STATEMENT OF
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OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
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Mr. Chairman, Members of the Subcommittee, Good Morning.

Thank you for inviting me here today to discuss the difficulties that many transportation companies and providers of public and private public transit are experiencing in obtaining adequate and affordable insurance coverage.

While insurance is primarily a contractual issue between the insurance provider and the transportation purchaser, and the regulation of insurance is primarily a state responsibility, the Department of Transportation is involved in administering statutory minimum levels of financial responsibility under the provisions of the Motor Carrier Act of 1980 and the Bus Regulatory Reform Act of 1982. These Acts require the Secretary to promulgate and enforce regulations requiring minimum levels of financial responsibility. Mandated levels of financial responsibility (higher than those promulgated on an interim basis by the Secretary) for motor carriers of property became effective January 1, 1985 and range from $750,000 for carriers of nonhazardous property to $5,000,000 for carriers of hazardous or explosive commodities. The statutory insurance minimums of $1.5 to $5 million called for under the Bus Regulatory Reform Act will go into effect on November 19, 1985.

We have heard numerous complaints from both bus operators and trucking firms about refusals of their insurance companies to renew coverage, limits on availability of liability insurance and significant increases in premium rates. The Niagara Frontier Transit Metro System, Inc., Buffalo, New York which has not filed an insurance claim in 40 years found, after contacting 25 different insurance brokers, that their insurance premium would rise from $30,000 to $125,000 even if they increased their deductible from $500,000 to one million dollars. Before the Commissioners could meet and approve it, the insurance company withdrew the offer. Some operators are being forced to lay up some, or all, of their equipment. Others are wondering whether they will be able to pass on these costs to their customers and remain in business.

The first point I would like to make is that the problems of cost and adequacy of coverage of insurance are not peculiar to the transportation industry. These issues affect all lines of commercial property and casualty insurance and particularly commercial automobile insurance, workmen's compensation insurance, commercial general liability insurance, and multi-peril insurance. They affect doctors, day care centers, municipalities, manufacturers, and others. The newspapers are full of horror stories. In Amarillo, Texas liability insurance premiums rose over two years from $40,000 to $747,000 while coverage was reduced by 90 percent; Bladensburg, Maryland pulled its police force off the streets because it was without insurance; some obstetricians have stopped delivering children because they were unable to afford necessary malpractice coverage.

<u>In other words, while transportation is affected, the roots of the problem do not lie in transportation and neither do most of the solutions.</u>

The second point is that the main problem for motor carriers and bus operators, at least up to this point, is the <u>price</u> of coverage. For carriers and operators willing to pay the price the coverage has been available. Most states have assigned risk plans. If a trucking or bus company cannot obtain coverage in the voluntary marketplace, they can get coverage through the assigned risk plan, albeit often at a higher price and only after significant delays.

Insurance has always been a burden for carriers, tolerable in good times and threatening in bad times. For small, under-capitalized or new-entrant carriers, insurance can take on the characteristics of a major barrier to operations. On the other hand, the greater economic freedom that now exists as a result of partial deregulation will permit carriers to pass on the higher costs of insurance to their clients in a much more timely and efficient way.

During the early 1980's, commercial automobile insurance (the line of coverage which includes bus and truck insurance) was, by and large, readily available and, as it turns out, relatively cheap. In fact, in retrospect, as we entered the 82-84 period, commercial auto insurance became a real bargain. During the high interest rate era of the early 1980's, insurance companies engaged in price wars to gain premium volume, secure in the knowledge that they could offset underwriting losses with handsome profits on the investment of the unearned premium and loss reserves. However, as interest rate levels began to recede and the overall loss experience began to worsen, the property/casualty insurance industry began to experience, not simply high underwriting losses, but overall losses as well. Investment income was no longer offsetting underwriting losses. In 1984, pre-tax operating income of the industry fell to a negative $3.8 billion.

The ability to write insurance has been particularly affected in the commercial insurance lines, including bus and truck insurance. Industry losses here have been particularly severe. For every dollar that the industry received in commercial auto premiums in 1984 (both bus and truck), it paid out, or had to set aside, $1.44 for future payout.

The insurance industry has reacted to this experience by selectively weeding out its least desirable insured (by cancellation or nonrenewal), by not offering coverage to new entrants, who often lack a record of operating experience that might make them an attractive insurance customer, and by steep, and, in many cases across-the-board, increases in premiums.

To summarize, the roots of the cost side of the insurance crunch appear to be:

- poor overall loss experience, both in terms of numbers of claims and in size of claims, by the property/casualty insurance industry in the last several years.

- loss of investment income as interest rates declined; investment earnings had allowed insurance companies to help offset underwriting losses.

These factors are further exacerbated by other issues affecting insurance availability including:

- shrinking reinsurance capacity; both domestic and offshore (e.g., Lloyds of London) reinsurance markets have recently incurred severe losses and have become increasingly reluctant, and indeed unwilling, to underwrite risks on which they have lost money in the past. For the first time in many years, the absolute capacity of the American property/casualty insurance industry to write insurance fell. A figure developed by the insurance industry estimates that there is a $62 billion shortfall over a three-year period in the financial ability of the industry to write insurance coverage. The strong dollar has also reduced the reinsurance capacity of foreign companies in the American market.

- environmental restoration claims; the insurance industry has become extremely reluctant to extend coverage to truckers because of their concern over the extent of their exposure under the "environmental restoration" endorsement required to comply with Section 30 of the Motor Carrier Act.

We have been told that there is a severe problem and that the foreign reinsurance market is threatening to stop providing coverage for environmental restoration liability. More operators will be affected as their insurance policies near renewal and available insurance capacity is stretched thin by increasing demands from all lines of commercial insurance.

While the casualty insurance industry is cyclical in nature, the suddeness and seriousness of the current crisis has taken everyone by surprise. Over forty states have introduced insurance reform legislation this year and in at least two states special sessions of the legislature has been called to attempt to deal with insurance problems. A bipartisan coalition of State legislators and the business community under the auspices of the American Legislative Exchange Council has come together recently to design and promote model legislation to address the generic roots of the problem through State legal reform. The National Association of Insurance Commissioners also has a special group focusing on the issue.

We have recently established an internal Insurance Task Force within DOT to coordinate information from the transportation sector and better determine the impact of insurance problems on the nation's transportation industries.

In conclusion, let me emphasize that DOT, like this committee and the other groups I have just mentioned, is aware of, and concerned about, the continued availability and cost of transportation insurance. We believe that these issues must generally be solved by the insurance industry and the states who regulate the industry and that the federal government should be extremely circumspect in devising national solutions. Nonetheless, we need to keep abreast of events as they affect the transportation providers of the nation, both in terms of the well-being of the providers themselves and of the traveling public, and we look forward to working with the Subcommittee to analyze these important issues.

Mr. Chairman, we commend the Subcommittee for conducting these hearings.

This concludes my prepared Statement. I would be pleased to respond to any questions you might have.