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**Before the
Subcommittee on Housing
and Urban Affairs
of the
Senate Committee on Banking,
Housing and Urban Affairs**

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Mr. Chairman, I am happy to be with you today to discuss federal regulations governing public transportation for handicapped persons. These regulations have been the subject of much discussion by the previous Congress as well as the previous Administration. In spite of these discussions, the issue was never resolved because the previous Congress never completed its action on the transit bill. A major decision will probably be made during this session of the Congress. In my comments today, I will discuss three aspects of this issue:

- o How the current set of regulations evolved;
- o The costs and benefits of alternative forms of public transportation for handicapped persons; and
- o The amount of flexibility to be granted to states and localities to develop their own solutions to the problems of transporting handicapped people. In particular, I will examine the provisions of the amendment proposed last week by the Reagan Administration. 1/

Development of Current Regulations

As part of the Rehabilitation Act of 1973, the Congress enacted Section 504 in order to help disabled persons free themselves from isolation, unemployment, poverty, and discrimination. Section 504 is brief and general. It states only that:

1/ Letter sent from Secretary of Transportation Drew Lewis to the President of the Senate, George Bush, May 11, 1981.

no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. 2/

In July 1979, the Department of Transportation (DOT) issued regulations that defined how Section 504 would apply to public transportation programs. These DOT regulations still apply, although some temporary flexibility was granted to localities through the Appropriations Act of 1981. 3/ The DOT regulations require that:

- o All new buses purchased must be equipped with lifts, ramps, or other features that enable wheelchair users to ride them;
- o About 40 percent of all subway, commuter rail, and trolley stations that are designated as key stations must be equipped with elevators during the next 20 to 30 years;
- o At least one car per train on subway and commuter rail systems must be adapted to allow wheelchair users to board. Half the fleet of trolleys must be accessible within 20 years; and
- o Starting in three years, most cities must make available some form of temporary service (like fitting lifts to old buses, or supplying some form of temporary taxi service).

2/ Public Law 93-112, 93d Congress, HR 8070, September 26, 1973.

3/ 96-400, Section 324, Department of Transportation and Related Agencies Appropriations Act of 1981 (the "Stenholm Amendment").

The regulations also permit operators of existing subway, trolley, or commuter rail systems to provide handicapped persons with some form of van or taxi service instead of adapting the rail system, if local handicapped persons and DOT agree to the alternative plan. No such exemptions are provided for in the case of the bus regulations.

While estimates vary, all available estimates of the costs of the DOT regulations show that they have substantial costs. These high costs have led many to question whether the existing regulations implement a civil right that must be protected irrespective of its costs and benefits. If the Congress determines that equality of access is primarily a civil rights issue, then the existing regulations may be an appropriate response. If, instead, the Congress views this as a question of how to provide useful and efficient forms of public transportation to handicapped persons, then it will need to weigh the costs and benefits of different forms of public transportation.

Costs and Benefits of Alternative Services

Only a small fraction of the nation's handicapped persons are unable to use conventional public transportation, although the problem of transporting these persons is nonetheless substantial. About 26 million persons

living in urban areas in the United States are classified as handicapped, but 21 million of them are physically able to use public transportation without pain or difficulty, or live in areas where no public transportation is available. Approximately 5 million handicapped persons live near transit but find it difficult to use; most of these have relatively minor difficulties that could be substantially alleviated by inexpensive modifications such as lower step heights, more handrails aboard vehicles, and the like. This leaves a little over 1 million physically disabled, blind, or deaf persons who live within a short walk of transit service but cannot physically use it. Of these, the most severe problems are encountered by about 409,000 wheelchair users whose handicap poses exceptional problems for bus and subway operators attempting to serve them.

Two general methods for transporting handicapped persons deserve special attention. One approach is to adapt existing public transportation services so that they are accessible to all persons, and in particular persons using wheelchairs. This means adding lifts to buses and constructing elevators in subway stations. This is the approach taken by the existing DOT regulations. The other general approach is to offer specialized services that are designed to meet the unique needs of handicapped persons. For example, special lift-equipped vans are used in many localities to transport wheelchair users to medical facilities. Similar services could be

offered to serve wheelchair users in their travel needs generally. In addition, many less severely handicapped persons who cannot use buses and subways could benefit through programs making taxi services more affordable to them.

In a report prepared in November 1979, for the Senate Budget Committee and the Transportation Subcommittee of the House Public Works and Transportation Committee, CBO examined the costs and effectiveness of specialized services and of adaptations to existing fixed-route services. ^{4/} It found that specialized services could be provided for about \$9 a trip, about a fifth of the cost of adapting fixed-route transit systems, which on average runs to \$44 per trip (see Table 1). In addition, far more handicapped people could use specialized services. Nationwide, about 363,000 persons could use specialized services, more than three times the number of handicapped persons who would use adapted fixed-route services. Even serving this much larger clientele, a nationwide program of specialized services would cost, on average, about \$180 million a year for the next 30 years, well beneath the corresponding cost of \$260 million a year for adapted fixed-route services.

^{4/} Congressional Budget Office, Urban Transportation for Handicapped Persons: Alternative Federal Approaches, November 1979. All estimates of cost cited in this testimony have been drawn from this report, but updated to March 1981 dollars.

TABLE 1. PROJECTED PATRONAGE AND COSTS OF TWO OPTIONS FOR TRANSPORTING HANDICAPPED PERSONS

Option	Number of Wheelchair Users and Other Severely Disabled Persons Able to Travel More	Percent of All Severely Disabled Persons Served	Annual Net Public Cost Averaged Over the First 30 Years	Total Net Public Cost Per Additional Trip Made	Annual Net Public Cost Per Additional Trip Made Excluding One-Time Capital Expenses <u>a/</u>
DOT Regulations	103,600	7	\$260 million	\$ 44	\$ 37
Specialized Services	363,000	26	\$180 million	\$ 9	\$ 9

SOURCE: Congressional Budget Office, Urban Transportation for Handicapped Persons: Alternative Federal Approaches (November 1979), p. xv. All cost figures have been converted to March 1981 dollars.

a/ Based upon all additional trips made by wheelchair users and other severely disabled persons.

Why are fixed-route modifications so costly? The answer lies partly in the high capital costs involved in adding elevators and related equipment to subway stations-- about \$2.4 million per station. It also lies partly in the costs of bus lifts, which run about \$17,000 per vehicle, as well as in the cost of additional buses needed to replace part of the seating that is lost on lift-equipped buses, and the cost of the additional maintenance required. Together, these bus costs amount to \$208 million per year. The high costs of adapting fixed-route systems lead to extremely high costs per additional trip, since relatively few new trips would be made as a result of these modifications. Experience to date in several U.S. cities that operate accessible fixed-route systems shows very low patronage among handicapped persons, and surveys of handicapped persons indicate that fixed-route adaptations would generate little additional patronage as compared with the number who would use specialized services.

The relatively economical performance of specialized services stems largely from the fact that most such trips can make use of existing taxi services, which cost about \$4.50 per trip. Less than half would need more expensive lift-equipped van services, which cost around \$20 per trip.

In spite of the relative inefficiency of fixed-route adaptations in serving handicapped persons, some have argued that they are worthwhile in the long run because, once the costs of capital improvements have been absorbed, the services will have relatively low operating costs. The CBO analysis found that this was not the case. The continuing replacement of lift-equipped buses, their reduced seating capacity, and their additional maintenance costs cause travel by fixed-route services to cost about \$37 a trip, excluding capital costs. This is four times the cost per trip for specialized services, computed on a corresponding basis.

There has been widespread concern among transit operators and local governments over the existing regulations, particularly over their inflexible stress on adding lifts and elevators to fixed-route systems when specialized services offer lower costs and greater benefits. Because the previous Congress did not act on the transit bill before the session closed, the question once again arises as to how to reshape the existing regulations so as to permit localities to be more responsive to the needs of their handicapped citizens, bearing in mind the costs and benefits of alternative services.

Aspects of Local Choice

The proposals considered during the last session focused on three aspects of local choice:

- o The minimum level of fixed-route adaptations, such as bus lifts and station elevators, that should be required,
- o The service criteria that specialized services would have to meet in order to be acceptable as alternatives to fixed-route services, and
- o The process by which local plans for specialized services were to be developed and approved.

As regards the first--the minimum level of fixed-route adaptation--CBO found that mixtures of specialized services and lift-equipped fixed-route services were generally redundant and inefficient. Requiring that, in all cities, some minimum proportion of buses or rail stations be made accessible to wheelchairs appears to be a cumbersome and inefficient approach. Generally speaking, proposals that grant a locality complete exemption from regulations governing fixed-route adaptation if it provides adequate specialized services will enhance the development of specialized services that are useful and efficient. The amendment recently proposed by the Reagan Administration would not require a locality to make any fixed-route adaptations if it provides an acceptable set of specialized services. Thus, the risk of duplicative services under this approach would be minimal.

The second aspect--the specification of detailed service criteria--will probably be a subject of extensive discussion during this Congress. It is worth taking a few minutes to focus on several characteristics of service for which minimum criteria might be warranted:

1. Advance Request Time for Door-to-Door Service. Existing specialized services vary widely--from two hours to one week-- in the time a passenger must wait to be fetched after making a phone call for service. Spur-of-the-moment decisions to shop or to visit friends become impossible if requests must be made far in advance. Surveys indicate that about 80 percent of handicapped persons find a 24-hour advance reservation to be satisfactory (because it is convenient to plan many trips ahead of time, such as going to work, to school, or to the doctor). But surveys also suggest that more use would be made of special transportation if short-notice services were available as well.
2. Preregistration for Specialized Service. A bill considered by the Senate during the previous session would have banned any requirement for prior registration or prior approval of handicapped persons wishing to use public transportation. The ban may have stemmed from the desire to make specialized services no more cumbersome and no less convenient than regular transit, particularly for out-of-town patrons. But prohibiting advance registration eliminates the most practical way of restricting high-quality and high-cost door-to-door service to severely disabled persons who cannot use conventional transit. Other techniques for controlling eligibility have serious drawbacks. For example, drivers could be empowered to decide as to each passenger's eligibility, but this might be difficult in the case of severely disabled persons who do not use wheelchairs. Alternatively, eligibility might be based on evidence of registration for other services, such as the presentation of a Medicare card. But handicaps that qualify persons for various medical programs may not limit their ability to use transit. Lacking a mechanism by which to restrict eligibility, the costs of specialized services would climb prohibitively.

3. Restrictions on Trip Purposes. Many existing specialized services carry handicapped persons only when they wish to go to work, to school, or to the doctor, and not for shopping or other activities unless a vehicle happens to be available when they wish to travel. For specialized services offered under Section 504, such restrictions would be inappropriate if the objective is to offer services capable of meeting the general travel needs of handicapped persons.
4. Hours of Service. While late-night and weekend transit services operate in many cities, specialized services for handicapped persons often cease by early evening and on weekends.
5. Trip Time and Transfer Frequency. Door-to-door service operators sometimes collect a number of passengers before delivering them to their destinations and require numerous transfers between vehicles so as to reduce the time any single vehicle spends returning empty. Such practices add to passengers' travel time, however, and are particularly onerous for disabled persons.

As is apparent from my discussion of these five attributes of service, the service offered to non-handicapped persons using fixed-route systems cannot be completely and objectively equated with the specialized services offered to handicapped persons. Each type of service has unique features, and federal legislation cannot design detailed service criteria that are appropriate for each traveller's circumstances and for each local setting. Nevertheless, some criteria that set minimum acceptable conditions could ensure that adequate consideration was given by transit operators to various service characteristics. For example, the bill passed by the House during the previous session required that fares, service areas, and hours of service of specialized services be comparable to those of fixed-route transit, that no

restrictions be made on trip purpose, and that advance request times be six hours or less. Even more stringent criteria were contained in the bill passed by the Senate during the last session. This bill required that specialized services be "no less beneficial" than fixed-route systems, required "reasonable minimum waiting periods," and banned restrictions on trip purpose, preregistration of patrons, and the use of waiting lists.

The amendment proposed by the Reagan Administration sets no specific service criteria. Rather, it requires that local areas develop and meet their own criteria for each of nine characteristics: fares, frequency of service, hours of service, restrictions on trip purpose, advance request time, waiting lists, trip time, transfer frequency, and geographic area of service. This approach grants complete flexibility to local areas in designing and meeting these criteria. By enumerating the nine characteristics of service for which criteria are to be developed and met, the amendment initiates a comprehensive local evaluation of the practical issues involved. But by not setting any minimum acceptable criteria, it fails to provide any specific guarantees to handicapped persons.

In effect, the Reagan amendment not only gives local governments the choice of how to provide public transportation of handicapped persons, but also gives them the choice of whether to provide such services. If the

intent is to ensure that useful transportation is provided to handicapped persons, then including some specific criteria in the bill would help to guarantee that local governments take appropriate actions. For example, federal legislation could require that fares, service areas, and hours of service of specialized services be comparable to those of transit. Similarly, it could require that specialized services not be restricted on the basis of trip purpose. Legislation could also set criteria for other characteristics, notably a minimum advanced request time, comparable trip time, or comparable transfer frequency, although variations in local circumstances make it difficult to set meaningful nationwide criteria for these characteristics.

This brings us to the third aspect of the current discussion, namely, the process by which local plans are to be developed and approved. One approach applied in the bill that passed the Senate during the last session was to require that plans submitted by localities "provide service no less beneficial for handicapped persons" than those that would have been implemented under the DOT regulations. Judgments as to the interpretation of this criterion were to be made by DOT and the Architectural and Transportation Barriers Compliance Board. This double-approval process appears cumbersome, and might lead some localities into costly and time-consuming judicial review.

In contrast, the bill that passed the House during the last session delineated a checklist of specific criteria by which the Secretary of Transportation, in consultation with the Architectural and Transportation Barriers Compliance Board, would judge the admissibility of local plans. It appears more streamlined than the proceeding alternative, and is more likely to encourage localities to submit plans that they feel are appropriate.

The approach proposed by the Reagan Administration is even more streamlined in this respect. It requires only that the locally developed criteria for service must be generated using a public hearing and amendment process that compares the characteristics of specialized services to those of fixed-route services used by the general public.

Conclusion

The Administration's proposal grants very broad latitude to local governments to make policy regarding public transportation for their handicapped citizens. Many localities will probably avail themselves of this flexibility and offer specialized transportation services. Others will add elevators to their subway stations or lifts to their buses. This option will be

chosen by some localities because current federal financing mechanisms, which support most of the capital costs of lifts but little of the operating costs of specialized services, will lead some localities to favor adaption of fixed routes regardless of their combined, federal-plus-local, cost consequences. Finally, some localities may choose service criteria that require them to do virtually nothing. The Congress could guard against this possibility by requiring that specialized services have comparable fares, service area, and hours of service, and by prohibiting restrictions based on trip purpose.

Thank you, Mr. Chairman. I would be happy to answer any questions.