close with the chairman and members of this committee, and I appreciate your testimony.

It has given me a great deal of insight.

Mr. PARSELLS. Thank you very much.

Mr. HOWARD. Thank you very much.

Mr. PARSELLS. Thank you, Mr. Chairman.

Mr. HOWARD. Thank you, Mr. Parsells. We will now resume the panel.

Mr. HOTCHKISS. I am Ralf Hotchkiss. I am director of the Center for Concerned Engineering.

I was trained in mechanical engineering in an 8-year apprenticeship at Woodward Governor Co., Rockford, Ill.

I have a physics degree from Oberlin.

Since starting work, I worked with Ralph Nader and I also worked on the Volkswagen technical analysis, in which I worked on small safety.

I have worked on the Nader hearing aid study and others.

Mr. Howard, this morning you asked where the figures you were given last summer on the size and low range of the tires, the needs for transmission and the costs were as valid, still as valid, as they seemed when presented.

I talked with George Brewster, who asked that, and he apologized for not having the information, but urged me to answer them as fully as I can, so I will do so.

A 22-inch bus floor height is available within the present state of the art.

The major factor in determining bus floor height is the diameter of the front wheels. The smaller the front wheels are, the lower the floor can be.

If you look at one illustration that will help. The smallest wheel which they know now to be available will support a front end of a bus, has an outside diameter of 33 inches, that is, before wear, during wear, and after retread, or after rerouting.

It is the J50C-16.5, or equivalent, which will support the over 6,000-poundweight exerted by a fully loaded bus.

When the bus is moving, about 5 inches is needed above the wheel to allow it to bump up and down over rough spots.

When the bus is stationary, it can be lowered or kneeled until the wheel well sits on the top of the wheel.

Mr. HOWARD. Is this what will be the transbus?

Is this a 17-inch bus?

Mr. HOTCHKISS. Right, this is a 22-inch lowering to 17.

This tire was made for transbuses, I believe, by Firestone, and they had problems at first but they worked them out; 5-inch clearance they need for suspension action.

In order to maximize the number of seats on the bus, a seat is placed on the wheel well. The seat and the wheel well add another 4 inches to the 33-inch length of the wheel when the bus is in a kneeling position.

I am sorry, without the clearance, the top of the seat then is about 37 inches off the ground, when the bus is kneeling. You cannot really make the seat to floor distance much greater than 20 inches, or people's feet will not be solidly on the ground.

In the front entrance, you could not make a step for the people's feet there. For one thing, it would impede wheelchair access.

So that leaves you with 22 inches or 17 inches minimal when the bus is down.

The tires are available. One type that would serve this purpose is available now in Europe, it is a 275/70 R 1.75 low cross-section tire

manufactured by Phoenix Gummiwerke, a German company, and they are now used on buses over there.

There is no reason to believe that the tires could not be available in time to meet any effective date of the Department of Transportation require for a low-floor bus.

In June of 1976, General Motors told this committee that serious tire problems have occurred in just the limited operation of the Transbus vehicles, all of which use these very small diameter experimental tires.

These defects, in fact, were corrected and the subsequent tire performance has been satisfactory.

In June 1976, General Motors stated to this committee:

A low-floor bus can result in lower underbody clearance. Thus, compared to a current bus configuration, a bus with a low floor could be less capable of negotiating ramps and approaches to hills in some parts of the country.

A PTA also has raised ground clearance as an obstacle to a low-floor bus.

It is very obvious, but the point we wonder is: Will the ramp clearance and what not be of such a dimension that it would be a problem in major portions of the country?

In other words, hilly areas and such or with snow, because a lower floor bus is going to be lower.

The point makes good sense, and it would be true if the floor was the same thickness. But the fact is, the floor is not, so the point is false.

The clearance on the final Transbus specifications was the same as the current General Motors bus and was better than some of the American Motors buses, which are now in use, and that was done just by making the floor thinner and done with no serious problems.

It has been done with cars.

For example, a model T and model A had a thick floor and all the control rods from the pedals ran through there to rear brakes.

They did not have hydraulics then. They needed a lot of room, but that has been done away with.

Now, the floor is effectively less than an inch thick in most cars.

Mr. HOWARD. What you are saying is that the clearance is the same.

Mr. HOTCHKISS. The clearance is the same and it works.

A diagram on the next page shows the clearance of the Transbus.

Another point on this, the Transbus clearance in this diagram, again, is about the same as current buses. No worse.

It is much better than the RTS-II bus. That is basically a present bus with a thick floor dropped down a little bit with smaller tires and it has significantly less clearance than the Transbus would.

So, I expect some problems with the RTS-II, the so-called advance bus, which is really just an updated 1968 model.

About this minimum 22-inch floor height, there is now a full-sized city bus starting production in Europe with a 12-inch floor height.

It would only have to have a 2-inch clearance and I guess that would be a trick.

But it certainly shows that the 22-inch is not such a serious problem as has been stated.

This European bus with slight modifications might be just right.

It has no steps inside. Just step in the bus. If there is a hazard with that bus it would probably be that people stepping over the curb might not notice that a step was there and they might trip.

On maintainability, there are, as to maintenance problems, there are objections.

When bus repairmen got under the bus, they said it was a mess, how am I going to fix this?

They can work out the problems quite easily, just like they worked them out between prototype and production on automobiles every year. They do not work them all out, unfortunately, but a fair proportion of them.

They recommended that the advance design bus should have studies made of its operational experience.

This is the high floor RTS-II bus and that plans be formulated as to the practicality of developing a program of whatever suspension systems, tires, or other elements need refinements in the high floor bus, in order to make a lower floor, APTA has taken the confusing position that studies of the design bus will lead to the development of an adequately low-floor tested bus.

We hope that you understand that it is basically different designs and perfecting one does not perfect the other.

We enclosed a 1968 copy of an advertisement by GM.

There is no valid technical reason for GM's present opposition to the low-floor bus. In answer to your question earlier about statements made by General Motors last summer, about whether the figures given to you for tire size and ground clearance are still valid, my answer is no.

When General Motors decided not to invest in the low-floor bus, they attempted to support their decision with technical facts. The facts that were presented, however, were and are now false.

If we assume 22 inches could be currently the lowest practical floor height, I would like to describe the best method given that height, of accommodating the largest segment of population of the lowest cost, in the safest and most efficient way that appears to be practical.

The basic bus floor height of 22 inches has dropped to 17 inches by the kneeling feature.

The vestibule can be dropped about an additional 2 inches, by use of special tracks like a gentle ramp in the front of the bus.

To provide maximum access for the disabled and elderly, an effective floor height of 15 inches is possible.

General Motors is simply dead wrong in their assertion that a 29-inch floor height would in any way serve the needs of the elderly and handicapped, both with regard to wheel access and step height.

Ramp slopes must be gentle, or at a low angle, for wheelchair riders to enter or exit a bus independently. As the angle becomes steeper, a push might be needed.

The slope at which assistance is needed varies from person to person although generalizations can be made. A study done by RRC International found most wheelchair riders to have difficulty over a 10-degree slope and to need assistance over 14 degrees.

A slope over 18 degrees was found to be hazardous even with assistance.

You will also find a chart showing slopes, both to the curb level and to the street level. You have to prepare for both just in case there is not a curb.

And a list of the slope uses availability found by the UMTA study. A 5-foot ramp, which would slope 9.4 degrees. Assuming the road to be level.

If there were no curb the slope would increase to 14 degrees.

The 14-degree slope would be reasonably safe, although many wheelchair riders would require assistance and again, if the street sloped any more than 14 degrees could approach the hazardous level.

Shortening the ramp to 4 feet, which was one of the ramps used on the transbus, would bring the slope at street level, dangerously close to the 18 percent danger level. While a 4-foot ramp would fit under the entranceway floor when not in use, a ramp longer than 4 feet would require some special means of extension, such as telescoping.

Once telescoping has been introduced, it is possible to extend the ramp length even further.

At 7 feet, for example, the slope to ground level would be close to 10 degrees, if the ramp goes to a curb and the curb is closer to the bus, then the 7-foot ramp would not need to be fully extended; that it would be easier for the busdriver in certain situations; a handrail can be included as part of the ramp mechanism. This would enable ambulatory disabled and the elderly, who would need the handrail for safety, to board the bus more readily.

The handrail would enable those who cannot manage steps at all to board the bus as well; while exact figures are not available, this group makes up a significant portion of the disabled population.

Another benefit of the ramp is that it can be used by the general public, and can shorten boarding time.

In the tests with the transbus prototypes, boarding times were significantly reduced because the buses had fewer stairs. A switch to ramps reduces the number of stairs to zero, and thus further shortens boarding time.

When a wheelchair passenger is followed on the ramp by several walking passengers, the time lost in deployment then can be made up by faster overall boarding time.

Steps can be shortened as well with the lower floor bus.

Extensive research into the dynamics of climbing and descending stairs has shown that a maximum riser height of 7 inches and a minimum tread depth of 11 inches are optimal for safety.

Risers over 7 inches were found to cause more stumbling while the test subjects were descending stairs than ascending.

Because the low-floor bus has only one inside step, the tread depth can be wide enough to insure safety.

The high-floor bus has none of these advantages. It must, instead, have multiple inside stairs which are higher and shallower.

Entry and exit are thereby made slower and more dangerous. The vestibule in the high-floor bus is smaller and thus more crowded during peak use. The high-floor bus can only afford wheelchair access with a lift rather than a ramp.

The lift can accommodate only wheelchair rider at a time and takes more deployment time than a ramp. None of the other passengers can use that entrance while the lift is in use.

In addition, the lift is much more expensive to purchase and maintain and is dependent on electric or hydraulic equipment for its operation.

The ramp can be operated manually in case of a breakdown in the automatic system, while the lift cannot.

It is my conclusion that the congressional mandate for city bus systems to be accessible to virtually all of society is fully attainable within the state of the art.

An immediate Department of Transportation requirement for a 22-inch floor height would be the most cost effective way of meeting this goal fast enough to satisfy the pressing need of the disabled and elderly who are presently excluded from public bus transit.

Mr. HOWARD. Any others?

Mrs. SHAPIRO. I thought you had some questions.

Mr. HOWARD. You answered most of them.

Mrs. SHAPIRO. OK.

Rich Kieley will then go ahead.

Mr. KIELEY. I am Richard Kieley, a colleague of the panel members, and aide to Congressman Doug Walgren of Pennsylvania.

I represent a somewhat minority view in this panel and I have presented written testimony to the committee and will offer further amended testimony in written form by the end of the week and I just would like to make a few observations today.

I may be, in the words of Oscar Hammerstein, a cockeyed optimist, but I feel strongly with the combined energies of the Federal Government, the enlightened transit industry of our country and the energetic efforts of the handicapped and elderly can devise a workable program whereby the mobility impaired sector of our society will achieve equality in seeking access to mass transportation.

When I first became wheelchair bound general public bus transportation seemed an unrealistic approach to my travel needs, my everyday travel was restricted to pushers for the short distances and parents and friends who, often at great personal inconvenience, hauled my chair and me along routes that were, of course, served by our city's mass transit system.

Eventually we, in Pittsburgh, Pa., developed in 1970 an innovative specially outfitted van which offered relatively low cost door-to-door service for the handicapped of our community. It was a great boon to all, not only moving efficiently and effectively a large number of people who had either been unable to travel or in many cases unwilling to create further burdens on already overworked families and friends. We opened new fields of employment to the handicapped as well as providing a safe, comfortable travel mode which resulted in a psychological boost to the individual, as well as the community. The results were literally unmeasurable.

We are now faced with a period in which decisions can be made here which will move handicapped individuals easily into the mainstream of American life, without sounding maudlin or pleading unreasonably with this panel, I implore you to implement the state of the transit art already existing and to combine new technologies, new awareness and with congressional compassion units with whatever forces are necessary to provide an integrated transportation system to all sectors of the handicapped and elderly whether they live in the city, on a farm, on a hill or in a valley they must be reached and brought together with the rest of you in a meaningful and productive role in our society.

Thank you.

Mr. HOWARD. Thank you very much.

Mrs. SHAPIRO. Mr. Chairman, if I may have your indulgence for 1 minute longer, I would just like to summarize two or three points.

The reason that we have been emphasizing buses the whole time, is because we found out over the past 3 years, in fighting our problems, that 80 percent of the mass transit riders use buses.

That is why we are emphasizing buses here today.

As far as the specific legislation which is being considered this afternoon, you see us wearing our 504 buttons and as Mr. Conklin said, we feel that endorsing 199 and 1,245 is necessary because they reaffirm our status as first-class citizens and quite frankly we really do not feel like first-class citizens most of the time.

The other thing I wanted to mention is we are not against special services for those people who are nonmobiles and people—or for those people who live in rural areas, where there are no other modes of transportation for anyone, and we absolutely acknowledge the need for those systems, and if we could say one thing, it is just that, please do not allow any language to be mandated, which would undercut our right to equal access to mass transportation.

Mr. HOWARD. I do not know whether you were familiar with the hearings that we held last year, but in talking about all kinds of special services and special facilities and better treatment and private carrying facilities, et cetera, there was a great deal of discussion about what might be broadly termed the social aspects of it which even if you give all this special attention, would take the handicapped out of the general mainstream of society.

The gist of the discussion was that granted there were certain things that physically they may not be able to do with all society. We have a responsibility to make sure that in every aspect of their daily lives that can work in operation with everyone else in the Nation, they ought to be made available and ought to be pursued.

So that this is one of the major considerations.

We did not have discussion on it today, but we did in our other hearings. To the greatest degree possible to permit the handicapped to be able to participate just like every other citizen. This is a consideration that we do have, and that is very important, but it did not come up in the hearings thus far today.

But that is a consideration that you spoke to.

Very often you get a group who is on one side of the issue and then we talk about the rationale of the other side and ask you why are they doing this.

Let me ask you this: Do you feel that general busing would be utilized by everyone and would even improve the use of nonhandicapped? You brought out in your testimony that this would not only be for the people who are handicapped but make it quicker and more efficient for all. You have facts and figures to show that.

Would you say the opposition to the full accessibility bus or trans-bus has to do with the amount of money that is available and therefore the people who are running these systems may figure, well, look, this is going to cost us this much more of a chunk out of the amount of money that we have available. Do you think if there were more money available that that would take the opposition away to reduce the opposition?

Mr. HEDDINGER. May I comment on that?

With respect to that particular thing about the money, I think the gentleman from Milwaukee repeated to you that it would probably be cheaper for us to make all the buses accessible and be done with them.

I fully believe that. I do not believe that it is the amount of money.

It is a kind of thing, the resistance has to do with things which are not talked about. They are calling it inbred prejudices from history in its prospectiveness—

Mr. HOWARD. A feeling of awkwardness around handicapped people or embarrassment?

Mr. HEDDINGER. I do not think you can attribute this to any one individual and say you are that gentleman, but it is an institutional kind of thing with the transit industry itself that for a long period of time, persons who did not have certain physical capabilities were just not within their realm of considering to deal with it and they made the cutoff at some particular point in the past and said, you know, beyond this we do not accommodate them at all.

I think that this is a—perhaps a feeling on their part that it is an admission of wrongness, that they were wrong in the past.

If you come along and provide accessible systems and all, that it is sort of like an admission that they were doing it wrong 20 or 30 years ago.

We do not have to worry about that now.

Mr. HOWARD. We for 20 years have not been saying you are wrong, but not doing what we had hoped you would do in the last 10 years.

Mrs. SHAPIRO. Very specific example—

Mr. HOWARD. Excuse me.

You could be talking about wanting to have handicapped people in the system or not wanting to, both.

Mrs. SHAPIRO. We were told by the vice president of one of the bus manufacturers that if handicapped people started using buses at the rate that is projected, in all of the studies, the general riding public would revolt and start throwing garbage at them because it would slow things down.

Mr. HOWARD. Well, you have some good statements in here refuting that to a degree.

Well, that is it.

Money, then, might not be that much.

We find that we have a great deal of opposition by many Members in Congress from New York to the westway. When we came down to it we found out that it was not really antiwestway, as a program, a way to get automobiles through the city quicker, with less air pollution. But it happened to be a fact that it was an either/or situation, that the money that was going to be used for westway could be much better used for the citizens in New York City for a mass transit system.

Finally, we got around to the idea and got an understanding that if there was an adequate mass transit system funding in the city, then that opposition to the westway would not be there.

That is why I was wondering whether you felt this was just a matter of dollars, an either/or situation.

I think that it is good. If it were the situation it might be an easier way, though a little expensive for us to resolve it.

Mr. KIELEY. If there are extra moneys available, perhaps it could be used best to educate the transit industry and the public as to what is going to happen.

If this is such a revolution in transportation, education may be called for and that may be enough.

Mr. HOTCHKISS. The profit picture for GM looks a lot better for RTS II.

Yet, they are not putting in the development cost of the underbody and talking about a nice situation, how much better could they have it?

Mr. HOWARD. I have no more immediate questions.

The gentleman from West Virginia, Mr. Rahall?

Mr. RAHALL. No, I have no questions, Mr. Chairman.

Mr. HOWARD. We would like to hear from you as we develop this legislation. We have hearings next Wednesday, and we will have the Secretary of Transportation here and other people, and we expect to be going all through the day.

So if some of you people could monitor it we would like to hear from you because it will be a while before we mark up a bill.

Unfortunately, if they are going to put some new money in this bill, it has to be reported out before May 15.

The second decision on transbus is not due until May 27, which puts us in a rather awkward position. We do not have new money in this bill.

So that is the kind of situation we are in.

Please keep in touch with us.

We wish we had more time and did not have these back-and-forth situations, but that is the way it goes around here.

Thank you very much for your attention.

Please feel free to get in touch with the committee.

We certainly are interested in doing the right things because we feel a decision made now is going to be a decision that is going to stand for awhile, and we do not want to be wrong if at all possible.

The subcommittee stands adjourned until next Wednesday at 10 a.m.

[Whereupon, at 4:03 p.m., the subcommittee adjourned.]

MASS TRANSPORTATION ASSISTANCE TO MEET THE NEEDS OF ELDERLY AND HANDICAPPED PERSONS

WEDNESDAY, APRIL 6, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:09 a.m., in room 2167 Rayburn House Office Building, Hon. James J. Howard (chairman of the subcommittee) presiding.

Mr. HOWARD. The Subcommittee on Surface Transportation of the Committee on Public Works and Transportation will please come to order.

This morning, the subcommittee continues its hearings on the bill, H.R. 5010 and related bills, to amend the Urban Mass Transportation Act of 1964, with emphasis on Mass Transit Aid in other than urban areas and on mass transit accessibility for the elderly and the handicapped.

Before going to the first witness, the Chair wishes to recognize the gentleman from Pennsylvania, Mr. Edgar.

Mr. EDGAR. Thank you, Mr. Chairman.

Mr. Chairman, as you know, I was unable to be in attendance 1 week ago, when the committee met to begin the 2 days of hearings on these important questions. I would like to share, for the record, a statement concerning both the bill which you introduced and the bill which I introduced.

I would like to take this opportunity to thank you, Mr. Chairman, for scheduling these hearings and for recognizing that legislation is needed this year to insure the smooth functioning of the Nation's public transit program during fiscal year 1978.

A complete overhaul of the public transit program is not needed this year, but is needed, in my opinion, as a quick fix transit bill to meet some problems that are readily apparent, and in need of attention, prior to the start of fiscal year 1978.

I think the major question is what should this bill contain.

Clearly, we must immediately develop a new policy regarding service for the elderly and handicapped. Confusion and indecision over Federal policy in this area is disturbing the transportation problem.

There is also a need to amend the Transit Act's definition of "construction," to permit a more orderly staging of the engineering and design facets of a transit capital grant proposal.

In addition, most of us agree that there is a pressing need to permit the use of rural transit assistance funds for operating expenses.

Both the bill the chairman has introduced, H.R. 5010, and my bill, H.R. 4821, provide for policy changes in these areas. My bill goes one step further by providing for revised authorizations under section 3 and section 5 programs.

Mr. Chairman, during the past month, there has been considerable debate over whether we really need new transit authorizations this year.

I believe that the question has become one of accounting rather than a proper discussion of the needs of our urban areas for additional funds. We hear that accounting tricks will permit us to get by in fiscal year 1978 without new authorizations for the section 3 program.

We also hear that the comprehensive surface transportation measure to be reported by this subcommittee during this Congress will take care of 1979 and the years beyond.

If we are going to have an interim period while this committee develops a new, long-range policy, we ought to do it right, in my opinion.

I am not calling for an extension of the program past 1980; rather, I am calling for revised authorizations to take care of the current program through its current term. The new policy we develop would then become effective starting with fiscal year 1981.

Since the new program is likely to contain numerous policy changes, delaying its effective implementation until 1981 will give local officials and the Federal Government time to study the new program and develop good regulations for implementing it.

This concept makes so much sense, I regret that I have to fight against the odds and expound it here.

Another area where my bill differs from that introduced by our distinguished chairman is the area of operating assistance.

I believe that there is an urgent need to remedy the inequities created by the existing section 5 formula, and I know that without additional operating aid, major cities like Philadelphia and New York will be forced to cut back service and defer maintenance.

Look at the record. The cities treated well under the current formula, like Los Angeles and Detroit, have had funds to maintain their fleets and improve service. I am sure they could use more money, but they do not do badly, compared to others.

Cities cheated under the current formula, in my opinion, like Philadelphia, Boston, and New York, are not making ridership gains. These systems fight for survival day to day, and the idea of improving service and stepping up maintenance is but a dream, a far-off goal.

Last November, UMTA released a study of the section 5 program. It clearly shows that those cities receiving substantial section 5 aid per rider are gaining patronage, while those cities receiving less section 5 aid per rider are either losing patronage or holding even.

The supplemental section 5 program contained in my bill has been designed carefully. It will channel funds to those areas in need. We can define this in different ways, but to me, the best approach is to base the second section 5 formula on some measure of the inequities of the regular formula. I will not go into detail here, but hope to discuss this with the committee at some point.

To summarize, I am concerned that the program levels set in 1974 to take us through 1980 are low. I see an immediate need to increase

these levels. The long-range policy we develop should be a policy for the 1980s, effective with the start of fiscal year 1981.

If I might make one final comment, it is that I look forward to working with the committee as it tackles this long-range bill, and I wish to state here my strong belief that the days of "highways" versus "transit" are over.

This subcommittee can no longer afford to keep fighting over how we slice a too-small pie. Our task, as I see it, is to establish a case for a bigger pie, devoting more of our national resources to surface transportation.

When I advocate new money for transit, it is not a question of raiding already inadequate highway money. I advocate more money for transit because I believe strongly that our cities need it.

I look forward to the testimony this morning from our new Secretary of Transportation, Brock Adams, and I also look forward to working with this committee in developing the longrange transportation policy needs for the 1980s that are so desperately needed.

Thank you, Mr. Chairman.

Mr. HOWARD. Thank you, Mr. Edgar.

This morning, the subcommittee is very honored and very pleased to have as its first witness the new Secretary of Transportation. I believe that the Department of Transportation has had a series of extremely competent leaders. I am sure that many people, here and around the country, feel that we may have, for the coming 4 or 8 years, perhaps, the most knowledgeable and most qualified Secretary yet to hold that position.

We are very, very happy and honored that he is a colleague of ours, someone who has been a leader in the House of Representatives prior to taking his new position.

We also feel that this subcommittee, during this Congress, will be taking initiatives which will be of such great, momentous proportions that we may be setting a new direction for the next 20 or 25 years, and, perhaps, doing some of the most important things since the invention of the automobile.

We are very happy that we will have someone of the competence of our new Secretary to coordinate and cooperate with while we look over the entire field and future of all surface transportation.

Mr. Secretary, welcome. Please come to the witness chair. We are very, very happy to have you with us, and we believe this will be the first of a great many requests we will have for your attendance and expertise.

Before you begin, I would like to recognize for a moment the ranking member of our subcommittee, the gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman.

I certainly want to welcome you here, Mr. Secretary. In the last Congress, I found myself in the somewhat incongruous position of occasionally leading the charge against the administration and the administration's transportation policies.

In fact, I found myself at one point, writing an article, which was entitled, "Another Ford, Another Edsel." And I am hopeful that I am not going to find myself in a similar position with regard to the trans-

portation policy with this industry. Indeed, I think I am not. I am very much encouraged by many of the statements which I have read.

I am very much encouraged by the reasoned approach which you appear to be taking in your new position. And I am very much encouraged that a man of your caliber and capability, and a man of your background, not only in transportation, but with regard to the Congress itself, is in the extremely important post as Secretary of Transportation.

So I join in welcoming you, Mr. Secretary. I am just delighted that you are in the spot you are in.

Mr. HOWARD. Mr. Secretary, if you would, for the record, introduce the gentleman who is appearing with you, and then proceed as you wish.

TESTIMONY OF HON. BROCK ADAMS, SECRETARY OF TRANSPORTATION, U.S. DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY MORTIMER DOWNEY, DEPUTY UNDER SECRETARY OF TRANSPORTATION

Secretary ADAMS. Thank you, Mr. Chairman and Mr. Shuster. Seated at my left is Mr. Mortimer Downey, who is the Deputy Under Secretary and who handles budgeting and planning.

As the committee is aware, we are proceeding through with the appointment of administrators, and I am pleased to announce that the Senate confirmed the Federal Highway Administrator yesterday, so he will now be available to the committee. Pending before the Senate is the nomination of the National Highway Traffic Safety Administrator. She will also be available soon.

We do not yet have an Urban Mass Transit Administrator, who normally would appear with us, but Mr. Downey and I will do our best to answer your questions.

I particularly want to state that I am very pleased to be here before the committee on the House side, and I agree very much with the comments made by you, Mr. Howard, and by you, Mr. Shuster, on the need for the development of a national transportation policy.

My statement today will indicate that I agree that we should be working during the course of this summer and on into the spring on developing an overall transportation policy. My purpose in appearing here today is to address the particular bills that have been introduced and to indicate how we are proceeding with the problem mentioned by Mr. Edgar concerning the immediate items in front of us in mass transportation. But certainly, nothing that I say should foreclose my firm belief that in the future we need to move with a fullscale transportation bill that involves all of the surface modes. It will be up to the wisdom of the Congress as to whether these proposals should be in an omnibus, overall bill, or in bills that move parallel to one another.

The Chairman is absolutely right, the coming 2-year period is one of the most important in the history of American transportation for all of the surface modes.

Mr. Chairman, I am pleased to be here this morning to discuss the various proposals before the committee to amend the urban mass transit program. I think it is an appropriate time to look at the current program, as the new administration is looking at all of the issues

and concerns that should govern our choice of direction for the future. The President has asked me and all of the Cabinet officers to find ways to streamline and to simplify Federal programs and the Federal Establishment.

We all share a goal of reducing the Federal involvement in local decisionmaking while we strengthen Federal support of necessary programs. We should also seek to simplify the mechanics for delivering Federal assistance and to increase local flexibility in setting priorities and using resources where they are most needed with a broad functional area.

As I indicated before, Mr. Chairman, over the next year or so, transportation will be a major concern of the administration. The highway program authorizations and portions of the railroad assistance program will have to be addressed. We must take a close look at the mass transit program in this broader context. We are aware that you are planning future hearings to initiate a broad inquiry into the basic purpose and structure of the Federal assistance programs for mass transit and highways. We welcome the opportunity to work closely with you on these matters, and we look forward to a productive and cooperative effort over the next year or so.

Now I would like to turn, Mr. Chairman, to the bills that are presently pending before the subcommittee and which you mentioned in your opening statement.

Rather than comment on the individual sections of each bill, I will structure my comments around the issues involved, most of which are raised by H.R. 5010.

First, H.R. 5010 and other bills before the committee would allow nonurbanized areas to use the \$500 million which is reserved for such areas by section 4(c) of the Urban Mass Transportation Act to meet operating expenses as well as capital costs. The administration supports the principle of allowing such areas the same flexibility in this respect that the urbanized areas have under the current formula grant program. However, we do plan to consider the needs of rural and small urban areas as we develop our comprehensive programs over the next year.

It is a matter for the committee, but we really believe it is probably premature at this time to do a piece of it, since we are going to be doing the whole thing later. But I did want you to know what our position was on that, so that it could be involved in your deliberations.

Also, any program addressing these needs should include some mechanism for coordinating the wide variety of federally assisted transportation services currently provided in these areas under a number of social service programs.

We are trying throughout the administration at this time to be certain that the many different programs which we have, which all are really addressing a rural or small city problem, work together. We have initiated this in the major cities—for example, in the recent New York grants we have tried to look at housing, at transportation, at the whole gamut of environmental concerns that were involved with the city. We think that this same type of approach should be applied to small urban and rural areas.

Two of the bills before the committee call for a study by the Secretary of the transportation component of Federal programs provid-

ing social services. I think it is appropriate that the Department participate in an effort to provide you with a full and realistic set of proposals as to how these transportation needs can best be met. Our Department and the Department of HEW already have under consideration the conduct of five demonstrations aimed at determining the feasibility of coordinating and consolidating existing transportation resources within several DOT and HEW-supported programs at the sub-State level.

Turning now to elderly and handicapped service, all of the bills before the committee contain amendments affecting the elderly and the handicapped.

I do not believe it is appropriate at this time to comment on those provisions regarding the accessibility of buses to the elderly and handicapped, because, as the committee knows, I did review this, because we had a situation that was not working for anyone. The Department held public hearings on March 15, to obtain advice with regard to the Transbus program. As you know, the previous administration had issued a policy statement in August of 1976, which required improvements in transit bus design to facilitate transportation of the elderly and handicapped, and allowed the purchase of advanced design buses. I called for a review of this policy, as I was concerned about whether it met the needs of the elderly and handicapped, encouraged the development of new technology, and also provided for a viable and competitive bus manufacturing industry.

We have a very difficult and delicate situation, in that we were not getting the result that was satisfying the groups representing the elderly and the handicapped. We were in a position where we were knocking out two of the three manufacturers that were potentially able to supply buses. We were involved in a major lawsuit, in which we were being accused of collusion by drawing a set of specifications that could only be met by one company. So I just simply had to cut through the Gordian knot of all that. Mr. Chairman, and say that we were going to proceed with a set of interim standards that would allow the various communities to bid on the buses that were in the marketplace. I would like to note that there are two statutes, so you understand why this was not just some decision that we arrived at lightly.

One statute says that we must provide services in the public transportation area for the elderly and the handicapped, and another statute that says that we must not design a specification so as to in effect put out of business one company.

Faced with that situation, we have put out interim standards. They went out yesterday. These were difficult to formulate, but we hope we have given the necessary options. On May 27th, we will announce a decision on the Transbus issue.

I would like to point out that if we enact the requirements such as those contained in H.R. 5010, it will simply preempt the decision on Transbus. And if we decide to mandate Transbus, then the proposed legislation would not be necessary.

Now, with respect to the proposed amendments that do not deal directly with the problem of accessibility, I would like to make the following comments. First, if it is desirable to have, in the committee's wisdom, a fixed definition of the elderly, instead of providing for es-

tablishment of standards at the local level, we would favor the prevailing standard of age 65, rather than 60, as set forth in H.R. 5010.

Second: We would oppose amendments to establish a national advisory council on mass transportation for the elderly and handicapped and local advisory councils in urbanized areas seeking financial assistance for mass transportation. The reason for this is that we are trying throughout the government to reduce the enormous number of commissions and councils and groups that we have. We are reviewing them under the express direction of the President. In addition, we already have in the UMTA regulations, a strong requirement for involvement of the public, including the elderly and the handicapped, in every local transportation planning process.

In other words, the input already occurs at the local level and, as was recently shown when we held hearings on the bus issue, one of the best ways is to have people come in and give their comments, or to send in their comments, so that it is done in a public fashion, with all groups knowing what the other has said.

Third: We feel it would be inappropriate at this time to mandate that any specific portion of the program funds be set aside only for meeting the elderly and handicapped requirements, such as the mandatory 2 percent in H.R. 4821.

The reason for that is that there is no logical basis for estimating in advance of a careful local study what is the reasonable level for such service, and we do not know how to allocate the costs of accessible regular service between the elderly and handicapped and other users.

Three of the bills before the committee would amend section 10 of the UMTA Act of 1964 to broaden the Department's authority to make training grants to employees of transit system. I favor the enactment of this amendment, as it appears in section 2 of H.R. 5010. I think an aggressive and flexible training program is vital to the transit industry. As transit operations have become increasingly complex, the effective mechanisms for training and upward mobility within the system are essential.

The existing statute contains a number of restrictions which have hampered the effectiveness of the training grant program, and I think H.R. 5010 would remove a number of undesirable limitations. The Department would then be able to make its determination as to the number and distribution of training grants within the limits of its appropriations and would have the flexibility of making grants for training at all appropriate institutions and to all operators.

The next question that was addressed was loan forgiveness. H.R. 5010 and H.R. 3029 allow the Secretary of Transportation at his discretion to convert prior capital assistance loans to grants or to forgive principal and interest on prior loans in lieu of a cash grant. We support this proposal. As far as we can determine, the provision applies only to two places where we have made capital assistance loans—the State of Rhode Island and the city of Philadelphia. Because of the problem of matching shares in Rhode Island and the availability of grant funds, because the grant program did not exist when the loan was made to Philadelphia in 1962, it was necessary to make capital loans instead of grants to both Rhode Island and to Philadelphia.

Section 3 of H.R. 5010 would add an expanded definition of the term construction to section 12 and delete it from section 5 of the

UMTA Act of 1964, thus making the definition applicable to all programs authorized by the act. As we all know, at present section 5 contains a definition of construction, and this has caused some confusion as to whether different elements of construction are eligible under different programs. I think the change is a good one. We favor it because it will begin to simplify the act and eliminate confusion. And we should try to simplify and streamline these programs to the greatest degree possible.

Next, with regard to bus inspections, H.R. 5010 would add another section to the Urban Mass Transportation Act and make financial assistance under the act conditional on establishment by a particular State of a bus safety inspection system for all buses operating in intrastate and interstate commerce, including schoolbuses.

I am very much in favor of effective safety inspection. But I do not think we ought to put another amendment and another road-block check into the system. There just is not a reasonable basis for conditioning the enormous UMTA grant activities, which include not only bus operations, but rail construction, operating programs, and many other mass transit activities, on the availability of State inspection systems for vehicles which are not related to any of those programs. In addition, this proposal would overlap the existing authority administered by the National Highway Traffic Safety Administration and the Bureau of Motor Carrier Safety in the Federal Highway Administration.

In other words, we have other administrations within the Department that are working in these areas, and if the Congress is not satisfied that they are operating well enough, then we ought to make them operate better, and not add another layer. This is consistent with what I have tried to state concerning the President's direction to us to make the things that we have work, and if they are not working to get rid of them. If we feel that they need to be improved in their operation, let us improve the operation, rather than keying in an additional set of requirements which require more people and more checkpoints, and slow down the whole system of distributing funds.

Finally, on new funding authorizations, Mr. Chairman, one of the bills before the committee, H.R. 4821, proposes an increase in authorized program levels. I do not believe it is critical that additional or extended authorizations be provided at this time, because we have reviewed the current status of contract authority and find there is enough authority available to carry the section 3 program, which is capital grants, mentioned by Mr. Edgar, through the fiscal year 1979 period at a reasonable level. Within this balance—which is over \$1.9 billion at the end of fiscal year 1981—there are sufficient funds to provide engineering grants for any projects which may become candidates for commitments when the new authorizations are enacted.

We intend to evaluate—further program options—and this goes back, Mr. Chairman, to your original comment on a comprehensive bill, that during the 95th Congress, we believe we must address and go with new authorizations for 1980 and beyond. These recommendations will take into account the funding required to complete the projects under way, those which have received tentative commitments, and prospective new commitments.

I might add, parenthetically, that we addressed, in the very hurried budget review, because we only had a period of about 6 weeks to review the entire budget, the system that had been established by the former administration in which they granted, in effect, all of the money, and then said there would be no program starts. We have removed that restriction so that there can be new applications if they are available from the local areas, and the moneys are available to address either planning grants or preliminary engineering studies. This committee and the committee in the Senate will have the opportunity to roll it out further, if you feel that that is necessary.

And we are considering—as I testified in the Senate—a system of rolling authorizations 5 years out in advance, and as is provided under the new Budget Act, a rolling 2-year appropriations system, where you appropriate for 1 year, and you get an advanced year appropriation. Thus, you have both a 5-year planning system, with authorizations that come through the authorizing committees, and appropriations for 2 years. I really do think, Mr. Chairman, that the Congress should review all that is done in these programs every 2 years. Then you can decide on levels that you want to roll out in the future and consider whether we have been doing our job as you have instructed us.

With respect to the section 5 formula grant program, we have sufficient contract authority to carry the program through fiscal year 1980, except for the \$125 million that was borrowed—I guess that is what you would call it—anyway, it was used to finance the transition quarter. We have no objection to restoring the \$15 million at this time. If there is a widespread feeling that the current formula under section 5 is inequitable—and I do think it should be addressed—I think we should work out a better approach, and it is just a question of whether you want to do that at this time, or you want to do it as part of a more comprehensive approach.

Mr. Chairman, that concludes my prepared comments, and I am most happy to try to answer the questions of the committee.

Mr. HOWARD. Thank you very much, Mr. Secretary. We certainly appreciate your testimony.

I believe that the subcommittee will not be able to address or discuss with you anything concerning the interim standards that were announced and put out yesterday, because the subcommittee, until you mentioned it, was not informed of the fact that these would be put out. So that will leave something of a gap.

Secretary ADAMS. I understand.

Mr. HOWARD. We do have—and you have indicated, Mr. Secretary—a need for flexibility in this program. And this is something that was discussed during the entire last Congress, also, because we know, in the field of mass transit perhaps even more so than in the field of our highway programs, which is also under the jurisdiction of this committee, that differing locations have different needs. We have new systems starting. They certainly would be different in some of our very compact cities, where space is so important, and they may be very different there from what the situation might be in sprawling, urban areas, such as Los Angeles.

We do have in our major cities provisions for the flexibility of the local people, and some of that flexibility involves operating subsidies, which is their greatest need.

So would you not feel that in these smaller communities also, as you indicate, that you would like to have a great deal of flexibility, that it ought not to be limited only to capital and say there would be no flexibility, or very little, in the use of their money for operating subsidies, if that is the kind of system they have and that is the greatest need that they have.

Secretary ADAMS. Yes, Mr. Chairman. We have taken the position that the smaller urban and rural areas should have the same kind of flexibility that is granted to the major urban centers.

Mr. HOWARD. Well, this bill does address that, does just that, in the field of operating subsidies.

On accessibility for the elderly and handicapped, Mr. Secretary, it has been, to this Member anyway, one of the most vexing problems that we have. We can go into large, broad-scale programs and look at the Nation and say this is the kind of program that will work generally and provide enough flexibility.

Looking back, many of us on the subcommittee—and I feel perhaps you may feel—we are not satisfied with the kind of accessibility that we have been providing for the elderly and the handicapped.

But to try and come up with a fair, fiscally sensible, workable program is much more difficult, I find, than almost anything else we have had. Now we go, even in the bill that introduced, to a requirement that 50 percent of all the new buses must be available to elderly, and handicapped, and the others must have the potential for being changed so that they can do that.

The more I think of it, I can see communities, even in my own congressional district, where maybe 80 to 85 percent of the people who live in that community would be eligible under either age or handicap. And yet, there are others around the country, I am sure, new, developing communities of younger people, where it is difficult to find anyone over the age of 40.

So therefore, even that 50 percent is not enough in some communities. Would you give us your opinion as to the status of the programs that have been ongoing in the past few years, and whether or not you are satisfied that we are really doing all that we ought to in accessibility, not only in the physical moving of people, but in attempting to bring the elderly and the handicapped into the mainstream of our society, and not just shunting them aside with some separate but equal program?

Secretary ADAMS. Mr. Chairman, I am not satisfied that we have provided the accessibility that we should. That is one of the reasons why we are trying to address the problem from two different positions. First, we are trying to deal with the bus system itself in order to have a bus designed so that it is accessible to the greatest degree possible. This becomes difficult in different areas of the country. As you point out, communities have different needs. But we start at the general production area of trying to produce something that everybody can get on better, particularly the elderly and the handicapped.

Second, we are trying to leave a lot up to local option. In some parts of the country, for example, you will have a very heavy snowfall, and a number of the elderly and the handicapped are much better served by either a dial-a-ride or the use of a subsidized cab system or something that gives them door to door service, than they would be by

any bus system. This is so because they physically are unable to travel from their homes to the bus stop. We have tried the kneeling bus. As you know, we've got some of these in New York City. We are having a problem with it because it takes more time, and if the driver does not press the button, it does not become effective.

That was one of the reasons we had to pull back the standard and look at it to see if we can make it better. But I think you have got to go on the two tracks, and I know you will have before you the testimony of a number of the cities that are dealing with this problem each day, and they will tell you their differing approaches. Phoenix and Detroit, for example, will have differing ways of approaching it, and I think that the Federal Government should try to assist them. That is why we have adopted this two-track approach.

I would be very careful of automatic formulas, because I find that they put choke points in the administrative system. In other words, the money does not get out. Then we will receive a call from some Member of Congress on why it has taken so long for a grant to move from the application until it is signed off.

Well, each percentage requirement for each specific thing that is written into the statute means that administratively, I am required then to assign a group of people to review that and to sign off on it. And they try to do their job well.

So I would simply caution that I am finding that this is an administrative fact of life. I plead guilty to the fact that I sat in the Congress with the Chairman for a long time, and I have been a party to a number of choke points.

Mr. HOWARD. Thank you, Mr. Secretary. This is a problem. We have been talking about flexibility, and we want that; we are talking about mandating percentages for elderly and handicapped. Yet in the past, where we have had these things that sound good, like dial-a-ride, in some areas where it may be needed—

Secretary ADAMS. In some areas, it did work.

Mr. HOWARD [continuing]. We wound that to get a dial-a-ride ride, you had to phone in 2 or 3 days in advance. So we certainly find that we have to do more than we are doing now. That is why this has come up.

We are happy for your concern here, that the Department will not let slide by some of these programs that may look good on paper but really are not going to do the job. We feel that this is something that has to be handled fairly in this Congress. It is a continuing problem.

There is just one other point I had. In your statement you state that in the section 3 program, there is sufficient money through fiscal year 1979. As you know, there has been some disagreement among groups representing public transit and some members in the other body. If you could just briefly tell us what the disagreements are as to whether we do have enough money or we do not have enough money.

Secretary ADAMS. Mr. Chairman, we have enough money, and I am going to ask them to put up a chart to demonstrate what occurred.

What occurred in the program as it proceeded up through the end of the last Congress was that a number of commitments were made which in effect used all of the authorizations for the next 5 years, plus some more.

Now, what this resulted in was that if you look at the chart, if you were to fund all of those programs and in effect lock them up, you would have had no funds left for program grants. They took the 5-year authorization and in effect spent it all, plus a little more.

So that provides for the \$400 million and the \$700 million that you see in the yellow there, where people have said that there is not enough money.

Mr. HOWARD. Lock them up in what sense?

Secretary ADAMS. Well, in this way. There was a commitment made, for example, to Detroit, for \$600 million. We do not even have a project from Detroit to spend \$600 million. But that money is programmed. In other words, it is set aside as though it were spent.

Many other projects are in various stages of completion and will not reach completion for 4 or 5 years. Those programs can and should be covered by the committee when in its wisdom, it decides how much it wants for new commitments, and how much it wants to cover old commitments in the years 1980, 1981, 1982, 1983, and so on.

Mr. HOWARD. What you are saying is that the money for the entire project, even if it might not be spent—

Secretary ADAMS. Will not be spent. And when I say will not be spent, I mean in the contents that these projects, as all the members of the committee know, are in various stages, all the way from preliminary engineering to systems analysis to the beginning of construction grants, and they just cannot spend all the money committed until 2, 3, or 5 years out.

Now, we have programmed that out as to when the moneys will be spent.

What we have proposed gives this committee time, because during the next 2 years we actually have money available in fiscal year 1978 to cover everything that is going to be done in fiscal year 1978, plus \$100 million which we added to the Ford-proposed budget, in case somebody comes in and wants to start a new project. We have taken away the prohibition against new starts—in other words, if somebody wants to come in, we have money to start preliminary engineering planning.

Then, there is still \$1.97 billion in authorization left for fiscal year 1979, which is way above anything we have on the drawing board or to be built for that year, and we are saying that we have that authorization available; then for the fiscal year 1980, 1981 and so on. We are hopeful that during this Congress, the committee will have us report to it the commitments that we have out, which we will do through those years, and then you can decide how many new commitments you want to authorize.

Then we go to the appropriations committee, because we are already 2 years out in front of them, and say, "Now, we would like this amount of money appropriated, because these projects will actually spend out this year. And there you will have your 5-year program.

Incidentally, we would not take away the set-asides for the present projects until we had the new money. So in other words, if a commitment has been made, we are not saying to the people involved that the Federal Government is going to break its commitment. We just do not have the projects yet in some of those areas.

Mr. HOWARD. Well, the situation of setting aside all the money is very different, apparently, in the UMTA program than it is in the Federal highway program. As of your figures of February 28, there was \$9.1 billion in the Federal highway trust fund.

However, there were approved projects, ongoing, which when completed will amount to \$21.4 billion. Now, we do not hear from the State highway officials or State transportation officials or Governors or anyone else, that we must immediately appropriate in some way an additional \$12.3 billion today, and put it in a bank somewhere, because the projects that you have approved will come to this \$21.4 billion, just on projects approved now.

So there seems to be a little bit more security around the country for people involved in the highway programs, and much less security felt by the people in mass transit programs.

Why the big difference? Why are not the highway people upset about the fact that they are in a \$12.4 billion deficit position now?

Secretary ADAMS. Well, Mr. Chairman, there are two reasons for it. One is that since 1955, we have had the Highway Trust Fund, and each year, the money has gone into it, and therefore, they do have some confidence that the money will continue to go into it and that they will not be cut off. The Urban Mass Transportation Fund, on the other hand, is newer and has not had an assured source of revenue. Consequently, they want an authorization process to protect the commitments out in advance.

The second thing is that the Highway Trust Fund, you are correct, has a \$9 million balance, on which the Government pays interest, \$20 billion in unpaid authorizations—obligated and unobligated, but its spend-out rate is running around \$6 billion. In other words, it is running behind the total amount of money that is available, and a great part of that is because the State and local areas have the same problem that they do in the UMTA area. They haven't been able to use up their money at the rate that the projects have been authorized. Total revenues projected for the fund are enough to pay for all amounts authorized to be paid from it under existing legislation.

I think that is a reason why the committee may in its wisdom want to consider these programs together, including the manner in which we make grants to the varying modes of transportation and the manner in which we collect the money to make those grants.

Mr. HOWARD. Do you think, Mr. Secretary, that if the mass transit program were to operate under a trust fund of some sort, that the mass transit people would feel more secure and not insist necessarily that every dollar for every project be put aside for the entire project before it is begun? We know in the highway program that they do have to get certification for each project from the Secretary of the Treasury, that when the bills come due for this project, that the money will be there.

Do you think that perhaps the urban areas would feel that they can do more long-range planning with more confidence, less urgency and perhaps come up with better programs and better use of the Federal dollars, if they were put on a basis equal to the highway program?

Secretary ADAMS. Well, I think they are satisfied at this point with authorizations of commitments from this committee and from the other body that are signed into law.

I have not made a determination yet—and I certainly will not until we have had more consultation with this committee, the committee on the other side, and other Members of the Congress—whether we want to go with a trust fund operation for all of the various modes, or whether we should go with an authorization and rolling appropriation.

The reason for that is that I find that with the trust fund operation, you do not have the readily available source of funds at this point unless you want to change the method by which you collect total amounts of money and place them in a fund.

Also, one of the problems with a trust fund is that it tends to become very rigid. I know this committee is going to have to address that during the course of this next 2 years. In other words, the State and city officials that are coming to me are very concerned about the fact that their needs are different from what they are allowed to spend their money for under a trust fund statute.

So I think we need to be careful about saying we will automatically go to a trust fund, but I do think we need to give assurance to the mass transportation people, in the same fashion as we do to the highway people, that long-term commitments will be met.

Now, whether you want to do that with authorizations and rolling appropriations, or go into a trust fund, is something we are going to have to work out with you over the next 2 years.

If you do go with a trust fund, I think it is going to have to be more flexible than what we have at the present time, because people are asking for maintenance and repair funds, and for many things other than construction grants in the highway program. We are presently unable to meet many of those needs. We are simply restricted as to what we can do.

And as you know, the varying percentages, which were probably wise when originally enacted, have tended to tilt policy decisions of local officials, because they obviously go with the biggest percentage projects, and that often is not where their greatest needs are.

Mr. HOWARD. Mr. Secretary, it is very true—and I believe that it was shown in the last Congress, in the last Federal aid to highways bill—a great deal more flexibility was provided in that bill than had been in the highway program before. This was especially so in the entire primary area, where three large segments of that program were placed into one total amount of money, which gave a great deal of flexibility, also taking out the rigidity for some sort of—well, maintenance is a word we are careful about using, because we do not intend to have the Secretary of Transportation responsible for filling every pothole in the country—

Secretary ADAMS. I am pleased about that, Mr. Chairman.

Mr. HOWARD. But in the area of resurfacing, restructuring, and whatnot, there was additional money put in, especially on the Interstate System, which had none, and that was a drain on the States. And we are sure that what we do together in this Congress will be aimed at attempting to give to the States, when looking at their programs, whether it be highway or mass transit, the means to meet their needs.

There is no point in having a program if many of the States, because of some legislative structures, cannot use money where they

need it. And this is a goal I am sure we all have, to be able to provide funds to the States, and when we do provide them with funds, that they can use them where they are needed.

Another area that has been discussed is to get into the entire highway program as soon as possible one universal, similar matching provision for the States, instead of not having, for example, 90-10 in one area, 80-20 in safety, 75-25 in bridges, and 74-30 in primary; in tough economic times, these variances are almost forcing the State to use its money where it can get the highest Federal match in order to meet its unemployment problems.

And I think—and I have heard you say at times—that the greater stability we can have in that would be the ability to permit the States to actually use the money where it is needed best for the program, rather than just to meet its immediate needs in the general economy.

So these are some of the things that we do plan to work toward. When you talk about how fast we can meet the long-range needs of our urban areas, we have some figures that show, as far as buses are concerned, the most this Nation can use in 1 year is \$300 million, at full production, if we ever get to producing buses again; in railroad cars, or mass transit rail vehicles, \$500 million maximum. So we are even limited there, but we want to have as much flexibility as possible in the program.

And I am very happy to see that you are concerned about permitting the States to be able to make sensible, long-range plans, because we find that is the way that the money is utilized best, rather than to have the insecurity which is felt in many areas, that they are not sure when, or where, or how much money will be coming a few years down the road and, therefore, they are going to have to try and use what they have now for the most immediate needs, which might not be in the best interest of the long-range future of those programs.

These are a lot of the things that we have been talking about, and we are sure that we will be talking with you about them to a great degree.

We do, as you know, plan to have hearings on the entire scope of surface transportation throughout this spring and fall. We also plan to have some hearings in relation to ICC, as far as this subcommittee's jurisdiction is concerned, and we will be wanting and needing your advice and counsel. That is why I brought these things up in relation to the last part of your statement, as to just how much money do we have, for how long now, at this time.

Thank you.

The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Thank you, Mr. Chairman. I certainly appreciate your testimony, Mr. Secretary. I listened very carefully, and while I did not hear the words, I think what I heard—and please disagree with me, if this is not accurate—I think I heard you say, or imply at least, with regard to H.R. 5010, that the administration opposes H.R. 5010. Is that correct?

Secretary ADAMS. No. We support some parts, and we oppose others. That is why I went down through the sections and tried to indicate either support or lack of support for individual provisions within the bill.

Mr. SHUSTER. The extent to which the administration opposes, indeed what appear to be many of the major parts, and the strength of your opposition, is very important to some of us, because some of us have serious reservations about various parts of this legislation as well.

And if, indeed, there is going to be substantial opposition to major portions of 5010, then it would be important for us to know that, I think, as the weeks unfold.

If, indeed, the administration, rather, is expressing mild displeasure with it, but is certainly not going to aggressively oppose major sections, that is a different kind of opposition. And I am not really asking you for any definitive comment now, but rather suggesting that the extent of your feelings and opposition, perhaps, should be communicated to the committee in more detail as the weeks unfold, so that we will be better able to decide the extent to which we should attempt to amend it or go along with it.

Secretary ADAMS. Well, with respect to the so-called transbus problem, we have held public hearings and will announce our decision by May 27. We will continue close communication with the committee so that it knows where we are with that issue. That is why we have tried to make that decision early on, so the committee would know at least what the Department's position was in trying to carry out the existing statute.

Mr. SHUSTER. Perhaps what I am suggesting is that some of us would be quite prepared to support amendments to H.R. 5010 if, indeed, we knew the administration was strongly supportive. And this is the kind of thing which can unfold over the coming weeks, so we can work together with you on that if indeed you are so interested.

Last year, when we debated the possibility of operating subsidies for rural areas, and recognizing that the Federal share for rural areas, today, under the law, is zero operating subsidies and 50 percent on the urban Federal share, there was an amendment offered—or, in fact, perhaps, several—during the course of our markup, which would increase the Federal share in the urban area from 50 percent to 70 percent.

Now, does the administration support or oppose increasing the Federal share on operating subsidies in urban areas at this time?

Secretary ADAMS. We do not believe that the Federal share of operating expenses should be increased.

Mr. SHUSTER. Thank you. I applaud your attention and concern over the elderly and handicapped question, with regard to accessibility.

I have very deep concern over the so-called bus solution, because even if we were to mandate accessibility on buses, it seems very clear to me that a substantial portion of the elderly and handicapped would not have their transportation problems solved, because their problem is getting from their door to where they would like to go, and back to their door; not simply being able to board a bus at some bus stop.

So I join and applaud the position you appear to be taking with regard to a two-track system, and the concern that you have expressed.

With regard to the mass transit commitments which the previous administration made—and you used the example of Detroit, where apparently, they do not have a plan or a project, or have not submitted an application for one at this point in time, if I understood you correctly—is this a legal commitment therefore to Detroit? How firm can a commitment be, if indeed they have not applied for the money yet?

Secretary ADAMS. It is what is called a commitment in principle, Mr. Shuster, and I am not prepared to either debate or define for you what a commitment in principle is. We feel the Federal Government should honor its commitment to Detroit because when promises have been made, we should try to carry them out regardless of changes in administration.

I think at this point in the record, what I should do—and I would ask the chairman's permission—is to submit for the record the list of commitments that we inherited and what their status is, and then the committee can examine them and determine in its wisdom what they believe those commitments are.

Mr. SHUSTER. I would make such a request, Mr. Chairman.

Mr. HOWARD. Without objection, it will be made a part of the record. [The following was received for the record.]

STATUS OF MAJOR FIXED GUIDEWAY PROJECTS

The attached charts describe the current status of all major fixed guideway projects that UMTA is involved in as of March 18, 1977. According to the September 22, 1976, policy statement, Federal decisions will be necessary before projects may proceed to the next stage. There are generally three major stages:

- (1) Alternative analysis studies (AA);
- (2) Preliminary engineering/EIS circulation (PE);
- (3) Construction.

The milestones on the charts indicate approximately when the next decision will be made for each project. It should be noted that these charts may not include projects which: (1) are considered to be modernization/rehabilitation; (2) are not expensive enough to be considered "major"; or (3) are not ready for a stage 1 decision yet.

It should also be noted that these charts include projects funded by Interstate transfer funds as well as UMTA Section 3 funds.

FIXED GUIDEWAY PROJECTS

1 of 4

IDENTIFICATION	DESCRIPTION	EXISTING FED. CMAA	TOTAL GRANTS TO DATE	FY								
				74	75	76	77	78	79	80	81	82
<u>NEW STARTS</u>												
<u>PORTAL PLEDGES</u>												
ATLANTA	13.7 miles of heavy rail	\$800 mil. (\$120 pre NMTA)	\$692 mil.					CONST				
BALTIMORE	8.5 miles of heavy rail Phase I-Northwest Leg	\$573 mil. (\$73 pre NMTA)	\$249 mil.					CONST				
PHILADELPHIA	Center City Commuter Connection	\$240 mil.	\$25 mil.	PE	▲			CONST				
<u>COMMITMENTS IN PRINCIPLE</u>												
BUFFALO	6.4 miles of light rail	\$269 mil.	\$8 mil.		AA	▲	PE	▲				
MIAMI	16.5 miles of heavy rail	\$575 mil.	\$15 mil.		AA	▲	PE	▲				
DETROIT	Alternatives analysis now underway will determine recommended transit system	\$600 mil.					AA	▲				
DEM	Automated systems in St. Paul, Cleveland, Houston, L.A.	\$220 mil.					PE	▲				

FIXED GUIDEWAY PROJECTS

2 of 4

IDENTIFICATION	DESCRIPTION	EXISTING FID. CMAA	TOTAL GRANTS TO DATE	FY								
				74	75	76	77	78	79	80	81	82
<u>MODERNIZATION AND EXPANSION</u>												
NEW YORK	E. 63rd Street - 3 miles	\$322 million - Potential for add'l \$208 mil.	\$322 mil.	▲				CONST				
	Archer Ave. - 2.5 miles	\$125 mil. Potential for add'l \$140 mil.	\$125 mil.	PE	▲			CONST				
	Super Exp. in Queens - 6 miles	None existing Potential for \$545 mil.						PE	▲			
NE NEW JERSEY	PATN Extension to Plain- field - 17 miles	\$157 mil.						PE	▲			
	Erie/Lackawanna-upgrade 74 miles	\$212 mil. (\$3 pre NMTA)	\$118 mil.				PE	▲				
	N.Y. and Long Branch Upgrade - 17 miles	\$110 mil.					PE	▲				
CHICAGO	O'Hare Extension-7miles of heavy rail	\$110 mil.					PE	▲				
	Franklin St. portion of CUID	None existing Potential for \$400 mil. or more Possible Inter- state Transfer	\$8 mil.				PE	▲				
	Rail Modernization	\$99 million	\$10 mil.				PE					

FIXED GUIDEWAY PROJECTS

3 of 4

IDENTIFICATION	DESCRIPTION	EXISTING FED. CORP.	TOTAL GRANTS TO DATE	74	75	76	77	78	79	80	81	82
CLEVELAND	Modernization and Extensions	\$55 mil. Potential for add'l \$45 mil.	\$55 mil.				PE					
PITTSBURGH	Light rail modernization First stage 10 miles	Potential for \$176 mil. first stage				AA	PE	^				
BOSTON	Red Line extension to Arlington	Interstate Transfer of \$309 mil. proposed				PE	^					
	Orange Line relocation	Interstate Transfer of \$380 mil. proposed				PE	^					
	Blue Line Extension	Interstate Transfer potential for \$100 mil.					AA					
PHILADELPHIA	Frankford EL and other Modernization and Ext.						AA	^				

FIXED GUIDEWAY PROJECTS

4 of 4

IDENTIFICATION	DESCRIPTION	EXISTING FED. CORP.	TOTAL GRANTS TO DATE	74	75	76	77	78	79	80	81
POSSIBLE NEW STARTS AND EXTENSIONS											
HONOLULU	7 to 14 mile medium capacity fixed guideway	Potential for \$350-475 mil.				AA	^	PE	^		
SAN JUAN	15 miles of heavy rail (Bayamon Crescent)	Potential for \$640 mil.					AA	^			
BALTIMORE	Phase II	Potential for Interstate Transf.					AA	^			
LOS ANGELES	15 mile heavy rail line	Potential for \$800 mil.				AA			^		
PORTLAND	Light rail or busway	Interstate Transfer-Potential for \$100 mil.					AA	^			
ST. LOUIS	Not defined						AA		^		
SEATTLE	Busways and CBD Dist.						AA		^		
PHILADELPHIA	DRPA Extensions-18 miles						AA		^		
ATLANTA	Heavy Rail Additional 8.5 miles	Potential for \$300 mil. PE underway from prior grant					AA	^			

UMTA COMMITMENT STATUS

[In millions of UMTA dollars]

City and description	Total commit- ment	Obligations pre-NMTA	NMTA commit- ment	Obligations to Mar. 1, 1977 under NMTA	Balance
A. Formal sum—certain commitments:					
1. Baltimore—8.5 mi, heavy rail	573	73	500	176	324
2. Atlanta—13.7 mi, heavy rail	800	120	680	571	109
3. Philadelphia—Center City Tunnel	240	-----	240	25	215
Subtotal	1,613	193	1,420	772	648
B. Commitments in principle (new starts, modernization, extensions):					
1. Buffalo—6.4 mi, light rail	269	-----	269	8	261
2. Detroit—undetermined	600	-----	600	-----	600
3. Miami—16.5 mi, undetermined	575	-----	575	15	560
4. North New Jersey	479	3	1,476	115	361
PATH extension to Plainfield	(157)	(-----)	(157)	(-----)	(157)
Upgrade of Erie Lackawanna	(212)	(3)	(209)	(115)	(94)
Upgrade of New York and Long- branch	(110)	(-----)	(110)	(-----)	(110)
5. Chicago	209	-----	209	10	199
7.6 mi, heavy rail extension to O'Hare	(110)	(-----)	(110)	(-----)	(110)
Modernization program	(99)	(-----)	(99)	(10)	(89)
6. Downtown people movers	220	-----	220	-----	220
Houston (\$34,000,000)	-----	-----	-----	-----	-----
Los Angeles (\$100,000,000)	-----	-----	-----	-----	-----
St. Paul (\$45,000,000)	-----	-----	-----	-----	-----
Cleveland (\$41,000,000)	-----	-----	-----	-----	-----
Subtotal	2,352	3	2,349	148	2,201
C. Commitment under bus and paratransit program:					
1. Denver	2100	-----	100	20	80
2. Seattle	124	36	88	50	38
Subtotal	224	36	188	70	118
Total	4,189	232	3,957	990	2,970
D. Other bus and rail grants:					
1. Fiscal year 1975	-----	-----	870	870	-----
2. Fiscal year 1976	-----	-----	688	688	-----
3. 1970	-----	-----	210	210	-----
4. Fiscal year 1977 to date	-----	-----	164	164	-----
Subtotal	-----	-----	1,932	1,932	-----
Grand total	-----	-----	5,889	2,922	-----
Available under NMTA, 7125:					
Uncommitted	-----	-----	1,236	-----	-----
Unobligated	-----	-----	-----	4,203	-----

¹ Includes \$76,000,000 committed prior to UMTA's September 1976 letter to Commissioner Sagner.² Federal investment in the range of \$100,000,000 to \$200,000,000 in improved bus system committed.

Mr. SHUSTER. Mr. Secretary, I would also like to pose the question, since H.R. 5010 does not authorize expenditure of any additional funds, but merely the way in which the section money can be spent, why not equalize the urban and rural areas now, so that down the line, when you and we consider comprehensive program proposals, we can deal with both issues on an equal footing.

Secretary ADAMS. You would have to do it by legislation, in my opinion, Mr. Shuster, yes.

Mr. SHUSTER. Yes.

Secretary ADAMS. As I indicated in my testimony, I think that the treatment of the two areas in the same or equal fashion is something that we support.

Mr. SHUSTER. Well, I may be incorrect, but I thought you said it was premature to do it now.

Secretary ADAMS. Well, it should be part of your comprehensive proposal, but if you wish to do it now, we would have no objection to that being done.

Mr. SHUSTER. In conclusion, Mr. Secretary, I was very much interested in your discussion concerning the trust fund. The previous Administration came up here to the Hill with their infamous 1:2:1 proposal, which effectively would have destroyed the Highway Trust Fund, dedicating 1 cent to the interstate system, 2 cents into the general fund, and 1 cent back to the States, if the State increased its State gasoline tax by 1 cent. I would certainly urge you, and I am confident, that with your background here on the Hill, the present administration is not going to be so ill-advised as to come to the Hill with a proposal to destroy the Highway Trust Fund.

Secretary ADAMS. I do not know what we will come up with, Mr. Shuster, but it will not be the 1:2:1 proposal.

Mr. SHUSTER. Thank you. It is nice to see you today, Mr. Secretary.

Secretary ADAMS. Thank you, Mr. Shuster.

Mr. HOWARD. The gentleman from Georgia, Mr. Levitas.

Mr. LEVITAS. Thank you, Mr. Chairman.

Mr. Secretary, as you know, I am highly pleased that you are serving in this capacity, and I think it has been one of the finest, if not perhaps the finest, appointment that President Carter has made. Your work in the Congress in many areas has set an example for others to follow. And, in particular, as I have said publicly before, your work as chairman of the Budget Committee during the 94th Congress made a more lasting contribution than possibly any other single activity of any one person in Congress in the last decade.

It is encouraging to know that someone with this experience and dedication to budgetary considerations is now in a position in the administration of the sort that you occupy. It is very gratifying to me.

Secretary ADAMS. Thank you.

Mr. LEVITAS. Before I get into my specific questions, however, I would like to say that I am concerned that there has not been an appointment made for the position of Administrator of UMTA. We are now more than one-quarter past the first session of the 95th Congress, and it has to have a very dilatory effect on the decisionmaking process within the administration over which you preside and with respect to Congress, not to have a person in a leadership position.

I know you have been working on it, but I just want to emphasize my very great concern that we are already more than one-quarter into the first session of this Congress, and we still do not have an Administrator; and it is going to take that person a period of time to become adjusted.

Mr. Secretary, let me go to the question of operating subsidies, which were discussed in your testimony and by questions which have been put to you.

Have you considered, thus far, what the administration's position will be with respect to the utilization by local operators subsidy funds for operation under section 5? During the last administration, there was some discussion about establishing a 50-percent limit for the use of section 5 funds for operating purposes. It is my understanding that, nationwide, 90 percent of these funds are being used today for operating purposes.

Have you taken a position as yet, or are you giving consideration to a position on this subject?

Secretary ADAMS. We left that to local discretion on how that should be done, and we did not continue the 50-percent limitation that had been suggested by the prior administration.

Mr. LEVITAS. Thank you. There is one thing that I do not understand, though. I followed your presentation of two charts to the committee.

If I understand what you have said, you have, in effect, rescinded the previous administration's method of committing these authorized funds and will permit new applications to be made. Presumably, those commitments which have been made would now have to come back and get in line again for consideration?

Secretary ADAMS. No. The commitments that have been made and the projects that have been started will be continued from whatever point they are in the process, which involves, as you know, planning, alternatives analysis, preliminary engineering, and construction by segment. Outstanding commitments will be honored. They will stand ahead of those that are coming in as new requests from various cities, and that is what I inserted into the record in response to Mr. Shuster's question—the list of amounts and types of commitments.

I personally—and we have not gone through the whole administration—but I personally do not intend in the future to go into a series of these varying kinds of commitments in principle. I think we should make a final decision on whether to proceed with construction only after the project has undergone the intense alternatives analysis and after preliminary engineering has been done. Then we will know the amounts approved and we can come to Capitol Hill and say; "This project is going to cost this amount of money, and it has been authorized, and it will be built over this period of time." I think that is an orderly way that it should be done and that is the way that I propose to proceed with it.

Mr. LEVITAS. But these types of commitments, even using that new process that you just described—

Secretary ADAMS. I am not sure it is new. It is the way I think it should have been done, and I am not quite certain where this total concept of commitment in principle and so on came from.

In my opinion, the urban mass transportation program should always have had a system of analysis, alternatives analysis. After you build a segment, you should look at the next segment and determine whether it is within the statutory framework, rather than just making a lot of commitments and locking up funds. But, as I have just indicated, the promises that have been made should be carried out to the greatest possible degree. But the new applications coming in will be handled as I described to you.

Mr. LEVITAS. Well, how would you deal with particularly large capital projects that would extend beyond a 2-year authorization period; for example, a major project with all of the engineering done, the alternatives considered, which is now going to cost \$800 million or \$900 million and is not going to be completed in a 2-year period, but instead may require about a 5- or a 6-year period. What type of assurances can be given to these operators that if the funding is available, through authorization and appropriation that it will be forthcoming

to them? In the absence of that, it seems to me that you cannot make prudent, long-term plans for construction.

Secretary ADAMS. The project would work this way. Let us say city A comes in and has a 5-year project to build. The project costs \$500 million, and in the first 2 years, the payments are \$25 million and \$50 million. Then in the 3 remaining years out, you are in the construction phase, and the payments would go up and absorb the rest of the money. Within the 5-year authorization from this committee, there would be set aside that \$500 million would be paid. It would be blocked out as best we could—and that is why we have to keep reviewing it every 2 years to monitor whether the costs go up or down, whether they have been able to let the construction contracts, how fast the engineering went, whether they completed the environmental impact statements and so on—but the money would be set aside, out through the 5 years.

In the first year, the Appropriations Committee would be asked for \$25 million for the year that they are in, and for \$50 million for the next year, so that they would have in hand their money and for the next 2 years. Then you would roll it out 2 more years, so they would always have their money in hand for the year they are working in and for the next year. They would also have from this committee the set-aside through authorization for their 5-year program.

That fits in with the new Budget Act. The old system of contract authority does not fit in with the new Budget Act, so once the present contract authority expires, the act requires you go to this new system, or to whatever new system the Congress decides to pass.

Mr. LEVITAS. I see. I am pleased to hear that, because I know there has been a great deal of unease among some of the mass transit operators, who felt that it would just be a recurring problem of trying to find out whether there would be funds available for the completion of these long-range projects.

And as I see it, you are not talking about abandoning in principle the approach of commitments to long-term funding. It is just the freezing in or the locking in of these funds during this period of time; is that correct?

Secretary ADAMS. We will freeze them in or lock in the authorizations, depending upon the type of bill that the committees come out with when they are finished. The freezing in will be in the authorization process.

Now, we presently have a contracting process. If you wish to leave that in place, we will continue to administer it and the first time that we will run into trouble will be in fiscal year 1980; when we will run short of money for that year.

Mr. LEVITAS. I see. One last point, on another aspect of the pending legislation. I fully agree with you and the chairman of the committee as to the need for flexibility, or what you call local option, in dealing with accessibility for the elderly and handicapped. I think it does have to be approached on a community-by-community basis, because you have different problems to deal with.

And, by the same token, the rigidity of a single national program, or even a variety of single programs, just may not fit the modes or may eliminate a lot of the ingenuity and imagination that local communities can generate.

But I am concerned about the other aspect of it. How can you, as Secretary, assure that the local operators realize this is a high priority and that you are serious about meaningful programs which provide accessibility; that these programs are not just cosmetic measures implemented to meet the requirements of the legislation and enable the Department to point to them as evidence of action taken.

How can you set up procedures within DOT, with UMTA, to test and ascertain that the programs which are put in place through a local options system are really meeting the national standard and goal of providing real accessibility for the elderly and the handicapped, which Congress has clearly said is a matter of great concern to it?

Secretary ADAMS. We do it two ways under the current UMTA elderly and handicapped regulations. First, by establishing certain minimum accessibility requirements and providing for local options for greater accessibility.

The second thing we do is review the local planning process and programs to see whether they really have done what the regulations require. You have in that situation the necessity to review whether they get their money for their programs and whether they are really carrying out their commitment. That is a matter of just how well you administer it. There is no magic to it.

Mr. LEVITAS. So it is really going to have to be almost a system-by-system evaluation of actual effectiveness, if we have local option?

Secretary ADAMS. I think so.

Mr. LEVITAS. All right. When the new Administrator is appointed, I would hope to be able to get together with him, to discuss this question of local subsidies.

Secretary ADAMS. Or her.

Mr. LEVITAS. I have been trying very carefully not to put genders on it, and I slipped. That person, whoever he or she may be, and whatever age, or religious, or ethnic background that person may have—I would like to be able to meet with that person and discuss this question of operating subsidies, so that we combine what I know you are concerned about, the flexibility that we need in this program without having a completely open-ended, bottomless-pit type of situation, which would certainly bring great pressures to bear on your budgetary considerations in years ahead.

Thank you, Mr. Chairman.

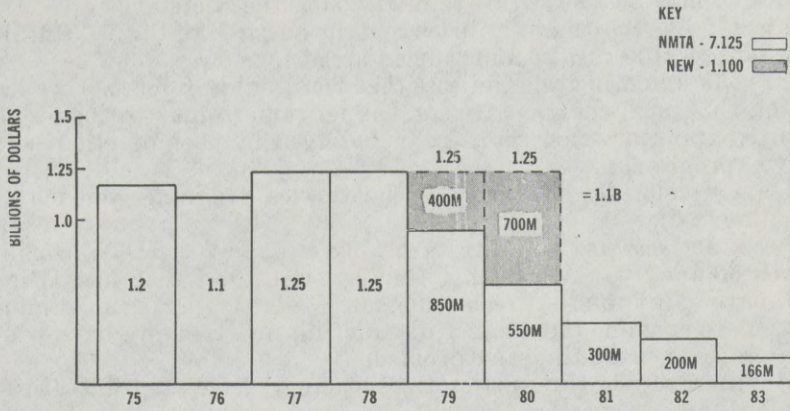
Mr. HOWARD. Mr. Secretary, during your presentation, you did avail us of some charts. If you could give us copies of the charts, without objection they will be made part of the record.

Secretary ADAMS. I would be happy to do so, Mr. Chairman, and we will supply copies to the committee.

[The following was received for the record.]

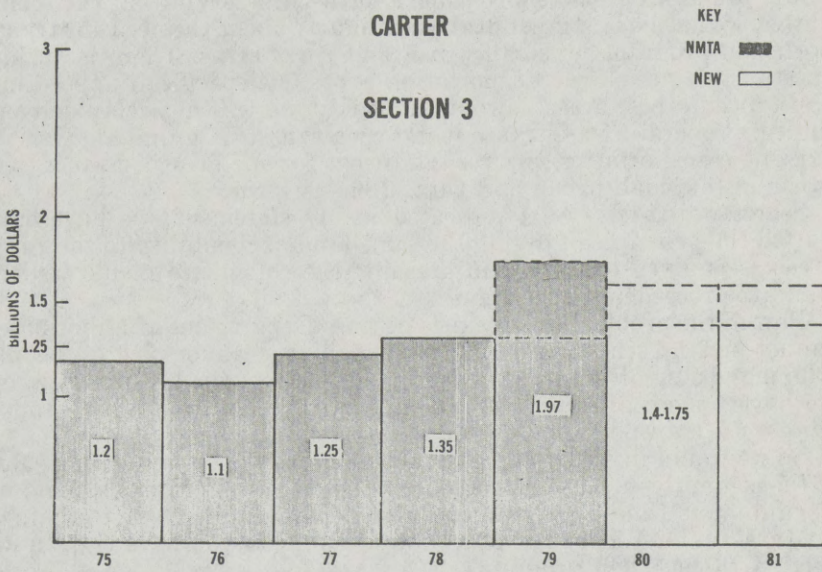
FORD

SECTION 3



CARTER

SECTION 3



Mr. HOWARD. Thank you.

The gentleman from California, Mr. Mineta.

Mr. MINETA. Thank you, Mr. Chairman.

Mr. Secretary, it is great to have you before our committee, and I would like to reiterate Mr. Levitas' comments about your prior service here, and how pleased we are to have you as the Secretary.

I would like to touch very briefly on the question of the \$500 million assistance to the rural nonurbanized areas.

In your statement, you indicate that you would prefer that we hold up on this until the Department has an opportunity to look at all assisted transportation services, including a number of other social service programs.

I am wondering what other social service programs you may be alluding to there?

Secretary ADAMS. There are probably close to 200. HEW runs between 50 and 100; Appalachia runs at least 10; Labor has some. I will have to get you the precise number. We are trying, as an administration, to examine the number of differing programs we have which address segments of this same problem.

But those are the three major areas where we have programs already in place.

Mr. MINETA. In the short time I have been serving on this committee, we have had a great deal of testimony about the need for transportation programs in small urban and rural areas. There is an unquestionable need for transportation programs specifically operating assistance in these areas. I would hope that we will not delay delivering rural operating assistance while we await some grand analysis of existing transportation services. The needs for operating assistance that exists in the small urban and rural areas is great.

Secretary ADAMS. As I indicated in my statement, we have supported the principle of giving the same kind of flexibility to the rural areas as is given to the urban areas, if the committee in its wisdom wants to proceed in that fashion.

Part of the problem which exists because Department of Labor buses cannot pick up schoolchildren, and schoolbuses cannot pick up people who may be involved in agricultural activities in the area. And when we have a medical program that runs through an area other groups cannot use transportation provided for that type of service.

So we would like to try to do a more comprehensive job with it. But if the committee wants to proceed with giving this additional kind of flexibility, as I indicated, we have no objection in principle to that.

Mr. MINETA. What kind of a time schedule do you have right now, relative to that DOT program?

Secretary ADAMS. We are hopeful that we will be before this committee, as the chairman indicated, in the summer or in the fall, on an overall program. And at that point, we should have been able to complete our review of these other programs, so the committee can look at them and determine whether they want to emphasize some of the existing programs, collapse those programs into one system, or how they wish to proceed.

Mr. MINETA. Although you indicated reservations about the appropriateness in commenting on the question of transportation services

for elderly and handicapped persons, your decision, of course, will be based upon the law as it is presently written——

Secretary ADAMS. Two laws, Mr. Mineta.

Mr. MINETA. Two laws—but in any event, if this committee, if this Congress were to go ahead with the provisions of H.R. 5010, that would actually preempt your decision process, would it not?

Secretary ADAMS. Yes; it probably would.

Mr. MINETA. Is there any way to exchange information prior to adoption of 5010, in order to come to——

Secretary ADAMS. We would be very happy to submit to you the transcript of the hearing that we have conducted on this, so that it is available to the committee for its examination, so you will know what information we have before us.

Mr. MINETA. Mr. Chairman, it seems to me that would be helpful, if we could have that information and make that part of the record.

Mr. HOWARD. Without objection, it will be made a part of the record by reference and retained in the subcommittee file.

[The stenographic transcript of the Public Hearings on Transbus, U.S. Department of Transportation, March 15, 1977, at Washington, D.C., was received and is retained in the subcommittee files.]

Mr. MINETA. The third area I would like to get into is that relative to the funding. As I understand it, you are considering a 5-year advanced authorization, with the 1-year advanced appropriation, and discretionary fund of some nature. Do those three things, then, constitute what might otherwise be a mass transit fund of some nature. Do those three things, then, constitute what might otherwise be a mass transit trust fund?

Secretary ADAMS. We have not considered adding a discretionary fund. I simply indicated that if the committee wants to move now, that the constraints of the Budget Act require that type of program approach, as opposed to using the contract authority which is grandfathered at the present time.

I am not saying that the committee has to do this now, but this was one of the questions that was addressed by me because a bill presently pending before the committee contains that type of approach.

Mr. MINETA. So that was more in relationship to S. 208, specifically?

Secretary ADAMS. To S. 208, and there is also a bill pending before this committee which has the same kind of approach. I was responding to the inquiry in the Senate, and indicated to this committee the same kind of comment on the bills that are presently pending here.

Mr. MINETA. As a former mayor of a city of 575,000, one of the big things we always had to concern ourselves with was that of planning and the certainty of funding.

I am just wondering, given the position that you are taking on funding, whether local government really has any assurance or any sense of continuity, in terms of the "commitments in principle" that might be made to enable them to sell the transit measures to their local constituents. Does your position give them any degree of assurance?

Secretary ADAMS. Oh, I think it does give them a degree of assurance, but as I indicated to the other members, it may well be that the committee wants to go with a different type of funding mechanism.

But under the new budgetary procedures adopted by the Congress, which I support, it is required that the Congress review the authoriz-

ing process at intervals, and that the appropriation process only operate no more than 2 years in advance.

So if you move away contract authority, unless you go to, as the chairman mentioned, to some kind of trust fund or equivalent system, you are going to be faced with the Budget Act procedures in any new bill.

And as I commented on S. 208 to Senator Williams, the bill, S. 208 would put in motion this process in fiscal year 1978. We were simply proposing that it not be put into effect until fiscal year 1980, so that we would have the present commitments protected through that period.

But if you wish to go with a new bill, whatever year you put it into effect, this new rolling process has to be considered.

Mr. MINETA. Well, using this system and without any new authorizing legislation, is there a possibility that OMB would deny you the right to make any additional commitments?

Secretary ADAMS. Well, I already testified to the committee that we have removed from the budget document the prohibition on new commitments that was in the Ford budget, and we did add additional money. They were at \$1,250 million, and we added an additional \$100 million so that, in the event new projects were proposed, we could consider them.

Now, as yet we have not had any new applications. They would involve planning or engineering grants. In other words, as I have mentioned earlier, these projects take a considerable amount of time to reach the stage of construction grants which involve the major amounts of money.

Mr. MINETA. If there is no new legislation such as S. 208—and if there is no discretionary fund, would you be able to go ahead with that kind of option?

Secretary ADAMS. I am not sure what you are referring to, because if you are talking about discretionary capital grant funds, we did add additional money, and the prohibition on new commitments has been removed. It is the usual process of making grant applications and either approving or disapproving them.

Now, if you are talking about a section 5 discretionary formula fund, we have not been in favor of that, because that puts the Secretary of Transportation in the position of determining operating subsidy grants city by city, and I did not think that that is something that should be left to the Secretary of Transportation, particularly at this point.

Mr. MINETA. Are you are going off full funding for those 2 years?

Secretary ADAMS. No; not until the new bill comes out of committee. We have met those commitments, and all we are saying is that you will not have to add additional money into the program until fiscal year 1980, if you leave in effect the contract authority you presently have.

We have \$1,970 million for fiscal year 1979 and we can use up to that amount. Now, we anticipate that all present programs can be accommodated within \$1,300 million or \$1,400 million, so we are well within the authorizations that are available.

Mr. MINETA. I wonder what this means to a community like Los Angeles, in terms of whether or not they would be ready for any UMTA commitments in, let us say, the early part of this next year. What does this mean to them?

Secretary ADAMS. Los Angeles is only at the engineering stage. There are funds available out through the next 5 years to meet the commitments for preliminary engineering grants, but the committee will have to address the amount of authorization that they wish to make for those projects and any new ones that they want, prior to this Congress adjourning on October 1, 1978.

I think that should be done, and I testified to that on the Senate side, and I have testified to it in response to the chairman's questions. I am simply stating that it is not necessary that this be done in the fiscal year 1978 budget cycle. We would expect to bring to the committee, in the fiscal year 1979 budget cycle, our recommendations for fiscal years 1980, 1981, 1982, and so on.

Mr. MINETA. What you are actually doing then is offering preliminary engineering moneys?

Secretary ADAMS. That is all that they have requested at this point.

Mr. MINETA. Well, that is just maintaining the status quo, then, in terms of what moneys you have available—

Secretary ADAMS. Yes; we have not changed the process of moving through these grant applications from planning through engineering to construction.

Mr. MINETA. And you feel that that is as far as they could go, so you do not have to have any more money than the preliminary engineering money that is available?

Secretary ADAMS. Absolutely. We have covered all construction grants, and we know of none that will break through the ceiling.

Mr. MINETA. And once they are ready to go, you feel you will have the moneys to make a commitment?

Secretary ADAMS. We do, up to fiscal year 1980.

Mr. MINETA. Thank you very, very much, Mr. Secretary. I appreciate your testimony.

Thank you, Mr. Chairman.

Mr. HOWARD. The gentleman from New York?

Mr. AMBRO. Thank you, Mr. Chairman.

I am sorry, Mr. Secretary, I had to leave. I just went down to testify before the Full Transportation Appropriations Subcommittee, on something that I would like to ask you a couple of questions about.

I do not know that I understand this completely, but the \$500 million may be used in such areas for the payment of cost of construction projects, or for the payment of subsidies for operating expenses. Now, this may be a very simple question, but do grant applications in the pipeline now consume that \$500 million?

Secretary ADAMS. No.

Mr. AMBRO. Then other applications will be coming in and will be reviewed in order to make determinations as to which will be afforded this opportunity; is that correct?

Secretary ADAMS. That is correct.

Mr. AMBRO. Section F, on page 10, "Of any of the amounts available to finance research, development, and demonstration projects, this section authorizes 1½ percent," or, if my arithmetic is correct, \$7.5 million, is that correct, of the \$500 million for R. D. & D.?

Secretary ADAMS. I believe that is correct, Mr. Ambro.

Mr. AMBRO. Mr. Secretary, we developed in another committee considerable testimony which indicated that there is a tremendous gap

existing in the United States between R. & D. and the kinds of technology available and implementing or deploying those technologies at another level.

Now, this 1½ percent may be set aside to finance research, development, demonstration projects, and used exclusively to increase the information and technology which is available to provide improved transportation facilities and services.

If we have \$7½ million for this purpose, we are obviously anticipating that we are going to have to educate a variety of groups, in order to make application to take advantage of this \$500 million. Is that correct, or is it not?

I see counsel shaking his head.

Secretary ADAMS. We were trying to check your figures, because we were trying to do them rapidly off the bill. If you are asking whether we have a program to go out and tell people that money is available for doing this kind of work, the answer is yes, we have. Various university groups have submitted projects for this kind of work.

We would come directly to Congress for the R. & D. funds, and we do not need a reserve percentage fund.

Mr. AMBRO. Well, the R. & D. and the DOT would revolve around the Federal Railroad Administration, UMTA in other areas, the Federal Highway Administration, and other agencies under the Department of Transportation.

With respect to this specific bill, however, this 1½-percent set-aside is for the specific purpose indicated in the legislation; is that correct? This augments other UMTA R. & D. funds?

Secretary ADAMS. If you are referring to subsection (f) on page 10 of the bill—

Mr. AMBRO. Yes.

Secretary ADAMS [continuing]. What is required there is a 1½-percent set-aside of what we get for R. & D.

Mr. AMBRO. Well, do we mean that the UMTA appropriation for R. & D. would be so much money, and that 1½ percent of that would be used for this purpose?

Secretary ADAMS. That is correct. That is what this provision provides.

Mr. AMBRO. Oh, I did not understand that. I am terribly sorry. That is even less. But the UMTA request for R. & D. in fiscal 1978 is \$70.6 million.

Secretary ADAMS. That is correct.

Mr. AMBRO. Then 1½ percent of that would be used for this purpose?

Secretary ADAMS. That is correct.

Mr. AMBRO. How much is that?

Secretary ADAMS. About \$1 million.

Mr. AMBRO. That is even less. My difficulty in all of these areas of technology deployment, or in this area of filtering down the things we develop at this level, to local communities, is that all testimony indicates—at least, from those that I have spoken to—a large gap in implementing those kinds of research and development technology. We do not seem to have an ingredient in our policy which mandates the intrusion or the inclusion, rather, of marketing science. We do not seem to bring together all of those jurisdictions—State, local govern-

ments, planning groups, industry, unions, consumers, and others—in order to effectively utilize what we develop.

What I am suggesting here is if we do not have applications now to consume the \$500 million in this bill, and if we are trying to gain general acceptance for the kinds of things we are trying to do for the elderly and handicapped, among other groups, is it in your opinion worthy of thought to consider increasing requests for demonstration and deployment programs which effectively utilize the technologies we develop?

Secretary ADAMS. We can give you a description of what we are doing now. We have an extensive program attempting to meet the problem that you mention.

There is often resistance, particularly in the rural and in the small urban areas, to moving with the new technology, when their needs for the existing technology are great. An example is that they are more interested in receiving the equipment, be it a bus, for example, or a van-type operation, than they are in having some new type of equipment.

So, yes, we do attempt to make new technology available to them, but their resources are limited, even with the matching requirements.

Mr. AMBRO. Well, precisely, and that is why I am suggesting that we review the \$11½ million for education and information in that section, to determine whether or not in a nation of this size, we have ample money to get a grassroots consensus for utilization of the types of things that we are trying to provide.

I do not want to belabor the point, Mr. Secretary.

Thank you, Mr. Chairman. I appreciate it.

Mr. HOWARD. The gentleman from New York, Mr. Nowak?

Mr. NOWAK. Thank you very much, Mr. Chairman.

In the time we have allotted, I first of all would like to express my appreciation, Mr. Secretary, for the assurances that you have given on many of the areas who have received commitments in principle.

I think the letter which was sent, in some detail clearly explains it, and certainly your explanation here today more than amplifies what you are trying to achieve in the 2-year appropriation process and the 5-year authorization process.

I think it is very logical; I think it is something that will result in a better run program. And I think, when you look over the whole gamut of these grants, I think it will be something which will provide security, instead of taking away some of the security that people have expressed.

I want to congratulate you. I assume some of that intricacy stems from your Budget Committee experience. But I for one, who have been involved with UMTA for a period of a couple of years, have felt very good, certainly not only with your appointment, but with the decisions you have made to date.

One just clarification point, if I may, on that topic. When you talk about the Detroit situation or any other situation, what you are essentially saying is that prior to a commitment in principle, under your new administration, you would make sure that all of the alternative analysis studies have been completed before that commitment would be made, so that any reliance could be given to a community only after that analysis has been made. And I do not know if that changes the

doctrine of the last year or two, but it certainly clarifies it. I wonder if you could comment on that?

Secretary ADAMS. That is precisely what I have stated, Mr. Nowak. We want to see what those projects are and how much they will cost, so that as we come to the Congress, either before this committee on authorizations or before the Appropriations Committee, we will have firm figures. Then you can make a commitment—call it a commitment in principle; what I call it is really a project commitment—that you are going to proceed with whatever you have promised the local community, and that that amount would then be carried in the bottom line before this committee in its out-year authorization, and in the appropriations that go along.

I am very concerned about making commitments in principle when you have not done an alternatives analysis. I do not think we should do that, and we are not going to do that anymore.

Mr. NOWAK. Then your authorization request would come before this committee, I take it—we would have to have that sometime prior to next May 15th, of course—

Secretary ADAMS. No, not this May 15th.

Mr. NOWAK. Next May 15th.

Secretary ADAMS. Yes. If you mean a year from this May, yes. At that point, there will be a listing of the amounts involved in the projects that have been committed, and there will be a listing of new applications pending. The committee will then set a figure for what is in the pipeline, and also for what they feel should be allocated for new projects.

Mr. NOWAK. I wonder if you could comment also on the formula 5 changes which have been suggested. I wondered if in your view, it should not be the change in the formula, if there is to be any, if that should not be considered at a later time, in a more comprehensive way, instead of isolating just the section 5 money, outside of all the other transportation commitments and moneys that we will have to authorize.

I just wonder if we can bring this into some total mode formula, to be considered with all the other formulas, so that—

Secretary ADAMS. I suggested that that be done. If you are going to make that kind of a change, I suggested that that be done in a comprehensive bill. The specific question that was directed to me concerned the bills pending before this committee. The bills suggest that the same thing be done in rural areas, as is done in the urban areas. I support that principle.

Mr. NOWAK. One other question. It has been brought to my attention that it is expected that about \$15 million of the 1975 \$300 million section 5 authorization could lapse and go back into the Treasury.

I am wondering if there is any plan to redirect that lapsing money to mass transit use, such as to finance some of the mandated, half-fare plans for the elderly? I do not know if that figure is precisely correct.

Secretary ADAMS. We have proposed that it be recycled into the system, without specifying which particular area it should go into. But we have proposed that it be recycled. It would require legislation, though.

Mr. NOWAK. All right. Again, I certainly want to thank you for your response. I think this certainly clears up in a lot of people's minds

some of the problems which emanated, I think, from a handwritten note.

Thank you very much.

Mr. HOWARD. The gentleman from Pennsylvania, Mr. Edgar.

Mr. EDGAR. Thank you, Mr. Chairman. Most of the really good questions have already been asked, but I do have a couple that I would like to share with the Secretary.

You spoke directly about section 3 and section 5 funding programs, and you submitted some charts, particularly on section 3.

I wonder if we could focus in on your charts and your understanding of section 5 operating assistance funding. To be more specific, I would like to ask this question: How do you propose to respond to the immediate need of our bigger cities, which has been expressed to me, for additional operating aid, to prevent service cut-backs and to prevent deferral of maintenance in fiscal year 1978 and 1979?

Secretary ADAMS. We propose that for fiscal year 1978, we go to \$775 million; for fiscal year 1979, to \$850 million, within the existing authorizations for those 2 years, to move toward trying to meet that problem.

Mr. EDGAR. Are you getting information from any of the larger operators throughout the country that in fact, some of their maintenance problems and service cutbacks cannot be met under the existing authorization levels?

Secretary ADAMS. We have had a number of people comment on the problems that they are having with their systems. Our problem there is that this is occurring throughout the entire country. I am not certain whether we could ever get to a figure large enough to meet all of the requests that we have had for operating assistance under section 5.

It is an enormous undertaking, once you go to operating subsidies for all of the various cities that are having trouble with their systems.

So in other words, we would really like to get better service and to increase service, in achieving the objective of this section.

What has been occurring is that operators been coming in with applications to simply maintain what they have. We do not see that we are making good progress in it by offering larger and larger operating subsidies.

Mr. EDGAR. I think there has been some problem with the operating assistance formula, particularly in the area of the use of some of the specifics of that formula as it causes some problems in places like Philadelphia, New York, and Boston.

I would hope that a great deal of study could be done to look at the specifics of the formula itself, within either the existing authorization levels—and I frankly believe that we should increase those authorizations for fiscal 1978, helping us to bridge the gap between the existing program and what we hope to have. I share your commitment to late 1979 or early 1980, coming up with a public transit policy that is part of a national transportation policy, on into the eighties.

I recognize the problem with operating assistance, but it seems to me that, given some of the facts of life, we may be jeopardizing some of the systems in deferred maintenance and in service cutbacks, that may make them totally inoperative by the early eighties, if we do not have some cushioning of the economic crunch that they are facing.

For example, SEPTA is out on strike right now. They are, in fact, making money by being out on strike. When they go back to work, they will start losing money.

Secretary ADAMS. That points up a problem, Mr. Edgar.

Mr. EDGAR. Well, it points up a very serious problem, but in fact, the overall problem of good, clean, efficient public mass transit for a metropolitan area is a very serious one, and I think there are major changes needed. We have to look at local metropolitan funding mechanisms. We have to look at State aid. We have to look at the whole question of either a trust fund or some assured funding mechanisms. And we have to look at some of the specific needs.

I think, in light of President Carter's energy message, we have to face the realities of the 1980's and the 1990's, in the area of public transit. We cannot afford the large operators that are having some difficulty, to simply get themselves into such a bind that they are unable to exist through the transition and make their way through the maze of the formulas.

Let me ask you a couple of additional specific questions.

In fiscal 1978, do you have any plans to prevent cutbacks in funds under the section 17 program?

Secretary ADAMS. We will simply follow the authorizing legislation, which is a phase down through fiscal year 1978. We do not have a separate Administration position beyond what is carried in the statute.

Mr. EDGAR. In your testimony, I am pleased to see that you talk about the study of Federal social service transportation needs. This is something I have been very interested in and hope that we can include in whatever bill comes out of this subcommittee.

The bill that is offered by our distinguished chairman has the initial commitment toward the study, but no funding. The bill which I have introduced has the same language for the study, but includes an amount of money of, I believe, approximately \$500,000, to conduct the kind of study that is suggested in both bills.

Do you have any position on whether or not the Department of Transportation needs the initial \$500,000 to conduct that study, or whether or not they can conduct it within present fiscal commitments to the Department of Transportation?

Secretary ADAMS. I am going to make them do it out of what we have now.

Mr. EDGAR. Using existing funds?

Secretary ADAMS. Yes.

Mr. HOWARD. The Chair would like to state that a vote is occurring on the House floor. We would hope that within, perhaps, 7 minutes or so, we might be able to conclude the questioning. However, we will leave the option up to the members.

Mr. EDGAR. Thank you. Mr. Chairman, I have many additional questions relating to some statements that Senator Harrison Williams made yesterday, in relationship to compromise of his S. 208, and some additional questions concerning the bill that I introduced, H.R. 4821, as well as several additional questions relating to the issue of standardization of light rail vehicles.

I know that the Department has been very interested in standardizing light rail vehicles, and through a Boston specification, the Boeing-Vertal Co. has developed a six-axle, light-rail vehicle that works on some systems.

It looks to me as though there are some changes in the commitment on the part of the Federal Government, and it looks like what is actually needed is a three-spec standardization one for a long car, one for a short car, and one for a skinny car, to make all of the local changes and modifications.

I am concerned about the Cleveland specifications which are coming out later this month, which may mandate, or at least push some of the manufacturers into a shorter car, that have not had the helpful hints from the Federal Government as to what that shorter should look like in terms of a standard, light-rail, short-car vehicle.

I am going to submit some questions to you on that specific issue, in hopes that your Department might reflect on your concern, as you stated on January 7, 1977, before the Senate committee, that you really feel strongly the need for standardization of transit car designs. I hope that you will be committed to that policy and help in this very critical time, when many of the operators are going out for bids.

Secretary ADAMS. We will respond, Mr. Edgar.

Mr. HOWARD. Did the gentleman wish that the response be made part of the record of these hearings?

Mr. EDGAR. Yes, I would wish that they be made part of the hearing, and also a copy sent to my office, if possible.

Mr. HOWARD. Without objection, it is so ordered.

[The following was received:]

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., June 22, 1977.

HON. ROBERT W. EDGAR,
House of Representatives,
Washington, D.C.

DEAR BOB: Enclosed are the answers to the questions that you submitted during my testimony before the Surface Transportation Subcommittee on April 6, 1977. I hope we have suitably answered these questions.

If you wish further information on any of these subjects, please let me know.
Sincerely,

BROCK ADAMS.

Question 1. Why did the Federal government permit deviation from the standard design in the Cleveland case?

Answer. All light rail vehicles, which are purchased in part with Federal funds, must meet the UMTA-sponsored specification for light rail vehicles. That specification, however, is a performance specification and not a design specification. In other words, many of the specification requirements are stated in terms of expected performance, rather than rigid technical standards. Thus variations in design are allowed as long as the performance standards are met. The "standard design" concept was never intended to ensure that every feature of all future rail cars would be uniform.

In addition, variations from the basic specification are permitted where necessary to meet local operating requirements and physical restrictions. The Cleveland procurement falls within this situation. Cleveland was required by the Ohio State Legislature to obtain at least 4,000 new passenger seats. Thus Cleveland needed to consider several options in car dimensions to acquire the required number of seats, in an optimum number of cars, at the lowest possible price. Since there is a potential for lower operating costs associated with the purchase of fewer cars, both Cleveland and UMTA agreed to a variation from the basic specification. The variations allowed for Cleveland were those necessary to meet their particular needs and to achieve the maximum possible price competition for this significant procurement. The Cleveland procurement was completely consistent with the spirit of UMTA's position on light rail car purchases, as spelled out in the attached UMTA statement.

Question 2. Does the Cleveland precedent mean that you are admitting failure, after your first real attempt to enforce the standard design?

Answer. We do not feel that the Cleveland case represents a failure. The basic performance specification was used by Cleveland as a procuring document with only necessary variations. This is the second time that this basic specification has been used for bid purposes and we are most anxious to see what bid prices are obtained. This information will help us in assessing the success of this effort towards standardization.

In addition, we know that the Southeastern Pennsylvania Transportation Authority (SEPTA) is preparing to acquire over one hundred light rail vehicles. UMTA will require SEPTA to develop specifications consistent with the basic specification for light rail vehicles. The need to make accommodations because of particular physical restrictions of the SEPTA system will be evaluated. After we have had experience with a few of these procurements, we will be in a better position to make absolute judgment on the success of the light rail vehicle standardization program. We are confident that this program will have a positive benefit to both transit operators and car builders, as well as the taxpayers, through appropriate price competition.

Question 3. When can we expect to see a revised policy on "Standard Terms and Conditions" adopted? Shouldn't the adoption of this policy precede the next major rail car order financed through UMTA?

Answer. Progress has been made in establishing a final equitable set of terms and conditions. A public hearing was held January 12, 1977, and written comments were accepted for a period of thirty days after the hearing. Substantial amounts of written material were submitted, and considerable disagreement was indicated. On May 3-4, 1977, UMTA met with the American Public Transit Association (APTA) and the Railway Progress Institute (RPI) to review their respective submittals and to discuss any further information that they had developed.

We anticipate that final terms and conditions will be promulgated in the near future. In the interim we will attempt to incorporate those terms and conditions on which we have substantial agreement as part of the next major rail car order.

Question 4. In testimony before our Subcommittee, you stated that a rolling 5-year authorization would give credibility to UMTA commitments for projects that take more than one year to complete. But many UMTA-funded projects will take more than five years: doesn't this imply that some sort of "set-aside" is warranted?

Answer. Over the past few years we have developed the concept of full funding commitments for major new projects in order to limit in advance the amount of Federal funds to be spent on a project. This policy gives a degree of certainty to local decision-making and concurrently places on the locality the responsibility for any cost increases other than an adjustment for abnormal inflation. We feel that this policy has helped drive home the urgent need to control costs and has been beneficial to both Federal and local interests. UMTA's ability to deliver funding increments against these fixed ceilings has been contingent, however, upon the availability of contract authority.

Funds were initially obligated for the first year's construction only. However, funds for future years were considered "set-aside" out of the balance of contract authority not yet released for obligation. This had the tendency to encumber funds unnecessarily, years in advance of their actual obligation. This "set-aside" was employed both to control total program spending and to assure that there are funds to cover specific project commitments.

As I have indicated before, however, this Administration views mass transit as a program which will continue for the foreseeable future. This view of the program, together with the new funding processes required under the Congressional Budget Act, allows us to modify the method for controlling program commitments. Instead of limiting advance commitments to the amount of Congressionally approved contract authority, new commitments will be controlled over their project life, within the framework of a five year program presented to the Congress. For a project that will take more than five years to complete the outyear (after 5 years) commitments would fall outside the 5-year authorization cycle and would be picked up in subsequent years under future authorizations. Such full funding commitments would receive first reservation on the budget authority. As the annual funding requirements of some projects phase down, there will be room to begin new projects within the same annual program

level; and if additional commitments are justifiable and required, program level increases can be made in order to accommodate them.

Under this approach a projected yearly obligation ceiling would be the programs controlling factor and our existing authority would not be inflexibly reserved prohibiting us from supporting projects in a timely fashion. In addition, this multi-year approach to program management will avoid unanticipated sharp increases in future year budget requirements.

Within this 5 year program authorization DOT would seek two year appropriations. Thus, each two years, we would review the 5 year program and extend it for an additional two years.

Question 5. Are you taking any steps to see that UMTA maintains closer contact with European and Japanese transit officials, so that we can learn from each other's mistakes and successes?

Answer. During the consideration of Transbus, assessment of European bus technology took place through several channels. All of the major Transbus testing programs as well as all Transbus specifications were developed in cooperation with an industry Bus Technology Committee (BTC). The BTC membership includes major bus operators having first hand knowledge of current European and Japanese bus technology.

The UMTA high capacity bus project (a project similar to Transbus and handled by the same office) sponsored an organized visit to Europe to investigate and assess technology. Most of the persons attending were members of the BTC and consequently there was a transfer of information to the Transbus program.

In addition a consultant from Germany was retained to review the procedures and design features incorporated in developing the standard European VOVibus. A report on the subject has been published and distributed to interested parties.

We have given briefings to European and Japanese groups on Transbus. Subsequently both the Swedes and Germans have initiated bus technology projects to embrace major features of Transbus. The Germans have a significant development project underway on an "advanced" bus known as VOVII.

Through its Associate Administrator for Technology Development and Deployment, UMTA has, in the past year, become a member of the International Union of Public Transport.

UMTA's railcar standardization project is now entering its Phase II development. The Phase I report was fully supported by the operating and manufacturing industry and was disseminated for comment and advice to both domestic and foreign transit associations.

We have entered into active cooperative exchange programs with several nations, including Germany, France, and Japan. A series of annual U.S./German Transportation Workshops is being held during which both technology and policy information are exchanged. The next workshop is scheduled for June 1977 in Germany at which time the UMTA bus development project will be discussed.

Mr. HOWARD. The gentleman from Illinois.

Mr. FARY. In what little time I have, Mr. Secretary, I am happy to greet you. As a member of the committee, all that I ask is that my little city of Chicago and the State of Illinois get a piece of the action; that's all.

[Laughter.]

Secretary ADAMS. Your mayor has been to see me, Mr. Fary.

Mr. HOWARD. The gentleman from North Carolina.

Mr. HEFNER. Thank you, Mr. Chairman.

I would just like to echo the sentiments of the rest of the committee, and congratulate you. In my opinion, the two best appointments this administration has made have been two Members from the House. And I just would like to say that I think your work in the next couple of years is going to be a source of great joy to you. I know you did a tremendous job with the railroads, ConRail, Amtrak. You are very familiar with transportation.

I am just delighted that capable people like you are going to be in charge of our transportation over the next 8 years, hopefully. I would just welcome you to this position, and Godspeed to you.

Secretary ADAMS. Thank you, Mr. Hefner. You are most kind.

Mr. HOWARD. Mr. Secretary, we wish to thank you very much for your appearance here today, and hope that you feel comfortable in this room, because we expect to have you back again and again and again.

Secretary ADAMS. Thank you, Mr. Chairman. I appreciate being here today.

Mr. HOWARD. The subcommittee stands in recess until 1:30 p.m.

[Whereupon, at 12:07 p.m., the subcommittee adjourned, to reconvene at 1:30 p.m.]

AFTERNOON SESSION

[Whereupon, at 1:40 p.m., the subcommittee reconvened, Hon. Norman Mineta, presiding.]

Mr. MINETA. The subcommittee on Surface Transportation will come to order.

This afternoon we have three witnesses making a presentation.

The first is Edward R. Stokel, director of Public Transportation, GMC Truck and Coach Division, Pontiac, Mich.; Mr. Fred W. Garry, chairman and chief executive officer and president of Rohr Industries and; James A. Currie, vice president, administration, AM General Corp.

At this time I will ask Mr. Stokel to come forward and start this afternoon's deliberations with his presentation. Mr. Stokel, we would appreciate it if you would introduce those who accompanied you for the record.

TESTIMONY OF EDWARD R. STOKEL, DIRECTOR, PUBLIC TRANSPORTATION, GMC TRUCK AND COACH DIVISION, PONTIAC, MICH., ACCOMPANIED BY FREDERIC W. BREDE, JR., CHIEF ENGINEER FOR COACHES; AND FREDERIC BARTLIT, COUNSEL

Mr. STOKEL. Thank you, Mr. Chairman, and members of the Surface Transportation Subcommittee.

My name is Edward R. Stokel. I am director of public transportation for GMC Truck and Coach Division of General Motors. With me is Frederic W. Brede, Jr., our division's chief engineer for coaches and Mr. Fred Bartlit, counsel.

We appreciate this opportunity to discuss with you the challenge facing transit vehicle manufacturers in relation to the engineering of transit vehicles to better serve elderly and handicapped persons.

We do support the overall objective with respect to the implementation of feasible, cost effective improvements in public transportation. We are on record as opposed to mandatory universal design requirements. If, nevertheless, the legislation before this subcommittee should require any design features, they should be at least technologically feasible, and adequate advance notice and leadtime should be provided for implementation.

We will confine our remarks to the accessibility aspects of transit buses as these are the principal transit vehicles manufactured by GM and the vehicles most used in public transportation today.

General Motors has a long history of commitment to improved public transportation. Our goal has been increased safety, comfort, and accessibility for all passengers, including the elderly and handicapped. Typical examples of GM's contributions to better transit include automatic transmissions; a kneeling device for easier boarding; the smoother ride of air suspension; sensitive door edges to prevent closure on passengers; special stairwell lighting; grab rails and stanchions placed more helpfully; and a long list of other advances.

GM RAPID TRANSIT EXPERIMENTAL (RTX) PROGRAM

In this tradition, we launched a comprehensive program in 1964 to develop an entirely new bus design. Major goals of that program were: (1) Significantly greater accessibility, and (2) comfort and safety for all bus riders, with particular emphasis on the elderly and handicapped.

GM's RTX bus design of 1968 evolved from that R. & D. program. May I have the lights turned down, please?

The RTX was revolutionary and proposed major new features to improve public transportation. It was the first totally new attempt to redesign the bus in many years. With the RTX, GM originated the concept of the low floor.

The RTX program predated statutory requirements concerning accessibility of public transportation to disabled and elderly persons. Moreover, GM initiated the RTX project on its own and without the aid of Federal funding.

The RTX concept embodied the following for the elderly and handicapped: A low 22-inch floor; a kneeling system developed by GM to lower the floor another 3 inches; a fold-down step for easier boarding; a braille bus stop reader and tapping strip for the blind; and, provisions for accommodating a wheelchair lift or ramp.

New technological components embodied in the RTX included: An experimental gas turbine engine; an experimental transmission; an experimental braking system; an experimental rear axle drive; experimental tandem rear suspension components; and small diameter experimental tires.

The RTX was the first experimental advanced design low floor bus and the forerunner of Transbus. Further, this laboratory on wheels met or exceeded virtually all of the major passenger-oriented design criteria proposed by the National Academy of Engineering.

GM was initially enthusiastic about the many new ideas incorporated in the experimental vehicle. However, subsequent testing and evaluation by experienced transit operators disclosed operating problems.

For example, the low floor required several unproven, experimental systems and components, including axles, wheels, tires, brakes, and running gear. This meant questionable reliability. There was also a significant weight penalty; anticipated maintenance costs were extremely high, and a greater number of parts, many of them critical, was required. In addition, seating capacity was greatly reduced. All of these difficulties resulted from compromises required in order to attain the 22-inch floor height.

GM RTS PROTOTYPE PROGRAM

Because of the above-mentioned operating and reliability problems with the RTX, GM went back to the drawing boards and proving grounds. We decided that the RTX needed considerable change in the problem areas to achieve the desired goals. This work led to the development of the RTS prototype bus in 1970 and later to the 1975 version of the RTS-II. This vehicle is ready for production today.

THE UMTA TRANSBUS PROGRAM

Meanwhile, in 1971 the Urban Mass Transportation Administration initiated its own Transbus experimental design program. Transbus incorporated many of the features originally developed by GM for the earlier RTX. GM was an active participant in the Transbus program. It is a valuable research project and we endorse its goals. In fact, we've been pursuing the same goals for more than a decade.

Transbus had six priority goals: (1) Speed; to minimize journey time; (2) passenger comfort and safety; (3) aesthetic appeal, both inside and out; (4) environmental adaptability; (5) maintainability and reliability; and (6) economy; from a life-cycle point of view.

Like the RTX, Transbus prototypes from all three manufacturers met the initial four goals, but fell short of the final two critical priority goals involving maintainability, reliability, and life-cycle economy. Transit authorities questioned the unproved systems, questionable reliability, weight penalty, maintenance costs, and reduced seating capacity of certain Transbus features. These difficulties related primarily to the low floor and to the related ground clearance problems we had experienced with the original RTX.

GM recognized it would require a long period of time to solve the engineering problems created by the RTX and Transbus floor height. However, in 1973 it had become apparent to GM that cities and transit operators urgently desired an advanced bus reflecting the practical state of the art and attainable within a reasonable period of time. Accordingly, GM decided to proceed with its advanced design bus, the RTS-II. It could be produced in a relatively short period and incorporated the workable innovations of RTX and Transbus while eliminating the quality and maintenance problems inherent in Transbus prototypes.

GM RTS-II

The RTS is truly an advanced design bus. It incorporates the unique RTX and Transbus features which are feasible for operations today. It offers maximum accessibility for all bus riders, especially the elderly and handicapped, now feasible within the limits of current technology, operating practically, and cost effectiveness. This all-new bus design features a new, smoother riding independent front suspension; corrosion resistant, stainless steel body construction, and rivet-free, graffiti-resistant exterior panels which are readily removable for quick repair.

Advances of great importance to the handicapped include the kneeling feature, which permits the RTS to be lowered about 5 inches for easier boarding; cantilevered—or wall mounted—seats for unobstructed floors to prevent tripping, and a wheelchair lift. The RTS

will have a wide rear door for wheelchair access. This allows the wheelchair to be conveniently positioned onboard the bus directly opposite the rear door.

Also, the problem of negotiating a wheelchair within the confined and often crowded front section of the bus is avoided.

Moreover, location of a wheelchair access at the rear door can be accommodated in both 96-inch and 102-inch width vehicles. If the wheelchair lift is located at the front, its use would be largely restricted to the 102-inch wide bus.

This summarizes GM's involvement since the early 1960's to improve bus designs so as to make these vehicles more attractive and accessible to all potential riders.

We would like to focus now on some of the technological problems for which we must find practicable solutions before we can make further advances. Let us begin with a discussion of RTS floor height.

The stationary floor height of the RTS-II is now 32 inches. The kneeling feature developed by GM reduces it another 5 inches, for an effective height of 27 inches.

At this stage of bus technology, a substantial penalty in operating costs and efficiency would result from further floor height reduction before manufacturers are able to do so without compromising other major design elements.

Reducing bus floor height in the neighborhood of 8-10 inches from the present 32-inch RTS floor height requires that a number of significant changes be made in existing major mechanical components. These are not simple modifications to existing parts but require all new, largely untried components of much greater complexity. These major modifications include major changes to tires, brakes, drive axles, and the suspension system.

For example, a lower floor would require that small diameter tires be used. Serious tire problems have occurred in just the limited operation of the Transbus vehicles which used these small diameter experimental tires.

Also, the four rear wheels and tires cannot be installed on a single axle. Their width would reduce interior floor space otherwise available for seating. Thus, two rear axles are needed, and moreover, both must be driving axles to provide the necessary traction.

Tandem driving axles also added to the complexity of the suspension and braking systems and increased the number of parts that must be used. New braking systems are required in order to provide passenger safety levels and operator life cycle costs equivalent to those now provided. Present brake designs which are satisfactory for the continuous stop and go of city transit service, are inadequate to the task when their size is reduced in order to fit within the smaller wheels which the low floor requires. General Motors has a small diameter oil-cooled disc brake under development. This brake may be one of the breakthroughs needed to make lower bus floors practical.

We should also point out that tandem axles restrict the number of seats that can be installed in a bus. Tandem axles require larger wheel-houses and thus reduce interior floor space available otherwise for seats. Even after making necessary changes in the structure and mechanical components of the bus to maximize seating capacity, the number of seats is reduced on the order of 10-20 percent from the

number available on current buses. This would make it more likely that many elderly and handicapped passengers would find it difficult to be seated.

To date, only nine Transbus models using three different axle configurations have been built, and not one has been tested adequately on a real world, life cycle basis.

In view of the complexity and present state of the arts as they apply to the drive, suspension, and braking systems, and to the tires as well, serious questions remain as to the long-term reliability of a low floor bus.

We would like to review one final point with you, and that is the technology necessary to allow the wheelchair-bound person to board the bus.

One proposal is a wheelchair ramp.

However, the ramp creates a serious problem in that it must slope so steeply that, in many cases, the wheelchair user cannot get up the ramp. The recommended feasible ramp slopes no more than 1 inch for every 12 inches—the architectural standard.

The maximum length possible for an onboard ramp is 6 feet. This can accommodate a 6-inch drop. Given a 6-inch curb, a ramp is not feasible with a bus having an effective floor height greater than 12 inches.

This problem cannot be solved by using a steeper ramp, as it is too hard to climb, especially under adverse weather conditions. A telescoping ramp which would overcome the slope problem would jut out in the crowd at bus stops and would be a safety hazard.

GM believes the wheelchair lift is a more prudent and effective method.

The wheelchair-bound person can advance onto the lift with little effort and without any required skill. Either he or the busdriver can operate the control to raise the lift and allow the person to board the bus.

Once inside, the wheelchair-bound person can efficiently and safely go to the provided wheelchair position. The procedure is reversed for exiting the bus.

We would like to add here that a technological definition of desirable wheelchair characteristics would facilitate the development of lift technology.

SUMMARY

In summary, improved accessibility of transit buses for the elderly and handicapped is recognized by General Motors as an important design objective. Every feasible effort should be made to increase accessibility.

GM's early development of the experimental RTX and of the first prototype of the RTS, both of which we undertook on our own initiative, is evidence of the importance we attach to this objective.

As we have learned from evaluations of the experimental RTX, the prototype RTS, and transbus vehicles, accessibility is but one among a number of important bus design objectives that must be met if bus transit in the future is to remain a viable form of public transportation. GM's new RTS-II bus, with the wheelchair option, the

kneeling feature, and 8-inch step risers, will meet the goal of greatly improved accessibility for the elderly and handicapped.

Arbitrary design requirements, such as a specified low bus floor, can compromise vehicle reliability, increase costs significantly, and result in a deterioration of the desired level of service. In effect, the costs and potential problems associated with a low bus floor could far exceed the marginal improvement in accessibility.

A major area where further analysis and enlightenment are required is the extent to which special transportation service for the elderly and handicapped is a better approach than attempting to mandate modification of every regular transit service bus in all operators' fleets. Special service could quite possibly be the only practical means of accommodating wheelchair users and a variety of others with serious handicaps.

Local authorities, in our view, are in the best position to determine which alternatives effectively meet their community needs.

GM has entered into a long-term, cooperative agreement with the city of Cincinnati and local transit authority to experiment with variations in types of transit service and management techniques to better understand costs and benefits. This program, referred to as the Urban Transportation Laboratory, involves a selected corridor of the city approximately 4 miles wide and 15 miles long. We have proposed to the city that personalized services be considered, including service for elderly and handicapped persons. We have also proposed to conduct, working with the city of Cincinnati, a study of improved transit and personalized service to and within the Cincinnati Medical Center.

We are also conducting a study for the Southeastern Michigan Transportation Authority to develop a 15-year service plan for elderly and handicapped transportation. This study will involve consideration of a number of alternative approaches ranging from complete reliance on decentralized special services to greater reliance by the elderly and handicapped on conventional transit.

Mr. Chairman, I would like to offer an additional comment.

Much has been said recently about prices of the new RTS bus and I would like to inject for the record the facts.

Recent bids by one of our competitors involving 176 coaches in Denver, 150 in Cleveland, and 40 coaches in Indianapolis indicated a bid price, an average bid price, of \$74,081.

The average bid price for the Houston consortium involving the all new RTS, after deducting the special California sales tax, was \$87,299.

The difference between these two figures reflects an increase of 15.14 percent for the all new RTS bus, and not the 33 percent indicated by others.

I might also add that a recent bid, as recent as 2 weeks ago, in San Mateo County, involving the purchase of twenty-six 40-foot coaches, was bid at \$85,080.50.

That bid price is for the old style, present-day bus as seen on the streets of Washington, D.C.

I would like to now refer to Mr. Fred Bartlit, who has a very brief comment.

Mr. BARTLIT. Mr. Chairman, this morning Secretary Adams mentioned in his testimony, or in response to a question pending litigation

involving advanced design buses and current design buses. Since that time we have had an opportunity to see the testimony of AM General, which will be heard by the committee later today.

It is our view that this testimony is in reality nothing more than a legal brief which rehashes the complex issues which are now under consideration by Judge Ritchie here in Washington.

Now, we do not believe that this is the proper forum for lawyers' argument on cases which are under consideration by Federal judges.

Judge Ritchie, who has the case and has tried the case, is one of the most experienced judges in the procurement area. He takes the case very seriously, as was evidence by the fact that on one occasion he held trial until 10 o'clock at night without a break for dinner.

We expect a decision daily and we, therefore, will not respond to what we conceive to be the lawyers' argument in the AM General papers.

We would say that our court papers on file before Judge Ritchie, we believe those papers answer what, in our view, are the extreme statements made in AM General's papers.

We think, for example, our papers show that there was not any coercion of UMTA.

If this committee or the chairman would require a detailed response to those lawyers' arguments, we would make it. We do not think it is necessary and certainly the court papers are available if anybody would like to look at the basis for those charges.

We would simply conclude, in this regard, gentlemen, that what the records show is this: That far from opposing low-floor buses—as we have been repeatedly charged with, we were the ones that invented and produced the first low-floor bus.

It is not our fault that we have experienced, as has everyone and as our competitors have testified, certain inherent problems which as yet prevent the production of buses with the kinds of low floors that everyone would like to see.

Thank you.

Mr. STOKEL. Mr. Chairman, that concludes our statement.

We appreciate the opportunity to present our views and we are prepared now to answer any questions regarding our testimony.

Mr. MINETA. Thank you very much, Mr. Stokel, Mr. Bartlit.

We do not intend to get into the legal dissertation itself.

We would like to hear from the manufacturers regarding those parts of the bill affecting manufacturers to help us in our deliberations on the legislation before us.

So, then, to that extent, we would welcome any testimony from the witnesses.

Mr. Stokel, I would like to just ask in terms of the presentation you made, first of all, that you have wide rear doors for wheelchair access.

I am wondering to the extent that you do provide this rear door access, I am wondering does this make it more difficult for the driver as well as the handicapped in terms of access to the vehicle?

Mr. STOKEL. We do not believe so. We had a group of handicapped at our facilities to try the wheelchair access.

We have demonstrated and show it to not only wheelchair-potential riders but also to transit operators from various parts of the country,

and we see no operational problems or other problems with the wheelchair installed in the area of the rear door.

Mr. MINETA. Why did you choose the rear door?

Mr. STOKEL. Well, as we said in our testimony, at the front door, during peak hours, most people tend to congregate in the area of the front step well, between the two wheel housings in the front, and that presents one problem.

The other problem, as the slide showed, was that the wheelchair has to be adapted and usable in a 96-inch-wide bus as well as 102-inch-wide bus.

So people seated on the aisle-facing seats in the area of the front wheelhouse would obstruct the natural flow of the wheelchair as it moves down the aisle.

We think a better place is to have the wheelchair at the rear, and proceed directly to a space made available for it opposite the rear door.

Mr. MINETA. What about fare collection?

Does that present a problem with the rear door access?

Mr. STOKEL. Well, let us assume that the fare collection will be treated either by way of a pass or that there will be no fare collection.

The driver can, if he so desires, proceed to the rear and assist in raising and lowering of the wheelchair lift, and collect the fare at that time, or it can be done by the wheelchair passenger.

Mr. MINETA. If you would you have the driver doing that, would it reduce the time—

Mr. STOKEL. It would, possibly.

But we would envision most of the passengers raising and lowering themselves on their own, with the proper overrule switches by the driver.

You must keep in mind, too, Mr. Chairman, that if you have a wheelchair access in the area of the front door, that you extend the overhang from the axle to the front of the bus.

That reduces the approach angle of the bus which makes it an operational problem for a lot of operators who operate in hilly terrain; in San Francisco, in Des Moines, in Pittsburgh, and Seattle, and so on.

Mr. MINETA. Is the hydraulic lift something that you would envision would be used only by wheelchair users? What about nonwheelchair disabled?

Mr. STOKEL. It is possible that they could use it.

Mr. MINETA. As far as a ramp is concerned, would not that be accessible, or usable, by anyone, whether they are disabled or able-bodied, even during peak traffic hours?

Mr. STOKEL. As we indicated in our testimony, an ideal ramp as spelled out by the architectural standards is 1 inch drop in 12.

Based on vehicles with present-day floor heights and current technology, we believe that a ramp will be inaccessibly steep for wheelchair passengers and other handicapped people.

Mr. MINETA. What do you do when you have more than one wheelchair passenger in your RTS-II?

Mr. STOKEL. Well, like every other device, it would be one at a time, one wheelchair passenger at a time on the lift.

Mr. MINETA. And is there within the bus itself, a place for more than one wheelchair—

Mr. STOKEL. Yes; any number can be provided, one, two, three, any number.

Mr. MINETA. What is the cost of the lift?

Mr. STOKEL. The cost of the lift will be in the neighborhood of \$7,000 to \$8,000, depending upon the volume.

Mr. MINETA. Have you had an adequate amount of time to be able to test that lift under constant use?

Mr. STOKEL. Well, we are presently testing four different concepts and we favor one in particular.

It is of our design and we have got some built-in safety features, including grabrails built into it; and in the event there is a total power failure, the lift can be raised and lowered manually.

We have tested it, as I said earlier, with wheelchair passengers and they find it most acceptable.

Mr. MINETA. I was just wondering if you could go over that again for me.

I am not sure that I got an answer to the inquiry.

Mr. STOKEL. Would you repeat your question again, please?

Mr. MINETA. Yes.

Could you repeat your answer? I am not sure I received an answer to my inquiry.

Mr. STOKEL. Your question was: Has the wheelchair been adequately tested in order to insure proper, safe usage and our answer to that was—my answer was that we are in the process of testing four separate concepts and we are leaning toward one in particular, one of our design.

We are very optimistic about that one; tests will continue.

I might add that we have stated, and we are on the record as having stated, that we will have a factory-installed wheelchair lift available in February 1978, assuming that we are allowed to get into production with our RTS-II.

Mr. MINETA. In terms of that testing, have you found maintenance cost to be relatively high with the lift mechanism?

Mr. STOKEL. No; not anymore than any other development program.

Mr. Chairman, maybe I could refer that question to our chief engineer, Fred Brede.

Mr. BREDE. As far as the maintenance and engineering, one of the reasons that we have designed our own was that we wanted to make the mechanism as simple as possible and reliable as possible.

To do this we wanted the lift mechanism out of the road—dirt and salt built up into the vehicle—where we could contain the environment that this has to be operated in.

We have cycled it many times in our laboratory; we have found problems and we continued work on its design and that is the one we have completed now.

So we have had a lot of experience with lifts. We had an elevator lift that dates back to Transbus.

Mr. MINETA. What is the ground clearance on your RTS-II?

Mr. BREDE. Thirty-two inches and we kneel to twenty-seven.

Mr. STOKEL. I think the question was the ground clearance.

Mr. MINETA. What is the ground clearance?

Mr. STOKEL. Is that what your question was, Mr. Chairman?

Mr. MINETA. Yes.

Mr. BREDE. If we relate the question to the Transbus ground specification, the RTS-II has clearance in excess of the specifications.

This is breakover angle, departure angle.

Mr. MINETA. Has there been any problem with the 22-inch floor Transbus in terms of operating on hills, or can a 22-inch floor bus actually operate on the street without any damage?

Mr. STOKEL. This is a problem, Mr. Chairman, and as we indicated earlier in our testimony, that the Transbus low floor design was based on many experimental, untried, and untested components.

That coupled with serious ground clearance, in approach, and departure angle problems, presented problems from the operator's point of view.

Mr. MINETA. In your statement, you made reference to the fact that adequate advance notice and leadtime should be provided.

What do you consider to be adequate advance notice for leadtime?

Mr. STOKEL. For what item?

Mr. MINETA. In terms of the legislation coming out of this subcommittee.

Mr. STOKEL. Well, if you were to mandate a lift, we believe approximately 1 year is required to further test and tool for a proper lift.

Mr. MINETA. And let us say if it were a ramp.

Mr. STOKEL. For a ramp we presented our views objecting to the concept of the ramp because of a steep slope, either telescoping or a solid ramp.

We favor the lift approach.

Keep in mind we have no objections to the ramp but given current design height of buses, based on current technology, that the ramp is not feasible because of the steep incline that would be necessary.

Mr. MINETA. You refer to some of the modifications that would have to be included, including tires, brakes, drive axles, and suspension system.

I am wondering whether or not tires are not available currently which would serve the purpose of present day technology?

Mr. STOKEL. I would like to turn that one over to our engineer, Mr. Brede, but let me just offer this comment.

No; tires are not currently available to support the loads of a transit-type vehicle.

Mr. MINETA. What about the tires that are supposedly currently available in Europe?

Mr. BREDE. I would like to talk about those tires.

The tires that I think you have reference to are the 275/70 radial on a 17½-inch wheel.

Mr. MINETA. Are these the ones made by Phoenix?

Mr. BREDE. Yes.

They are made in West Germany, they have experimentally made six tires.

They were put on a bus in Hamburg. Those tires have been removed from the bus and the tests have been terminated because of brake problems.

Now, you say; How do brakes get involved with tires?

When you make the diameter of the tires smaller, you make the wheels smaller.

Mr. MINETA. What is the diameter on those tires?

Mr. BREDE. The diameter on those tires is 33 inches, roughly.

They have taken them off because of these brake problems.

They now are experimenting with a new tire which is a 55 aspect ratio. You might ask what this aspect ratio has to do with it?

It is a tire only 6½ inches tall, and 12 inches wide, and this brings about the problems that we have had, and the Germans, the West Germans, are going in the same direction that we went.

When they get the tire this wide, they will get into handling problems and tires on buses must be able to take the punishment of curbs on buses.

These tires will not take that punishment.

Mr. MINETA. You refer to the fact that a ramp creating a problem in that it must slope so steeply that, in many cases, the wheelchair user cannot get up the ramp.

This is, of course, if the bus has a high floor.

What about solving the slope by having a low floor? Can a low floor bus accommodate the ramps?

Mr. STOKEL. As we said, there are engineering problems.

The technology is not there whereby we can get to that low floor today.

In order to have a practical ramp, we would have to get that floor height down to about 12 inches and we do not know of a good way to do that and provide a safe reliable bus.

Mr. MINETA. Going back to the lifts and your experience with them, do you know what the experience in New York City has been with their lifts?

Mr. STOKEL. I do not.

With their lifts over there, kneeling feature?

Mr. MINETA. Do I understand that they in New York City, have buses with lifts?

Mr. STOKEL. I do not believe they do.

I do know that they have experience and have buses equipped with kneeling features.

Mr. MINETA. OK.

Thank you very, very much, Mr. Stokel.

At this time, I will call on our very distinguished gentleman from Pennsylvania, Mr. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman.

I think your testimony rather vividly highlights what happens when the Federal Government tries to get into the business of engineering design and I am very hopeful that we are not going to find ourselves in the position of mandating that which is not technologically feasible, and I am very sympathetic to the kinds of problems which have been created for your industry and as a result, Government involvement or potential involvement.

Let me pursue some numbers you gave us a few moments ago.

You talked about RTS costing in certain bid situations, your bus costing \$74,000 per unit.

Mr. STOKEL. No; that was a competitor's bus involving a present day bus, the old style.

Mr. SHUSTER. Also, you referred to a \$85,000 bus as a present day bus down in Houston, I think.

Mr. STOKEL. That is correct.

Mr. SHUSTER. OK.

And then you talked about——

Mr. STOKEL. However, if I may interrupt, that \$85,000 bus was not in Houston.

That was bid in San Mateo, Calif.

Mr. SHUSTER. Then you talked about an \$89,000 bus.

Mr. STOKEL. I think it was an \$87,000 bus, and that was in Houston involving the all new RTS by General Motors.

Mr. SHUSTER. The all new RTS, but does that include the lift or not include the lift?

Mr. STOKEL. In all cases it does not include the lift.

Mr. SHUSTER. So when you say all new RTS, then it is all new RTS except for the lift.

Mr. STOKEL. That is correct.

Mr. SHUSTER. So——

Mr. STOKEL. And if I may interrupt again, sir, and no lift was included in the bid price of the \$74,000 figure or the \$85,000 figure.

Mr. SHUSTER. I assume not, because you said they were present day buses, the kind on the streets of Washington.

Mr. STOKEL. That is correct.

Mr. SHUSTER. So, if the lift were included, you would add another \$7,000 or \$8,000 to that?

Mr. STOKEL. That is correct.

Mr. SHUSTER. So we are talking about a—close to a 10-percent cost of the bus, 9 percent cost of the bus for the lift feature?

Mr. STOKEL. Yes, sir.

Mr. SHUSTER. And I understand there are about 50,000 public transit buses in America, is that correct?

Mr. STOKEL. That is correct.

Mr. SHUSTER. That means that \$8,000 figure we are talking about, \$400 million roughly to eventually put into service buses which had the lift feature, not counting the additional cost of capacity production apparently, as well as other operating costs.

I am sure you looked at the size of your market for the lift, and let me ask you, what is the size of the market for your lift?

Mr. STOKEL. Well, if the lift were not mandated, if it were left to the judgment of the local operator who could either provide special services, or dial-a-ride, or door-to-door-type personal services for the handicapped, in lieu of mandating a lift on all buses, in my judgment the potential market is in the neighborhood of about 800 to 1,000 lifts per year.

Mr. SHUSTER. Of that 50,000 buses, how many new buses purchased in the year?

Mr. STOKEL. The current market is in the neighborhood of 4,500 units per year and that would indicate that maybe 20 percent of the annual purchases would be equipped with lifts if the operators had an option in the matter.

Mr. SHUSTER. Have you looked at the market in terms of number of people in wheelchairs and people who would avail themselves of this use?

Do you have any statistics on that?

Mr. STOKEL. No, I do not, but I know the industry has. Our market research was through the industry.

Mr. SHUSTER. I am a little concerned about the—you are passing over the rear entrance as something that is easily being accomplished. Are not there several problems with the rear entrance?

First of all, you will have the problem of somebody in a wheelchair attempting to get on the lift, not being on it firmly and the operator starting to raise the lift, and you have somebody tipped out of the wheelchair onto the street.

Is not that a very real possibility?

Mr. STOKEL. No; I do not think so.

Keep in mind that we can have the controls at the rear and the wheelchair passenger himself can operate the controls.

Mr. SHUSTER. Yes; but you also said the operator up front could.

These are the kinds of things if it can go wrong, it will go wrong, just as sure as you have an operator 40 feet away determining to take her up, you can have somebody on the wheelchair who is not firmly on this who can be tipped off.

Mr. STOKEL. The controls at the rear could overrule any of the controls at the front.

As long as the door is open the vehicle cannot proceed.

Mr. SHUSTER. That is a different problem than I foresee happening.

What about the problem of other people boarding with the person with the wheelchair, kids, for example, piling on the back of the bus?

Mr. STOKEL. At the same time as the wheelchair passenger?

Mr. SHUSTER. Yes; to get a free ride.

Mr. STOKEL. There may be that isolated case, but keep in mind that the wheelchair takes up most of the room of the platform.

Mr. SHUSTER. I am just wondering how isolated it would be. At rush hour in a big city people streaming through the front, one harassed busdriver up front, and somebody in a wheelchair in the back, and it is 3:30 in the afternoon, and 10 kids trying to get on the bus, I foresee several problems.

Mr. STOKEL. Of course, that problem prevails with a wide entrance door, to where two streams of traffic go past the driver and the one stream could conceivably bypass the driver and the fare box.

Mr. SHUSTER. Well, it could easily be handled by an arm that is up at all times so that only one person could get through, except somebody in a wheelchair.

But I do not mean to get into the details of it.

I am very sympathetic with the problem that exists here technologically and I'm also concerned about mandating the expenditure of \$400 million over a period of time when indeed I feel strongly, you have been here earlier today, heard me say I am certain many times, the great fallacy with our mandating this type of a standard, is that it does not really solve the problem for many, many people in wheelchairs—who are interested not simply in getting on a bus, but they are interested—in getting from their home to where they want to go and back.

So we can mandate this and spend \$400 million and not solve the problem for a very substantial portion of the people in America who

are in wheelchairs, because they have to get to and from their homes.

So I have great reservations about this aspect of this legislation.

I have no further questions, Mr. Chairman.

Thank you very much.

[Whereupon, Mr. Howard assumed the Chair.]

Mr. HOWARD. There was an article that appeared in the New York Times, March 15, 1977, by Tom Wicker, entitled "The Low-Floor Bus."

Without objection, that will be made a part of the record at this point.

[The article referred to follows:]

[From the New York Times, Mar. 15, 1977]

THE LOW-FLOOR BUS

(By Tom Wicker)

New York City's "kneeling buses" aren't kneeling, which gives added point to hearings being held tomorrow by Secretary of Transportation Brock Adams on one of the most ignored mandates of Congress. Beginning with the urban mass transit act of 1964, and five other times since 1970, Congress has directed Mr. Adams's department to make urban transit fully available to the mobile elderly and the disabled. Nothing has happened.

Depending on who's testifying, New York's kneeling buses—vehicles with an airbag device that theoretically allows the front step to be lowered to within 3 inches of a 6-inch curb—aren't kneeling because the airbags don't work or because drivers are too impatient to use them. Either way, they aren't helping the handicapped—who maintain that, in any case, the kneeling bus is not the real answer to their problems.

What they want is something called the "low-floor bus" (of which one prototype was called the Transbus). It would have a floor 17 to 22 inches above the ground, a single step, a ramp that extended to the curb, a door 44 inches wide to accommodate wheelchairs and open space inside for them, as well as its own kneeling device. There are lots of good reasons for providing the handicapped, and all the rest of us, with just such a bus:

¶There are 13.3 million Americans so disabled that they couldn't use any other; studies show that increased ridership by this group alone would reduce present transit operating deficits by from 4 to 10 percent—not to mention whatever reduction in welfare and disability payments might result from giving the handicapped a better chance to get to work.

¶The low-floor bus boards passengers in half the time required by current models, cutting trip time by as much as 10 percent, reduces accidents and insurance costs, has a ride quality approaching that of passenger cars, and for these reasons might attract a 5 to 10 percent increase in ridership *exclusive* of the handicapped.

¶Eighty percent of all vehicles used in urban mass transit are buses, and 75 percent of all urban mass transit riders take buses (most of which, today, have floors 34 inches high and doors only 27 inches wide).

So why isn't the low-floor bus being produced? Well, for one thing, it probably would cost about 12.5 percent more than current models; but that would be greatly offset by expected increases in farebox revenues of \$23 to \$65 million annually. The most important problem is the RTS II bus that General Motors began to develop in 1973-74.

Spokespersons for the handicapped say the RTS II is nowhere near the answer to their problems. It has floors 29 inches high, two 8-inch steps over which a ramp is not feasible, and can kneel to only 24 inches at the front. It would cost only about 5.5 percent more than today's buses but studies show it would attract only 2.5 to 5 percent more riders.

Nevertheless, in 1976, Robert E. Patricelli, the Ford Administration's chief of the Urban Mass Transit Administration (U.M.T.A.)—part of the Department of Transportation—designated the RTS II as an "interim" model for development. Mr. Patricelli said no low-floor bus could be ready for production for 3 to 5 years, and that its benefits would not warrant its higher cost; he agreed with G.M. that a floor height of less than 29 inches was not financially feasible.

Critics say Mr. Patricelli overestimated both the cost of the low-floor bus and the RTS II's facilities for the handicapped—and that, anyway, Congress set no limit on costs in ordering service provided for the handicapped. Moreover, they point out, both American Motors General and Rohr Industries have said they could produce a low-floor bus by 1979—given one important condition.

That is that U.M.T.A., which refunds cities for 80 percent of the cost of transit buses, designate the low-floor bus as the only one eligible for the subsidy, thus guaranteeing a market sufficient to cover manufacturers' retooling costs. Under the Patricelli ruling, the RTS II and buses approximating its standards (such as Rohr's ADB) are the ones eligible for Federal subsidy; and six cities already have placed orders for 400 RTS II's.

Groups of the handicapped and elderly have filed suit alleging the RTS II does not meet the Congressional mandate; in another suit A.M. General contends that U.M.T.A. has a private agreement with General Motors to subsidize only the RTS II. No wonder Brock Adams has reopened the Patricelli decision—or that he pointedly tells inquirers that the law requires him to subsidize only those buses properly equipped to serve the handicapped.

Mr. HOWARD. Are you familiar with the article?

Mr. STOKEL. Yes; I am.

Mr. HOWARD. Would you care to comment?

Mr. STOKEL. Specifically about the low floor?

Mr. HOWARD. About the article.

Mr. STOKEL. Well, I do not have it in front of me and if you would like to raise any questions, I would be happy to answer them.

In essence, the low floor bus has been a problem that we have looked at since the sixties.

As we said in our testimony, Mr. Chairman, we invented the low floor. We developed the first low floor bus with the RTX, but it had so many design problems associated with it. It is predicated on experimental, untried components, and we do not believe it is wise to mandate that kind of a vehicle at this point in time.

Mr. HOWARD. As to this particular article, we will give you a copy. If you care to send in an observation, without objection, that will be made a part of the record.

[The following was received for the record:]

GMC TRUCK & COACH,
DIVISION OF GENERAL MOTORS CORP.,
Pontiac, Mich., May 3, 1977.

Hon. JAMES J. HOWARD,
Chairman, Subcommittee on Surface Transportation,
U.S. House of Representatives, Washington, D.C.

DEAR SIR: This will refer to the recent hearing conducted by the Subcommittee on Surface Transportation which you chaired, and which took place in Washington, D.C., on Wednesday, April 6, 1977. During that hearing, the views of General Motors were presented in a formal statement and answers were provided to the questions raised by yourself and other members of the subcommittee.

During the question and answer period, you asked whether General Motors was aware of the article written for the New York Times by Tom Wicker, entitled "The Low-Floor Bus," published March 15, 1977. You indicated that the article was to be included as a part of the official transcript and asked that I comment on the article. We agreed to do so and ask that this letter setting forth our comments be included in the official record of our testimony.

Before discussing various technical aspects of the article, I believe it is important to make two general observations.

First, the article opens by saying that, despite Congress directives to make transit available to the elderly and handicapped, "Nothing has happened." In actuality, my April 6, 1977, testimony before the Surface Transportation Subcommittee documents General Motors technological contributions to better transportation for the elderly and handicapped. Former UMTA Administrator Patri-

celli's letter to the editor of the Times (copy attached) outlines the many steps UMTA has taken to assist the elderly and handicapped. This cannot fairly be called a situation where "Nothing has happened."

Second, subsequent to the April 6 hearing before the subcommittee, Judge Richey on April 21st rendered a decision in the *AM General* case. The court flatly rejected AM General's charge (repeated in the Times article) that "UMTA has a private agreement with General Motors to subsidize only the RTS-II." Yet it is this supposed "private agreement" which the Times article cites as a key reason why the UMTA decision not to mandate Transbus had to be reopened.

In addition to finding UMTA had given no secret or private assurances to GM, the court ruled that UMTA's decisions relating to Transbus "were not based on such factors as accommodating a manufacturer's [GM's] investment needs, but were instead grounded in concern over the acceptability of and potential problems with the Transbus program and in a desire to provide the public with advanced buses. . . . These findings do not support the implications of indifference toward the public conveyed by the Times.

I wish to add for the record that Judge Richey's decision expressly determined that neither GM nor UMTA had done the things AM General claimed. There was, the court found, no unfair or unlawful exclusion of AM General from bidding as AMG alleged. The Judge ruled that to interpret the law as AM General contended, to prohibit specification of a product improvement simply because one or more competitors choose not to offer it, would be anticompetitive and "would foster stagnation in the development of the product involved." Judge Richey found that AM General had had ample advance notice and opportunity to compete by bringing out an advanced design bus had it chosen to do so.

A copy of the court's opinion is submitted herewith, with the request that it be included as a part of the record. We turn now to the specifics of the article.

Excerpt from article.—Kneeling buses in New York City "aren't kneeling because the air bags don't work. . . ."

GMC comment.—The buses referred to in New York City equipped with the kneeling feature were not manufactured by GMC. They are of a competitive make. It would be inappropriate for GMC to comment on another manufacturer's problem. It is significant, nevertheless, that the GMC kneeling feature is based on GM's proprietary design involving an independent front suspension for the all-new RTS-II coach. It will be equipped with a sensitive device on the underside of the door so that if, in the kneeling process, the door hits an object, such as a curb, the kneeling process will stop automatically, thereby eliminating the possibility of damage. In addition, in the GMC design the amount of vertical travel will approximate 5 to 6 inches and thereby lower the first step a greater distance than that experienced on the New York buses.

Excerpt from article.—Transbus "would have a floor 17-22 inches above the ground. . . ."

GMC comment.—As we stated during the March 15 and April 6 hearings, Transbus was engineered and built on the basis of untried, untested, and experimental components. All three bus manufacturers so testified at the April 6, 1977 hearing. None of the components required to bring the floor level down to the stationary height of even 22 inches—let alone 17 inches—is presently available. There has been some testimony to the effect that small tires capable of supporting the weight of a 22 inches transit coach are currently available in Europe. The facts prove otherwise. The smaller tire developed by Phoenix Gummiwerke AG involved the hand building of one set of tires for test purposes. Because of limited brake clearances associated with the smaller drum size, the test was abandoned in Europe. To date, we know of no tire manufacturer, either in the United States or in Europe, with a proven tire capable of supporting the vehicle and providing the tire life required by operators.

Excerpt from article.—Transbus "would have . . . a ramp that could be extended to the curb."

GMC comment.—The architectural standards for a ramp accessible by wheelchair passengers involves a rise of 1 inch for every 12 inches of length. Because currently available components will permit adjusted floor height no lower than 23 inches, a ramp to a 6 inch curb would be 18 feet long or, if shorter, the ramp would be far too steep. For this reason, it is our judgment that a ramp would be impractical, as it would exceed the 1 inch-in-12 incline requirement. Our testimony of April 6 favored the use of a wheelchair lift. The GM lift design has the additional feature of manual operation in the event of a complete failure of the power source. A telescoping ramp could be designed to overcome the steep incline

disadvantages. However, a telescoping ramp design would present serious safety problems as it opened out into a crowd of waiting passengers at a bus stop. Inasmuch as it would have to be power-actuated, it would be just as time-consuming as the wheelchair lift.

Excerpt from article.—Transbus “would have . . . a door 44 inches wide. . .”

GMC comment.—GMC testified that the RTS-II will have an extra wide rear exit door with a 44 inch clear opening. We favor a wide door at the rear, rather than the front, for the following reasons:

(a) It minimizes the movement of the wheelchair passenger after entering the vehicle. If the wheelchair lift were to be installed at the front entrance door, movement down a congested aisle would be difficult.

(b) Approximately one-half of the buses sold in the United States are 96 inches wide, which decreases the width of the aisle inside the bus. A wheelchair passenger entering via the front door would contact the feet and legs of passengers seated in the entry side benches.

(c) By providing a narrow front entrance door, the driver is assured that a single file of passengers will pass by the fare box, thereby assuring payment by all passengers.

Excerpt from article.—“The low-floor bus . . . has a ride quality approaching that of passenger cars. . .”

GMC comment.—The RTS-II with its independent front suspension will have a ride quality far superior to present day solid axle designed buses and definitely approaching that of passenger cars. Other bus manufacturers use the solid front axle design and thereby sacrifice the quality of ride available to all passengers.

Excerpt from article.—Rohr Industries “said they could produce a low-floor bus by 1979. . .”

GMC comment.—During the April 6 hearing, Mr. Fred Garry, chairman of the board of Rohr Industries, testified that the low-floor bus would take four to five years to develop (1981-82) provided UMTA proceeded immediately with extensive financial support in the development of the necessary small tires, brakes, axles, and suspension. GMC has previously stated that the availability of a low-floor design bus is contingent on the successful development of the aforementioned components and would take approximately 5 years of development before it could be ready for the marketplace. Our position regarding the timing of the low-floor bus remains unchanged from our prior views.

Excerpt from article.—“AM General contends that UMTA has a private agreement with General Motors to subsidize only the RTS-II.”

GMC comment.—We have already called attention to the Federal District Court's rejection of this claim. It is noteworthy that two prior UMTA Administrators, Messrs. Robert Patricelli and Frank Herringer, both testified that there was no such agreement. The RTS-II is an advanced design bus involving many all-new cost effective features. The Flxible 870 bus is also an advanced design bus. UMTA has determined that both vehicles qualify for UMTA funding as advanced design buses. At no time did UMTA ever fund only the RTS-II bus, even though UMTA has funded sole source procurements of buses from GM's bus manufacturing competitors.

In summary, GM has participated in the Transbus program and its efforts to develop a low-floor design. GM originated the low-floor when it built the first low-floor bus, the RTX, in 1968.

The record shows that GM supports reasonable and practical measures consistent with sound, reliable public transit to provide greater access to the elderly and handicapped. However, because the components required to lower the coach floor to a fixed 22 inches are not available, GM believes it would be a disservice to public transportation to attempt to mandate a low-floor vehicle before it is technically feasible.

Sincerely,

E. R. STOKEL.

Attachments.

[From the New York Times, Apr. 12, 1977]

KNEELING BUSES: THE “COMMON SENSE” DECISION

(By Robert E. Patricelli)

TO THE EDITOR: As the former Administrator of the Federal Urban Mass Transportation Administration (UMTA), and as the apparent villain of Tom Wicker's March 15 column on transit bus design, I regret that Mr. Wicker didn't check his facts with me or UMTA in advance.

Wicker states that UMTA ignored the Congressional mandate to make urban transit fully available to the elderly and handicapped. That is dead wrong. UMTA issued tough regulations in 1976 specifically ordering transit authorities to provide special programs for this target group, including wheelchair users, on penalty of losing all Federal grant funds.

In addition, these regulations required that all new transit buses had to have (1) front step risers that did not exceed 8 inches in height, (2) floors that did not exceed 24 inches in height when a "kneeling" device was used and (3) wheelchair lifts or ramps and wide access doors which could be ordered as options.

I decided against two further steps. First, I decided not to mandate the introduction of the so-called Transbus, an experimental vehicle with a 22-inch floor. Such a mandate would have delayed the introduction of new buses for three to five years because of the lack of proven components (new axles, tires and differentials), while advanced-design buses with 24-inch floors (with kneelers) were available within a year. Moreover, going from 24-inch to 22-inch floors would increase costs from 7 to 25 percent over the advanced-design model and would lessen fuel efficiency and seating capacity. We said that UMTA would continue to encourage development and use of Transbus, using research funds, but could not mandate it now.

Second, we did not mandate that every new bus had to have ramps or lifts to accommodate the 400,000 wheelchair users who live in our urban areas (the number is not 13.3 million, as Wicker suggests). In many communities, door-to-door service using vans or taxis will provide better and cheaper service than fixed route buses, and wouldn't require the wheelchair user to get to and from a bus stop.

Taxpayers pay Federal officials to make balanced decisions, not to write blank checks on the Treasury for everything that a special interest group wants. Common sense—not conspiracy with General Motors—determined the Transbus decision. Brock Adams will be under intense pressure from some in the Congress and from certain groups representing the handicapped to reverse my decision. He needs to have the benefit of more balanced press treatment than the Wicker piece as he makes his determination.

United States District Court for the District of Columbia

C.A. NO. 76-1603

AM GENERAL CORPORATION, PLAINTIFF

v.

DEPARTMENT OF TRANSPORTATION, ET AL., DEFENDANTS

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case is before the Court for final adjudication of Counts I and II of plaintiff's Amended Complaint. This Court's jurisdiction over the matters here in controversy is provided by 28 U.S.C. § 1331(a) (federal question).

In Counts I and II, plaintiff AM General Corporation (AM General) challenges the decision of the defendant Urban Mass Transportation Administration (UMTA) to make funds available to a consortium of certain local transit agencies (the "Consortium") under a federal grant program, to facilitate the purchase of approximately 400 mass transit buses by the Consortium. Specifically, plaintiff alleges that by concurring in the specifications for buses presented by the Consortium, and by authorizing thereafter the expenditure of grant funds allegedly pursuant to the Urban Mass Transportation Act of 1964, 49 U.S.C. §§ 1601 et seq (1970), as amended (Supp. V 1975), UMTA violated the Act's prohibition against the use of grant funds "to support procurements utilizing exclusionary or discriminatory specifications." 49 U.S.C. § 1602(a)(1). Plaintiff seeks a declaration that the specifications in question are exclusionary and discriminatory within the meaning of 49 U.S.C. § 1602(a)(1) and an injunction prohibiting defendants from "making financial assistance available or committing federal grant funds to the Consortium in support of any third-party contracts [for the purchase of mass transit buses] based upon the specifications approved by UMTA therefor." Amended Complaint at 16.

The General Motors Corporation (GM) has intervened in this case as a defendant. GM was the sole manufacturer to respond to the Consortium's invitation for bids for a contract to supply the Consortium with mass transit buses per its specifications. Federal funding of the procurement in question has been stayed pendente lite by this Court's Order of September 2, 1976.

The case came before the Court for a hearing on dispositive motions on February 3 and 4, 1977. At that time, the Court expressed doubt as to whether the case was in a posture appropriate for summary judgment. With the Court's approval, the parties proceeded to present live testimony from two UMTA officials. At the end of the hearing, the parties agreed to submit the case to the Court for final, not summary, adjudication based on the arguments of counsel, the testimony taken, various exhibits and documents received by the Court, and post-hearing briefs and documents which were to be submitted by counsel. The post-hearing briefs and documents have now been filed, and the case is in a posture for final adjudication. For the reasons indicated in the following findings of fact and conclusions of law, the Court will enter judgment for the defendants on Counts I and II of the Amended Complaint.

I. FINDINGS OF FACT

A. BACKGROUND—PARTIES AND THE PERTINENT STATUTORY PROGRAMS

The following facts have been stipulated to and admitted by the parties:

1. On August 31, 1976, plaintiff AM General instituted this action for declaratory and injunctive relief against the United States Department of Transportation, the Secretary of Transportation, the United States Urban Mass Transportation Administration and the Urban Mass Transportation Administrator.

2. Plaintiff, AM General, is a corporation organized and existing under the laws of Delaware, having its principal place of business in Wayne, Michigan. Plaintiff is engaged, inter alia, in the design, development, and manufacture of mass transit buses, including the AM General "Metropolitan" or "B Model" bus, for use by state and local public agencies in connection with urban mass transportation systems.

3. The Secretary of the United States Department of Transportation is authorized, pursuant to the Urban Mass Transportation Act of 1964, 49 U.S.C. §§ 1601 et seq. (1970), as amended (Supp. V 1975) (the "UMT Act") and other statutes, to carry out a program of Federal financial assistance to urban mass transportation.

4. At the time AM General filed its action, William T. Coleman, Jr., was the Secretary of Transportation and was authorized to conduct all of the affairs of that Department. Brock Adams is the current Secretary of Transportation and is authorized to conduct all of the affairs of that Department.

5. At the time AM General filed its action, Robert E. Patricelli was the Urban Mass Transportation Administrator and was authorized to conduct all of the affairs of UMTA. Robert H. McManus is the current Acting Urban Mass Transportation Administrator and is authorized to conduct all of the affairs of UMTA. All of the powers and functions of the Secretary of Transportation under the UMT Act and other statutes authorizing Federal financial assistance to mass transportation have been delegated to the Urban Mass Transportation Administrator. See 49 C.F.R. § 1.51.

6. General Motors Corporation and Flexible Company ("Flexible") have filed motions to intervene in this action as party defendants. Those motions were granted November 9, 1976 and February 3, 1977, respectively. Flexible has intervened only for purposes of Counts III and IV of the Amended Complaint, which are not currently at issue.

7. The purposes of the federal program of financial assistance to mass transportation are:

to assist in the development of improved mass transportation facilities, equipment, techniques, and methods, with the cooperation of mass transportation companies both public and private; to encourage the planning and establishment of areawide mass transportation systems needed for economical and desirable urban development, with the cooperation of mass transportation companies both public and private; and to provide assistance to state and local governments and their instrumentalities in financing such systems, to be operated by public or private mass transportation companies as determined by local needs. 49 U.S.C. § 1601(b) (emphasis added).

8. A 1970 amendment to the UMT Act added, "[I]t is the purpose of this Act to create a partnership which permits the local community, through Federal financial assistance, to exercise the initiative necessary to satisfy its urban mass transportation requirements." 49 U.S.C. § 1601a.

9. To accomplish the purposes of the UMT Act, section 3(a), 49 U.S.C. § 1602 (a), authorizes the Secretary of Transportation to make grants to state and local public bodies to assist in the financing of mass transportation-related capital facilities and equipment including standard-size transit buses.

10. Similarly, section 5 of the UMT Act, 49 U.S.C. § 1604, establishes a formula grant program which authorizes the Secretary of Transportation to make grants to designated recipients in urbanized areas to assist in the acquisition of mass transportation-related capital facilities and equipment, including standard-size transit buses, and for operating expenses.

11. The federal share of a capital facilities or equipment grant is 80 per cent of net project cost under section 3 and a maximum of 80 per cent of net project cost under section 5; the remainder must be provided from local sources. 49 U.S.C. §§ 1602, 1603, 1604.

12. UMTA's External Operating Manual, as well as other regulations and policy directives promulgated by UMTA, set forth the manner in which grants under sections 3 and 5 of the UMT Act are to be carried out.

13. As reflected in the External Operating Manual, mass transportation grants are effected by means of two interrelated but distinct levels of contracting. The first involves a grant contract between the United States (i.e. UMTA) and the grantee (i.e. the state or local public body, or "project sponsor") setting forth the terms of the grant and the conditions imposed upon the use of grant funds. The second level involves one or more "third party contracts" executed between the project sponsor and the individual suppliers of mass transportation facilities and equipment that the grant funds will be used to acquire External Operating Manual, Chapter II, sections B(6) (a) and (b).

14. The statutory provision that is central to this action is contained in the last sentence of section 3(a) (1) of the UMT Act, 49 U.S.C. § 1602(a) (1), which reads as follows:

No grant or loan funds shall be used for payment of ordinary governmental or nonprofit operating expenses, *nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications.* (Emphasis added.)

15. UMTA has approved capital facilities and equipment grants to assist each member of a consortium of local transit agencies (the "Consortium") to acquire standard size transit buses under section 3 or 5 of the UMT Act. The Consortium is headed by the City of Houston and comprised of the following transit agencies: Houston Transit System, San Antonio Transit System, and Dallas Transit System (Texas); Alameda Contra-Costa Transit District and Long Beach Public Transportation Company (California); and Brockton Transportation Authority (Massachusetts).

16. AM General contends that specifications formulated by the Consortium, and modified and concurred in by UMTA, in connection with the Consortium's advertisement for bids for third-party contracts to supply 365 to 418 advanced design transit buses are "exclusionary" and "discriminatory" in violation of the last sentence of section 3(a) (1) of the UMT Act.

B. DEVELOPMENTS IN THE INDUSTRY; PROGRESS OF AND PROBLEMS WITH THE TRANSBUS

17. It is stipulated to and agreed that, in 1971, AM General decided to enter the transit bus market and to compete for UMTA-funded transit bus manufacturing contracts with GM and Flexible. AM General received its first contract in 1973 and delivered its first standard size bus in 1974. By 1975, AM General had acquired an approximately one-third share of the standard size transit bus market, and in 1976 it captured 47 percent of all buses offered for bid.

18. It is stipulated to and agreed that at the time AM General began delivering its transit buses in 1974, there had been no basic design change in marketed transit buses for close to 18 years—since the introduction of GM's so-called "new look" bus in the late 1950's.

19. It is undisputed that GM had produced a prototype new transit bus designated the RTX during the late 1960's. After displaying the RTX to transit operators throughout the country, GM restyled its prototype vehicle in 1970. The result was a new design which, while similar to the RTX, had several different and/or additional features. The new prototype was designated RTS-2.

20. It is stipulated to and agreed that, in implementing its mandate to assist in the development of improved mass transportation facilities and equipment, UMTA initiated in 1971 a major, \$27 million project known as Transbus. UMTA's Transbus objective was to bring an improved transit bus to the public which would attract mass transit ridership (including the elderly and handicapped) and at the same time encourage competition in the transit bus supply industry.

21. It is stipulated to and agreed that in July of 1971, UMTA contracted with Booz-Allen Applied Research for the development of a prototype modern urban transit bus, Transbus. Booz-Allen in turn contracted with AM General, GM, and Rohr (Flexible), and each of these manufacturers agreed to deliver three prototypes for testing. The Transbus prototypes were completed, and a testing program was begun, in 1973-74.

22. Beginning in 1973, opposition to a number of Transbus features was voiced by a significant number of transit operators. The operators objected to Transbus' reduced seating capacity, its new and untested running gear, and especially its low floor, which necessitated a new and untested tire and wheel size and a double-axle rear suspension and which, it was believed, could cause curb and incline clearance problems. At least in GM's view, and very probably in UMTA's view as well, implementation of the Transbus program would be delayed longer than originally contemplated when the program was begun. See Killinger deposition at 44-48; plaintiff's exhibit 10 at 2-3; Herringer testimony, transcript of Feb. 3 and 4 hearing (hereinafter, "Tr.") at 133-34.

23. In early 1973, in light of GM's belief that the Transbus program faced serious difficulties, see finding of fact 22, GM decided to introduce its RTS-2 advanced-design bus to the market. In a May 25, 1973 public announcement, GM indicated that the RTS-2 would be scheduled for initial production in about two years. The announcement stated that more than \$32 million would be expended for equipment and tooling to produce the new model bus and discussed many of the new design and styling features which originated from GM's RTX and from Transbus and would be incorporated in the bus. The RTS-2 was not designed, however, to have as low a floor as the Transbus prototypes. See plaintiff's exhibit 1 at 14; plaintiff's exhibit 10 at 2; GM's exhibit 10.

C. UMTA'S "LOW-BID" POLICY

24. Prior to the recent development of advanced mass transit buses, the mass transit buses offered by the three manufacturers were of roughly the same design and specifications. For that reason, UMTA and purchasing transit operators followed the practice of awarding contracts for such buses on the basis of low bid only, as price was the sole significant, distinguishing factor. However, it was UMTA's policy, and it was apparently understood in the industry, that, consistent with federal procurement standards and policy, awards could be made on the basis of other factors and that even sole source procurements of transit buses were possible in appropriate circumstances. As former UMTA Administrator Patricelli testified:

Question [By Mr. Johnson, plaintiff's counsel]. Did UMTA follow the low-bid philosophy?

Answer. UMTA, I believe, developed a practice, a pattern, during the early 1970's when the three manufacturers had roughly the same design bus, for all intents and purposes, declaring those buses equal in competitive terms, and then price only was a factor that was taken into account, price and I believe on occasion delivery schedules.

But the practice that prevailed throughout the country in 1973, let's say to 1975, 1976 or so, was that it was head-to-head price competition only among the three manufacturers, given this pretty much standard bus. [Tr. at 183.]

Question. And there was no statement prior to January, 1976, that the long-standing, low-bid policy and practice—the low-bid practice, as you call it—of UMTA would be changed until the release of the draft statement in January of 1976. Is that not correct?

Answer. Well, I think all of the parties were aware of the framework in which we were operating and the federal procurement guidelines, which indicate that price and other factors can be taken into account.

So there should be no surprise to anyone that other things can be valued. [Tr. at 184-85.]

Question. Now, in January of 1975, was there any published policy of UMTA that covered the subject of the procurement plans for interim buses covered by the January, 1976 draft policy statement, sir?

Answer. I am not aware of any procurement policy with regard to interim buses in 1975, no, in January of 1975.

Question. So isn't it fair to say that if Mr. Herringer [the witness' predecessor] actually did tell General Motors that they could sell their mousetrap for more dollars, that it would have reflected a private communication and policy not reflected in the public documents?

Answer. No, I don't believe that would have been new information at all. I think general federal procurement policy is well known throughout the industry: that price and other factors may be considered.

Question. But what about the practice of the low-bid philosophy that you have described that UMTA had consistently followed from 1973 to 1975 and into 1976?

Answer. To my knowledge, that practice was followed only in the single case of the three pretty-much-standardized transit buses.

All other kinds of transit hardware procurement are not affected by any general practice of price only, to my knowledge. I can't imagine—frankly, I can't imagine—that somebody would have thought that there would be no way to produce something that is better, which costs more. It is not consistent with the congressional intent in seeking to support product improvement, generally. [Tr. at 187-88.]

See also Tr. at 53, 65-67, 70, 77, 81, 104-108, 126-27, 146-47, 161-63; Bingham affidavit ¶ 7, at 3 (Nov. 12, 1976).

25. In 1973, during the time period when GM arrived at and announced its decision to bring the RTS-2 to the market, GM made efforts to convince UMTA to permit the funding of mass transit bus contracts awarded by federal grantees on bases other than low bid price. See plaintiff's exhibit 10.

26. On July 17, 1973, AM General officials, including AM General President Cruse W. Moss, met with Administrator Herringer to discuss, inter alia, the Transbus program and plans for an interim bus. When President Moss indicated that it was his belief that the Transbus prototypes would eventually lead to one standard bus, the Administrator indicated that this "was absolutely not the case." Mr. Herringer indicated that UMTA was considering a variety of Transbus alternatives, and that no decision on Transbus would be made "for a long time." GM's exhibit 19. See also GM's exhibit 20.

27. At the same meeting between AM General officials and UMTA officials, including Administrator Herringer, AM General officials were informed that GM and Flexible would have interim buses on the market in 18 months to two years and that, if circumstances warranted, transit operators could request and obtain desired specifications on such buses, if necessary through sole source procurement. All parties at the meeting agreed that in such circumstances, "The effect . . . is to eliminate the low bid and make possible a sole source at a higher price." GM's exhibit 19 (emphasis in original). See also GM's exhibit 20.

28. On August 15, 1973, after the aforementioned discussions with, inter alia, GM and AM General, Administrator Herringer informed Mr. Moss, President of AM General, that "we have reached a decision not to make any fundamental changes in the procurement procedure at this time." Plaintiff's exhibit 11 (emphasis added). The Administrator added:

We will continue to monitor procurements to ensure that free, open competition is maintained. At the same time, my staff will work with each grantee to enable him to purchase quality equipment and to take advantage of improvements in technology. Id. (emphasis added).

29. On September 27, 1973, in a report to President Moss, AM General's Chief Engineer analyzed the design characteristics of GM's anticipated RTS-2 bus. Near the end of his report, he noted that there were seven key design characteristics which the RTS-2 was likely to have and which AMG was not at that time able to provide. He noted that four of the seven "are design efforts that could be accomplished in the next year." He recommended that a study be initiated on the low-floor design characteristic "which would result in a design schedule and determine the effect on tooling and facilities." He concluded: "With these changes AMG could remain competitive in the near future." GM's exhibit 21.

30. As established in the five immediately preceding findings of fact, AM General was aware, as early as the summer of 1973, that: a) the Transbus program faced likely delays; b) UMTA's "low-bid policy," which has persisted only because of the roughly similar design features of buses available before the

development of advanced mass transit vehicles, would be subject to alteration if and when operators requested certain specifications on the then-proposed interim buses; and c) GM was in the process of developing an interim bus with which AM General could compete "in the near future" if certain design plans were made.

D. OFFICIAL POLICY ON INTERIM BUS FUNDING

31. It is stipulated to and admitted that on January 8, 1975, Administrator Herringer issued a "Policy for Introducing Transbus into Nationwide Service" which was widely circulated to bus manufacturers and to the public.

32. It is stipulated to and admitted that the policy statement referred to above stated that UMTA would develop a performance specification for 40-foot Transbuses which would be a composite of the acceptable aspects of the three prototypes "as agreed upon" by the American Public Transit Association ("APTA") and the three manufacturers. The performance specification was to include a 23-inch or less floor height and would "allow any manufacturer to use its own styling, body construction, and manufacturing techniques in competing for the market."

33. With respect to the development of advanced interim buses, the policy statement declared:

In the interim, in addition to presently available bus designs, *UMTA will fund high-floor, two-axle buses incorporating styling and design changes consistent with the Transbus, should manufacturers desire to provide such changes.* Plaintiff's exhibit 5. (Emphasis added.)

E. INTERIM BUS "ASSURANCES" TO GENERAL MOTORS

34. Following the release of the January 8, 1975 policy statement, Mr. E. R. Stokel of GM conferred with Administrator Herringer and Mr. Charles J. Daniels of UMTA. Administrator Herringer indicated to Mr. Stokel that UMTA would fund procurements of advanced-design buses such as GM's interim bus at a price higher than then-current models if the advanced-design buses were a better product, and that transit operators could secure GM's interim bus through sole source procurements if other such advanced buses were not available. Plaintiff's exhibit 4.

35. It is stipulated to and admitted that in June 1975, Administrator Herringer completed his tenure at UMTA. In July 1975, Robert E. Patricelli replaced Mr. Herringer. The outgoing Administrator did not convey to Mr. Patricelli the existence of any agreements or understandings with or commitments to GM concerning the funding of the RTS-2.

36. On October 31, 1975, Jerome C. Premo, Associate Administrator, provided Administrator Patricelli with a prior UMTA memorandum detailing contacts between GM and UMTA concerning the funding of GM's advanced-design interim bus. The memorandum, written by Wilbur E. Hare of UMTA, stated:

Several months ago top officials from GMC met with Mr. Herringer for the purpose of ascertaining his reaction if GM introduced a new bus. GM wanted to know if UMTA would fund the new bus. The answer was yes. . . .

. . . I believe Mr. Herringer's position was that the grantees could sole source the new bus if another new and comparable bus was not available. This position is consistent with UMTA's "Policy For Introducing Transbus Into Nationwide Service." Plaintiff's exhibit 15.

37. The contacts between GM and UMTA detailed in findings of fact 34 and 36 above in no way represent "private assurances" given to GM by UMTA in conflict with publicly-announced policy. First, the contacts discussed were, as Mr. Hare indicated, entirely consistent with UMTA's prior and publicly-announced policy statement of January 8, 1975:

In the interim, . . . *UMTA will fund high-floor, two-axle buses incorporating styling and design changes consistent with the Transbus, should manufacturers desire to provide such changes.* (Emphasis added.)

See finding of fact 32. Second, the contacts were consistent with UMTA's "low-bid" policy and its prior indications that the policy was subject to change in appropriate circumstances. See finding of fact 24, specifically Administrator Patricelli's testimony that:

To my knowledge, that practice [the low-bid policy] was followed only in the single case of the three pretty-much-standardized transit buses.

. . . I can't imagine—frankly, I can't imagine—that somebody would have thought that there would be no way to produce something that is better,

which costs more. It is not consistent with the Congressional intent in seeking to support product improvement, generally. [Tr. at 188.]

Third, the contacts were consistent with the information AM General had been given two years earlier, at a meeting with Administrator Herringer. See findings of fact 26 and 27.

F. UMTA'S SHARPENING OF FUNDING POLICY FOR INTERIM BUSES

38. It is stipulated to and admitted that during 1975, AM General offered its "B Model" or "Metropolitan Series" to compete on a low-bid basis during the pre-Transbus period with competitively-priced models of GM and Flxible. The "B Model" or "Metropolitan Series" to compete on a low-bid basis during the in response to UMTA's January 8, 1975 policy statement that "in the interim" UMTA would fund high-floor two-axle buses consistent with Transbus.

39. In October 1975, GM announced that the RTS-2 was available for purchase, and transit agencies began expressing interest in acquiring advanced bus designs such as the RTS-2. See Patricelli affidavit at ¶ 13 (Nov. 12, 1976).

40. Throughout October 1975, GM continued its efforts to convince UMTA to formalize its earlier indications that it would not insist on low-bid funding for advanced vehicles such as the RTS-2. See plaintiff's exhibit 13 at 4, plaintiff's exhibit 14, and plaintiff's exhibit 6 at 3.

41. It is stipulated to and admitted that a Consortium of interested transit agencies requested initially that it be allowed to acquire the RTS-2 through a sole source procurement, and that UMTA rejected that option in January 1976 on the grounds that such a procurement would be exclusionary.

42. In lieu of authorizing a sole source procurement, UMTA issued a draft policy statement on January 20, 1976, entitled "Urban Mass Transportation Administration Policy Statement on Grants for Acquisition of Transit Buses." This statement was circulated for comment to the American Public Transit Association and each of the three bus manufacturers. The statement indicated that UMTA would fund interim buses "at prices exceeding those of current transit buses." However, UMTA would require grantees to submit "a vehicle performance type specification" and would insist on competitive bidding. In addition, if only one manufacturer were to bid on such a procurement, UMTA will allow [an] award provided that the grantee and the manufacturer demonstrate that the single bid price is fair and reasonable. . . ." Plaintiff's exhibit 16 at 4-5.

43. The January 20, 1976, draft statement was not in any way inconsistent with prior UMTA policy. Rather, it represented an initial attempt by UMTA to formalize its procurement procedures in the context of the anticipated sale of advanced-design interim buses such as the RTS-2. As Administrator Patricelli testified:

Question [By Mr. Johnson, plaintiff's counsel]. My question is: Was the January 20, 1976 policy statement the first public policy statement by UMTA as to how procurements would be handled in connection with so-called improved buses?

Answer. The interim bus?

Question. Yes.

Answer. Well, to my knowledge, it was. *There were statements all along*, beginning in January, 1975, that interim buses would be supported for procurement, but I don't believe there were published statements as to how, and what procurement approach would be used.

And this is *our first effort to try to come up with an approach to the matter.* Tr. at 184 (emphasis added).

44. In the statement of January 20, 1976, UMTA also re-affirmed its earlier policy statements on Transbus. Specifically, UMTA advised that the development of a specification for the "low floor" Transbus "is now complete" and projected "volume procurements" of Transbus in fiscal years 1976 and 1977. The statement also anticipated "required use of the Transbus specification" after the interim period. Plaintiff's exhibit 16 at 2, 4.

45. In commenting on the draft statement and in the course of a meeting with Administrator Patricelli after the statement was issued, GM officials continued to urge the rejection of any requirement that awards be made on the basis of low-bid only. GM also expressed strong opposition to certain aspects of UMTA's Transbus policy, as reflected in the draft statement, particularly UMTA's indication that the low floor specification and other design features would be mandated items after the interim period. Administrator Patricelli was recep-

tive to GM's position, and he indicated that he would give it serious consideration and would attempt to accommodate GM's views. See plaintiff's exhibits 19 and 20.

46. On March 30, 1976, UMTA issued another draft policy statement ("Draft: Bus Procurement Guidelines") which established a process that would govern advance design transit bus procurements. In the statement, UMTA recognized the need "to permit transit properties to purchase new model buses where such buses include product improvements that are commensurate in added benefit with their added cost."

At the same time, UMTA recognized that as new models were offered it would be "difficult for individual transit properties to prepare specifications defining their own needs which do not appear to favor one manufacturer and create conditions where competitive bidding is difficult or impossible." The purpose of UMTA's policy was, therefore, "to develop a procurement program which assures effective competition among manufacturers and at the same time permits product improvements based on findings of need and a reasonable relationship between added benefits and added costs." The program proposed in the draft statement called for the development of an upgraded performance type specification which could be "stated in brand specific terms with acceptable alternatives where applicable." Transit agencies desiring to acquire such buses with grant funds were to submit a "justification of need analysis" which would "demonstrate why the proposed specification will produce the lowest and/or best value to the property and to the Federal Government for the funds invested." Upon UMTA approval of an upgraded specification and accompanying justification, "the transit property would be authorized to seek competitive bids." Plaintiff's exhibit 24.

47. General Motors found the March 30, 1976 policy statement, to be a substantial improvement, as far as its interests went, over the earlier policy statements. See plaintiff's exhibit 26

G. DEVELOPMENT AND MODIFICATION OF THE CONSORTIUM SPECIFICATIONS

48. It is stipulated to and agreed that, on April 21, 1976, the Consortium submitted a proposed bid package to UMTA which included the "justification of need analysis" required by the March 30, 1976 UMTA policy statement as well as a set of proposed specifications for an interim bus which would meet those needs.

49. The Consortium's specifications for an interim bus conformed in detail to the configuration, componentry, and materials of GM's RTS-2. As explained by the Administrator for Public Transportation for Houston, Texas:

Because the RTS-2 was the first vehicle introduced with superior improvements, and was the only such bus available at the time of the Consortium's original specification, the Consortium believed that specifying the features of the RTS-2 bus was a logical starting point for development of an advanced design specification. Goodman affidavit at 2-3 (November 12, 1976).

50. On a number of occasions during UMTA's consideration of the Consortium's specifications, UMTA personnel, including the Administrator, referred by name to the RTS-2 when discussing the generic "interim bus." This was due not to any effort on UMTA's part to encourage the purchase of the RTS-2 to the exclusion of other interim buses, but because the RTS-2 was, at the time, the only interim bus available. As Administrator Patricelli explained:

I may have used that language, but I think one of the confusions that arises is the use of the terms "interim bus" and "RTS-2" interchangeably during the period of time when the RTS-2 was, in fact, the only interim bus that was available for purchase, sir. Tr. at 167.

51. UMTA was aware, during its consideration of the Consortium's specifications, that AM General was unlikely to bid in response to the Consortium's invitation. Because of this situation, UMTA made efforts to maximize the number of bids which would be received on any procurement of interim buses, recognizing at the same time the necessity to secure advanced buses. Plaintiff's exhibit 30; Tr. at 148.

52. It is stipulated to and admitted that on May 3, 1976, AM General submitted a letter to UMTA which listed 93 objections to the Consortium's specifications and which objected to the January 20 and March 30 policy statements.

53. It is stipulated to and admitted that on May 9, 1976, UMTA concurred in the Consortium's specifications subject to a 12-page list of revisions, many of

which responded to the 93 objections listed by AM General. Included with UMTA's May 9 concurrence were appeal procedures which were to govern the Consortium's procurement and which were later made a part of the specification that was advertised.

54. It is stipulated to and agreed that, on May 12, 1976, the Consortium responded to UMTA's May 9 concurrence and AM General's letter of May 3 in an effort to justify the inclusion of many of the features which UMTA had suggested should be revised. On May 19, 1976, the Consortium formally submitted its second set of specifications to UMTA for consideration. The specifications were revised in many respects pursuant to UMTA's initial May 9 concurrence, but not revised as to a number of the other revisions presented in UMTA's initial concurrence. The latter were addressed in a 22-page letter submitted by APTA on May 20, 1976.

55. It is stipulated to and admitted that on May 27, 1976, after AM General had again submitted comments critical of the Consortium's submission, UMTA concurred in the Consortium's revised specifications on the express condition that they be altered in accordance with a 22-item list of modifications.

56. It is stipulated to and admitted that, following these negotiations and exchanges between UMTA, the Consortium, APTA, and AM General, the Consortium, by letter dated June 7, 1976, submitted its final specifications. These specifications complied with UMTA's 22-item list of conditions and were advertised for bid on June 18, 1976.

H. THE ADMINISTRATIVE APPEAL

57. It is stipulated to and admitted that, on July 1, 1976, after the specifications were advertised for bid, representatives from AM General and the Consortium met in Houston, Texas, for a "pre-bid" conference to discuss the specifications. A transcript of that conference was later forwarded to UMTA.

58. It is stipulated to and admitted that, following the conference, pursuant to the appeal procedure set out in the specifications, AM General submitted a lengthy "request for approvals" to the Consortium which was forwarded to each of the members and to UMTA. These requests, as well as those of the other manufacturers, were ruled on by the Consortium, and its decision was forwarded to each of the manufacturers and UMTA on July 14, 1976.

59. It is stipulated to and admitted that, on July 20, 1976, AM General formally appealed the Consortium's rulings on its requests for approvals to UMTA. The appeal was later supplemented by a letter dated July 27, 1976, with an attachment critical of the Consortium's "justification of need analysis." Another supplement was filed, by letter dated August 10, 1976, with Exhibits 1 through 10.

60. Recognizing the importance of the initial procurement of advanced design buses, Administrator Patricelli had, in April of 1976, directed Deputy Administrator Charles F. Bingham to take personal charge of the procurement and any appeals to UMTA by prospective bidders. It was clear that AM General would offer its current bus and that AM General would be likely to appeal to UMTA if the Consortium insisted upon specifications which AM General's bus could not meet. Thus, an appeal was expected. See Patricelli affidavit at ¶ 22 (Nov. 12, 1976); Bingham affidavit at ¶ 13 (Nov. 12, 1976).

61. It is undisputed that, in order to assure a prompt decision on these important appeal matters, UMTA established an appeals Evaluation Team, organized in two tiers. The first "working level" tier, headed by UMTA's Director of the Office of Program Support, included UMTA officials with expertise in mechanical engineering, transit bus operations and maintenance, and federal procurement law and procedure.

62. It is undisputed that UMTA also contracted with Booz-Allen, prime contractor for the Transbus program, to provide additional technical expertise. To complete the team, UMTA contracted with three retired transit experts who had detailed practical knowledge of operations and maintenance problems associated with current transit buses.

63. It is undisputed that the second tier of the Evaluation Team was a Policy Overview Committee headed by the Deputy Administrator. Also on this Policy Overview Committee were four UMTA officials who held positions with policy-making authority and responsibility. The working level team reported to the Policy Overview Committee, which had final decision-making responsibility.

64. After the AM General appeal was forwarded to UMTA, the Consortium furnished each member of the Evaluation Team with a document detailing the

reasons supporting the Consortium's resolution of AM General's requests for approvals. See Administrative Record (hereinafter, "Record"), attachment 27.

65. It is undisputed that the Evaluation Team decided that the key to the appeal was the identification of "major technical areas" where the Consortium's specification called for major systems not on the current model buses of any of the manufacturers. For AM General, nine major technical areas were identified: brakes, front suspension, power plant compartment, body general (air drag materials, doors) electrical system, air conditioning and ventilation system, and passenger seats.

66. It is undisputed that the Evaluation Team specifically considered whether the Consortium's specification was exclusionary or discriminatory. This consideration was based on an analysis of the Consortium's "justification of need analysis," review of other documents submitted in support of the inclusion of a given feature, the expertise of the Evaluation Team, and review of appeal documentation supplied to UMTA by AM General. The added time and effort required of a manufacturer to meet the Consortium's specifications was taken into account in this determination.

67. It is undisputed that once the justification for the inclusion of a given feature in the specifications was established, the analysis shifted to a consideration of whether the item proffered by AM General was, in fact, equal to that requested by the Consortium. The Consortium's rationale for rejecting a manufacturer's request together with the descriptive criteria in the specification were weighed by the Evaluation Team against the contents of AM General's appeal to UMTA.

68. It is undisputed that the Evaluation Team met in daily sessions from August 2 through August 6, 1976, and from August 9 through August 13, 1976, filing interim reports to the Policy Overview Committee.

69. It is stipulated to and admitted that resolution of the "major technical areas" was quite important because that resolution determined the outcome of many minor elements of the appeals. Five of the major technical areas were resolved in favor of AM General: brakes, power plant compartment, body general (air drag, doors), air conditioning and ventilation system. Booz-Allen's prime input was on the resolution of these major technical areas.

70. A sixth major technical area, dealing with independent front suspension, was resolved against AM General; however, in an effort to increase competition, the Policy Overview Committee required the Consortium to allow manufacturers to specify either independent front suspension or solid axle front suspension (featured on AM General's and Flxible's buses). See Record, attachments 37 and 39.

71. For each of the nine major technical areas of AM General's appeal, UMTA offered a summary of the rationale for the appeal decision. See Record, attachment 37. All of these decisions, and specifically the decisions in the three areas in which AM General's appeal was denied, are well-explained in the aforementioned summaries and are amply supported by the Consortium's "justification of need analysis," the specifications, and various other materials taken into consideration by the Evaluation Team which form a portion of the Administrative Record. See Record, especially attachments 1, 2, 4, 5, 6, 8, 9, 10, 12, 13, 17, 19, 21, 27, 37.

72. The appeal decisions and accompanying explanations for the 61 individual denials of AM General's appeals are also amply supported by the Consortium's "justification of need analysis," the specifications, and various other materials taken into consideration by the Evaluation Team which form a portion of the Administrative Record. See Record, especially attachments 1, 2, 4, 5, 6, 8, 9, 10, 12, 13, 17, 19, 21, 27, and 37.

73. It is stipulated to and admitted that the appeal decision was transmitted to the Consortium and the manufacturers on August 16, 1976, and was later issued by the Consortium as an amendment to the specifications.

74. It is stipulated to and admitted that the Consortium failed to notify the manufacturer that a solid front axle was acceptable. UMTA thereafter required the Consortium to notify all manufacturers that a solid front axle was acceptable. Bid opening was extended one week to September 8, 1976.

75. It is stipulated to and admitted that only one bid was received by the Consortium on September 8, 1976. That bid was submitted by GM, which offered in satisfaction of the Consortium's specifications its RTS-2 vehicle.

II. Conclusions of Law

1. The Court has subject-matter jurisdiction herein pursuant to 28 U.S.C. § 1331(a). Venue of this action properly lies in this district pursuant to 28 U.S.C. § 1391(e).

2. In providing federal financial assistance to state and local public transportation authorities for the development of mass transit systems, the federal defendants are required to comply with 49 U.S.C. § 1602(a) (1), which prohibits the use of federal mass transit grant funds "to support procurements utilizing exclusionary or discriminatory specifications."

3. While it is clear that 49 U.S.C. § 1602(a) (1) prohibits specifications adopted for the purpose of excluding a competitor from bidding without regard to the merits of the product involved, neither the language of the statute nor its legislative history indicates that the statute was intended to prohibit specification of a product improvement simply because not every competitor chooses to offer such an improved product. Indeed, the legislative history of the statute indicates otherwise. See 119 Cong. Rec. 32821 (1973) (remarks of Rep. Brademas). Application of a rule of reason would also preclude any such interpretation of the statute, for the result would be anticompetitive. Such an interpretation would also foster stagnation in the development of the product involved.

4. The UMT Act contains a Congressional finding, *inter alia*, that: the welfare and vitality of urban areas, the satisfactory movement of people and goods within such areas, and the effectiveness of housing, urban renewal, highway, and other federally aided programs are being jeopardized by the deterioration or inadequate provision of urban transportation facilities and services, the intensification of traffic congestion, and the lack of coordinated transportation and other development planning on a comprehensive and continuing basis. . . . 49 U.S.C. § 1601(a) (2).

The declared purposes of the Act, therefore, are:

(1) to assist in the development of improved mass transportation facilities, equipment, techniques, and methods, with the cooperation of mass transportation companies both public and private;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development, with the cooperation of mass transportation companies both public and private; and

(3) to provide assistance to State and local governments and their instrumentalities in financing such systems, to be operated by public or private mass transportation companies as determined by local needs. 49 U.S.C. § 1601(b).

An interpretation of the "exclusionary or discriminatory" clause as prohibiting specification of a product improvement simply because one or more competitors choose not to offer such an improvement would obviously be detrimental to the purposes of the Act, purposes which have taken on even greater significance in light of this nation's growing energy crisis.

5. 49 U.S.C. § 1602(a) (1) would prohibit the federal defendants from providing one supplier, through secret, private, and undisclosed deviations from publicly-announced policy, with an unfair competitive advantage over those suppliers who have relied upon the defendants' public declarations of policy. Similarly, the statute would prohibit the federal defendants from abruptly revising their public policies to accommodate the investment decisions of one supplier, to the detriment of other suppliers that relied upon the prior public policies. Finally the statute would prohibit the federal defendants from implementing any such revised policies without giving competitors enough time to make informed investment decisions and thereby to compete under the new policies.

6. In the instant case, none of the practices discussed above took place. First, there were no such secret assurances provided by UMTA to GM. All of the discussions between UMTA and GM were consistent with UMTA's publicly-announced policies. Moreover, most of the allegedly secret assurances complained of in this case occurred long after AM General had been informed of the strong possibility that UMTA's "low-bid" policy would be abandoned if interim buses were developed. See findings of fact 26 and 27. In addition, the evidence reveals that UMTA's decisions were not based on such factors as accommodating a manufacturer's investment needs, but were instead grounded in concern over the acceptability of and potential problems with the Transbus program and in a desire to provide the public with advanced buses, even if only on an interim basis. Finally, the evidence reveals that AM General had sufficient notice of UMTA's policies with respect to the possible funding of interim buses such that, if it had chosen to do so, it could have developed a competitive product. E.g., findings of fact 26-30.

7. In reviewing the federal defendants' actions with respect to the challenged specifications, this Court must determine whether those actions were "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 702(2) (A).

8. Review of the extensive administrative record arising out of the elaborate administrative procedure provided by UMTA for AM General's appeal reveals that UMTA's decision was based on consideration of "relevant factors" and within the permissible scope of its discretion as defined by the UMT Act. *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971). Compare *D.C. Federation of Civic Associations v. Volpe*, 459 F.2d 1231, 1246-48 (D.C. Cir. 1971), cert denied, 405 U.S. 1030 (1972). Specifically, the reasons for UMTA's denial of AM General's appeal in three of nine major technical areas and in 61 of 102 individual appeals are satisfactorily set forth, and those reasons are amply supported in the administrative record. UMTA's decision to fund interim advanced buses and the specific decisions reached on the specifications therefor reflect choices considered and made within the scope of its discretion under the UMT Act.

9. In accordance with the above conclusions the Court finds there is no evidence that UMTA took actions which had the effect of supporting "procurements utilizing exclusionary or discriminatory specifications," 16 U.S.C. § 1602(a) (1); nor is there evidence that any of UMTA's appeals decisions on the specifications were "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. § 706(2) (A).

10. Judgement on Counts I and II will therefore be entered for defendants, in an Order issued of even date herewith, and the stay of federal funding of the procurement in question entered by this Court on September 2, 1976 will be lifted.¹

Dated April 21, 1977.

CHARLES R. RICHEY,
United States District Judge.

United States District Court for the District of Columbia

C.A. NO. 76-1603

AM GENERAL CORPORATION, PLAINTIFF

v.

DEPARTMENT OF TRANSPORTATION, ET. AL., DEFENDANTS

ORDER

In accordance with the Findings of Fact and Conclusions of Law issued of even date herewith, it is, by the Court, this 21st day of April, 1977,

Ordered, that judgment be entered herein for defendants on Counts I and II of plaintiff's amended complaint; and it is

Further ordered, that the portion of this Court's Order of September 2, 1976, set forth below be vacated, rescinded, and of no further force and effect:

I. Pending a final determination by this Court on the merits of Plaintiff's Complaint herein, and pending further order of this Court, Defendants shall:

A. Refrain from taking any action with respect to funding the purchase of any buses pursuant to the specifications issued by the Consortium identified in Plaintiff's Complaint and approved by the Urban Mass Transit Administration, including without limitation, any commitment, obligation, or disbursement of Federal funds by Defendants, or any approval by Defendants of the expenditure of any Federal funds by the Consortium;

B. Refrain from taking any other action with respect to the specifications described above or in furtherance of any contracts based upon such specifications. . . .

CHARLES R. RICHEY,
United States District Judge.

¹ At the conclusion of the aforementioned hearing of Feb. 3, and 4, 1977, counsel for the plaintiff brought to the Court's attention plaintiff's motion to compel the production of excised portions of two documents produced by GM in response to a request for documents made pursuant to Fed.R.Civ.P. 34. To resolve the matter, all parties agreed that the Court would view the documents in camera and would notify the parties if the excised portions were not either proprietary or irrelevant, as GM had claimed. The Court has reviewed the excised portions and has determined that there is no question that they are proprietary and entirely irrelevant to the issues presented.

Mr. HOWARD. The gentleman from Illinois.

Mr. FARY. No questions.

Mr. HOWARD. Thank you very much.

We certainly appreciate your testimony and your appearance here.

Mr. STOKEL. Thank you, Mr. Chairman.

Mr. HOWARD. The next witness before the subcommittee this afternoon is Mr. Fred Garry, chairman, chief executive officer, and president, Rohr Industries.

Mr. Garry, we certainly wish to thank you for your appearance and patience here today. If you will please identify for the record who is with you, and then proceed as you wish.

TESTIMONY OF FRED W. GARRY, CHAIRMAN, CHIEF EXECUTIVE OFFICER, AND PRESIDENT, ROHR INDUSTRIES, ACCOMPANIED BY TOM BERNARD, PRESIDENT AND GENERAL MANAGER, FLXIBLE CO.

Mr. GARRY. Thank you, Mr. Chairman.

Mr. Chairman and members of the Subcommittee on Surface Transportation, I am Fred W. Garry, chairman, chief executive, and president of Rohr Industries, Inc., of Chula Vista, Calif. Today I am appearing on behalf of the Flxible Co., a wholly owned subsidiary of Rohr located in Ohio and engaged in the manufacture of city transit buses. With me is Mr. Tom Bernard, president and general manager of the Flxible Co.

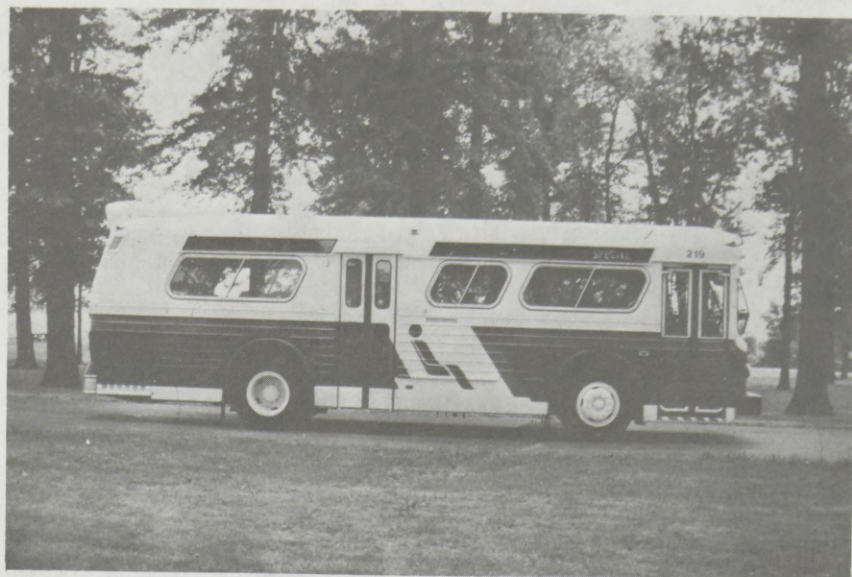
We are pleased to appear before you and hope that we may provide some assistance in your consideration of amendments to the Urban Mass Transportation Act. I will deal particularly with those aspects of the proposed amendments directed at meeting the bus transportation needs of elderly and handicapped persons.

We appreciate the committee's interest on this important matter. This is a problem that has caused us, as manufacturers, serious concern over a long period of time. Our problem, simply stated, is a need for direction in determining the appropriate bus to meet the needs of the people of this country.

The Flxible Co. is a major manufacturer of urban transit buses. We have been in the business of manufacturing buses for 50 years and today the city transit bus is the only business of the Flxible Co.

Could we have the lights down, please?

Our current products are the relatively standardized 30-, 35-, and 40-foot long transit buses used primarily in intraurban service. Rohr acquired the Flxible Co. in 1969. At that time Flxible was the only competitor to General Motors in a market GM dominated by a wide margin. We set out to improve this competitive position and by the time a third competitor arrived on the scene in 1972, the Flxible Co. served almost half of this market. In subsequent years Flxible has retained a major role in this market.



31-FOOT BUS



35-FOOT BUS



40-FOOT BUS



EXPORT BUS

Our longer term objective was to develop a bus that would provide greater comfort for the riding public and offer improved efficiency to the transit operator. Preliminary design efforts began in 1970. Shortly thereafter, the Department of Transportation, through the Urban Mass Transportation Administration—UMTA—launched the transbus development program.



ROHR TRANSBUS

Rohr became one of three contractors to UMTA in 1972 and we have been enthusiastic supporters of the transbus concept throughout the program.



TRANSBUS RAMP

Our transbus prototype was the only one in the competition to meet the stated floor height specifications of 17 inches above the roadway and we were the only contractor to develop a ramp for easy access at the forward door.

Mr. HOWARD. Do you have an idea what with the normal curb situation like you have there, would be the angle?

Mr. GARRY. That was about a 6-inch curb.

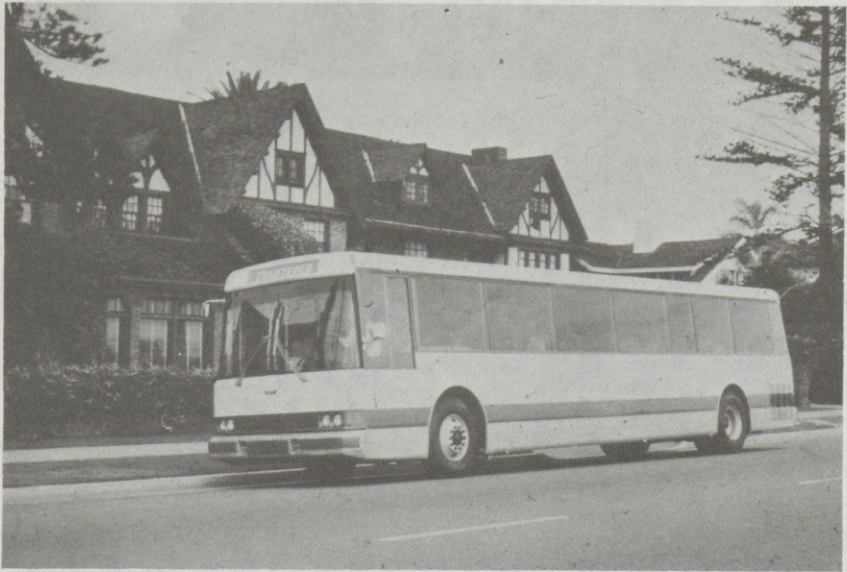
Mr. HOWARD. The angle of the ramp?

Mr. GARRY. That is 1 in 12, slightly over.

To be honest with you, it is about $1\frac{1}{32}$ inches per foot, but essentially 1 in 12, which is an architecturally developed angle for a ramp.

The ramp is particularly desirable for the wheelchair passengers but is also an aid to all passengers.

Because of the developmental nature of the transbus prototypes, there could be no assurance regarding the final transbus specification and the timeframe in which such buses would become a part of the UMTA Federal assistance program.



ROHR METROBUS

In view of this uncertainty, we proceeded in a parallel program to make available a bus incorporating transbus developments but with conventional floor height.

In 1976, we introduced to the transit industry this interim bus which we called the model 870, it is comparable to the transbus from the floor up. This is still a high-floor bus but it can be built with a wheelchair lift at the front door where the boarding process is in full view of the operator.



870—On highway

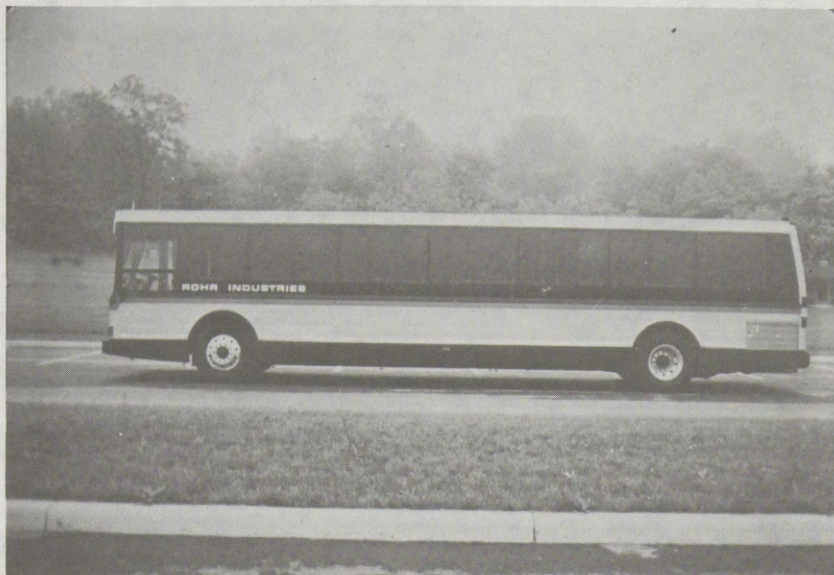


870—Three-quarter view

This bus is the product of more than 5 years of developmental effort and testing. In addition to the availability of a wheelchair lift, the 870 offers a number of features for the elderly and handicapped. It has kneeling capability that lowers the first step height from 13½ to 9½ inches, which is a substantial improvement in accessibility for the elderly in particular.

Incidentally, this kneeling feature takes only one-half the time for the kneeling feature now on the buses in New York City.

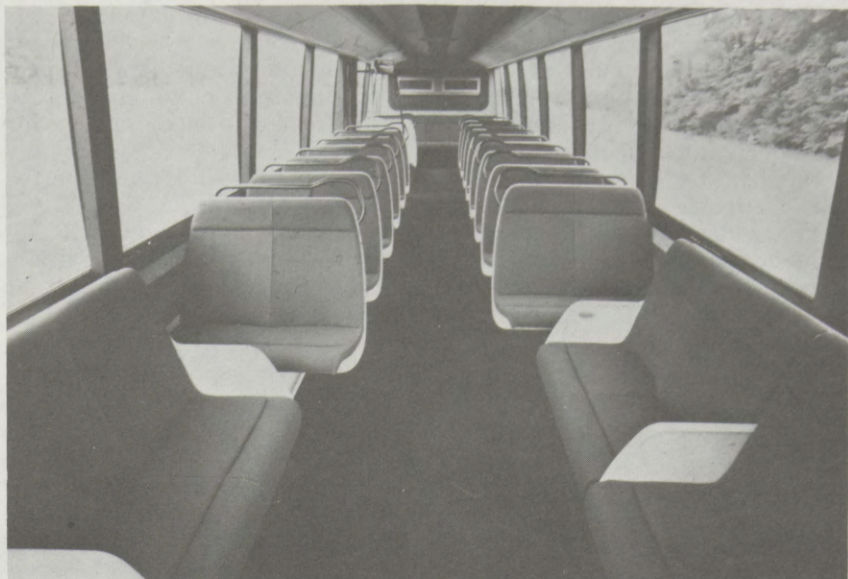
The wider, 36-inch door is an additional advantage and will accommodate any conventional wheelchair. A front step deicer is desirable for all passengers in colder climates but is particularly important to the handicapped.



870—Side view

Due to its advanced structural design, the model 870 offers a number of reliability, maintenance, weight, and energy-saving advantages to the transit operator, as well as greater safety and comfort for the riding public.

This bus represents a substantial improvement and a rational evolutionary step over those now being produced and is ready for production as soon as the necessary governmental policy decisions are announced.



870—Interiors



870—Three-quarter long view

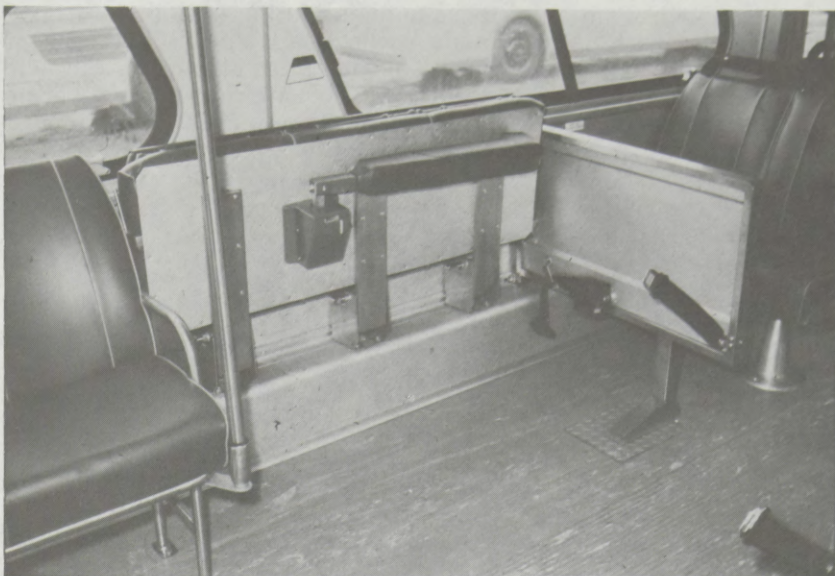
The Flxible Co. anticipated the need for full accessibility of buses and developed with its own funds a wheelchair accessibility package that could be retrofitted on current model buses already in the field or installed on newly manufactured buses. We are currently delivering an order of 60 fully accessible buses for the Bi-State Development Agency operating in the St. Louis metropolitan area.



Lift—Not deployed



Lift—Deployed down



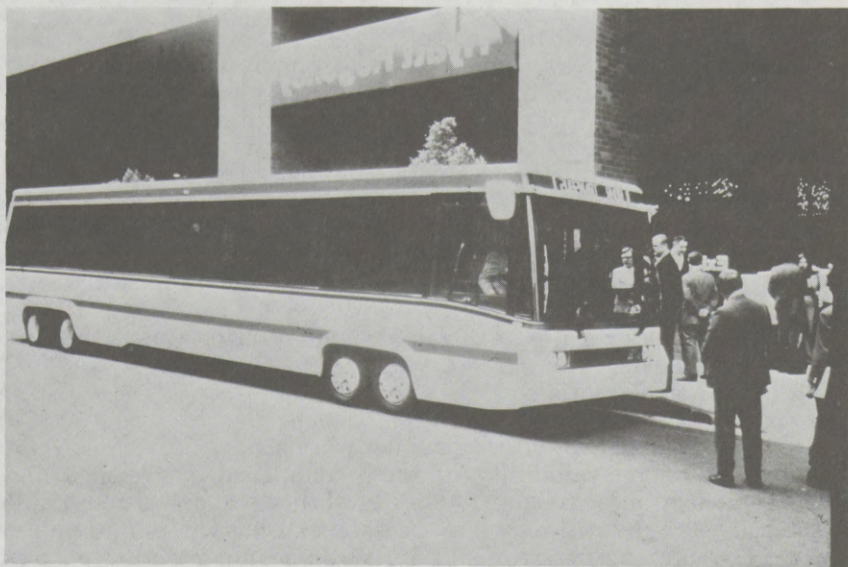
Bus interior—Wheelchair space



Bus interior—Wheelchair in place

In summary, Flxible has prepared itself to meet the requirements of bus accessibility whether it be on current model buses or on advance-design buses, and is technologically prepared to develop a low-floor bus of the Transbus type. At this time the transit bus industry needs firm decisions on final product specifications and timing for advanced design and transbus-type bus. We also need a law that will give us a fair set of procurement procedures.

Such action is needed in the very near future so that the public can benefit from new, available technology and the mobility of the elderly and handicapped can be assured.



Rohr Transbus

Let me now address the Transbus, or low floor bus, issue. Low floor is variously defined. I mentioned earlier that Rohr met the original 17-inch transbus floor height specification. We could kneel the bus 4 inches, that is, deflate the air suspension to an effective floor height above the roadway of only 13 inches. Assuming an 8-inch-high curb, a 5-foot-long deployed ramp had an architecturally desired slope angle of 1 inch rise in each 12 inches of lateral distance.

To make the Rohr transbus compliant with contract floor height requirements dictated the use of 2 front axles, 12 27½-inch-diameter tires, dual-driven rear axles, 3 differentials, and a very complex suspension.

These unusually small tires would experience substantially greater wear than the tires used on today's buses. To a significant degree floor height is equitable to both the initial and operating cost of a bus. As the floor height is lowered, under floor components become more costly to purchase and maintain.

If ramp-type accessibility is mandated, floor height is established by ramp angle and practical ramp length. We believe that UMTA, its consultants, and users must agree on ramp angle and, therefore, floor height as a basic prerequisite to transbus.

Recent testimony by elderly and handicapped representatives indicated that the architectural standard ramp slope of 1 inch in 12 inches could almost be doubled and still provide a ramp useful to the wheelchair passenger.

Mr. HOWARD. What degree are you talking about there?

Mr. GARRY. This would be about 2 inches per foot.

Mr. HOWARD. Yes, but what degree? I thought 10 degrees was what a person unassisted could go on.

Mr. GARRY. It is about 10 degrees.

With this in mind, we think that a reasonable target would be a general floor height of 22 inches, sloping to 20 inches at the centerline of the front door with capability to kneel 4 inches. Use of a 5-foot ramp, at a 6-inch-high curb, would produce a ramp slope ratio of 2 inches, which is within the acceptable limit based on this elderly and handicapped testimony.

To complete the picture, a bus with 22-inch floor would require the following major component developments:

One: A 35-inch-diameter tire versus the current 43-inch-diameter tire.

Two: New axles for a new three-axle configuration versus the current two-axle models.

Three: New differentials.

Four: New front and rear suspension systems.

Five: New brakes to fit into the smaller wheels.

The production availability of these components, developed and demonstrated to meet reliability and durability standards acceptable to the bus operators will indicate the date transbus enters into public service. Given an aggressive UMTA R. & D. mandate and incentives to the component suppliers, we estimate that we could begin producing low-floor transbuses in 4 to 5 years.

Our recommendation would be as follows:

One: Initiate UMTA-funded research and development activity to establish the maximum ramp angle and floor height acceptable in order to provide accessibility to the majority of the elderly and handicapped population.

Two: Initiate an UMTA-funded research and development program with underfloor component suppliers in order to establish cost and schedule for development of common componentry in the areas of axles, differentials, brakes, wheels, tires, and suspension system.

We would like to place particular emphasis upon this point, which we first suggested in hearings with UMTA in May 1976. It is not cost-effective for each bus manufacturer to develop his own unique design for such componentry. That will increase tooling and production costs, due to lower volumes, which must be passed along to the buyer.

We believe each bus manufacturer is capable of accommodating its structural design to such common componentry if the needs of the manufacturer are considered at the outset.

Furthermore, we would recommend that there be competition in component development so that more than one supplier is available

to the industry if at all possible. This approach may be more expensive during the research and development phase, but competition at the production level will result in lower unit costs.

Three: Concurrent with the above, we would recommend that UMTA contract with each of the bus manufacturers to provide prototype vehicles for engineering testing, and subsequent route service testing, of these new components.

Implicit in all of the above recommendations is the necessity for a continuous study of the cost tradeoffs. The goal is to introduce, at the earliest possible time, commercially acceptable components and buses which meet or exceed current standards of reliability.

ESTIMATED
COMPARATIVE BUS PRICES
(CONSTANT DOLLARS)

	FLOOR HEIGHT		
	34"	30"	22"
PRESENT TYPE BUS	\$70,000	--	--
ADVANCED DESIGN BUS	\$77,000	\$77,000	--
TRANSBUS	--	--	\$85 - 95,000

▼DEPENDS ON COST OF NEW
UNDERFLOOR COMPONENTS

Price table—Estimated comparative bus prices

Regarding cost, and some mention of that has been made here this afternoon, the 40-foot bus of the current variety sells today for about \$70,000. The wheelchair lift feature added to one of the current model buses at the time of manufacture adds about \$7,000 to the price. Our advanced design bus, the 870, is estimated to sell for 10 percent more than the current model. The transbus price is difficult to estimate. It will depend to a large extent on the cost of the not yet developed underfloor components. If it evolves through the advanced design buses for a period of 3 to 5 years, transbus may have an incremental cost over the interim advanced design buses of no more than 10 to 20 percent.

We show the present design bus at about \$70,000. We believe that our advanced design bus can be produced at an average of \$77,000 (see chart, p. 179).

The 30-inch-floor-height version, incidentally, was designed by Rohr last year to comply with the then established standards of UMTA of 24-inch heights at the front door.

Transbus we would estimate to be in the \$85,000 to \$95,000 class.

Mr. Chairman, I hope that I have not been too lengthy in my discussion of the general situation with respect to transit buses. I would like now to be more specific with regard to the bills you are considering.

Our present model bus can be built with a wheelchair lift for full accessibility. The same is true of the advanced design bus we are

prepared to build, the 870. This capability meets the requirements of the language in the presently proposed House bills. If the intent of the several bills is to accomplish more than we have indicated, then the definitions of such terms as "effective mobility," "availability," "effective utilization," "accessible," and "special needs" deserve further elaboration from the manufacturer's point of view.

H.R. 4821 is unique among the bills in that it directs itself in part to increasing UMTA capital and operating authorizations. This is commendable. I have one great concern, however.

We have watched Federal assistance for mass transit grow year after year and rolling stock acquisitions grew as well until 2 years ago. Since that time, the number of buses purchased annually with UMTA funds began to decrease and continues to do so.

Mr. Edgar may have had this in mind when he wrote section 4(d) (4) providing for a finite amount of authorization each fiscal year for the "acquisition, lease of substantial improvement * * * of buses or vans * * *." Further refinement of the language may be in order here because, in the past, discussions of funds "for buses" has really meant "for buses and bus-related facilities." And in the past we have seen only a fraction of the millions of dollars discussed actually flow into the purchase of new buses.

H.R. 5010 proposes the establishment of a national advisory council on accessibility of mass transportation. If the section is to be further written, representatives of the U.S. bus manufacturers should be included in the membership of the Council. This would provide a built-in contribution to considerations of technology when the needs of the elderly and handicapped are considered.

H.R. 5010 also proposes that after some date to be determined later all buses purchased be accessible or convertible to accessible. I presented the fact earlier that a wheelchair accessibility package built into a new bus today costs \$7,000.

Retrofit of buses in the field with this wheelchair accessibility package—assuming that the bus was first built with the knowledge that one day it may be retrofitted—will cost an additional \$3,000 to \$5,000. It would be preferable to purchase the fully accessible bus at the outset if there is any chance of such need in the future.

In conclusion, we can summarize the available options. Our present Flxible bus is available with a wheelchair lift as an option but little more can be done to existing transit buses to improve accessibility for the elderly and handicapped. We can, of course, keep this bus in production as long as a viable market exists.

The advanced design buses, such as our model 870, represent a major step toward greater accessibility. In addition to the availability of the wheelchair lift, this bus has—as I mentioned earlier—a number of new features for the elderly and handicapped as well as for the comfort of the riding public in general. This bus should go into production very soon after the necessary governmental decisions are made.

The low-floor bus, or transbus, can be available in 4 years if UMTA moves promptly with a research, development and test program to assure availability of the essential underfloor components.

Flxible is prepared with the technology and facilities to move in any direction to assist in resolution of this problem regarding the elderly and handicapped passenger.

However, we cannot do so until we have assurance that the buses we build will meet the requirements for UMTA grants.

Thank you very much, and we will be pleased to answer any questions you may have.

Mr. HOWARD. Thank you very much, Mr. Garry.

If you will supply us with a copy of that comparison chart, for the record, without objection it will be made a part of the record.

Mr. GARRY. More than happy to; yes.

[The following was received for the record:]

ESTIMATED COMPARATIVE BUS PRICES (CONSTANT DOLLARS)

	Floor height (inches)		
	34	30	22
Present type bus.....	70,000		
Advanced design bus.....	77,000	77,000	
Transbus.....			185,95000

¹ Depends on cost of new underfloor components.

Mr. HOWARD. Present floor level, they are talking about the Transbus, say, about 4 to 5 years?

Mr. GARRY. Yes.

We believe so. To write the specification and develop the components to reliability standards.

Mr. HOWARD. We would presume if you have similar equipment, that that might be from the entire bus industry of the United States.

Mr. GARRY. We believe so.

Mr. HOWARD. Right now, it would take what, 18 months to 2 years to get one?

Mr. GARRY. Total.

Mr. HOWARD. No; I mean if you want to order a bus, a brandnew bus to be built. The States tell me that it takes anywhere from 18 months to 2 years.

Mr. BERNARD. It takes 6 months to 1 year to build a bus depending on the manufacturers' backlog.

Mr. HOWARD. Well, we have heard different amounts.

Mr. BERNARD. If I got a new order, today, I would be delivering in September.

Mr. HOWARD. Is that something that is in your lots now or you would begin constructing?

Mr. GARRY. From receipt of order to the delivery of the first bus it would be 6 to 8 months.

Mr. HOWARD. I meant if you had a lot of buses made?

Mr. GARRY. It depends on the backlog.

Mr. HOWARD. Well, we have that, anyway.

Do you have any idea?

Mr. GARRY. We heard that the maximum amount of money that can be spent on purchase of buses is about \$300 million a year.

Mr. HOWARD. \$300 million a year?

Mr. GARRY. That is less than the bus manufacturing capability.

Various manufacturers have the capability of at least eight buses per day, per shift, and that translates into something more in the order

of \$500 million to \$600 million a year in terms of total manufacturing capacity, even on a one shift basis.

Mr. HOWARD. \$600 million.

Mr. GARRY. Yes, in that order.

Mr. HOWARD. What price bus are we talking about?

Mr. GARRY. We are talking in the order of \$70,000 which is about the average price for one of today's buses.

Mr. SHUSTER. If the gentleman will yield?

Mr. HOWARD. Yes.

Mr. SHUSTER. We had testimony earlier that there are about 50,000 transit buses in America and that they replace about 20 percent of the fleet.

Mr. GARRY. The question here was: What was the capacity of the industry?

I am not relating to the ability of the transit industry to absorb it.

I am just saying the manufacturing capacity is in the range of half a billion to \$600 million a year.

Mr. SHUSTER. If there are 50,000 and 10,000 a year are replaced on the average—

Mr. GARRY. We could respond to that with multi-shift operations.

Mr. SHUSTER. That would be \$700 million.

My point is, the testimony that we had was if 20 percent of the fleet is replaced each year, there are 50,000 that is 10,000, your market for the industry is 10,000 buses a year.

Mr. GARRY. Yes.

Mr. SHUSTER. No; it is 5,000 buses a year if you have a 10-year life; 5,000 buses a year at \$70,000 is the chairman's figure—

Mr. BERNARD. The industry has been operating for several years now and we are less than the capacity required.

We, today, in our company, are only producing five buses per day and we have a one-shift capability of producing eight per day.

A chart that we have here shows that in the last 5 years the top number of vehicles in all sizes, including mini-buses ordered with UMTA was just under 6,000 in 1974. In 1975 that number went down to about 4,300 and in 1976 it went down to 3,200.

We are ready, I believe the industry is prepared to produce 8,000 to 10,000 units a year. We simply at this juncture are wondering if that kind of a market will ever develop.

Mr. SHUSTER. I am saying the Chairman's statement is really corroborated if you are talking roughly 5,000 buses a year in the market, the market potential, 5,000 buses a year, \$70,000, roughly.

Mr. GARRY. I was speaking to the capacity of the industry.

Mr. SHUSTER. Thank you, Mr. Chairman.

Mr. HOWARD. The Chair recognizes the gentleman from Pennsylvania.

Mr. SHUSTER. Thank you, Mr. Chairman.

I am interested in this 870 advance bus that you speak of.

How many have been produced from your production line yet?

Mr. BERNARD. We had one that has been on a tour. We have the second prototype in construction right now.

Mr. SHUSTER. How long has the first prototype been in operation? How many miles?

Mr. GARRY. Just under a year and it is about—I guess—

Mr. BERNARD. What we call prototype 1 has some design esthetic changes.

Prior to that we had some other prototypes which had extended testing.

Mr. SHUSTER. This is a preproduction model?

Mr. BERNARD. This is a preproduction model, and thoroughly tested.

Mr. SHUSTER. You still do not have any out there that have been bumping over the roads?

There is some risk involved?

Mr. GARRY. We operated on a comparative test basis with our present buses over an equivalent of 100,000 miles.

Mr. SHUSTER. You are not suggesting that the Government mandate standards based on a preproduction model? I get nervous when I think that the Department of Transportation, that we can mandate standards based on preproduction models without really having put them to the test of real life cycle testing.

Mr. GARRY. We have engaged in significant engineering tests of the model.

We have, in fact, the major model component of that model are identical to the model in service; brakes, axles, all of those components, steering mechanisms are all consistent with the ones we have today.

The body shell is the only new feature of the bus.

Mr. SHUSTER. Mr. Garry, if you will forgive me, my background is in the computer industry and I have scars to prove no matter how well tested new products are, whether they are numerous prototypes or preproduction models, until they have been in operation for a rather lengthy period of time, if anything can go wrong, it will go wrong, and even what cannot go wrong, goes wrong.

Mr. GARRY. That seems to be an enduring fact of life.

Mr. SHUSTER. Absolutely.

What is the cost of the ramp versus the lift?

Mr. GARRY. We believe we could build a ramp for something on the order of \$1,500 to \$2,000 as contrasted to \$7,000 for the lift.

Mr. SHUSTER. I assume that is a mechanical ramp?

Mr. GARRY. It is a hydraulic ramp. It is a simpler mechanism than the lift.

Mr. SHUSTER. What about the problem if there is an emergency and either the ramp or the lift sticks?

I wonder if a bus with a ramp or a lift could pass safety standards, that is a question that the chairman and I talked about.

Mr. BERNARD. The driver has the ability of manually deploying or activating the lift.

You have the same kind of capability with the ramp.

Mr. SHUSTER. If I understand the thrust of your testimony, you are saying that when you get to the issue of the 22-inch floor, you are saying there are major component developments which you are saying that UMTA should initiate R. & D. activities, they should further program under.

The whole thrust of what I see here is this is a highly experimental program.

Mr. GARRY. That is exactly right.

Mr. SHUSTER. So what I read here is that we talked about the low floor, at least in your view, it is certainly not something that is here today, and something that could reasonably be mandated.

Mr. GARRY. No, particularly following the thoughts that you had earlier in developing such components to reliability standards consistent with public transportation needs. It takes extensive testing to do that.

We mentioned earlier that the 870 bus takes about 5 years of testing. This means on test tracks and test facilities using some of our computer calculated stress inputs and so forth and so on.

So we believe it is an extended process or an extended cycle to develop those components to the standards that we would want to commit them with warranty to the operators.

Mr. SHUSTER. I am also intrigued and concerned about your testimony where you talk about the R. & D. that is needed in this area.

You also talk in the same paragraph about putting particular emphasis on standardization of axles, differentials, brakes, suspension systems.

Mr. GARRY. Well, we believe that there should be competitive development of those and the best of those should be picked up so that there is more than one option available to us.

One of the problems in increasing bus costs has been the lack of options of brakes, axles, and so forth, and the price rise in those components has greatly outstripped those in those areas where there is competition.

Mr. SHUSTER. You are not saying that we are ready today for such standardization?

Mr. GARRY. No.

Mr. SHUSTER. You recognize when you start standardization you do buy yourselves some economy of scale and you also inhibit future innovation.

Mr. GARRY. That is right.

It would be better to put a little more into the research phase than to be stuck with a limited series of options later on.

Mr. SHUSTER. Thank you very much.

Thank you, Mr. Chairman.

Mr. HOWARD. It might be interesting to note that we are talking about buses now and how much money might be spent. We are talking about \$70,000 per bus and we have figures of \$77,000, somewhere between \$85,000 and \$95,000, possibly, with low floor.

The gentleman from Illinois?

Mr. FARY. No questions.

Mr. HOWARD. Thank you very much.

We certainly appreciate your testimony and information and if we need further information, we will be in touch with you, and we hope that you will respond.

Thank you very much.

The final witness for this afternoon is Mr. James A. Currie, vice president, administration, AM General Corp.

Mr. Currie, thank you very much for your participation in these hearings.

We do have a copy of your prepared statement.

Without objection, that will be made a part of the record at this point.

If you would please, for the record, identify the people who are appearing with you, and then proceed as you wish.

[The statement referred to follows:]

STATEMENT OF JAMES A. CURRIE, VICE PRESIDENT, ADMINISTRATION,
AM GENERAL CORP.

Mr. Chairman, I would like to thank the Committee for affording me the opportunity to present the views of AM General Corporation with respect to the various bills affecting mass transit accessibility that are currently pending before it—the objectives that they seek to achieve, the achievability of those objectives, and the effect of the bills upon AM General as a supplier of transit buses. In particular, AM General wishes to address itself in these respects to H.R. 199, H.R. 1245, and H.R. 5010. With respect to H.R. 5010, the principal focus of our remarks is directed toward Section 4 and its proposed amendment of Section 16 of the Urban Mass Transportation Act of 1964.

THE OBJECTIVE—"ACCESSIBILITY"

AM General wholeheartedly endorses the concept of accessibility embodied in these bills. No greater testament to AM General's commitment to the principle of universal accessibility is required than AM General's continued support of and participation in the Transbus Program, from its inception in 1971 to date. As recently as March 15th of this year AM General, in testifying before the Department of Transportation, endorsed the reinstatement and implementation of the accessibility-oriented Transbus Program, which had been abruptly shelved by the prior Administrator of UMTA last July.

We do not believe that the principle of universal accessibility can be the subject of reasonable debate. Indeed, while the American Public Transit Association, at the DOD Transbus hearings conducted on March 15, 1977, continued to impress upon the Department of Transportation APTA's desire for the autonomy of its members to determine how responsive public transportation should be to the needs of the elderly and handicapped in a given locality, AM General does not believe that additional legislation should be necessary to mandate the universal accessibility provided for in the bills under consideration here. Fairly construed, and particularly in the light of its legislative history, Section 16 of the Urban Mass Transportation Act as presently constituted requires universal accessibility. In proposing Section 16 in 1970, Representative Mario Biaggi expressly rejected as the purpose of the statute the "separate but equal" syndrome that pervades APTA's approach to the question of accessibility and that has characterized PMTA's past response to numerous lawsuits seeking to insure the benefits intended by law for the elderly and handicapped. As Representative Biaggi stated:

"We are not talking about specialized programs or adding to the Federal bureaucracy. We are simply talking about granting equal rights to a large segment of our population to use public facilities with the same ease as everyone else.

"Other proposals have been offered that would set up special transportation facilities for the elderly and handicapped. Others would provide subsidies so that these people could use more expensive services such as taxi cabs or limousines.

"However, besides the factor of costs for these programs, they would further serve to segregate the elderly and the handicapped from our society.

"This Nation has been insensitive to the needs of these Americans for too long. I think it is time this Congress saw to it that equal rights to transportation facilities are extended to these 44 million citizens. My amendment does that and I hope a majority of my colleagues will support this effort." (116 Cong. Rec. 34181 (1970) (emphasis added).)

1. UMTA's temporary compliance with Section 16

For a time, it appeared that UMTA's administration of the Urban Mass Transportation Act would be responsive to the underlying purpose of Section 16. From 1971 through mid-1976, UMTA supported and endorsed, at a cost of some \$27 million, the design, development, testing, and evaluation of nine prototype Transbus vehicles. Three prototype Transbus coaches were produced by each of the American suppliers of transit buses in the 35 to 40 foot class—AM General, General Motors, and the Flixbus Company. These prototypes underwent extensive engineering tests by the manufacturers and by independent automotive authorities, including performance tests, endurance tests, energy absorbing bumper component tests, and seat component crash tests. The prototypes were placed in regular service operation in four cities—Kansas City, Miami, New York, and

Seattle. They were publicly demonstrated across the country and subjected to development, performance, and acceptance tests.

Throughout this period of activity under the Transbus Program, UMTA's public policy pronouncements continually heralded the imminence of Transbus, and the mandatory purchase of such accessible vehicles as a condition precedent to the extension of federal capital assistance in the transit bus market.

On January 8, 1975, for example, UMTA issued a "Policy For Introducing Transbus Into Nationwide Service" that—as its title would indicate—announced the planned completion of Transbus R. & D., the planned issuance of a composite performance Transbus specification (in lieu of a detailed design specification), and the mandatory use of this low-floor performance specification, when finally issued, by grantees.

One month later, UMTA announced in the Federal Register that the shift from a design to a performance specification had accelerated the availability of accessible, production model Transbus vehicles in the marketplace:

"The completion of Transbus prototype testing is currently scheduled for August 1975: the performance specification will be developed concurrently, and the first of the new buses should be in revenue service by late 1977 or early 1978. The UMTA decision to proceed with a performance specification rather than a detailed design specification has accelerated significantly the anticipated availability of the Transbus." (40 Fed. Reg. 8314, 8315 (1975).)

On January 20, 1976, in a draft "Policy Statement On Grants For the Acquisition of Transit Buses," UMTA reaffirmed the Transbus Program and the availability of the performance specification reference in UMTA's prior pronouncements:

"The development of a standard vehicle performance specification for 35 and 40 foot urban transit buses is now complete and is being promulgated today. This final Transbus specification incorporates a low-floor feature (floor height of 22 inches or less) and mandates that the vehicle must be available with a ramp or lift option to provide accessibility for wheelchair users . . .

"UMTA affirms its intention to require the use of this performance specification and procurement package by grantees purchasing transit buses with UMTA financial assistance, except where special circumstances justify an exception."

In April 1976, the final reports on the Transbus R. & D. effort were released. These reports revealed the consummate success of the Program, i.e., that it had achieved its objective, and that specifications for an improved, accessible, and cost-effective transbus had been developed and could be put into production. Reflecting the conclusions of these reports, the Administrator of UMTA announced on April 14, 1976 that:

"The UMTA Transbus research and development program undertaken with the participation of bus operators and suppliers, has produced a number of design and performance improvements *which could be incorporated into specifications for ordering full-size (35-40) transit buses.* (41 Fed. Reg. 15735 (1976) (emphasis added).)

2. The Transbus features that provide for universal accessibility

The "design and performance" improvements that render Transbus responsive to Section 16 of the Urban Mass Transportation Act are clear.

From the outset of the Program, the heart of Transbus has been the accessibility which is provided by its low-floor, wide door, ramped access characteristics. It is these features which distinguish the Transbus from both the so-called "advanced design buses," or "ADB's," and current production model buses.

Opponents of Transbus and advocates of the ADB proposed by GM as a substitute for Transbus have endeavored to confuse the question of bus floor height.

AM General wishes to clarify this issue. Transbus has a normal operating floor height of 22 inches from the ground. Equipped with a kneeling device it can kneel to a 17 inch height to take on and discharge passengers.

Current design buses and the initial ADB design have a floor height of from 33 to 34 inches. The proposed ADB could eventually have a normal operating floor height of 29 inches and could kneel to a 24-inch height to take on and discharge passengers. Neither of the proposed ADB's has yet been produced.

The difference between the 24-inch floor height of the ADB and the 17 inch Transbus low floor is extremely important in the relative availability of these buses to the elderly and the handicapped. As spokesmen for representative elderly and handicapped groups have repeatedly advised the Department of Transportation, the 24-inch floor height is simply not responsive to the accessibility

problems that confront non-ambulatory and semi-ambulatory riders and would-be riders.

The nonresponsiveness of the ADB 24-inch floor height to the accessibility issue is in large measure related to its inability to accommodate a ramp. Transbus is equipped with an optional ramp which can slide out of the floor at the front door providing an incline up which semi-ambulatory passengers can walk without the necessity of climbing any steps, and upon which non-ambulatory passengers in wheelchairs can have direct accessibility to the bus. The ADB does not have this capability.

The importance of a ramp to universal accessibility cannot be overstated. As Sieglinde A. Shapiro (President, Disabled In Action of Pennsylvania, Inc.) stated at the March 15, 1977 DOT Transbus hearings:

"From time to time the last UMTA Administrator was wont, wrongly, to frame the assessability issue as one of accommodating wheelchair users only. The low-floor bus provides access both to all wheelchair mobile persons and to an additional nearly 13 million elderly and handicapped persons whose disabilities range from arthritis, palsy, multiple sclerosis, [and] muscular dystrophy to pregnancy, heart condition, and respiratory ailments which render access by steps impossible or prohibitively difficult, painful or risky."

"The low floor is the key to all of those benefits—for they depend upon a low center of gravity and upon safe and easy ingress and egress by ramp or a single step, *both of which require the low floor*. The Transbus Project Reports compared the low-floor, ramped bus with the current "new look" bus and with the RTS II [the GM ADB] on each of the benefit dimensions recited above and found the RTS II very significantly short in each of them.

"The alteration of the RTS II floor height from 34 inches to 29 inches with a further 5 inch kneel adopted by the last Administrator upon General Motors suggestion at last May 5's hearings, but not effectuated, does not alter that benefits analysis. The difference between a riding height of 29 inches and 22 inches and between an effective entry floor height of 24 inches and 17 inches (or 15 inches) is critical both for those benefits which depend upon center of gravity and those which depend upon ramping and a single low step. *Only a low floor bus allows for effective use of a ramp (and for some a single step)* to provide easy, safe, and speedy boarding for elderly and handicapped passengers and for everyone else as well." [Emphasis added.]

While AM General has been in the forefront of the incorporation of wheelchair lift mechanisms in transit buses, we agree that such mechanisms focus upon the needs of but a minority of those properly subsumed by the phrase "elderly and handicapped." While the lift mechanism serves a useful and needed role pending the availability in the marketplace of low-floor vehicles on a production basis, it can not be truly regarded as providing universal accessibility.

In addition to the low-floor and a ramp capability available only with the low floor, the Transbus wide door—44 inches at the front, with a clear opening of 38 inches—provides accessibility in a manner not available through either the current design bus or the ADB. As a subsidiary note, we find the option of providing a wide door for wheelchair access at the rear of the bus—as suggested by GM—to be both operationally and psychologically unworkable.

AM General recognizes that Transbus has not been without its critics. Much of this criticism is, we believe, unfounded and misdirected, as the record will bear out.

Criticism of Transbus has centered largely on two aspects. Cost and the low floor.

As to cost, critics have questioned the wisdom of a vehicle that has been estimated as costing 10 to 25 percent more than currently available models. This criticism cannot be squared, however, with the enthusiasm with which these same critics have endorsed the federal subsidization of an ADB that, without the benefits of Transbus and as demonstrated by last year's Houston procurement, exceeds by more than one-third the average cost, with options, of other contemporaneously purchased standard size buses. In Houston, the average per bus price bid by GM for its ADB was more than \$88,000, as compared to an average bid price for current production model buses—which serve essentially the same function as the ADB—of some \$66,000. The cost criticism, thus, is baseless.

Critics of the low floor have also raised the spectre of buses being caught up on curbs or damaged as a result of potholes or road debris. This criticism, it should be understood, is not really levelled at the low floor feature of the bus, but rather, at the allegedly inadequate ground clearance associated with the low floor. There are two answers to this criticism.

First, the opinions expressed by independently engaged automotive experts as a result of extensive Transbus prototype testing debunk these claims. As the Final Report issued in connection with the Transbus Public Testing and Evaluation Program by Simpson & Curtin under the sponsorship of the DOT stated, "the Public Test Program has shown that from the public and operator viewpoint the low floors, low steps and wide doors are excellent features and should be included in the production specifications."

Second, critics of the low floor have nonetheless forcefully attempted to obtain a federal stamp of approval for an ADB that, without the low floor accessibility advantages of Transbus, provides less ground clearance than the Transbus. Complaints with respect to the low floor, thus, can only be regarded as dubious.

We submit that a federal determination with respect to the viability of Transbus should not be based upon the complaints of those suppliers, such as GM, who have a vested interest in the amortization of investments that cannot be adapted to Transbus. The decision to reinforce the accessibility mandate of current statutes should be based upon the advice and opinion of those independent experts in UMTA's service who can approach and who have approached the Transbus issue impartially, objectively, and without a personal financial stake in the outcome, and have recommended its adoption.

3. The abandonment of the Transbus

Notwithstanding five years of successful design, engineering, and testing, UMTA, on July 27, 1976, abandoned the low floor objective of Transbus and with it any hope for accessibility in the foreseeable future. Having set aside Transbus, UMTA has attempted to facilitate the introduction of a so-called "interim bus" in a way that would exclude AM General's product from competition. The interim bus—now labeled an "advanced design bus"—has been proven to be one-third more expensive than other available buses. This so-called ADB is, as noted above, not responsive to the transit needs of the elderly and handicapped.

The so-called "advanced design bus" is the result of a developmental effort undertaken by General Motors at a point in time when public policy pronouncements issued by the DOT and UMTA stated that the low floor Transbus would be mandated for all purchases utilizing Federal grant funds. GM has reported that its investment in this ADB exceeds \$50 million. With GM having made this investment, which apparently cannot be adapted to the Transbus performance specification tentatively issued by UMTA in January 1976, UMTA was persuaded to accommodate the GM investment by abandoning the long-standing Transbus mandate.

The prior administration—by permitting its admitted concern for supplier investments in "interim" buses to frustrate the fruition of the Transbus program—placed greater stock in accommodating the profit margins of certain suppliers than in the transit needs of the elderly and handicapped, the accommodation of which is already statutorily mandated.

We—as well as the elderly and handicapped whom Transbus was intended to benefit—have been prejudiced by the concern demonstrated by the prior administration, in setting aside Transbus, for the Transbus-frustrating investments of certain suppliers. It was abundantly clear—to all who read UMTA's policy announcements from 1971 on—that an interim investment that could not be adapted to the Transbus specification could not be fully amortized. For a supplier to have made such an investment in the face of that public policy, and subsequently petition the cognizant agency to reverse that policy in order to protect a Transbus-frustrating investment, represents the height of presumption. For UMTA to have accommodated that request was unconscionable, for it exhibited a complete disregard for those who—lacking the resources to gamble on their ability to coerce the government into an accommodation—must of necessity rely, and did rely, on a consistently enunciated public policy.

4. AM General's endorsement of the proposed legislation

Although AM General believes that existing statutes, properly construed and fairly administered, would achieve the objectives of the bills under consideration before this Subcommittee, we nonetheless endorse—except as to the effective date thereof—H.R. 199 and H.R. 1245. These bills define with precision the purpose that underlay the initial enactment of Section 16 of the Urban Mass Transportation Act, i.e., universal accessibility. The policy fashioned by the prior administration in the past year has evidenced a total disregard for this purpose. The need for more definitized legislation that results from this administrative disregard for the clear purpose of Section 16 was ably expressed by

John Lancaster on behalf of the Paralyzed Veterans of America at hearings conducted last year relative to H.R. 3155:

"With the Transbus program successfully completed, one can only speculate as to why UMTA refuses to promulgate effective regulations that would ensure complete accessibility for handicapped persons to all new buses purchased in part with federal funds and all other forms of mass transportation over which they have jurisdiction. There is no good answer to that question. *UMTA's only reason for not coming forward with the needed standards is because General Motors does not want to manufacture a substantially improved bus. General Motors is committed to the production of another generation of inaccessible high-floor buses which have little to offer anyone in the way of improvement over buses currently being manufactured.* General Motors' only concern in the bus market is a maximizing of profits. This, however, should not be the concern of UMTA.

"Unfortunately, while Rohr Industries and American General are ready, willing and able to produce the low-floor Transbus, they have been effectively estopped from doing so by UMTA's failure to mandate an accessible bus in regulations. Rohr Industries and American General are unable to make the retooling and component investment unless transit authorities will buy the bus.

"Since the market, and the decision whether or not to produce Transbus, is controlled by General Motors through its spokesman, UMTA, no transit authority is going to be able to purchase an accessible bus unless Congress stands up to General Motors and clearly spells out for UMTA its duties under the law. It appears that Congress has taken a step towards such a commitment with the introduction of H.R. 3155. However, this piece of legislation as it is presently phrased will not produce your desired intent. *UMTA does not understand such words as "national policy" and "special efforts."* Instead, your language should give no room for interpretations and clearly and specifically mandate that UMTA shall provide standards ensuring that all mass transportation receiving federal funding be readily accessible to the elderly and handicapped. Further, the reasonable amount of discretion provided in terms of waivers and exceptions must be removed from H.R. 3155. *Again UMTA must not be allowed to subvert the intent of your legislation as it has done in the past.* (Emphasis added.)

We believe that H.R. 199 and H.R. 1245 will achieve that end.

H.R. 5010, however, suffers in our opinion from a number of defects.

First, the requirement that all buses be "accessible or be readily capable of being made accessible" (section 3(b)), when read with the requirement that only 50 percent of the buses acquired by a property actually be accessible, suffers from definitional ambiguity. The maximum accessibility achievable within the current state of the art is that which results from the low-floor and its ramp capability. A high floor bus, such as those currently available or the so-called ADB's, cannot accommodate a ramp and therefore cannot be truly considered "accessible." A high floor bus, is quite simply, not "readily capable"—due to the extensive redesign and retooling required—"of being made accessible" to the extent possible under current technology.

H.R. 5010 suggests that "accessibility" is to be defined in terms of the ability of the vehicle to accommodate a wheelchair lift. While, as we have noted, such mechanisms do provide for improved accessibility, they in fact accommodate but a small percentage of those whom the legislation seeks to provide with adequate transportation services.

If this definitional approach to accessibility is adopted by UMTA, the low floor will never be realized. This market is limited in demand. Suppliers, and in turn their suppliers, cannot pursue—at a significant cost—the development of low floor vehicles and components if the already limited demand for standard size buses is to be reserved in part for high floor vehicles. The characteristics of the market demand a uniform specification within any vehicular size classification.

In view of the foregoing potential in H.R. 5010 for continued administrative accommodation of GM's high floor investment—at the expense of true accessibility—AM General cannot endorse H.R. 5010 unless the mandatory nature of the low floor as a condition precedent to a vehicle's ability to be "made accessible" is clarified.

Finally, there remains the question of the effective date of the mandate. As we have stated in our letter to Secretary Adams dated February 11, 1977, AM General is prepared, given a reliable mandate, to proceed to Transbus production upon a 28 month lead-time-to-bid schedule. We suggest that the legislation provide this necessary time for retooling and production line preparation.

AM GENERAL'S COMMITMENT TO ACCESSIBILITY

AM General continues to endorse the mandate of a low floor, ramped vehicle as the only method of both assuring competition in satisfaction of the Brademas Amendment (49 U.S.C. section 1602(a)(1)) and also, providing the public—including the elderly and handicapped—with mass transportation services that are truly responsive to their needs.

Transbus must be mandated. The universal accessibility achievable through the low-floor, wide door, ramped access Transbus will not be realized in the foreseeable future if, as UMTA proposed last year, Transbus is merely "encouraged". There is at present too much investment in tooling and designs that cannot be transferred to Transbus to believe that suppliers will willingly and expeditiously move to Transbus if the government will continue to defray 80% of the price of "interim" vehicles that have not yet been amortized. As we recently advised Secretary Adams, to merely "encourage" Transbus is to kill it.

The nature of the mandate, moreover, must, consistent with the Brademas Amendment and its prohibition against "exclusionary or discriminatory specifications", provide for competition on an objective basis. Any Transbus that satisfies the federally endorsed performance specification tentatively promulgated last year must be eligible to compete for contract award under the standard low-bid policy. The predictability necessary for informed business decisions necessitates this. AM General cannot afford the investment necessary for the production of Transbus if it is to be kept out of the market by exclusionary "options" or by the subjective evaluative processes that characterized last year's Houston experience.

We have repeatedly advised the Department of Transportation and UMTA of our support for and commitment to an accessible Transbus. Our investment decisions have been made in reliance upon the publicly enunciated Transbus policy. We are the only supplier that, in responding to the Department's request for comments on February 24, 1977, committed itself to the production of Transbus vehicles.

We reaffirm that commitment today.

As we advised Secretary Adams, however, AM General's commitment to the accessibility achievable only through Transbus is necessarily related to our ability to remain a viable supplier in the marketplace pending the effective date of the Transbus mandate. AM General cannot afford a two year or longer hiatus in revenue producing activities. For AM General to be relegated to the role of only an engineering enterprise pending Transbus will terminate the function of the company as a supplier of standard size buses.

Such an exclusion of AM General from the role of an active supplier of standard size buses would have been the inevitable result of the discriminatory policy fashioned by the prior administration. For this reason, AM General applauded Secretary Adams' reopening of the Transbus issue and his recognition, in announcing that decision, of the unequal competitive position among suppliers that resulted from past administrative errors.

We had hoped that the procedures developed by the Department of Transportation to govern the pre-Transbus interim would have taken into account the impact of the prior administration's inequitable practices upon AM General. We wish that we could share the view expressed by Secretary Adams that his March 8, 1977 "interim" procurement policy will not competitively harm any "manufacturer already pledged to the production of Transbus." Unfortunately, that policy appears to leave AM General in an intolerable position. It would appear to subsidize the exclusion of AM General from the market in the pre-Transbus interim. The policy forces AM General to reconsider its position as a potential supplier of low-floor wide door, ramped vehicles.

The March 8, 1977 policy, in our opinion, does not adequately take into account the realities of this marketplace. This is not a market in which supply and demand are freely operative. There is, quite frankly, a deep pocket—or, a rich uncle—that renders price relatively insignificant to the grantees. Federal subsidy of ADB purchases will result in effective allocation of this market in favor of the ADB—without any competitive test of their value. As Flexible stated in a recent taped conference with DOT—despite DOT efforts to elicit a contrary response—Flexible anticipates that 95 percent of the interim procurements to be subsidized by UMTA will be for the more expensive ADB.

The March 8th policy thus would appear to lead inevitably to a two-supplier market, in clear contravention of the letter and the spirit of the Brademas Amendment, which prohibits federal funding of grantee procurements "utilizing exclusionary or discriminatory specifications." Specifications adopted by UMTA

for the express purpose of permitting GM to amortize its TRANSBUS-frustrating tooling investment would seem to fall clearly within this prohibition. This purpose, which underlay the policies of the prior administration, is unfortunately effected by the March 8th policy.

AM General offered meaningful alternatives to the DOT for the interim. Unfortunately, these were not adopted.

We proposed head-to-head, value-for-value competition between the so-called "current" and "advanced design" buses. Rejection of this proposal disregarded the Brademas Amendment, and may be explained by the fact that the ADB—a high floor bus with the same engine and running gear as the AM General Metropolitan Model—is a gold-plated vehicle, the marginal improvements of which cannot begin to justify the exorbitant price differential that, as has been demonstrated, will be incurred. Our proposal for value-for-value competition was discarded by DOT without explanation. Incredibly, one DOT representative stated that direct value competition between the ADB or other available models did not even reach the final rank of alternatives recommended to Secretary Adams for use in the interim preceding the possible mandate of a fully accessible bus.

AM General believes that, if value competition between current and advanced design buses is unacceptable to UMTA, then both ADB's and current buses should be supported by federal grants under a policy that negates the "rich uncle" effect that necessarily—as Flexible stated—will lead to the purchase of the gold-plated ADB by the subsidized local properties. Accordingly we also proposed to DOT a "mixed fleet" approach to the utilization of federal subsidies.

This was rejected on the ground that it would frustrate new market entry and involve too great a federal role. We regard this response as incomprehensible.

As to potential new suppliers, the mixed fleet approach would create barriers to entry no greater than those erected by the March 8th DOT policy. As to the extent of federal involvement, the government's subsidy of 80 percent of the price, particularly in view of the Brademas Amendment, imposes an attendant, affirmative duty to insure that competition is not sacrificed in the process. A federally-subsidized market that becomes the captive of "interim" investments in unlikely to see the progress promised beyond the "interim" until those investments have been fully amortized.

DOT's March 8th policy leaves AM General, its commitment in principle to accessibility notwithstanding, in an untenable position. Having relied upon and been faithful to Transbus policy as consistently communicated in public, we are confronted with effective exclusion from the market by federal subsidization of a more expensive but unproven product.

As I have noted, and as we have repeatedly advised the DOT and UMTA, AM General's ability to proceed with Transbus has been predicated upon a reasonable expectation that our existing product would continue to be eligible to compete for the interim standard size bus market. AM General cannot sustain an investment of the magnitude required to implement Transbus production in the face of the significant market foreclosure effected by the DOT's March 8, 1977 policy. An opportunity to compete for a mere 5 percent of the demand in the marketplace—the result predicted by Flexible—will not enable AM General to remain a viable supplier of buses. We do not believe that the policy announced on March 8th could have been adopted by Secretary Adams had he been apprised by his staff of this estimate of the resulting market allocation.

We recommend therefore that the Committee, in the exercise of its oversight function, encourage Secretary Adams to study the effect of his March 8th policy upon the role of AM General as a supplier of accessible buses and his objective of achieving accessibility by adopting procedures that will not competitively harm those suppliers who are already pledged to the existing accessibility mandate. We submit that this, more than the legislation under consideration here, will hasten the availability in the marketplace of truly accessible vehicles.

Thank you, Mr. Chairman.

TESTIMONY OF JAMES A. CURRIE, VICE PRESIDENT, ADMINISTRATION, AM GENERAL CORP., ACCOMPANIED BY JAMES F. HOLDEN, COUNSEL, AND W. STANFIELD JOHNSON, COUNSEL

Mr. CURRIE. Thank you, Mr. Chairman.

I am James Currie, vice president of AM General Corp.

The gentlemen with me are James Holden and Stanfield Johnson, counsel.

In accordance with the rules we have provided a copy of our complete statement as well as a brief copy, and it is from the brief copy that I will make my remarks this afternoon.

I would like to thank the committee for affording me the opportunity to present the views of AM General Corp. with respect to the various bills affecting mass transit accessibility that are currently pending before it, in particular, H.R. 199, H.R. 1245, and H.R. 5010.

AM General wholeheartedly endorses the concept of universal accessibility embodied in these bills. No greater testament to AM General's commitment to the principle of universal accessibility is required than AM General's continued support of and participation in the Transbus program, from its inception in 1971 to date.

We do not believe that the need for universal accessibility can be reasonably debated. Indeed, AM General does not believe that new legislation should be necessary to achieve the objectives of the bills under consideration here. Fairly construed, section 16 of the Urban Mass Transportation Act as presently constituted requires universal accessibility. The legislative history of section 16 in fact expressly rejects—on the ground that “special” facilities would “further serve to segregate the elderly and the handicapped from our society”—the “separate but equal” approach that has been suggested from time to time by both APTA and UMTA in this area.

For a time, it appeared that UMTA would be responsive to the purpose of section 16. From 1971 through mid-1976, UMTA supported and endorsed, at a cost of some \$27 million, the design, development, testing, and evaluation of nine prototypes Transbus vehicles. By 1976 this effort had proceeded to the point where UMTA could publicly announce the availability of the Transbus performance specification, and the reaffirmation of UMTA's “intention to require the use of this performance specification and procurement package by grantees purchasing transit buses with UMTA financial assistance. * * *

Only a Transbus-type vehicle, with its low-floor, wide door, ramped-access characteristics, can be responsive to the accessibility mandate. It is these features which distinguish the Transbus from both the so-called advanced design buses, or ADB's, and current production model buses.

Transbus has a normal operating floor height of 22 inches from the ground. Equipped with a kneeling device it can kneel to a 17-inch height to take on and discharge passengers.

Current design buses and the initial ADB design have a floor height of from 33 to 34 inches. The proposed ADB, which has not yet been produced, could eventually have a normal operating floor height of 29 inches and could kneel to a 24-inch height.

The difference between the 24-inch floor height of the ADB and the 17-inch Transbus low floor is extremely important in the accessibility afforded to the elderly and the handicapped. As spokesmen for elderly and handicapped groups have repeatedly advised the DOT, the 24-inch floor height does not provide accessibility.

The inaccessibility of the 24-inch-floor-height ADB is in large measure related to its inability to accommodate a ramp. Transbus is equipped with an optional ramp which can slide out of the floor at the front door providing an incline up which semiambulatory passengers can walk without the necessity of climbing any steps, and upon

which nonambulatory passengers in wheelchairs can have direct accessibility to the bus. A 24-inch floor cannot incorporate a negotiable ramp.

The importance of a ramp to universal accessibility cannot be overstated. As Sieglinde A. Shapiro, president, Disabled In Action of Pennsylvania, Inc., stated at the March 15, 1977, DOT Transbus hearings, accessibility cannot be defined in terms of wheelchair lift capabilities because there are 13 million semiambulatory individuals

whose disabilities * * * render access by steps impossible or prohibitively difficult, painful, or risky * * * Only a low floor bus allows for effective use of a ramp—and for some, a single step—to provide easy, safe, and speedy boarding for elderly and handicapped passengers and for everyone else as well.

While the lift mechanism serves a useful and needed role pending the availability in the marketplace of low-floor vehicles on production basis, it cannot be truly regarded as providing universal accessibility.

Criticism of Transbus has centered largely on two aspects: Cost and the low floor.

As to cost, critics have questioned the wisdom of a vehicle estimated by some as costing 10 to 25 percent more than currently available models. These same critics, however, have enthusiastically endorsed the Federal subsidization of an ADB that, without the benefits of Transbus, will, as demonstrated by last year's Houston procurement, exceed by more than one-third the average cost of other available standard-size buses. In Houston, the average per bus price bid by GM for its ADB was more than \$88,000, as compared to an average bid price for current production model buses—which serve the same function as the ADB—of some \$66,000. The cost criticism, thus, is baseless.

I might digress for a moment to remark that the comparing of prices can, from time to time, be dangerous unless you know you are comparing apples and apples and oranges and oranges.

In the case of the figures that we used, we simply divided the AM price by the total number of buses and we took the average cost of number of buses produced in that year, which was 1976, and 1976 for economic reasons really cannot be compared with buses that will be delivered toward the latter part of 1977.

Critics of the low floor have also raised the spectre of buses being caught up on curbs or damaged as a result of potholes or road debris. This criticism, it should be understood, is not really leveled at the low floor feature of the bus, but rather, at the allegedly inadequate ground clearance associated, with the low floor. There are two answers to this criticism.

First, the opinions expressed by independently engaged automotive experts as a result of extensive Transbus prototype testing debunk these claims. Second, critics of the low floor have nonetheless attempted to obtain Federal approval for an ADB that, without the accessibility advantages of Transbus, actually provides less ground clearance than the Transbus. Complaints with respect to the low floor, thus, are not credible.

UMTA'S ABANDONMENT OF THE TRANSBUS

Notwithstanding 5 years of successful design, engineering, and testing, UMTA, on July 27, 1976, abandoned the low floor objective of Transbus and with it any hope for universal accessibility in the fore-

seeable future. In setting aside Transbus, UMTA has attempted to facilitate the introduction of an exorbitantly priced "interim bus" and in a way that would exclude AM General's product from competition. The interim bus—now labeled an "advanced design bus"—is, as noted above, not responsive to the transit needs of the elderly and handicapped and is one-third more expensive than other available models.

The prior administration—by permitting its admitted concern for supplier investments in "interim" buses to frustrate the fruition of the Transbus program—placed greater stock in accommodating the profit margins of certain suppliers than in the transit needs of the elderly and handicapped, the accommodation of which is already mandated by statute.

AM GENERAL'S ENDORSEMENT OF THE PROPOSED LEGISLATION

Although AM General believes that existing statutes properly construed and fairly administered, could achieve the objectives of the bills under consideration here, we nonetheless endorse—except as to the effective date thereof—H.R. 199 and H.R. 1246. These bills define with precision the purpose that underlay the initial enactment of section 16 of the Urban Mass Transportation Act, that is, universal accessibility. The policies of the past administration, however, have disregarded this purpose.

We agree, thus, with Mr. John Lancaster, who, in testifying last year in connection with H.R. 3155, stated that "UMTA must not be allowed to subvert the intent of your legislation as it has done in the past."

We believe that H.R. 199 and H.R. 1245 will achieve that end.

H.R. 5010, however, suffers in our opinion from a number of defects.

First, the requirement that only 50 percent of a fleet actually be accessible is not realistic. The maximum accessibility achievable within the current state of the art is that which results from the low floor and its ramp capability. A high floor bus cannot accommodate a ramp and therefore cannot be truly considered "accessible." Nor is a high floor bus "readily capable"—due to the extensive redesign and retooling required—"of being made accessible" to the extent possible under current technology.

H.R. 5010 suggests that "accessibility" is to be defined in terms of the ability of the vehicle to accommodate a wheelchair lift. While such mechanisms do provide for improved accessibility, they accommodate but a small percentage of those for whose benefit the bills before you have been proposed. If this approach to defining accessibility is adopted by UMTA, the low floor will never be realized. The transit bus market is limited in demand.

But manufacturers, and in turn their component suppliers, cannot invest the millions of dollars necessary to produce low floor vehicles and components if the already limited demand for standard size buses is to be halved. The economics of the market demand a uniform specification within any vehicular size classification.

Finally, there remains the question of the effective date of the mandate. As we have stated in our letter to Secretary Adams dated February 11, 1977, AM General is prepared, given a reliable mandate, to proceed to Transbus production upon a 28-month leadtime-to-bid schedule.

We suggest that the legislation provide this necessary time for retooling and production line preparation.

AM GENERAL'S COMMITMENT TO ACCESSIBILITY

AM General continues to endorse the mandate of low floor, ramped vehicles as the only method of both assuring competition in satisfaction of the Brademas amendment (49 U.S.C. 1602(a)(1)) and also providing the public—including the elderly and handicapped—with mass transportation services that are truly responsive to their needs.

This mandate must, consistent with the Brandemas amendment, provide for competition on an objective basis. Any Transbus that satisfies the federally endorsed performance specification tentatively promulgated last year must be eligible to compete for contract award under the standard low-bid policy. The predictability necessary for informed business decisions, as well as economy in the administration of grant funds, necessitates this.

Neither AM General, nor any other bus producer can afford the investment necessary for the production of Transbus if it can arbitrarily be kept from the market by exclusionary "options" or by the subjective evaluative processes that characterized last year's single bid Houston experience.

We have repeatedly advised the DOT of our support for and commitment to an accessible Transbus. Our investment decisions have been made in reliance upon the publicly enunciated Transbus policy. We are the only supplier that, in responding to the Department's request for comments on February 24, 1977, committed itself to the production of Transbus vehicles.

We reaffirm that commitment today.

As we advised Secretary Adams, however, AM General's commitment to the accessibility achievable only through Transbus is necessarily related to our ability to remain a viable supplier in the marketplace pending the effective date of the Transbus mandate. AM General cannot afford a 2-year or longer hiatus in revenue producing activities and remain a viable bus supplier. For AM General to be relegated to the role of only an engineering enterprise pending Transbus will terminate the function of the company as a supplier of standard size buses.

Such an exclusion of AM General from the role of an active supplier of standard size buses would have been the inevitable result of the discriminatory policy fashioned by the prior administration. For this reason, AM General applauded Secretary Adams' reopening of the Transbus issue and his recognition, in announcing that decision, of the unequal competitive position among suppliers that resulted from past administrative errors.

We had hoped that the procedures developed by the Department of Transportation to govern the pre-Transbus interim would have taken into account the impact of the prior administration's inequitable practices upon AM General. We wish that we could share the view expressed by Secretary Adams that his March 8, 1977, "interim" procurement policy will not competitively harm any "manufacturer already pledged to the production of Transbus." Unfortunately, that policy appears to leave AM General in an intolerable position. It would appear to sub-

sidize the exclusion of AM General from the market in the pre-Transbus interim. The policy forces AM General to reconsider its position as a potential supplier of low-floor, wide door, ramped vehicles.

The March 8, 1977 policy will effectively allocate the market in favor of the ADB—without any competitive test of their value. We concur in Flxible's statement in a recent taped conference with DOT, that Flxible anticipates that 95 percent of the interim procurements to be subsidized by UMTA will be for the more expensive ADB. AM General cannot continue as a manufacturer with only the remaining 5 percent of the market available to it.

We suggest, therefore, that this committee, in the exercise of its oversight function, encourage Secretary Adams to study the impact that his March 8, 1977, policy will have upon AM General as a supplier and upon his objective of achieving accessibility through those suppliers who are pledged to the production of accessible vehicles. We submit that this, more than the legislation pending before you, will accelerate the availability to the rider of truly accessible vehicles.

Thank you, Mr. Chairman.

Mr. HOWARD. Thank you very much for your statement.

It was encouraging when you asked Secretary Adams to study this. I think others have encouraged him to study it.

You state that you have a leadtime-to-bid toward production of 28 months.

Do you have any time estimate of production for a low floor?

Mr. CURRIE. It would be 6 to 8 months beyond that.

Mr. HOWARD. Some previous testimony indicates something like 4 to 5 years.

You are saying somewhere less than three?

Mr. CURRIE. In the neighborhood of 3 years to production.

Mr. HOWARD. That is quite a difference, is it not?

Mr. CURRIE. It is a substantial difference. As has been pointed out earlier, a major portion of what must be accomplished, will be accomplished by suppliers of the various equipment that appears under the floor of a bus.

Our initial discussions with suppliers of these critical components for Transbus have indicated to us that our time schedule is reasonable.

Mr. HOWARD. Thank you.

The gentleman from Pennsylvania.

Mr. SHUSTER. Thank you, Mr. Chairman.

Mr. CURRIE.

Mr. Currie, how many low floor buses do you have in operation?

Mr. CURRIE. We do not have any low floor buses now.

Mr. SHUSTER. How can you be so confident then, may I respectfully ask, that this new and radical design is going to work?

Mr. CURRIE. We think that the Transbus development itself, the nine prototypes that were built, have indicated, and we think that others have drawn the same conclusions, that it is within the state of the art to produce an operating floor height of 22 inches.

We would not pretend that it is simple. We would not pretend that there are not engineering problems to be resolved and testing to be done but we are quite confident, based upon the studies that we have made, that it can be done.

Mr. SHUSTER. You charge that the prior administration, by permitting its admitted concern for supplier investments in interim buses to frustrate the fruition of the Transbus program, placed greater stock in accommodating the profit margins of certain suppliers than in the transit needs of the elderly and handicapped.

That is a very serious charge.

You are saying somebody is unethical.

Beyond that, that is a malfeasance in office, is it not?

Mr. CURRIE. The charge—

Mr. SHUSTER. If that is true, somebody can prosecute. Who specifically are you referring to—Secretary Coleman, Administrator Patricelli?

Mr. CURRIE. I think because the subject is so sensitive that it would be well for me to recommend that if you are concerned that we furnish you with a copy or copies of the relative documents from the lawsuit which now is being taken under Judge Ritchie's—

Mr. SHUSTER. I would respectfully suggest that it is not fair to make such a sweeping statement attacking the integrity, not simply of an administration, but obviously of the top policy people who have responsibility to promulgate these policies without having very substantive reason for doing so, and without including it.

But let me go on.

It is of great concern to me that such serious allegations would be made to the previous administration.

However, in reading your testimony you say that: "The March 8, 1977, policy"—promulgated by the present Secretary of Transportation—"will effectively allocate the market in favor of the ADB," and that means AM General cannot continue as a manufacturer.

I guess you are saying the present administration is also unfair toward your company.

Mr. CURRIE. The present administration has a very difficult problem to solve in the continuing operation of the transit bus market.

It is a problem that took 3 or 4 years to develop.

It is a problem that we many times have said to ourselves, how would we resolve it and we have made recommendations to the Secretary as to how, with several options as to how it might be resolved.

Mr. SHUSTER. But it would appear that you are unhappy with the previous administration.

It would appear that you are unhappy with the present administration.

It would appear that you are simply not happy with the developments as they have taken place here.

Mr. CURRIE. Well, we certainly are not happy with them.

I think that in order to properly answer your questions, maybe we should go back to the situation in the first question you asked about the charges that we made with respect to the previous administration.

In order to do that, I would like to ask Mr. Johnson, who is handling this matter for us, to speak to the subject, if I may have your permission.

Mr. SHUSTER. Certainly.

Mr. JOHNSON. Mr. Shuster, we recognize that the charges we have made are serious. They have been made publicly in court and they are backed up by documentation.

In fact, there are not only internal UMTA documents that support our charges, but the prior UMTA Administrator in his public statement on July 27, 1976, when he set aside the Transbus program in favor of the ADB's, said that one of the factors he considered was the prior investments made by the interim bus manufacturers.

So he said it openly and we have gone to court and said that we think that is an improper consideration, particularly when it has resulted in the frustration of a congressionally mandated requirement for helping the elderly and the handicapped.

Now, with respect to that litigation, it is pending before the Federal court, I think that AM General is perfectly justified, even though it is pending before the courts, to seek to advise the Congress of how its statutes are being administered.

We would be pleased to provide the committee not only with our pleadings, but with the evidence upon which we rely.

The present policy, while we do not suggest that Secretary Adams has had any of the same dealings and considerations—

Mr. SHUSTER. We are not attacking his integrity the way you were attacking the integrity of the previous Secretary?

Mr. JOHNSON. We do not make the same charges against Secretary Adams, but we do say what is happening and we are not really sure that Secretary Adams realizes the realities of the marketplace.

Mr. SHUSTER. It is simply his competency that you are attacking?

Mr. JOHNSON. We are endeavoring to persuade him that his decision will not affect his objectives, which is to keep us all in business.

We think that by saying we are going to mandate an ADB specification, and then allow people to buy it even though it is more expensive with Federal funds, means that nobody is going to buy the current bus.

Mr. SHUSTER. Of course this is all theoretical because as you testified earlier, you do not have any of these low floor buses in operation.

Mr. JOHNSON. What we want to compete with is the buses that we have, which is the AMG bus, which is on the street.

Relative to your earlier questions, Mr. Shuster, I think it ought to be pointed out that the ADB that is being mandated by the interim policies and now would be sold for 4 or 5 years under the Rohr suggestion, has never been on the streets, either.

Yet, it is being federally mandated and at that, I believe there were more Transbus prototypes than Rohr has prototypes of its 870.

So in a sense there is an irony that the manufacturers with the ADB are coming forward and saying we need to have a lot of tests because Transbus is unproven, even though there is a Federal mandated specification that is going to require grantees to buy ADB's without testing their value.

Mr. SHUSTER. I appreciate the testimony.

I would not be candid if I did not tell you I find it offensive but you come before this committee and attack the integrity of either the past administration or the present administration.

We have enough substantive matters to consider, certainly I, myself, have been in disagreement many times with the previous administration, Secretary Coleman and Mr. Patricelli.

I have found no basis for attacking their integrity and I resent you coming before this committee and doing so.

Mr. Chairman, might I move to a happier subject?

We have in the room here today students from the southern Fulton County Elementary School, from my congressional district in Pennsylvania, and I would like to introduce them to the committee and the committee to them, and their teachers.

You are welcome here and we are certainly glad to have them here.

Mr. HOWARD. We certainly wish to welcome them here.

As a former elementary school principal, I am happy to see them here facing some of the problems that we face in our transportation system, relative to the use of mass transportation buses and how we can expand the use of buses that we have in this country so they can be used by people who are elderly or are handicapped.

This is a problem we have been working on for a couple of years.

We would hope to get some direction in the near future.

We wish to welcome you here.

Mr. SHUSTER. Mr. Chairman, I would ask you, if you were an elementary school teacher, if your children were as well behaved as these children are today?

Mr. HOWARD. Never.

Many of us are not technical people here. I am certainly not. Yet we get experts telling us so many different things and we had heard that tremendous costs would be involved with the low floor bus because of the different transmission systems and also the fact that there was not a tire that could handle the low floor bus.

Then we heard expert testimony that there was and then we heard that there were only six of them. I would like to ask you whether or not you think that there is the technology available today for the kind of a tire that would be needed if we go to this ultimately. And, if not, do you feel that by the time we get to this 36-month, 54-month, or whatever it might be, period, that there is no doubt, very little doubt, in your mind that that tire will be available.

Just what is the situation on tires?

We have had everything from one side to the other and you can throw yours in wherever you wish.

Mr. CURRIE. In our judgment, there is not a tire available on the market today that will perform the functions required of it in the Transbus.

However, we do have the assurance of and—one American tire manufacturer, that by the time the requirement is there for production of tires, they will be able to meet them.

Mr. HOWARD. Therefore, you do not see this as a stumbling block at the time?

Mr. CURRIE. No; we certainly see a development program.

As I said, we do not see a cakewalk as far as developing a Transbus is concerned.

We just think it is possible and I would like to further comment that the one outstanding specification in a transit bus, from the study done prior to the initiation of the Transbus program, clear through the final report on the Transbus contractor, was the low floor.

Without the low floor, the buses that you build are relatively unclaimed.

We heard testimony today that one of the ADB buses there is no problem with testing it because it has current day components which is perfectly true.

The Transbus will have to have newly developed components under the floor to meet the pancaking effect of lowering that floor.

But it is possible.

Mr. HOWARD. Thank you very much.

Mr. CURRIE. There is one thing I might like to ask you, Mr. Chairman, if I may.

In view of Mr. Shuster's considerable concern, about what may have been an ill-advised statement here, but nevertheless it's one that we feel fully supportable, may we present the committee with the relative documents that will support our position?

Mr. HOWARD. Without objection, it will be made a part of the subcommittee file.

Thank you.

Mr. HOWARD. Of course, we are all concerned about any implications that may come from any legislation that we have to bring to the floor here with the statements due on Transbuses.

Perhaps we miss the boat by not offering each of the three groups that testified a chance to put into a secret box a prediction of what the Secretary might say on the 27th.

We will just have to wait for that.

Thank you very much for your testimony.

Since it did come up in discussion, it was just a matter whether it would be made a part of the committee file or a record of the hearings.

I believe we could have a recommendation as to whether it be made a part of the record or the committee file.

We will reserve whether it will be part of the committee file or a part of the record.

So, without objection.

The gentlemen from Illinois?

Mr. FARY. No questions.

Mr. HOWARD. We certainly wish to thank you very much for your appearance here today, and we might say in developing this legislation, that we may be calling upon you for additional views or additional information, and I am sure that you will cooperate with us in that endeavor.

Mr. D'AMICO. Mr. Chairman, Mr. Bartlit has made a request which I believe the reporter was unable to hear. Mr. Bartlit, would you repeat your request?

Mr. BARTLIT. We request that we have the right to supplement our testimony with any responses necessary to reply to the pleadings or evidence that AM General said they would like to submit to the committee.

Mr. HOWARD. Without objection, it is so ordered.

Thank you very much, and the subcommittee stands adjourned.

[Whereupon, the subcommittee adjourned at 3:33 p.m.]

[The following additional items were received for the record:]

STATEMENT OF HON. STANLEY N. LUNDINE, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW YORK

Mr. Chairman, thank you for this opportunity to submit my statement in support of H.R. 5010. I cannot overemphasize the importance of this legislation, in terms of its significance to mass transit systems located in nonurbanized areas. For the first time, operating assistance would be available to those systems in communities of less than 50,000 population.

In Jamestown, N.Y., a city of approximately 40,000 where I served as mayor for 6 years prior to coming to Congress, I witnessed the critical problems that municipality experienced while attempting to maintain a mass transportation system. Last year, Jamestown operated the Jamestown area regional transit system at a net deficit amounting to \$264,000; \$104,000 was obtained from the New York State operating assistance program; the remaining \$160,000 was raised locally. In all likelihood, the previous assistance obtained from New York State which is the only present source of operating assistance for smaller transit systems will be terminated this year.

With the continuing upward spiralling of operating costs plus increased need for some form of mobility in semiurban and rural settings, the amount of money necessary to operate systems in these areas will continue to increase. Even with the benefit of subsidies, it is difficult for a small city to make substantial improvements as the operations simply do not generate sufficient cash flow. Therefore, subsidies are acutely needed for the continued existence of smaller transit systems.

With the increasing emphasis on energy conservation, transit systems operated in semiurban and rural areas of the country become increasingly important. If we are to seriously address the energy issue, we must accept the fact that sacrifices have to be made. Unlimited use of automobiles, to which most Americans are accustomed, may have to be one such sacrifice. Alternative means of transportation must then be available. H.R. 5010 will do much to provide incentives for smaller transit systems.

Not only do smaller transit systems provide for energy conservation but they also offer mobility for senior citizens. In rural areas, the distances to shop and to obtain other necessary services are great and there is usually no other way to travel. In the Jamestown area, approximately 17 percent of the total population is over 60 years of age. Many of these people are on a fixed income and either do not own a car or cannot afford other forms of transportation.

Smaller communities often do not have the resources to provide bus service that adequately meets the special needs of the elderly and the handicapped. One of the positive results of this legislation will be that assistance will be made available to communities to make their facilities more accessible to these persons.

I repeat my enthusiastic support of H.R. 5010 and hope that operating assistance to mass transit systems in nonurbanized areas will soon become a reality.

STATE OF NEW JERSEY,
DEPARTMENT OF TRANSPORTATION,
Trenton, N.J., April 21, 1977.

Hon. JAMES J. HOWARD,
U.S. Congressman,
Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN HOWARD: The following comments on your bill, H.R. 5010, are submitted for inclusion in the official record of hearings held on March 30, 1977 and April 6, 1977 by the Committee on Public Works and Transportation's Subcommittee on Surface Transportation. The following comments are organized according to the appropriate sections of the bill. I have also taken the opportunity to address a number of other issues of importance in regard to federal policy on public transportation.

SECTION 1

In spite of a popular conception of New Jersey as one vast megalopolis, a significant part of its population lives in nonurban areas and lacks sufficient mobility aside from the automobile. I commend the provision of H.R. 5010 which affords rural areas the same option as urbanized areas; i.e., the use of UMTA funds to cover public transportation operating deficits. Because rural transit does not tend to require expensive capital equipment, the continuation of these systems depends on the provision of additional operating assistance.

I wish to raise one question, however. The Urban Mass Transportation Administration has suggested that paratransit may be the appropriate form of public transportation in rural areas. If the intent of this provision is to accord preference to existing paratransit as well as regular route operators in the nonurbanized area, the term "private bus operator" should be reconsidered. Also the term "private bus operator" leaves ambiguous whether the existing activities of

charter, school or special operators should be given preference. Since I believe they should not, it is respectfully requested that the term be made more specific.

SECTION 3

Among other provisions, this section defines "elderly person" as "any person who is sixty years of age or older." I would suggest that the definition of elderly not be set at 60. Unless the federal government promulgated a single definition applicable to all assistance programs, I do not believe UMTA should be confined to a single age figure but should be allowed some flexibility.

SECTION 4

With respect to this section, I respectfully state my strong preference for section 11 of S. 208, which stresses that the provision of alternative services, rather than rigid equipment or facility standards, may satisfy the statutory mandate to make public transportation available to the elderly and handicapped.

I also wish to comment on the proposed requirement that all Section 9 Technical Study grants are to include a component on the elderly and handicapped. This provision appears to be unworkable for the Metropolitan Planning Organization block grants and for those grant projects which are technically, as opposed to service, oriented. Further, while much of the local comprehensive planning work is already in progress, the July 1, 1978 deadline for the submission of a comprehensive plan for meeting the transportation needs of the elderly and handicapped appears to be impossible to meet.

SECTION 6

I question whether it is appropriate, as in Section 6, to hinge the receipt of transit assistance, capital or operating, upon a State's program for inspection of buses used in intrastate or interstate service. First, a State may be allocating all its federal aid to rail, not bus, systems. In New Jersey, most of the Tri-State urbanized area's operating assistance has been distributed to rail operations. Second, safety of buses used in interstate bus operations is already governed by the Interstate Commerce Commission. Third, school buses are almost totally unrelated in New Jersey to regular route services supported with federal operating assistance. Fourth, agencies different from the operator or financial supporter often control safety inspection of buses. It may prove a hardship for a transit operator or financial supporter to effectuate a change in another agency's practices in order to assure the flow of federal financial assistance. Fifth, this condition could unduly complicate an already difficult set of grant processes.

I respectfully recommend that this scheme to assure bus safety be compared to the Federal Rail Safety Act of 1970 to determine whether that analog provides a guidepost in achieving the laudable policy objective of safe bus travel.

SECTION 7

I strongly support the provision authorizing the Secretary to study the transportation components of federal programs providing social services. The profusion of these programs in our state has created the perception that duplication and inefficient use of transportation resources may be occurring as a result thereof.

In addition to the substantive issues of H.R. 5010, I would like to take this opportunity to comment on other matters of federal public transportation policy which are of major concern to the New Jersey Department of Transportation.

CAPITAL ASSISTANCE

Federal financial support for the improvement of mass transportation capital facilities has been of great assistance to New Jersey in implementing the early phases of its master plan for public transportation system improvements. Most recently, UMTA has reserved \$400 million in capital funds for three important rail projects in the State. As is well known by now, in reserving these funds, former Secretary Coleman had advised us that New Jersey has exhausted its UMT Act Section 3 funding from existing authorizations. New Jersey, though, has many other long-awaited public transportation improvements which should be ready for funding before fiscal year 1980: the re-equipping of diesel service on the North Jersey Coast south of Red Bank; the first stage of the Direct Rail

Access Project (connecting electrified routes of the former Erie Lackawanna Railway to mid-town New York City); extensions of the highly successful PATCO service in southern New Jersey; and the purchase of additional buses to continue reducing the average age of the State's fleet. In addition, technical studies are being undertaken by the New Jersey Department of Transportation on numerous other transit projects, including line-haul improvements in the Jersey City-Bayonne corridor and the Eastern Bergen County (West Shore) corridor.

To assure that projects currently being implemented can be completed, and to prepare for the implementation of other projects, I urge that additional Section 3 monies be made available now.

OPERATING ASSISTANCE

Densely populated urban areas, reliant on public transportation, have complained that Section 5 assistance does not cover a reasonable share of their deficits. There is a need for a new tier of Section 5 funds, composed of recycled and new monies, to be distributed to the largest urbanized areas according to the population density formula now in the law. This would provide badly needed aid to these financially hard-pressed areas, such as northern New Jersey.

AID TO COMMUTER RAILROADS

It is important to comment on the problems of a mode of transportation which is vital to the economies of some of the nation's larger metropolitan areas: commuter railroads. When well-maintained and operated, commuter rail can be a rapid and reliable means of bringing suburban residents to the central business district. From northeastern New Jersey every weekday, thousands of passengers ride trains not only to New York City, but to jobs in Newark and other New Jersey cities. These urban centers are burdened with high unemployment and a continuing loss of jobs. The pressence of reliable commuter rail service encourages employers to keep their firms in the business districts of our central cities.

I would like to have Congress consider changes in the UMT Act to provide additional assistance to states and metropolitan areas to cover commuter rail operating deficits and the correction of deferred maintenance. Section 17 of the UMT Act was created primarily to protect certain commuter operations from sharp increases in operating deficits resulting from the implementation of new service agreements with Conrail. Beyond this transitional problem, it is important to stress that even with fare increases, practically all commuter rail lines, not just those eligible for Section 17 assistance, are faced with a rapid increase in deficits in the coming years. Thus, I urge the extension of Section 17 for two years and the expansion of aid on a passenger-mile formula to other commuter rail lines not effected by the Railroad Revitalization and Regulatory Reform Act of 1976.

The referred maintenance situation is also critical. The track, stations, bridges and some of the rolling stock of New Jersey's commuter rail lines have suffered from years of neglect as bankrupt railroads attempted to cut maintenance costs in a struggle for corporate survival. Some remaining Section 17 funds will be used to begin making a dent in bringing the long-neglected physical plant back to acceptable standards. It will consequently take years and an ongoing funding commitment to make up for this neglect.

In the Section 17 program, the federal contribution to deferred maintenance projects decreases over succeeding time periods. Currently, the federal share on one of these projects is based on when the work is completed. Certain of the New Jersey Department of Transportation's proposed deferred maintenance projects involve extensive work which will take a considerable period of time to complete. Other projects which will probably be performed by railroad labor may not be completed as quickly as hoped. Therefore, I would like to propose that the federal share of the costs of these projects be based on the time at which a grant agreement is executed.

I wish to suggest some changes which should be made in the Regional Rail Reorganization Act of 1973, as amended, which will aid in assuring the continuation and growth of commuter rail service. The Act contains provisions assuring that the Consolidated Rail Corporation be bound to service contracts which were in effect at the time of the RRRA's enactment. The NJDOT's agreement with the former Erie Lackawanna Railway is one such example. It is important to amend the Act to assure that Conrail is bound to continue providing passenger service when such contracts expire in accordance with Rail Services Planning Office

compensation standards. The NJDOT and other state and regional agencies must be protected from the leverage accorded Conrail by the prospect of service discontinuation. Such leverage would enable Conrail to gain additional financial concessions in service agreements.

In addition, with regard to Conrail lines, the NJDOT has plans to modify routings and increase train frequencies from that which existed at the time of the conveyance of these lines. Similarly, Conrail must be obligated to provide such services as long as a public body offers it a subsidy to provide that service in accordance with the Rail Services Planning Office compensation standards.

Moreover, the Section 304(e) provision relating to arbitration of disputes arising from the application of the Rail Services Planning Office regulations governing commuter service needs clarification, so that the arbitration remedy is clearly available to settle compensation disputes between Conrail and the public agencies.

A proposed set of amendments to accomplish the objectives set out above are attached for entry into the record.

ENVIRONMENTAL, HEALTH AND SAFETY REQUIREMENTS

Despite the fact that the negative environmental, health and safety impacts of public transportation operations and improvements are usually of less magnitude than the impact of highway projects, mass transit must nevertheless conform to the terms of federal legislation and executive orders in these areas. In regard to the environment, public transportation projects have been or are potentially subject to, among other legislation, the Clean Air Act, the Federal Water Pollution Control Act, the National Environmental Policy Act, and the Fish and Wildlife Coordination Act. Regulations based on the intent of these acts increase project costs. Some of these costs are generalized (for instance, loss of time in adhering to mandated procedures), while others can be itemized. The New Jersey Department of Transportation will soon be undertaking in excess of \$14 million in mandated improvements to the State's public transportation system to correct air and water pollution problems.

There is currently no federal funding source to cover these costs. In contrast to this, in the area of highway noise pollution abatement, the Federal Highway Administration provides for the funding of an abatement project in the same ratio as the original financing of the road in question, e.g. 90/10 for an Interstate Highway. I would like to suggest that to cover costs incurred as a result of environmental, health and safety directives, a separate fund be created under the UMT Act or, UMTA capital authorizations be expanded with some of these funds earmarked for this purpose.

METROPOLITAN PLANNING ORGANIZATIONS

Any projects funded under Section 5 of the UMT Act, as amended, must be coordinated with a "continuing, cooperative, and comprehensive planning process" in the appropriate urbanized area. Thus, the Metropolitan Planning Organization in each of New Jersey's six urbanized areas must approve the allocation of Section 5 operating assistance. This has led to difficulties in that the Commuter Operating Agency of the New Jersey Department of Transportation, the agency with the prime statewide statutory responsibility for supporting and planning public transportation services, does not have final control over the allocation of operating assistance funds within the urban areas under its jurisdiction. If an effective and consistent statewide mass transit planning and support program is to flourish, the Commuter Operating Agency must be able to weigh the demands of county and local governments or public authorities in the context of overall statewide planning goals and allocate such assistance within urbanized areas. This was the intended goal of the sentence in Section 5(b)(2) which directs that agencies such as the Commuter Operating Agency be accorded the status of "designated recipient". The subsequent UMTA regulations conferred upon the MPOs the responsibility for deciding upon the allocation of Section 5 assistance.

To reverse this, I would suggest an amendment to Section 5 of the UMT Act, as amended, to exempt agencies such as the Commuter Operating Agency from clearing its Section 5 allocations within urban areas with the Metropolitan Planning Organizations.

I would like to thank you for the opportunity to enter my comments on these critical issues.

Sincerely,

MARTIN L. ROBINS,
Executive Assistant to the
Assistant Commissioner for Public Transportation.

ADDENDUM

PROPOSED CHANGES TO URBAN MASS TRANSPORTATION ACT AND THE REGIONAL RAIL REORGANIZATION ACT CONCERNING COMMUTER RAIL SERVICE

SECTION 1. Section 17(d) of the Urban Mass Transportation Act of 1964, as amended, is hereby amended by:

(a) Inserting before the word "shall" in the first sentence thereof the following phrase: "provided pursuant to subsection (a) of this section";

(b) Striking the word "and" from subparagraph (3) of subsection (d);

(c) Deleting subparagraph (4) and substituting the following: "(4) 70 per cent for the period succeeding the period specified in subparagraph (3) of this subsection through September 30, 1978;"

(d) Adding subparagraphs (5) and (6) which shall read:

"(5) 60 per cent for the 12-month period succeeding the period specified in subparagraph (5) of this subsection; and

"(6) 50 per cent for the 12-month period succeeding the period specified in subparagraph (5) of this subsection; provided, however, that the federal share of the cost of any program to correct deferred maintenance within the meaning of Section 304(e) (5) (C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) shall be determined by the federal share in effect at the time the Secretary and the grantee execute a grant agreement for such purpose."

SEC. 2. Section 17(f) of the Urban Mass Transportation Act of 1964, as amended, is hereby amended by:

(a) Deleting in the first sentence thereof the figure "\$125,000,000" between the words "exceed" and "." and substituting therefor "\$185,000,000";

(b) Deleting in the second sentence thereof the word "and" between the ";" and "\$125,000,000" and inserting between the ";" and the word "such" the following: "\$155,000,000 by September 30, 1979 and \$185,000,000 by September 30, 1980".

SEC. 3. Section 304(e) of the Regional Rail Reorganization Act of 1973, as amended, is hereby amended by:

(a) Striking the "." at the end of paragraph (3) thereof and inserting the following: ", provided, however, that upon the termination of a lease or agreement to provide rail passenger service pursuant to Section 303(b) (2) of this title or subsection (c) (2) (B) of this Section, the provisions of subsection (4) hereof shall govern.";

(b) Redesignating subparagraph (d) of Section 304(c) (5) as paragraph (6) of subsection (e) and amending such paragraph to read as follows: "If a dispute arises with respect to the application and interpretation of any regulations issued pursuant to Section 205(d) (5) of this Act, one of the parties to such dispute may submit such dispute to binding arbitration by a third party. If the parties are unable to agree upon the selection of an arbitrator, the Chairman of the Commission shall serve in that capacity (except as to matters required to be decided by the Commission, pursuant to Section 402(a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) ;

(c) Adding a new sentence at the end of paragraph (4) of Section 304(c) as follows: "The Corporation shall also be required to provide expanded rail passenger service over its properties beyond that in existence immediately prior to the date of conveyance, or over modified routings or at increased frequency, if a state (or local or regional transportation authority) shall offer a subsidy for such expanded, modified or additional services in an offer pursuant to subsection (c) (2) (A) of this Section and under regulations issued by the Office pursuant to Section 205(d) (5) of this Act. The Corporation and the National Railroad Passenger Corporation shall permit access to their properties in order that such expanded, modified or additional rail passenger service be provided."

SEC. 4. The Urban Mass Transportation Act of 1964, as amended, is hereby amended by adding thereto Section 18 which shall read as follows:

"(a) The Secretary shall provide financial assistance annually for the purpose of reimbursing States, local public bodies and agencies thereof for the cost of

financially supporting or operating rail passenger service provided by railroads designated as Class 1.

(b) Financial assistance under subsection (a) of this section shall not be available to States, local public bodies and agencies thereof supporting (1) intercity rail passenger service provided pursuant to an agreement with the National Railroad Passenger Corporation under Section 403(b)(2) of the Rail Passenger Service Act of 1970, as amended (45 U.S.C. 563(b)); and (2) rail passenger service required by Section 304(c)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)).

(c) The Secretary shall distribute financial assistance authorized by subsection (a) pro rata on the basis of the passenger-miles attributable to each eligible rail passenger service; provided, however, for the purposes of such apportionment in no case shall any State, local public body or agency thereof supporting or operating rail passenger service eligible for assistance under this section be credited with more than 30 per cent of the total passenger miles eligible for such assistance for the calendar year ending immediately prior to the commencement of the federal fiscal year for which the distribution is made. The remainder of such States, local public bodies and agencies thereof supporting or operating eligible rail passenger service shall receive the balance of such assistance in the ratio that their respective passenger miles bears to total passenger miles after subtraction of the passenger miles attributable to those bodies whose passenger miles equal or exceed 30 per cent of the total.

(d) Financial assistance authorized by subsection (a) may be applied to the payment of operating expenses or programs to correct deferred maintenance within the meaning of Section 304(e)(5)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)), but in no case may it exceed the total of the amounts applied by the grantee from its own funds to the payment of operating expenses and programs to correct deferred maintenance for the same fiscal period.

(e) Financial assistance provided pursuant to subsection (a) of this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may deem necessary and appropriate.

(f) To finance assistance under this section, the Secretary may incur obligations on behalf of the United States in the form of grants, contract agreements, or otherwise, in such amounts as are provided in appropriations Acts, in an aggregate not to exceed \$70,000,000. There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed \$10,000,000 by September 30, 1978, \$35,000,000 by September 30, 1979 and \$70,000,000 by September 30, 1980, such sums to remain available until expended.

STATEMENT BY JAMES C. MCCONNON, SEPTA CHAIRMAN

I am James C. McConnon, Chairman of the Southeastern Pennsylvania Transportation Authority, or SEPTA. SEPTA has responsibility for all public transportation in the five-county region of Southeastern Pennsylvania including Bucks, Chester, Delaware and Montgomery Counties and the City/County of Philadelphia.

SEPTA service includes all modes of public transportation including the operation of some 1,600 buses, 125 trackless trolleys, 340 streetcars, 500 subway and elevated cars and 390 railroad commuter cars in service normally carrying about 1 million passengers each day.

In 1969, SEPTA became one of the first large transit operators to offer reduced fares for elderly persons. In 1972, the fare was further reduced to 10 cents, and in 1973, as a result of special State legislation making available grants from the Pennsylvania Lottery, the fare for Senior Citizens was reduced to zero, or free transit, in off-peak hours. Handicapped fares have also been reduced to one half the regular fare during off-peak hours.

SEPTA, in 1974, produced the nation's first braille guide to transportation services which has helped many blind persons learn to use SEPTA service. SEPTA has also developed a pioneering program with the Moss Rehabilitation Center to train both SEPTA operators and handicapped persons in special techniques to ease the difficulties such people have in riding SEPTA. The results of these programs have been shared with many other transit operators around the country.

In 1975, SEPTA formed an Advisory Committee on Elderly and Handicapped to act as a forum for discussion on the extent and the means by which SEPTA

could provide better accessibility. In the Spring of 1976, with the publication of the joint UMTA/FHWA regulations on Elderly and Handicapped, SEPTA held a series of public hearings in an effort to collect public comments and suggestions on the question of accessibility. These hearings were quite well attended, and many suggestions were received, although they were very diverse, both in their scope and direction. As a result of these hearings and with the advice of the Advisory Committee, the SEPTA Board unanimously adopted a resolution on September 22, 1976 setting forth a policy that SEPTA's capital improvement program would include provisions to improve accessibility to the existing transportation system, and that a specific program be developed to provide and integrate fully accessible service for the elderly and handicapped.

Since September, SEPTA has been working with the Advisory Committee, with representatives from UMTA, and with our Metropolitan Planning Organization (IMPO), the Delaware Valley Regional Planning Commission, to develop the specifics of a program. As a result, a revised Transportation Improvement Program was adopted two weeks ago by DVRPC and has been submitted to UMTA for approval. This program includes the start of a Special Efforts program in Philadelphia for Elderly and Handicapped services, and particularly services for nonambulatory wheelchair bound persons.

Specifically, the SEPTA Board last week awarded a contract for the purchase of 110 new electrically powered Trolley-Buses, at a cost of about \$14 million. All of these vehicles will be equipped with non-slip surfaces, extra wide exit doors, and will have the kneeling features which lowers the front step of the bus. Ten of the vehicles will also be equipped with wheelchair lifts. SEPTA is purchasing 13 new buses for the suburban Frontier Division, with two of the buses wheelchair-lift equipped. The SEPTA Board has also authorized the purchase of 190 new diesel buses for the City Division, with 55 buses, or nearly 30 percent to be equipped with lifts. All 190 buses will have the kneeling feature.

Thus SEPTA is committed and moving forward with the purchase of equipment to accommodate the handicapped. We are developing the details for the operation of these surface vehicles. Part of our plan involves a \$1 million demonstration program to test and evaluate these new vehicles in revenue service operation to determine the most effective way to provide service to the handicapped and also to identify through actual operating experience any possible adverse impact on the regular route service such as delays or crowding in the rush hour. SEPTA's plan is to augment the level of service on the routes with lift-equipped buses to provide effective accessibility.

SEPTA also operates a number of fixed rail systems which were built 50 to 100 years ago. We operate two rapid transit lines presently undergoing extensive station modernization. None of the rapid transit stations are accessible to wheelchairs. Commuter railroad service is operated by ConRail to about 200 stations in the five-county region. Only two of these commuter stations are accessible to wheelchairs today. SEPTA operates 340 streetcars, or Light Rail Vehicles, mostly on narrow streets mixed with automobile traffic. A portion of the streetcar system operates through a subway tunnel into center city.

Construction estimates for modernization of stations which have design completed is about \$19 million. If each of these stations were also made fully accessible we estimate an additional \$12 million would be required. Over \$50 million additional capital funding would be required to make every station fully accessible. We are carefully exploring with UMTA alternate ways of providing access to SEPTA service for handicapped persons possible at selected stations.

SEPTA does support and is committed to helping improve transportation services for handicapped persons. The intent of Congress, however, will fail to produce the desired results at the local level unless the basic transportation systems is in place and operating. This must, therefore, be the basic purpose of the Federal Urban Mass Transportation program. Transit operators, particularly in the larger urbanized areas, have been struggling just to keep going. It alone produce the improved services which are needed. Any mandated improvement must accordingly be accompanied by the funds to accomplish it.

A good example of funded improvements is in the new METRO subway now operating here in Washington. Congress determined to build this system with specific provisions for the elderly and handicapped and backed up that commitment with the funding required. When Congress mandated accessibility to Metro for wheelchair bound persons, Congress also made a direct appropriation of \$65 million. Today, there are functioning elevators for wheelchairs in the Washington subway system.

A different example of this relationship and the problems produced concerns the reorganization of the bankrupt Northeast railroads into the new ConRail system. Substantial federal funding has been used to underwrite the transition to ConRail operations. In the process, however, local transit authorities such as SEPTA are facing an impossible increase in subsidies required for commuter railroad service. The subsidy required for local commuter service in the SEPTA area is estimated by ConRail to be about \$50 million per year, compared with \$26 million paid by SEPTA prior to 1976. This doubling of expected subsidy presents an impossible financial burden on state and local governments. The UMTA Section 17 program is temporarily postponing this problem. Section 17 funding drops from 90 percent to 50 percent next March, and disappears after September 1978.

Another example that we have yet to see the real effects of is the 13(c) labor protection requirements of the UMTA Act. Congress has very properly taken care to protect the rights of labor as Federal funds are spent for mass transportation improvements. Labor costs, however, represent the largest single item in transit operation costs, and the funding just hasn't been forthcoming in a dependable or predictable way to meet these expenses.

Congress has helped with the Section 5 formula grant program. The distribution formula for these funds, however, should be revised to more equitably treat the more densely populated urban regions with commitments to transit systems and services. In 1976, SEPTA received \$18 million of Section 5 funds under the present formula, which is equal to about 6 cents per passenger, and less than 20 percent of our operating deficit. Less urbanized areas received as high as 50 percent of their deficits from Federal Section 5 funds.

Several bills are before this committee dealing with Mass Transit, and most include provisions for meeting the needs of the elderly and handicapped. SEPTA supports provisions to encourage and in fact to require local initiative to meet this need. We believe that the maximum possible latitude at the local level will insure the best results. This approach, particularly with respect to modernization of existing fixed rail facilities, we believe to be preferable to possibly unproductive efforts to comply with restrictive criteria.

SEPTA is prepared to implement a reasonable policy of improved service for elderly and handicapped. We are not prepared to absorb the cost. If legislation requiring accessibility is passed without appropriate funding, it will defeat its intended purpose: It is illusory to promise new services that cannot in fact be delivered at the local level.

NEW YORK BUS SERVICE,
Bronx, N.Y., April 18, 1977.

Re: H.R. 5010.

Hon. JIM HOWARD,
Chairman, Subcommittee on Surface Transportation,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN HOWARD: I was desirous of testifying before your subcommittee on Wednesday, April 6, however, was advised by your assistant, Mr. Lloyd Rivard, that the calendar of witnesses was already filled and that I would not be able to be heard. Nevertheless, I wish to submit, for your consideration, my thoughts on that portion of H.R. 5010 dealing with "Mass Transportation Facilities and Equipment to meet the needs of the Elderly and Handicapped". I think a better title for this section would be "The Great American Transit Hoax".

I feel that I qualify as somewhat of an expert in the field of urban bus mass transportation for maybe no other reason than that I own and operate one of the few remaining, privately owned, profitable, mass transit bus companies in the United States. We own and operate 128 buses (all bought with our own funds) and transport four million passengers a year within the City of New York. Our service is performed with less passenger complaints and equipment failures per million passengers carried, than any other mass transit system in New York State.

May I first mention that, even though we are a privately owned company, we are also affected by this proposed legislation, in that the overwhelming majority of buses are purchased by public authorities with Federal funds and therefore the standard bus manufactured will be pursuant to Federal (UMTA) specifications. In other words, the manufacturers will not manufacture one bus for public authorities, purchased with Federal funds, and another for private companies purchased with private funds. They will make just one basic bus.

My basic argument is that you must not mandate that buses be accessible to all categories of handicapped and elderly when:

1. These two categories of passengers make up the least significant percentage of mass transit riders and

2. The features on buses demanded by the handicapped and elderly, assuming they can be manufactured to successfully operate (the manufacturers tell us they can't), will create many more operational problems for all riders than benefits for a very small segment of passengers.

ARE THE HANDICAPPED MASS TRANSIT BUS RIDERS?

(The following answers are based on the operations of New York Bus Service, however, I don't see why the results would be any different if asked of any other transit company).

The handicapped ridership which seek a floor height of 22 inches, hydraulic lifts and ramps for wheelchairs is virtually nonexistent. The handicapped organizations (high-powered, extremely well organized pressure groups using their unfortunate physical problems to the maximum lobbying advantage) will admit this, however, they claim these aids are needed because the handicapped cannot negotiate the step height of present buses. If bus access is improved by the aforesaid manufacturing changes and aids, ridership would increase. This is nothing but an arbitrary assumption and to manufacture a bus to their specifications, one that the manufacturers say cannot be built without more experimentation and field testing, is simply absurd.

I can't help but wonder that if a handicapped person needs such extreme aids as wheelchairs and hydraulic lifts or ramps to take them on board a bus, how would these wheelchair confined persons get to the bus stop in the first place? Wouldn't attendants be needed or are most or all of the handicapped confined to wheelchairs presently living within a self-wheelchairing distance to bus stops? Also, considering that the present advanced design bus capacity has been already reduced from 53 to 47 passengers, even though the per bus cost has doubled from \$45,000 to \$90,000 and that one wheelchair displaces three or four conventional passenger seats, how many wheelchairs should space be provided for?

ARE THE ELDERLY MASS TRANSIT RIDERS?

Approximately 6 percent of New York Bus Service riders are over 65 years of age. The overwhelming majority of these riders have no problems negotiating present bus step entrance heights. The elderly groups argue that these aids will make public transportation accessible to those elderly which cannot presently use it. This is at the very best, speculative regarding the development of increased new ridership for a transit system.

CONCLUSION

Incorporating these aids into a bus would increase the cost from \$90,000 to \$100,000 (up another 10 percent) and reduce the capacity another 10 percent for each wheelchair you provide space for. The increase in riding, because of these aids, from that segment of the handicapped and elderly community, which now is not riding, would be less than 1 percent of the overall ridership and I believe you would lose from 10 percent to 20 percent of your regular riders because of the delays you would experience in operating, not a mass transit service, but an ambulance service, without the major feature of an ambulance service, namely, door to door transportation.

Why is the industry resisting the 22-inch floor, lifts, ramps, etc. so strongly? The answer is—because without meaningful field experimentation and the necessary modifications which come from this experimentation, they cannot be manufactured to operate successfully in mass transit service. The problems that a 22-inch floor height, hydraulic lifts and ramps would encounter in snowfalls of more than four inches, potholes and varying curb heights on a given route, are presently operationally insurmountable and the additional route time needed to operate lifts and ramps at bus stops, especially during peak periods, would drive existing passengers away from the system in droves. If these aids did not have so many problems attached to them and would increase the riding of a transit system, as the handicapped and elderly groups contend, wouldn't the bus industry and manufacturers be foolish not to embrace them? Everyone in mass transit is trying desperately to resuscitate our sick industry and attract more riders. The medicine prescribed by H.R. 1050 will most assuredly kill the patient.

SOLUTION

The solution to the transportation problems of the handicapped and elderly is a separate "dial-a-ride" type system operated by minibuses and maxivans, responding to the special and specific problems of these two groups. A mass transit system is for the masses, not for small special groups of passenger with special problems which need special attention.

Very truly yours,

EDWARD ARRIGONI.

CHAPEL HILL, N.C., April 8, 1977.

Re: House Bill 5010.

Representative JAMES HOWARD,
Chairman, Subcommittee on Surface Transportation, House Committee on Public Works and Transportation, House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is to bring to the subcommittee's attention, the situation facing the town of Chapel Hill's public transit system which is typical of the plight of public transit systems in cities of under 50,000 population.

During 1975-76, the Chapel Hill transit system carried approximately 2,400,000 passengers, over 200,000 per month or 73 passengers per capita. The total cost of the system that year was \$1,017,000 or about 44 cents per passenger. Operating revenues from pass sales, cash fares and local charter service totaled \$477,700 or 47 percent of total costs. Funding of the other 53 percent or \$539,300 came from a special ad valorem tax (\$202,480), intangible tax (\$10,200), interest on investments (\$9,070), and 94 percent of the Town's Federal Revenue Sharing entitlement (\$387,605).

During the current year, 1976-77, because of limitations on funding sources, the town was forced to cut back the services provided by the system in order to fit available resources to unavoidably rising operating costs. This year, the town expects to have carried approximately 1,800,000 passengers, or 55 passengers per capita, a decrease of 25 percent. The total cost of the system this year is expected to reach about \$955,000 or about 53 cents per passenger, an increase in cost per passenger of 17 percent. Operating revenues are expected to total \$478,000 or 50 percent of total costs. Funding of the other 50 percent or \$477,000 will come from the non-operating sources previously mentioned including \$264,025 from the maximum ad valorem levy authorized and about \$187,000 in Federal Revenue Sharing funds.

This pattern is expected to continue so long as costs continue to rise in every service area of the public and private sector. Consequently, the Board of Aldermen of the town of Chapel Hill support and urge passage of H.R. 5010 which would provide operating subsidies to systems serving communities of under 50,000 population.

We understand that the subcommittee held public hearings on this matter yesterday, April 6, 1977. We request that this letter, the attached tables, and the resolution of the Board of Aldermen, town of Chapel Hill, be made a part of the record of that public hearing.

Thank you very much.

Sincerely,

JAMES C. WALLACE, Mayor.
LIBERTY LINES,

Yonkers, N.Y., April 11, 1977.

HON. JIM HOWARD,
Chairman, Subcommittee on Surface Transportation, House of Representatives, Rayburn Building, Washington, D.C.

DEAR MR. HOWARD: I would like to give you the opinion of a major bus operator on the governmental policy regarding advance design buses and the Transbus Program. I am a private operator of some 250 vehicles in the New York City Metropolitan Region vitally affected by decisions your Committee and the Congress will make on these questions.

There are millions of severely handicapped people in the country. Everyone sincerely wishes their transportation problems could be solved. However, it is ludicrous to think that the transit industry, which is already severely buffeted, can accomplish a miraculous feat simply by edict that a low floor bus of bare dimensions be required. With all due respect, we feel that the proposed HR-5010

will actually be counter productive. It might well accomplish the final demise of the private operators in the country.

It is not possible for us to operate efficiently and economically if our equipment is required to handle severely handicapped people on regularly scheduled routes in high density areas. This would have these unfortunate results:

- (1) Make it impossible to maintain reliable schedules.
- (2) Destroy the dependability of service now given.
- (3) Severely curtail our productivity.
- (4) Place us in almost an impossible operating position.

For example, what happens on Fifth Avenue or Madison Avenue when a car is in the bus stop and we have someone in a wheel chair to be discharged and someone in a wheel chair to be picked up? What does the bus driver do? We are convinced chaos will result.

Beyond this, let's examine the rationale of the proposed adaptation of all transit equipment to handle less people at a slower speed. How can we induce more of the general population to use mass transportation if it operates more slowly? While it is entirely conceivable that more handicapped people will ride public transportation, it is also probable that our total service will become less attractive to the general population, producing an ever greater deficit requiring greater government operating subsidies. The program is self defeating and improper, to put it bluntly.

The logical way to handle severely handicapped people is to provide a two-tier transit program. One is the demand responsive program using smaller special vehicles. More severely handicapped people will be handled more efficiently and more completely at a total cost in taxpayer assistance for operation and equipment that is substantially lower than what is proposed. At the same time, the existing transit route networks, schedules and reliability will not be disrupted. By maintaining one tier for the regular route system and another that specializes in servicing the handicapped, both the rider and the supplier of service will be in considerably better condition. And, as noted, at a most that should be less.

It should be acknowledged that transit operators love a pretty new bus. It gives us both a sense of pride and a marketing tool. We will be the first to support such a pretty new bus when it can be demonstrated that it can be operated efficiently and economically over a 12 to 15 year life. It seems to us that common sense dictates that when radical design changes are proposed, a modest number of prototypes should be designed and built under Government funding and tested in various transit systems around the country. While this might appear to be expensive, it would actually be the least costly method in the long run in developing a new bus.

Most important, Mr. Chairman, is the continuation of the program to build sound total operating systems, including services to the handicapped. But let us not, as the cliché has it "throw out the baby with the bath water." Let us not place further severe operating burden on a vital mechanism that is already groaning under tremendous problems.

Respectfully,

ARTHUR BERNACCHIA, *President.*

TOWN OF CHAPEL HILL,
Chapel Hill, N.C., April 6, 1977.

HON. JAMES J. HOWARD,
Chairman, House Subcommittee on Surface Transportation, House Office Building Annex, Washington, D.C.

DEAR MR. HOWARD: I was pleased to attend hearings held by the Subcommittee on Surface Transportation on H.R. 5010 which was held on April 6, 1977. The Town of Chapel Hill has passed a resolution supporting H.R. 5010, S. 208 and H.R. 4821.

The Town of Chapel Hill (current population 32,000) operates a public transit system with a fiscal year Budget of \$950,000. Our tax subsidy is \$477,000, almost half the budget. Our system in fiscal year 1976 carried on the average weekday, 12,500 trips (6200 round-trips), which gave us a per-capita annual ridership of 72.1. The next highest community in North Carolina had per-capita ridership of 25.8.

Because our population is under 50,000, we are not eligible for any operating subsidies. This causes a continuous crisis in funding the bus system. We hope you will support early enactment of legislation such as H.R. 5010. Small systems such as ours cannot wait two or three more years for operating assistance. We

hope small urban areas will be able to get operating assistance. We hope legislation passes this year.

On the separate issue of elderly and handicapped access, we would support legislation requiring service to those groups. We would oppose legislation requiring every bus to be able to handle elderly and handicapped, because the elderly and wheel-chair restricted have no way of getting to the bus stop. Our dial-a-ride special bus for the elderly is a local system which meets the need of a door-to-door service for the handicapped. There must be flexibility.

Sincerely,

GERRY COHEN,
Member, Board of Aldermen.

A RESOLUTION OF SUPPORT FOR BILLS EXTENDING MASS TRANSIT OPERATING ASSISTANCE

Resolved by the Board of Aldermen of the Town of Chapel Hill, That the Board strongly endorses changes in the Urban Mass Transit Act which would make operating assistance available to the mass transit systems of communities of under 50,000 population as such assistance is currently available to large communities; and be it further

Resolved, That the Board specifically supports Senate Bill 208 and House Bill 5010 which would extend operating assistance as above described; and be it further

Resolved, That the Board hereby directs the Town Clerk to transmit copies of this resolution to Senators Jesse Helms and Robert Morgan and Congressmen L. H. Fountain, Ike Andrews, and William Hefner.

This the 4th day of April 1977.

NATIONAL ASSOCIATION OF MOTOR BUS OWNERS,
Washington, D.C., April 14, 1977.

Subject: H.R. 5010.

Hon. JAMES J. HOWARD,

Chairman, Subcommittee on Surface Transportation, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I testified on behalf of the National Association of Motor Bus Owners (NAMBO) in hearings before your Subcommittee on June 10, 1976, on H.R. 3155. For that reason, I did not request an opportunity to appear personally before the Subcommittee to reiterate our Association's position on the similar provisions of H.R. 5010.

When I testified on H.R. 3155 in the last Congress, however, the bill contained no provision on bus inspections. At this time, I would like to explain NAMBO's position on that section of the bill.

Section 6 of H.R. 5010, as a condition for financial assistance under the Urban Mass Transportation Act of 1964, as amended, would require each State to establish a system of periodic bus inspection under which buses would be inspected at least once every six months for safety purposes. Such systematic inspections would include, but not be limited to, the steering, brakes, lights, and horns of buses. Section 6 would require periodic inspection of all buses—those operating in intrastate as well as in interstate commerce, and buses used in the private transportation of passengers as well as those operated by for-hire carriers. Finally, section 6 would prohibit the Secretary of Transportation from approving any State inspection system "requiring inspection of any bus which has been inspected within the past six months in any other State in accordance with that State's system of inspection approved by the Secretary."

NAMBO is in complete accord with the objectives of section 6. In our opinion, all buses operated on the public highways should be inspected periodically for safety purposes. Today, only about one-half of the States have a program for inspecting systematically the buses of interstate motor common carriers of passengers. However, all such carriers are required by section 396.2 of the Federal Motor Carrier Safety Regulations to "systematically inspect and maintain. . . all motor vehicle subject to [their] control to insure that such motor vehicles and accessories are in safe and proper operating condition."

In States having no periodic inspection system for buses, interstate motor carriers inspect their own buses periodically in accordance with their interpretation of the Federal regulation.

Private carriers of passengers by bus, including school districts which transport schoolchildren in buses, are not subject to the safety provisions of the Interstate Commerce Act even when operating in interstate commerce. In our opinion, all buses operated in both interstate and intrastate commerce should be inspected periodically for safety purposes.

Today, the operations of interstate motor carriers of passengers are impeded because four or five States do not recognize a safety inspection made within the past six months in accordance with the periodic inspection law of a sister State. This means that a bus inspected and found safe by State A today may require inspection in State B tomorrow. Since the number of persons qualified to inspect buses in State B may be few in number, or because the State may not recognize periodic self-inspection, buses are sometimes withdrawn from service to await inspection. Similarly, it may be necessary to return buses to a distant State for inspection even though the required periodic inspection could be made at a much more convenient location.

Therefore, if periodic State inspection of buses is required, it is essential to provide for full reciprocity among the States. In the absence of the reciprocity of inspection required by section 6, the operating problems of interstate motor carriers of passengers would be compounded under universal State inspection.

If the Subcommittee should conclude not to require the States to establish a system of periodic bus inspection, we urge that States having such systems be required to accord reciprocity to the inspection of buses made in accordance with the similar requirements of sister States. This could be accomplished by adding the following language to the Highway Safety Act of 1966, as amended, 23 U.S.C. 401:

"SEC. 407. Any State law or regulation providing for periodic inspection of buses is hereby declared to be an undue burden on interstate or foreign commerce if any such law or regulation requires inspection of any bus which has been inspected within the past six months in any other State in accordance with that State's system of periodic inspection and such State's system of periodic inspection has not been found by the Secretary, in response to a petition filed by another State, to be inadequate."

The alternative language suggested above would meet the objection of Secretary of Transportation Adams that UMTA grants should not be conditioned on the availability of State inspection systems for vehicles which may be unrelated to any UMTA program.

In my testimony before the Subcommittee on H.R. 3155 on June 10, 1976, I urged that Federal operating assistance be made available to privately owned intercity bus operators under appropriate safeguards so that such operators could improve or extend intercity bus transportation to rural and small urban areas. The amendments proposed to NAMBO to H.R. 3155 were not approved by the Subcommittee but we hope they will be reconsidered and included in the pending bill. A copy of our proposed amendments is appended to this statement.

In lieu of the amendments proposed by NAMBO, the following language was included in the Committee Print of H.R. 3155 and now appears in section 1 of the pending bill (page 2, lines 8-16):

"In making any grant from such \$500,000,000 for the payment of subsidies for operating expenses, preference shall be given to a private bus operator who lawfully has provided transportation to such a nonurbanized area during the one-year period preceding the date of application for such a grant over routes or within the general area for which such financial assistance is to be provided, over any other operator to provide such service in such nonurbanized area."

The above-quoted provision is similar to the following language in section 147 (a) of the Federal-Aid Highway Act of 1973:

"To the extent intercity bus service is provided under the program, preference shall be given to private bus operators who lawfully have provided rural highway passenger transportation over the routes or within the general area of the demonstration project."

Practically all demonstration grants under section 147(a) have been awarded to public bodies. Participation by private bus operators in the rural highway public transportation demonstration program has been almost nil. To insure participation by privately owned intercity bus operators in the operating subsidy program authorized by section 4(c) of the Urban Mass Transportation Act, we hope the Committee's report on H.R. 5010 will urge the Department of Transportation to adopt procedures enabling privately owned operators to participate

fully in improvement of intercity bus service for residents of rural and small urban areas.

I respectfully request that this letter be included in the printed record of the Subcommittee's hearings on H.R. 5010.

Sincerely yours,

CHARLES A. WEBB.

Attachment.

SUBSTITUTE FOR SECTION 1 OF H.R. 5010

OPERATING SUBSIDIES IN RURAL AND CERTAIN URBAN AREAS

SECTION 1. The last sentence of Section 4(c) of the Urban Mass Transportation Act of 1964 is amended by striking out "for assistance in areas other than urbanized areas (as defined in section 5(a)(3)), and inserting in lieu thereof "for operating and capital assistance to improve public mass transportation in rural and small urban areas."

SEC. 2. As used in this Act—

(a) "Small urban area" means any place not included in an urbanized area (as defined in section 5(a)(3) of the Urban Mass Transportation Act of 1964) and having a population of five thousand to fifty thousand.

(b) "Rural area" means any area of a State not included in either an urbanized area or a small urban area.

(c) "Appropriate 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.

(d) "Intercity bus service" means mass transportation which provides to the public service between rural and small urban areas, between small urban areas, and between such areas and urbanized areas, but does not include local service or, for purposes of subsidy eligibility, schedules on which more than 50 percent of the passengers are traveling between urbanized areas.

(e) "Existing intercity service" means regularly scheduled intercity bus service or addition of schedules to existing intercity bus service.

(f) "New intercity service" means initiation of service between points over routes not receiving any intercity bus service.

(g) "Non-competitive existing intercity service" means service offered by one intercity bus operator only.

(h) "Local service" means service between points in a rural area, on the one hand and, on the other, small urban or urbanized areas where the distance involved does not exceed 25 miles or the distance to the nearest practical point of interchange with an intercity bus operator, whichever is the greater.

SEC. 3. Grants for assistance to continue, establish, or improve public mass transportation in such areas, including grants for new and existing service, shall be subject to such terms, conditions, requirements, and provisions (similar as may be appropriate to those applicable to grants under section 5 of the Urban Mass Transportation Act of 1964) as the Secretary may determine to be necessary or appropriate for such purpose, except that:

(a) The first two sentences of section 5(e) shall be applicable to grants for the improvement of transportation other than privately-owned intercity bus service;

(b) In making grants for the improvement of local service, preference shall be given to private bus operators who, during the one-year period preceding the date of application for such a grant, have lawfully provided regular route common carrier passenger transportation service to or within the general area of such local service;

(c) The Secretary shall not pay subsidies for intercity bus service which the appropriate State agency or the Secretary finds to be competitive with the service of a privately-owned intercity bus operator;

(d) No Federal grant for the payment of operating subsidies for intercity bus service during the second and subsequent years of operation shall exceed passenger revenues derived from the subsidized service;

(e) No subsidy for local service shall be extended to persons other than privately-owned intercity bus operators unless the operations subsidized are performed by vehicles with gross vehicle weight not exceeding 7,500 pounds; and

(f) In areas possessing non-competitive existing service the Secretary is authorized to pay subsidies for operating expenses for the continuation or improvement of intercity bus service, except that no such payments shall be made unless fifty percent of the passengers carried on the schedule originate or terminate in

a rural or small urban area and the schedule does not exceed 200 miles in length; provided that such mileage limitation shall not be applicable to any schedule serving not more than two non-contiguous urbanized areas.

SEC. 4(a) Applications under this Act for the payment of operating subsidies for the assistance of intercity bus service shall include the following certifications—

(1) that adequate opportunity has been afforded for the appropriate State agency to hold public hearings and to advise the Secretary whether a public need exists for the continuation, establishment, or improvement of the intercity bus service proposed to be assisted;

(2) that the applicant is a privately owned bus system and is not owned or controlled, directly or indirectly, by any State, public agency, or local public body; and

(3) that the Federal grant for payment of operating subsidies during the second and subsequent years of operation will not exceed passenger revenues derived from the intercity bus service proposed to be assisted.

(b) With respect to the applications of private bus operators approved under this Act, all payments shall be made by the Secretary to the Governor or his designee.

SEC. 5. It is hereby declared to be the national transportation policy that any Federal assistance, for either capital grants or operating subsidies, shall be so used as to promote the continuation and development of privately owned intercity bus service.



