

**DEPARTMENTS OF TRANSPORTATION, TREASURY, THE JUDICIARY, HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2007**

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U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

**MATERIAL SUBMITTED BY AGENCIES NOT APPEARING FOR FORMAL HEARINGS**

[CLERK'S NOTE.—The following agencies of the Subcommittee on Departments of Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies did not appear before the subcommittee this year. Chairman Bond requested these agencies to submit testimony in support of their fiscal year 2007 budget request. Those statements submitted by the chairman follow:]

PREPARED STATEMENT OF HONORABLE JULIA S. GIBBONS, CHAIR, COMMITTEE ON THE BUDGET, THE JUDICIAL CONFERENCE OF THE UNITED STATES

INTRODUCTION

Chairman Bond, Senator Murray and members of the subcommittee, I am Judge Julia Gibbons of the Sixth Circuit Court of Appeals. Our court sits in Cincinnati, Ohio, and my resident chambers are in Memphis, Tennessee. As the Chair of the Judicial Conference Committee on the Budget, I present the following testimony on the judiciary's fiscal year 2007 appropriations requirements. In doing so, I will also apprise you of some of the challenges facing the Federal courts.

At the outset I want to note that we have enjoyed a productive relationship with the subcommittee and its staff from the time the judiciary was placed within your jurisdiction last year. We are extremely appreciative that you made us a funding priority in the fiscal year 2006 appropriations process.

DIRECTOR MECHAM'S RETIREMENT

Also submitting testimony today is Leonidas Ralph Mecham, Director of the Administrative Office of the United States Courts. This will be Director Mecham's final testimony before this subcommittee. After 21 years at the helm of the Administrative Office, he is taking a well-deserved retirement. He is the longest-serving director of the Administrative Office and is only the sixth person to head that unique organization, which was established in 1939.

Director Mecham led the Administrative Office during two decades of unprecedented change in the Federal courts. In 1985, when Director Mecham began his tenure, the Federal courts still relied on electric typewriters. The operating budgets for the nearly 400 court units across the 94 judicial districts were largely managed from Washington, DC Federal court facilities were in poor shape due to decades of neglect and deferred maintenance. And the Administrative Office itself was scattered in multiple locations across Washington, DC.

Twenty years later, the picture is quite different. The use of information technology has fundamentally changed the way the courts operate. Today we have a judiciary-wide data communications network that provides a secure infrastructure for numerous systems and applications. The judiciary's case management/electronic case files system has been implemented in nearly all district and bankruptcy courts and is now moving into our appellate courts. Electronic courtroom technologies such as electronic presentation of evidence, digital court reporting, and videoconferencing are now routinely used.

Today, under the judiciary's budget decentralization policy, courts have the flexibility to address their unique needs and priorities at the local level. Yet they are also accountable for managing these funds wisely.

Under Director Mecham's leadership, 90 court building projects have been approved, providing space needed by the courts to house judges and support staff required to manage the judiciary's growing workload needs. The Administrative Office finally consolidated its scattered offices when it received its own building in 1992—the Thurgood Marshall Federal Judiciary Building—which, in addition to the Administrative Office, houses the Federal Judicial Center, and the United States Sentencing Commission.

Director Mecham's superb leadership and vision have contributed significantly to the Federal judiciary's management progress. We in the Third Branch will miss his dedicated service to the courts.

#### IMPROVED FISCAL YEAR 2006 OUTLOOK FOR THE COURTS

As you may recall, last year at this time the courts were reeling from the steady downsizing of probation and clerks' office staff in the 18-month period between October 2003 and March 2005, during which on-board court staffing levels declined by 1,800 positions, or 8 percent. The need to fund must-pay expenses such as judges' salaries and GSA rent, within the constrained appropriations provided to the judiciary in fiscal years 2004 and 2005, resulted in essentially flat funding for the courts in those years. In fiscal year 2004, the courts lost 1,350 staff and in fiscal year 2005 additional positions were left vacant due to the delay and uncertainty surrounding the fiscal year 2006 congressional budget. These funding constraints forced courts to fire and furlough staff, offer early retirements, and leave vacant positions unfilled in order to pay basic operating costs like telephone and electric bills. Unfortunately, these staffing reductions came at a time when the courts, especially those along the southwest border, were experiencing historically high workload levels.

Now, a year later, I am happy to report that the financial outlook for the courts has improved. I raised our budget concerns with the subcommittee last year, and you responded by making the judiciary a high priority. We recognize that many agencies in your bill received little or no growth in fiscal year 2006, and yet you provided the courts' operating account with a 4.5 percent increase in appropriations for fiscal year 2006, after applying the government-wide 1 percent across-the-board rescission and excluding supplemental funding. This increase is consistent with those received in fiscal years 2004 and 2005 of 4.7 percent and 4.3 percent, respectively, and approximates the minimum amount we required to maintain on-board staffing levels in fiscal year 2006.

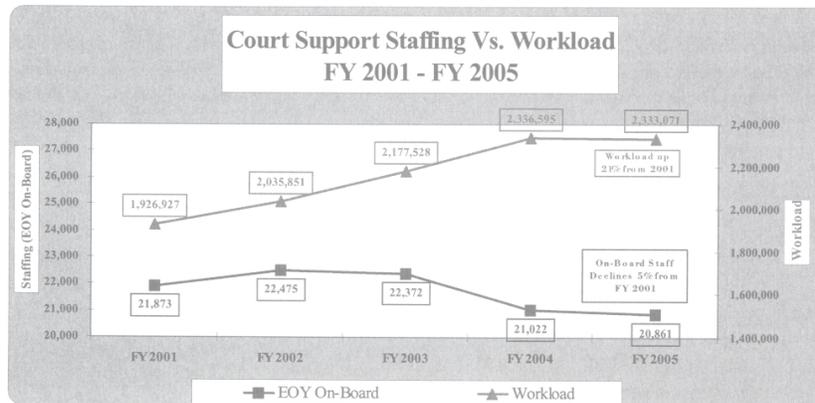
Fortunately, in addition to the appropriations provided by Congress, several other unanticipated factors made more funds available for the courts in fiscal year 2006. Actions outside the judiciary's control (e.g., fewer than anticipated judgeship confirmations), along with cost containment initiatives, such as the effort in New York to identify and recover GSA rental overcharges—which I will discuss in more detail later in my testimony—resulted in higher than anticipated carryover from fiscal year 2005 and reductions in fiscal year 2006 must-pay requirements. These unanticipated, and likely one-time, factors resulted in the courts receiving an overall 6.9 percent increase in their funding allotments in fiscal year 2006, the first above-inflation increase for the courts since fiscal year 2002. This puts the courts in a position to backfill nearly half of the 1,500 probation and clerks' office staff lost over the last 2 years.

The favorable outlook for fiscal year 2006 requires some perspective and a word of caution, however. After several years of operating under extremely tight funding levels, an increase in fiscal year 2006 funding for the courts in real terms (above inflation) is considered a significant achievement. While the courts are in better shape financially than in recent years, court staffing is still well below the level needed to address all workload requirements imposed on the courts. In fact, even with the enhanced funding provided to the courts in fiscal year 2006, we still anticipate end-of-year staffing levels in probation and clerks' offices to be more than 800 positions below the benchmark of 22,372 staff that were on-board in October 2003,

the level just prior to the courts having to downsize due to budget constraints. The emphasis placed on increased immigration enforcement efforts as well as other factors caused overall workload to increase 8 percent during this same period.

#### COURT STAFFING LEVELS LAG BEHIND WORKLOAD GROWTH

Although caseload in the Federal courts has begun to stabilize, it nonetheless remains at historic highs in most categories. While caseload has grown sharply in recent years, not only have court staffing levels failed to keep pace with that workload growth, but the courts have, in fact, been falling farther behind. As illustrated in the following chart, from fiscal year 2001 to fiscal year 2005 the courts' aggregate workload increased 21 percent while on-board court staffing levels declined by a net 5 percent. The judiciary has made extensive use of electronic case management and case filing systems to make clerks' offices more efficient, but reduced staffing levels and budget constraints have resulted in 30 percent of our district and bankruptcy clerks' offices having to reduce the office hours they are open to the public.



Reduced staffing levels have also changed the way probation officers do their work. Probation officers have had to prioritize their supervision caseload to focus on higher-risk supervision cases and reduce the amount of supervision they provide to lower-risk offenders. This may be impacting public safety, as evidenced by a recent review of national data which revealed that the number of removals from supervision due to new criminal conduct increased by 9.4 percent in fiscal year 2005 over the number in fiscal year 2004. We are very concerned that any continued decline in court staffing may harm the public.

In evaluating our need for staff to accommodate workload growth, we have requested only the number of staff that can realistically be hired over the course of the year, not the number of staff that our workload statistics say we need. This is because we recognize that it takes more time to add staff than to reduce staff. Eliminating staff, while traumatic for managers and employees alike, can be done in a relatively short amount of time. Early retirement and buyout offers attract sizeable numbers of volunteers willing to leave the court rolls. Unfortunately, often these individuals are the most experienced and seasoned court employees. In other more difficult instances, staff have to be laid off due to funding constraints. For courts that are downsizing, staff need to be off the payroll early in the fiscal year in order to maximize budget savings. On the other hand, backfilling these positions takes much longer. With continuing resolutions and the hiring freezes that may accompany them, coupled with the lead-time it takes to advertise, interview, and make a selection, it can take months—and well into the fiscal year—to fill a vacancy. Candidates for probation officer positions require extensive background security checks and can take up to a year to bring on board.

The judiciary's budget request includes funding for 464 new probation and clerks' office staff to address the immediate workload needs of the courts. A request based on the full requirements identified by our staffing formulas would have resulted in an increase of more than 2,000 staff in fiscal year 2007.

It is vital that Congress understand that, while the courts require additional staff in order to perform their statutory duties, many have been reluctant to hire those staff for fear they will have to fire them almost immediately in fiscal year 2007. What the court community needs now is a clear message that, at the very least,

funds will be available in fiscal year 2007 to maintain fiscal year 2006 year-end staffing levels and ultimately to address the recent workload growth that was not matched with additional staffing resources.

#### WORKLOAD IN THE COURTS

As I just mentioned, after years of steady growth the workload in the courts has begun to stabilize. I would like to highlight some areas of the judiciary's workload for the subcommittee, but before I do so, I would like to discuss how judiciary work plays an indispensable role in our Nation's homeland security efforts.

##### *The Judiciary's Role in Homeland Security*

Actions taken by the Department of Homeland Security and the Department of Justice have a direct and immediate impact on the Federal courts. Whether it is costly high-profile terrorist cases or soaring increases in immigration cases and related appeals, this workload all ends up on court dockets, and sufficient resources are required in order to respond to it. In recent years, Congress and the administration have significantly increased spending for homeland security. Non-defense homeland security spending has more than tripled since 2001. In sharp contrast, appropriations for the courts' operating budget have increased by 29 percent and on-board court staffing levels have declined by 5 percent. Increased spending on homeland security is expected to continue, as evidenced by the President's fiscal year 2007 budget, which includes an 8 percent increase in non-defense homeland security spending. The judiciary cannot absorb the additional workload generated by homeland security initiatives within current staffing and resource levels.

##### *Immigration Enforcement*

Funding for border security and immigration enforcement has nearly doubled since 2001, and we have seen a direct impact on our workload as a result. Since the September 11, 2001 terrorist attacks, nearly 1,200 additional border patrol agents have been hired, and Congress recently funded an additional 1,500 agents. Furthermore, the President proposes to add 1,500 border patrol agents in fiscal year 2007 for a potential increase of more than 4,000 new agents since September 2001. This large influx of new border patrol agents has and will continue to generate considerable additional workload for judges and probation and clerks' offices, especially in the five judicial districts along the southwest border with Mexico. Costs in our Federal defender services program will increase as well. These southwest border courts currently account for nearly one-third of all criminal cases nationwide, up from 27 percent in 2001, and criminal immigration cases in these courts have increased by 68 percent since 2001.

The immigration-related workload also affects other areas of the judiciary. Criminal appeals involving immigration issues increased 64 percent from 2004 to 2005. Over this same period, nearly 12,000 appeals from decisions by the Department of Justice's Board of Immigration Appeals were filed in Federal courts of appeals, a 19 percent increase. Furthermore, these immigration appeals are up nearly 600 percent since 2001. The President's fiscal year 2007 budget includes funding for the Department of Justice to increase the number of immigration judges and immigration appeal attorneys in order to adjudicate a larger percentage of detained immigrant cases and appeals. If funded, this will further increase the number of immigration appeals that will end up in the Federal courts.

##### *Bankruptcy Filings*

Passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 resulted in a massive workload increase for bankruptcy courts as individuals rushed to file before the mid-October 2005 effective date of the legislation. Fiscal year 2005 bankruptcy filings totaled 1,782,643, an all-time record and a 10 percent increase over fiscal year 2004. In October 2005 alone, more than 600,000 bankruptcy cases were filed nationwide; by comparison, filings in October 2004 totaled 130,679. Managing this unprecedented level of filings required a truly Herculean effort on behalf of bankruptcy clerks offices around the country. There are countless examples of clerks' office staff working nearly around the clock to ensure that those wishing to file for bankruptcy before the new law took effect could do so.

Given the landmark nature of this legislation, it is difficult to predict what filing patterns will emerge in 2006 and 2007. Bankruptcy filings are expected to decrease in the short-term, but the decline in filings will likely be due, in part, to the large number of people who filed just prior to the effective date of the new bankruptcy law. Filings are expected to return in significant numbers as attorneys and debtors become more familiar with the requirements of the new law. In addition, the new legislation creates additional duties for the bankruptcy courts. New duties were

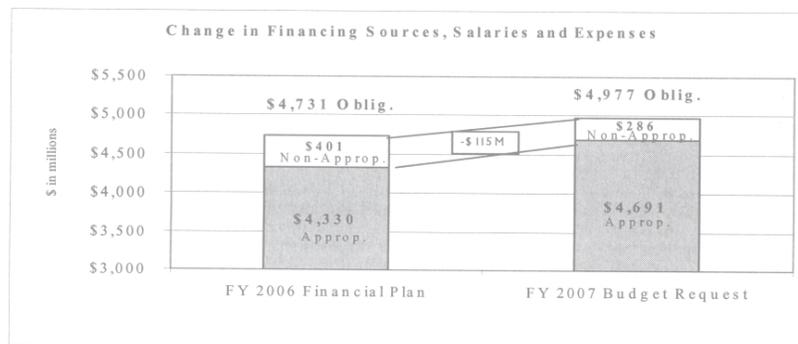
added in many areas including credit counseling, means testing, financial management, tax returns, reaffirmations, lease payments, and automatic discharges. Many of these areas have required the creation of new processes and operations in the clerks' offices. In addition, clerks' offices are experiencing a surge in motions and related activity and inquiries from the bar and public. As a result of the new demands imposed by the law on clerks' offices, it is unclear at this time whether reductions in bankruptcy filings will translate into reductions in workload and staff. Given these uncertainties, the fiscal year 2007 budget request does not include any change in bankruptcy clerks' office staffing levels.

#### *Booker/Fanfan—Sentencing Guidelines*

The judiciary is also facing the effect of the U.S. Supreme Court's decision in the consolidated cases, *United States v. Booker* and *United States v. Fanfan*. In fact, the courts began receiving increased filings almost 6 months before *Booker* was decided—immediately after the earlier Supreme Court decision in *Washington v. Blakely*. Since that decision in June 2004, the courts have received over 14,500 cases affected by issues raised in the *Booker* case, about 7,500 of these in the courts of appeals and the remaining 7,000 in the district courts, and the effects are not yet over. Habeas corpus petitions raising *Booker* issues filed between October 1, 2005 and January 12, 2006, when the statute of limitation for filing these petitions expired, are not yet reflected in the statistics. Nor do they include most *Booker*-related petitions that the Federal courts may receive from prisoners sentenced in the State courts, as those prisoners must first exhaust all options in the State courts before they can bring their cases to the Federal courts. The Federal courts will likely continue to receive an increased level of State habeas corpus petitions for the next 3 or more years.

#### FISCAL YEAR 2007 BUDGET REQUEST

The Federal judiciary is approaching a crossroads in fiscal year 2007 and Congress will determine which direction the courts take. It is imperative that Congress provide the courts with appropriations sufficient to build on the gains achieved in fiscal year 2006. It would be unfortunate to re-create the funding problems that the judiciary and Congress have worked so hard to remedy. We greatly appreciate that Congress made the Federal courts a high priority in fiscal year 2006 and respectfully request that you continue to do so. An appropriations increase of 4 to 5 percent in fiscal year 2007—although consistent with recent increases—will not achieve that goal. In fact, such an increase will not provide for a current services operating level in fiscal year 2007 and would likely require the courts to return to their downsizing ways of the last 2 years. The reason for this is reflected in the following chart and discussion.



The high carryforward balances utilized in the fiscal year 2006 financial plan were, in part, the result of rent credits from GSA and other one-time windfalls outside the judiciary's control that will likely not be available to finance fiscal year 2007 requirements. A lower amount of non-appropriated sources of funding, from \$401 million to a projected \$286 million, means that the courts' Salaries and Expenses account requires a higher appropriation increase in fiscal year 2007 just to stay even—about 7.7 percent over fiscal year 2006 to maintain current services—and an increase of 8.3 percent to fund our full request.

While the courts' Salaries and Expenses account requires an 8.3 percent increase for fiscal year 2007, the judiciary is requesting a 9.4 percent overall increase above fiscal year 2006 available appropriations. A summary table detailing fiscal year 2007 requirements by account is included at Appendix A. We believe this level of funding represents the minimum amount required to meet our constitutional and statutory responsibilities. While this may appear high in relation to the overall budget request put forth by the administration, the judiciary does not have the flexibility to eliminate or cut programs as the executive branch does to achieve budget savings. The judiciary's funding requirements essentially reflect basic operating costs which are predominantly for personnel and space requirements. Of the \$540 million increase being requested for fiscal year 2007:

- \$160 million of the requested increase is needed just to pay for standard pay and benefit increases for judges and staff. This does not pay for any new judges or staff but rather covers the annual pay adjustment and benefit increases (e.g., health benefits) for currently funded judiciary employees. The amount budgeted for the cost-of-living adjustment is 2.2 percent for 2007.
- \$6 million is associated with increases in the number of active and senior Article III judges.
- \$140 million is a technical adjustment to cover the projected loss in non-appropriated sources of funding (\$115 million of which is for the courts' salaries and expenses account). In addition to appropriations, the judiciary receives revenue from fees and other items that can be used to offset appropriation needs in the next fiscal year. Revenue not needed during the year collected may be carried over. As I mentioned, the high carryforward balance from fiscal year 2005 and the rent credits from GSA will likely not be available as financing sources in fiscal year 2007, so the judiciary requires appropriated funds to replace them. The projected 20 percent decline in filing fee revenue in fiscal year 2007 due to fewer projected bankruptcy filings is also reflected in this requested increase. We will keep the subcommittee apprised of any changes to these fee or carryforward projections as we move through fiscal year 2006.
- \$50 million is needed for space rental increases, including inflationary adjustments and new space delivery, and for court security costs associated with new space. An additional \$7 million is needed to pay for Federal Protective Service security equipment and building-specific surcharges for court facilities.
- \$43 million is required to support, maintain, and continue development of the judiciary's information technology program, which has allowed the courts to "do more with less" in absorbing workload increases while having to downsize staff.
- \$18 million is required to cover mandatory increases in contributions to the judiciary trust funds that finance benefit payments to retired bankruptcy, magistrate, and Court of Federal Claims judges, and spouses and dependent children of deceased judicial officers.
- \$14 million is necessary to pay costs associated with Criminal Justice Act representations. The Sixth Amendment to the Constitution guarantees that all criminal defendants have the right to counsel. The Criminal Justice Act provides that the courts shall appoint counsel for those persons who are financially unable to pay for their defense. The number of representations is expected to increase by 5,500 in fiscal year 2007, as the number of defendants for whom appointed counsel is required increases. An additional \$12 million will fund deferred panel attorney payments and shortfalls in fiscal year 2006 requirements.
- \$12 million of the increase will provide for several smaller base adjustments such as continued investments in the Supreme Court building modernization program and general inflationary increases for judiciary programs.

The increases described above total \$462 million, or 86 percent of the requested increase, and represent must-pay items for which little to no flexibility exists. This leaves a much smaller increase of \$78 million to address workload increases and for other program enhancements. Of this amount:

- \$24 million is requested for additional staff and associated expenses. The bulk of this increase (464 positions) would fund the most critical and immediate workload needs of the courts, which as I previously noted, is primarily immigration-related workload along the southwest border where those five district courts currently account for nearly one-third of criminal cases nationwide. The judiciary uses statistically-based formulas to determine the number of positions needed to address adequately the workload of the courts. In an effort to hold down the required increase in staffing, the judiciary's cost-containment measures included a reduction to the formula-driven staffing levels. As a result of these efforts, the judiciary's calculations for full staffing requirements were lowered by nearly 900 positions, or 4 percent. Even after this adjustment, based on the courts' projected workload, the staffing formulas indicate more than

2,000 additional positions are needed in probation and clerks' offices over the level funded in fiscal year 2006. Recognizing that the courts would have great difficulty hiring that many new staff in a single year, the judiciary has reduced its staffing request to reflect a number that can realistically be hired in fiscal year 2007 (464) in order to address the most critical workload needs of the courts.

- \$24 million to increase the non-capital panel attorney rate to \$113 per hour. I will discuss this requested increase in more detail in a moment.
- \$23 million would provide for critical security-related requirements.
- Of the remaining \$7 million, \$1.2 million would provide for three additional magistrate judges and associated staff, \$2 million would fund information technology enhancements, and the remaining \$3 million is for smaller requirements in other judiciary accounts.

Appendix B includes an account-by-account description for accounts under the Courts of Appeals, District Courts and Other Judicial Services heading which includes Salaries and Expenses, Defender Services, Fees of Jurors, and Court Security.

#### INCREASE IN NON-CAPITAL PANEL ATTORNEY RATES

We believe that one program enhancement in our budget request deserves strong consideration in order to ensure effective representation for indigent criminal defendants. We are requesting \$24 million to increase the non-capital panel attorney rate to \$113 per hour effective January 2007. A panel attorney is a private attorney who serves on a panel of attorneys maintained by the district or appellate court and is assigned by the court to represent financially-eligible defendants in Federal court. These attorneys are compensated at an hourly rate of \$92 for non-capital cases and up to \$163 for capital cases.

The judiciary requests annual cost-of-living adjustments—similar to the annual adjustments provided to Federal employees—for two reasons. First, cost-of-living adjustments allow the compensation paid to panel attorneys to keep pace with inflation and maintain its purchasing power and, in turn, enables the courts to attract and retain qualified attorneys to serve on their CJA panels. Second, regular annual adjustments eliminate the need to request large “catch-up” increases in order to account for several years with no rate adjustments. The subcommittee has recognized the importance of annual cost-of-living adjustments by providing one to panel attorneys in fiscal year 2006, and we are very grateful for your help.

Our request to increase the non-capital hourly rate amounts to a catch-up increase, which, as I just mentioned, we would prefer to avoid. The non-capital rate was increased to \$90 in May 2002 (from \$75 per in-court hour and \$55 per out-of-court hour in most districts) but no adjustments were made to that rate until this past January, when it was raised from \$90 to \$92. In comparison, since May 1, 2002, the Department of Justice has been paying \$200 per hour to retain private attorneys with at least 5 years of experience to represent current or former Federal employees in civil, congressional, or criminal proceedings. There is a substantiated need for our requested increase for panel attorneys. In a 2004 survey of Federal judges, over half of them indicated that their courts were currently experiencing difficulty identifying enough qualified and experienced panel attorneys. In the first statistically valid, nationwide survey conducted of individual CJA panel attorneys in March 2005, a significant percentage (38 percent) of the over 600 attorneys surveyed reported that since the hourly compensation rate had increased to \$90 per hour in May 2002, they had nevertheless declined to accept a non-capital CJA appointment. The surveys also confirmed that panel attorneys are reluctant to accept appointments in complex, high-cost representations at the \$90 rate.<sup>1</sup> Strikingly, after covering overhead costs for the predominantly solo and small-firm lawyers who take CJA cases, their net pre-tax income for non-capital CJA representations amounted to only about \$26 per compensated hour. A large proportion (70 percent) of the CJA attorneys surveyed in March 2005 reported that an increase to the \$90 hourly rate is needed for them to accept more non-capital cases.

The requested increase to \$113 per hour reflects the amount the Judicial Conference believes is needed to attract qualified panel attorneys to provide the legal representation guaranteed by the Sixth Amendment. Indeed, \$113 is the level that the judiciary was seeking in 2002 when Congress increased the rate to \$90. Recognizing fiscal realities, the \$113 rate being requested is well below the \$131 rate that

<sup>1</sup> Although rates have been raised to \$92 per hour since the survey was taken, this \$2 per hour increase would not have materially affected the survey responses.

a full catch-up increase would permit. I urge you to give this rate increase strong consideration.

#### SECURITY OF FEDERAL JUDGES

Mr. Chairman, I would like to update you on an issue in which I know the subcommittee shares a strong interest: the security of Federal judges and their families. As you recall, in February 2005 a Federal district judge's husband and mother were killed in their Chicago home by a disappointed civil litigant. A month later, a judge, court reporter, and deputy were killed in the Fulton County, Georgia courthouse by a defendant in a criminal case. In response to this violence, Congress acted quickly and provided \$11.9 million in fiscal year 2005 supplemental appropriations to the United States Marshals Service (USMS) for the installation of an intrusion detection system in the homes of all 2,200 Federal judges, and for additional positions in the USMS's Office of Protective Intelligence to improve the process of assessing potential threats against judges. Over 1,700 judges have indicated that they wish to participate in the Home Intrusion Detection System Program.

In September 2005, Congress approved the USMS's financial plan for spending the \$11.9 million, and in December 2005 the USMS awarded a contract to ADT to begin system installations. Subsequently, Congress approved an amended financial plan in which the USMS agreed to assume responsibility for the post-installation maintenance and monitoring of these systems. We are very appreciative of the efforts of John F. Clark, Director of the USMS, in moving this critically important project forward.

#### THE JUDICIARY'S RENT BURDEN

I now turn to an issue that has been a concern of the Judicial Conference for over 15 years: the rent that the judiciary pays to GSA. Before I do so, I would like to take a moment on behalf of our courts along the Gulf Coast to thank GSA for its prompt action in helping those courts to recover from last year's hurricanes. The courts and GSA worked well together, and GSA's help was essential.

While we appreciate GSA's hard work on our behalf, we do have serious concerns about its rental pricing policies for courthouses. Courthouses serve a critical role in our Nation's system of jurisprudence. They enable the Federal judiciary to ensure the swift, fair, and effective administration of justice, as is required by the Constitution. Our space needs are unique and unlike those of any other Federal entity. One of our primary concerns is that courthouses are currently treated as commercial office space by GSA for rent assessment purposes when, in reality, there is no building that is commercially equivalent to a Federal courthouse. The fact that the judiciary has added significantly to its space inventory over the last 10 years does not fully justify or explain our sharply escalating rent payments to GSA, which are expected to consume 20 percent of the courts' budget in fiscal year 2006 and will soon top \$1 billion per year.

The need to reduce the judiciary's enormous rent burden, which threatens judicial independence, is critical to the courts' financial well-being. Chief Justice John G. Roberts, Jr., in his "2005 Year-End Report on the Federal Judiciary", identified the GSA rent issue as one of ". . . two areas of concern that have come to the fore and now warrant immediate attention and action." Despite numerous appeals, GSA has repeatedly declined to provide the judiciary with any measure of rent relief, although in 2005 it provided rent relief to 14 other Federal entities. As the Chief Justice stated, "The disparity between the judiciary's rent and that of other government agencies, and between the cost to GSA of providing space and the amount charged to the judiciary, is unfair. The Federal judiciary cannot continue to serve as a profit center for GSA."

In the absence of any changes to GSA's current rent pricing structure for court-occupied space, the judiciary over the last year has been meeting with appropriations and authorizing committees in Congress to raise awareness of the detrimental impact GSA's rent pricing policies have had on the judiciary's core mission of administering justice. In those meetings, we have stressed that the judiciary's recent budget problems, particularly in 2004 where the courts lost 1,350 probation and clerks' office staff, were due at least in part to GSA's rent pricing policies that diverted to rent funds needed by the courts to perform their essential functions.

In the absence of rent relief, the judiciary has assumed the burden of minimizing its rent payments to GSA by scrutinizing rent bills and identifying overcharges. In New York, court staff spent months examining GSA billings and identified space rent overcharges, the cumulative effect of which resulted in savings or cost avoidance over 3 fiscal years totaling \$30 million. GSA has corrected these errors through rebates and rent credits. This was a time-intensive effort by the New York courts

that involved 2,000 staff hours—the equivalent of one person working full-time for a year. The real impact is that it took clerk's office staff away from core duties of processing the court's caseload in order to validate, and eventually correct, the billings from another Federal entity.

Because these overcharges may be happening elsewhere, the judiciary is expanding its effort to identify billing errors and has launched a nationwide initiative to train clerks' office staff on how to research and detect errors. Again, this effort will come with a cost. It is estimated that this nationwide effort will require a minimum of 13,000 staff hours—equivalent to six people working full-time for a year—in addition to \$4.3 million for training, travel, and contractor support costs, including professional real estate appraisal services. This is not work that clerks' office staff should have to do, and surely Congress did not intend that we would have to devote scarce resources to finding rent overcharges. But we are left with no choice. Given the judiciary's austere budget situation, we must pursue savings and economies whenever possible, even if we have to divert valuable court resources in order to do so. I would conclude my remarks on this topic by again quoting Chief Justice Roberts who said in his year-end report “. . . the judiciary must still find a long-term solution to the problem of ever-increasing rent payments that drain resources needed for the courts to fulfill their vital mission.” The judiciary stands ready to work with Congress and the administration on this very important issue.

#### COST-CONTAINMENT STRATEGY FOR THE JUDICIARY

The judiciary fully recognizes the fiscal situation facing the Congress and has made cost containment a major priority. As was reported to Congress last year, the Judicial Conference of the United States approved in September 2004 a cost-containment strategy of identifying and implementing measures to economize and reduce costs while not adversely affecting the delivery of justice. Director Mecham will be discussing cost-containment efforts in more detail in his testimony, but I would like to emphasize that these cost-containment efforts are having a real and immediate impact on our resource requirements. As an example, the fiscal year 2007 budget request was lowered by \$80 million principally due to cost-containment efforts and productivity improvements in clerks' and probation and pretrial services offices. The judiciary is preparing a report, for release this spring, to update Congress on the status of various cost-containment initiatives.

#### RESPONSE TO RECENT HURRICANES ALONG THE GULF COAST

Director Mecham will be discussing emergency preparedness activities in his testimony today, but I would like to talk briefly about the recent hurricanes along the Gulf Coast and their impact on Federal court operations. First, and most importantly, I am happy to report that the Third Branch suffered no loss of life due to the hurricanes, although some judges and court staff did lose their homes in Hurricane Katrina. I would also like to thank you for the \$18 million in fiscal year 2006 supplemental appropriations that was provided to help the courts deal with the aftermath of these natural disasters. This funding has paid for travel and per diem expenses for judges, court staff, and their dependents who were displaced by the hurricanes as well as for security, furniture, and operating expenses for the affected courts. If Congress had not provided this emergency funding, the judiciary would have been forced to absorb these expenses which in turn would have reduced the funding available to the courts in fiscal year 2006 for court support staff.

The hurricanes, particularly Katrina, caused significant disruption to court operations along the Gulf Coast. The damage caused by Hurricane Katrina forced the Fifth Circuit and its personnel to move to temporary duty locations in Houston, Texas, and Baton Rouge, Louisiana. District court personnel in the Eastern District of Louisiana were moved from New Orleans to temporary duty locations in Houma, Baton Rouge, and Lafayette, Louisiana, and in the Southern District of Mississippi, district court personnel were moved from Gulfport to temporary duty locations in Hattiesburg and Jackson, Mississippi. Hurricane Rita impacted court operations in the Eastern District of Texas. In that district, court personnel were moved from Beaumont to temporary space in Tyler and Lufkin, Texas. All of the courts affected by the hurricanes have resumed normal operations with the exception of the district court in Gulfport, which is expected to reopen in June 2006. Of course, for those who lost their homes in the hurricanes, a return to normalcy may be delayed for some time.

Quick action helped to minimize the cost of both bringing up court operations at the temporary locations and restoring operations at permanent locations. For example, court personnel in the Eastern District of Louisiana entered the courthouse in New Orleans soon after Hurricane Katrina hit and, under U.S. Marshals Service

guard escort, retrieved computer and office equipment and transported it to temporary duty locations, thus reducing the need to replace equipment. GSA quickly moved into affected court facilities to repair damages and restore power and air conditioning. This saved millions of dollars that would have been needed to replace furnishings damaged by mold and mildew. After Hurricane Rita hit, courts around the country sent used computer equipment to the Eastern District of Texas district court for judges and staff to use at temporary duty locations, again minimizing the need to purchase new equipment.

The disruption caused by the hurricanes—especially Katrina—presented unique challenges, particularly for probation officers who had to locate displaced offenders under their supervision. I would like to relate one story for you in particular that exemplifies the quick thinking and dedication of Federal probation officers across the country.

Following Hurricane Katrina, probation officers in the Eastern District of Louisiana scrambled to locate all the offenders under their supervision, but gave special attention to convicted sex offenders. I am pleased to say that all were found and are again in treatment and under supervision. In one such case, however, an offender fled to his mother's house in Alabama, which happened to be next door to an elementary school. He did not contact his probation officer or local police as required of convicted sex offenders. He was found, however, thanks to the good work of a Federal probation officer from the Northern District of Alabama. That officer recalled having briefly supervised a serious sex offender from the Eastern District of Louisiana while that offender was in Alabama, and, on a hunch, took it upon herself to drive by the offender's mother's house. There in the driveway was a car registered to the offender. Along with another officer, she confronted the offender who admitted he had not registered as a sex offender and had not tried to call his Louisiana Eastern probation officer. The probation officer called local police who took the offender into custody for failing to register. The offender is now back in Louisiana in a community corrections center.

This is only one of many stories I could give you that would demonstrate the commitment and dedication of our probation officers—not just during a crisis—but in the day-to-day conduct of their law enforcement duties.

#### CONTRIBUTIONS OF THE ADMINISTRATIVE OFFICE

The Administrative Office (AO) of the United States Courts has served and supported the courts in an exemplary manner in a very difficult fiscal year. The more the courts have to do, and the fewer resources with which they have to do it, the more challenging is the job of the AO. With only a fraction (1.2 percent) of the resources that the courts have, the AO does a superb job of advising us and supporting our needs.

The AO continues to serve as the central support agency for the Federal courts, with key responsibility for judicial administration, policy implementation, program management, and oversight. It performs important administrative functions, but also provides a broad range of legal, financial, management, program, and information technology services to the courts. None of these responsibilities has gone away and new ones are continually added, yet the AO staffing level has been essentially frozen for 10 years. Time spent on new initiatives and on assisting the courts in operating under fiscal constraints means basic support and infrastructure work has to be deferred.

Last year was a particularly challenging one. In 2005, the AO played a central role in assisting the courts to implement the bankruptcy reform legislation, as well as in helping those courts affected by Hurricanes Katrina and Rita deal with the myriad of space, travel, technology, and personnel issues that had to be addressed. The commitment of significant resources to these and other initiatives over the last year further stretched the AO's already strained resources.

In my role as Chair of the Judicial Conference Committee on the Budget, I have the opportunity to work with many staff throughout the AO. They are dedicated, hard working, and care deeply about their fundamental role in supporting this country's system of justice.

The fiscal year 2007 budget request for the Administrative Office is \$75.3 million, representing an increase of \$5.8 million. All of the requested increase is necessary to support adjustments to base, mainly standard pay and general inflationary increases, as well as funding to replace the anticipated lower level of fee revenue and carryover with appropriated funds in fiscal year 2007.

I urge the subcommittee to fund fully the Administrative Office's budget request. The increase in funding will ensure that the Administrative Office continues to pro-

vide program leadership and administrative support to the courts, and lead the efforts for them to operate more efficiently.

#### CONTRIBUTIONS OF THE FEDERAL JUDICIAL CENTER

I also urge the subcommittee to approve full funding for the Federal Judicial Center's request, which is only 7.5 percent over its 2006 level.

The Center's director, Judge Barbara Rothstein, has laid out in greater detail what the Center needs and why it needs it in her written statement. I want to add that the Center plays a vital role in providing research and education to the courts. The Judicial Conference and its committees request and regularly rely on research projects by the Center. These provide solid empirical information on which the judges, the judiciary, and Congress and the public, depend in reaching important decisions relating to litigation and court operations. Likewise, the Center's educational program for judges and court staff are vital in preparing new judges and employees to do their jobs, and in keeping them current so that they can better deal with rapid changes in the law, and in tools—like technology—that courts rely on to do their work efficiently.

The Center has made good use of its limited budget. It has made effective use of emerging technologies to deliver more information and education to more people, more quickly. The relatively small investment you make in the Center each year (less than one-half of 1 percent of the judiciary's budget) pays big dividends in terms of the effective, efficient fulfillment of the courts' mission.

#### CONCLUSION

Mr. Chairman, I hope that my testimony today provides you with a better appreciation of the challenges facing the Federal courts. I realize that fiscal year 2007 is going to be another tight budget year, perhaps the tightest ever. With the gains you helped us achieve in fiscal year 2006, we are on the brink of setting a new course that will restore the financial health of the Federal court system. But it will take the resources we seek in our fiscal year 2007 budget request to accomplish that goal and to avoid a repeat of the staffing losses that occurred in fiscal years 2004 and 2005. I know that you agree that a strong, independent judiciary is critical to our citizens, our economy, and our homeland security. I urge you to fund this request fully in order to enable us to maintain the high standards of the United States judiciary. Failure to do so could result in a significant loss of existing staff, dramatic cutbacks in the levels of service provided, and a diminishment in the administration of justice.

I would be happy to answer any questions the subcommittee may have.

#### APPENDIX A

#### JUDICIARY APPROPRIATION FUNDING

[Dollars in thousands]

Appropriation Account	Fiscal Year 2006 Available <sup>1</sup>	Fiscal Year 2007 Request	Change Fiscal Year 2007 vs. Fiscal Year 2006	Percent Change Fiscal Year 2007 vs. Fiscal Year 2006
U.S. Supreme Court:				
Salaries & Expenses .....	\$60,143	\$63,405	\$3,262	5.4
Care of Building and Grounds .....	5,568	12,959	7,391	132.7
Total .....	65,711	76,364	10,653	16.2
U.S. Court of Appeals for the Federal Circuit .....	23,783	26,300	2,517	10.6
U.S. Court of International Trade .....	15,342	16,182	840	5.5
Courts of Appeals, District Courts & Other Judicial Services:				
Salaries & Expenses:				
Direct .....	4,308,395	4,687,244	378,849	.....
Supplemental .....	18,000	.....	(18,000)	.....
Vaccine Injury Trust Fund .....	3,795	3,952	157	.....
Total .....	4,330,190	4,691,196	361,006	8.3
Defender Services .....	709,830	803,879	94,049	13.3
Fees of Jurors & Commissioners .....	60,705	63,079	2,374	3.9

## JUDICIARY APPROPRIATION FUNDING—Continued

[Dollars in thousands]

Appropriation Account	Fiscal Year 2006 Available <sup>1</sup>	Fiscal Year 2007 Request	Change Fiscal Year 2007 vs. Fiscal Year 2006	Percent Change Fiscal Year 2007 vs. Fiscal Year 2006
Court Security .....	368,280	410,334	42,054	11.4
Subtotal .....	5,469,005	5,968,488	499,483	9.1
Administrative Office of the U.S. Courts .....	69,559	75,333	5,774	8.3
Federal Judicial Center .....	22,127	23,787	1,660	7.5
Judiciary Retirement Funds .....	40,600	58,300	17,700	43.6
U.S. Sentencing Commission .....	14,256	15,740	1,484	10.4
Direct .....	5,698,588	6,256,542	557,954	.....
Supplemental .....	18,000	.....	(18,000)	.....
Vaccine Injury Trust Fund .....	3,795	3,952	157	.....
Total .....	5,720,383	6,260,494	540,111	9.4

<sup>1</sup> Fiscal year 2006 appropriated funds include the effect of the 1 percent across-the-board discretionary rescission where applicable (Public Law 109-148).

## APPENDIX B—SUMMARY

The fiscal year 2007 appropriation request for the Courts of Appeals, District Courts, and Other Judicial Services totals \$5,968,488,000, an increase of \$499,483,000, or 9.1 percent, over fiscal year 2006 available appropriations. In addition to appropriated funds, the judiciary utilizes other funding sources to supplement our appropriations including fee collections, carry forward of fee balances from a prior year, and the use of no-year funds. When all sources of funds are considered, the increase in obligations for fiscal year 2007 is \$362,506,000 or 6.2 percent.

Of the \$499,483,000 increase in appropriations, 85 percent (\$425,742,000) is adjustments to the fiscal year 2006 base associated with standard pay and other inflationary increases as well as other adjustments that will allow the courts to maintain current services in fiscal year 2007. The remaining 15 percent (\$73,741,000) is needed to respond to increased requirements for magistrate judges, Federal defender offices, an increase in panel attorney non-capital rate increases, court security systems and equipment, digital video equipment in all new courthouses, information technology upgrades and to fund additional court staff required to handle the most critical workload, particularly along the southwest border.

The requests for the principal programs are summarized below.

*Salaries and Expenses*

The salaries and expenses of circuit, district, and bankruptcy courts and probation and pretrial services offices account for most of our request. A total of \$4,691,196,000 in appropriations is required for this account, including funding for the Vaccine Injury program, an increase of \$361,006,000 above the fiscal year 2006 available appropriation. Funding totaling \$285,892,000 is expected to be available from other sources, including fee collections and carryforward balances to fund Salaries and Expenses requirements. Combined with our appropriations request, this results in obligations of \$4,977,088,000.

Of the \$361,006,000 increase in appropriations, 93 percent (\$335,553,000) is needed to fund adjustments to the fiscal year 2006 base including: pay and benefit increases for judges and chambers staff (\$13,168,000); increase in the number of senior, Article III, and magistrate judges and associated staff (\$5,771,000); pay and benefits for court personnel and programs (\$106,694,000); GSA space rental and related services (\$46,886,000); information technology related adjustments (\$42,595,000); financing adjustments to replace non-appropriated sources of funds with appropriated funds (\$115,082,000); and other operations and maintenance costs that are uncontrollable in nature (\$5,357,000).

The remaining 7 percent (\$25,453,000) will fund 3 additional magistrate judges and their staff to help Article III judges handle civil cases and the record number of criminal cases facing the courts (\$1,282,000); 257 court support FTE to address fiscal year 2007 workload requirements (\$22,109,000); and increases to support new information technology projects and upgrades (\$2,062,000).

*Defender Services*

An appropriation of \$803,879,000 is required for the Defender Services program to provide representation for eligible criminal defendants in fiscal year 2007. This is an increase of \$94,049,000 above the fiscal year 2006 available appropriation.

Of this increase, 74 percent (\$69,133,000) is needed for adjustments to the fiscal year 2006 base for inflationary and workload increases. Included in these adjustments are standard pay and inflation increases for Federal defender organizations (\$19,310,000); a cost-of-living adjustment to the capital and non-capital panel attorney rates (\$1,717,000) and annualization costs of the 2006 panel attorney non-capital and capital rate adjustments (\$1,535,000); and other inflationary increases (\$2,849,000); increase in the projected number of representations (\$14,214,000); funding adjustments to replace carryforward funding with appropriated funds (\$17,644,000); funding for deferred panel attorney payments from fiscal year 2006 and unfunded fiscal year 2006 base requirements (\$12,464,000); and a reduction in non-recurring costs (-\$600,000).

Twenty-five percent (\$23,676,000) is requested to provide funding for the costs associated with increasing the panel attorney non-capital rate to \$113 per hour, effective January 1, 2007.

The remaining increase of 1 percent (\$1,240,000) will fund an increase for six new positions at the Administrative Office (\$640,000); and start-up costs of two new Federal defender organizations expected to be opened in fiscal year 2007 (\$600,000).

*Fees of Jurors and Commissioners*

For the Fees of Jurors program, an appropriation of \$63,079,000 is required, an increase of \$2,374,000 from the fiscal year 2006 available appropriation. The Fees of Jurors request is a current services budget for fiscal year 2007 with no program increases. The adjustments to the fiscal year 2006 base include a net decrease in the projected number of juror days (-\$722,000); an inflationary adjustment (\$832,000); and a financing adjustment to replace carryforward funding with appropriated funds (\$2,264,000).

*Court Security*

For the Court Security program, an appropriation of \$410,334,000 is required, which is an increase of \$42,054,000 above the fiscal year 2006 available appropriation. Of this increase, 44 percent (\$18,682,000) is for adjustments to base including an increase for standard pay and benefit increases (\$292,000); a fiscal year 2007 Department of Labor wage rate adjustment for court security officers (CSOs) (\$10,250,000); annualization costs for 37 new fiscal year 2006 CSOs (\$889,000); 34 additional CSOs for new and existing space (\$2,626,000); inflationary adjustments (\$1,200,000); an increase for Federal Protective Service security charges (\$7,371,000); and a reduction for non-recurring security systems and equipment (-\$3,946,000).

The remaining increase of 56 percent (\$23,372,000) will fund security systems and equipment enhancements (\$16,778,000); the installation of digital video recorders (\$6,569,000); and a United States Marshals Service server replacement initiative (\$25,000).

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PREPARED STATEMENT OF LEONIDAS RALPH MECHAM, DIRECTOR, ADMINISTRATIVE  
OFFICE OF THE U.S. COURTS

## INTRODUCTION

Chairman Bond, Senator Murray, and members of the subcommittee, I am pleased to present my final testimony before the Senate in support of the fiscal year 2007 budget request for the Administrative Office of the United States Courts (AO). I will soon be retiring as Director of the Administrative Office. I have served three Chief Justices, thousands of judges and court staff, and directed the AO during two decades of unprecedented change. I have worked closely with members and staff of the various committees of Congress with jurisdiction over the judiciary and am extremely proud of what we have accomplished together. I am grateful for the opportunity afforded me to head what I believe is the finest agency in the Federal Government.

I especially want to thank you and your committee for the support provided to the judiciary during our first year under the purview of this subcommittee. Only weeks after the Appropriations Committee reorganization last year, you supported emergency supplemental funding to enhance the protection of judges in their homes, and language ensuring sufficient fees would be available to support the judiciary's implementation of the new Bankruptcy law. Then, during consideration of the fiscal

year 2006 Transportation-Treasury Appropriations Act, you made funding for the judiciary a priority, recognizing the uncontrollable nature of the workload in our Nation's courts. And, as the year drew to a close, you supported emergency supplemental funding to assist Gulf Coast courts in their recovery efforts in the aftermath of Hurricanes Katrina, Rita, and Wilma. Your leadership in support of the Judicial Branch during these times of tremendous budget pressures is deeply appreciated.

#### CONTAINING COSTS THROUGH RENT RELIEF

As you may recall from my visit with you last year, I am deeply concerned about the adverse impact the judiciary's rent bill has had on court operations. As Chief Justice John Roberts stated in his 2005 Year-End Report, "The Federal judiciary cannot continue to serve as a profit center for GSA." While the judiciary has taken steps of its own to control its rent bill by undertaking a comprehensive review of its courthouse construction program, including a moratorium on new construction projects, it is the so-called "market-based" or commercially equivalent rent we are paying for existing facilities that is exacerbating our budget difficulties.

During the 18-month period from October 2003 through March 2005, budget shortfalls and delayed appropriations forced the judiciary to reduce court staffing by 8 percent or 1,800 employees. Yet, during this same time period, the rent bill paid to GSA increased and was paid in full. Faced with the choice of paying an even higher rent bill or firing additional court employees, all during a period of historically high workload, the judiciary tried unsuccessfully to seek a rent exemption from the GSA—similar to those the GSA provided at the same time to 14 other executive branch entities. Each request by the judiciary was turned down or GSA offered alternatives that, in the long term, would not save money. Unable to sustain any further staffing reductions, and without cooperation from GSA, the judiciary had no choice but to engage in a detailed, and costly, technical review of rent bills at the local level to try to identify rent discrepancies that would result in a lower rent bill.

Judge Gibbons describes this effort in her testimony and shares the success we have had in identifying inaccuracies and errors in the rent bills for the Northern and Southern Districts of New York, which resulted in a savings of \$30 million to the judiciary through rebates and rent credits. Certainly we are pleased with this result as the unanticipated return of funds has helped to offset the impact of the 1 percent across-the-board rescission to our fiscal year 2006 appropriation. But, the rebates provide only short-term rent relief. As Chief Justice Roberts stated in his 2005 Year-End Report, ". . . the judiciary must still find a long-term solution to the problem of ever-increasing rent payments that drain resources needed for the courts to fulfill their vital mission." Unless judiciary appropriations keep pace with the increase in our rent bills, we will be unable to sustain the staffing levels necessary to carry out the mission of the Judicial Branch. Despite the aforementioned rebates, rent paid to GSA in fiscal year 2006 is expected to consume over 20 percent—nearly \$1 billion—of the courts' operating budget. In contrast, the Executive Branch as a whole spends less than two-tenths of 1 percent of its budget on GSA rent—in part because many agencies have managed to become totally independent of the GSA.

On February 8, 2006, Congressman Sensenbrenner introduced H.R. 4710, the Judiciary Rent Reform Act of 2006. A similar bill, S. 2292, was introduced in the Senate by Senator Specter on February 16, 2006. The purpose of this bipartisan legislation is to ensure that the rent paid by the Federal judiciary is fair and equitable, and is related to the actual costs of providing court facilities. Enactment of the legislation would change existing practice by requiring the judiciary to pay only for the GSA's direct expenses associated with the operation and maintenance of federally-owned space occupied by the courts, as well as applicable indirect GSA expenses, which principally entail GSA's administrative overhead at the field office, regional and central office levels. The judiciary would be required to pay only the underlying contract rent for any court-occupied leased space and would be exempt from paying for components of GSA's current pricing policy, which are above and beyond its actual costs of operating and maintaining federally-owned space.

With regard to future courthouse construction or major repair and alteration projects undertaken by GSA on behalf of the judiciary, under this proposed legislation, the judiciary would request appropriations directly from Congress and transfer appropriations approved by Congress to GSA for deposit into the Federal Buildings Fund. The amounts transferred would be designated specifically for those projects. This legislation will not change the current congressional process for authorizing new courthouse construction and repair and alteration projects, nor will it change appropriations subcommittee jurisdiction. It simply will ensure that the judiciary pays a fair and equitable amount to GSA to lease, operate, and maintain court facilities. Furthermore, it will ensure that all funding deposited in the Federal Build-

ings Fund by the judiciary is used to support and build judiciary facilities, and is not used by the administration to fund Executive Branch projects instead.

Modifying the funding mechanism for judiciary facilities will improve the process for both the judiciary and Congress, and will preclude the situation the judiciary finds itself with respect to fiscal year 2007 and, in fact, 5 of the past 10 years. The Judicial Conference has identified to GSA and the administration the need for five courthouse projects, at a cost of \$307 million for fiscal year 2007. The President's budget has included no funds whatsoever for courthouse construction projects. OMB has included no funds for projects funded out of the Federal Buildings Fund. Yet, the judiciary will pay approximately \$1 billion in rent to GSA in fiscal year 2007, which is about \$500 million more than is needed to pay for the cost to lease and operate court facilities. While there is \$148.6 million in the fiscal year 2007 request for three courthouse Repair and Alteration projects, the vast majority of the "rent profit" realized by GSA from the judiciary goes to support Executive Branch projects.

Mr. Chairman and members of the subcommittee, I hope you will support the judiciary's efforts to address the burden that excessive rent costs are placing on the judiciary by co-sponsoring S. 2292. Especially during these times of limited resources, I fear that our ability to carry out the basic functions of the judicial branch are at stake if rent relief is not obtained.

#### ROLE OF THE ADMINISTRATIVE OFFICE

The Administrative Office of the U.S. Courts was created by an Act of Congress in 1939 and is devoted to helping the courts fulfill the judiciary's mission—administering justice to the citizens of this country. Neither the Executive Branch nor the Legislative Branch has a comparable organization that provides the broad range of services and functions that the Administrative Office does for the Judicial Branch. My successor will be only the seventh Director of this unique institution in almost 70 years.

The AO provides administrative, legal, financial, management, program, security, and information technology services to the Federal courts. It provides support and staff counsel to the Judicial Conference of the United States and its 25 committees, and it helps implement Judicial Conference policies as well as applicable Federal statutes and regulations. The AO is also the focal point for judiciary communication, information, program leadership, and administrative reform. Our administrators, accountants, systems engineers, analysts, architects, lawyers, statisticians, and other staff provide professional services to meet the needs of judges and staff working in the Federal courts nationwide. The AO staff also responds to Congressional inquiries, providing information on pending legislation and congressionally mandated reports.

As I prepare to retire from this extraordinary organization, I want to take this last opportunity to appeal for sufficient resources to sustain the AO's staffing level, which has not been increased in over 10 years despite many new work demands. In the past few years, we have been forced to maintain high vacancy rates due to funding shortages. I hope the following examples of recent challenges and achievements will illustrate the critical role the employees of the Administrative Office play in supporting the Federal judiciary.

#### *Implementing the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*

The most sweeping changes to bankruptcy law in the past 20 years were enacted on April 20, 2005, with the signing of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law 109-8). The Act's impact on judiciary resources, including AO and court staff, has been monumental. The 500-page Act made many substantive changes to the Bankruptcy Code that required significant amendments to the judiciary's bankruptcy rules and forms. It also established a host of new procedures and proceedings that are adding to the work of bankruptcy judges, bankruptcy clerks, bankruptcy administrators, and staff here at the AO. Most of the Act's provisions took effect October 17, 2005, just 180 days after enactment, requiring the AO, Judicial Conference committees, and the bankruptcy courts to undertake an enormous effort to meet the tight deadline. Moreover, implementing the Act required the AO to quickly develop a new version of CM/ECF, the case management and electronic filing system, used by the courts.

To coordinate the AO's national implementation of the Act, I formed a Bankruptcy Act Implementation Working Group, which met three times a month to identify all implementation tasks and issues and to coordinate all phases of implementation of the provisions of the Act. Over 100 employees representing a minimum of 15 pro-

gram offices at the AO were involved in this tremendous effort—all of which had other principal duties.

I also approved the creation of a Bankruptcy Legislation Working Group, comprising judges, unit executives, and deputy clerks, who worked many hours, in conjunction with my staff, to address many of the new issues raised in the Reform Act. This Group created a “grid” of information, addressing various areas of the law, including means testing, credit counseling, and tax returns. This grid, which included procedural and legal guidance, statutory cites, and CM/ECF information, proved an invaluable resource for the courts as they prepared to implement the new law.

In addition, the Advisory Committee on Bankruptcy Rules, the Committee on the Administration of the Bankruptcy System, and court working groups devoted substantial hours and effort to ensure compliance with the Act. Beginning with an organizational meeting the day after enactment of the law, the Advisory Committee conducted more than 20 conference calls, held three subcommittee meetings, and two full committee meetings. Members of the Committee, the Committee’s consultants—four law professors—and AO staff spent countless hours conferring, drafting, and re-drafting the new and revised rules and forms. As a result of this work, on August 11, 2005, the Executive Committee of the Judicial Conference approved eight new rules, amendments to 35 existing rules, amendments to 33 existing forms, and nine new official forms, and authorized the distribution to the courts of interim rules with the recommendation that the courts adopt them by local order. In the meantime, the Standing Rules Committee is proceeding with permanent changes to the Federal Rules of Bankruptcy Procedure, following the normal procedures of the Rules Enabling Act.

Administrative Office staff posted these Interim Rules and official forms on the judiciary’s internet website. From October 2005 to January 2006, the new forms had nearly 362,000 visitors and the interim rules had almost 100,000 visitors. AO staff have responded to thousands of inquiries about the rules and forms, the new procedures and the amended Bankruptcy Code in general, and have participated in many meetings on the interim rules and amended forms, including dozens of national and local seminars and teleconferences, and a satellite broadcast with bankruptcy judges, clerks, and other court staff.

AO staff also completed major revisions to the case management software, the courts’ electronic docket and case management system, to incorporate the many procedural changes in bankruptcy cases and proceedings that took effect on October 17. This updated version of the software enabled the courts to comply with the means test, as well as the new noticing requirements. Currently, AO staff are working on the development of a new statistical database and analysis system to enable the courts to meet the Act’s data reporting requirements, which will become effective 18 months after the enactment. The enhanced statistical infrastructure needed to produce the new statistics will be in place by October 1, 2006.

Later in my statement, I will discuss the overall impact our electronic case management system has had on the courts, but I would like to point out here that without this system, the bankruptcy courts would have been paralyzed during the period preceding the October 17, 2005, effective date. During the 16 days preceding the Act’s effective date, over 625,000 bankruptcy cases were filed, more than would normally be expected over a 5-month period. In paper form, if an average no-asset Chapter 7 case file measures three-eighths of 1 inch thick, then those 625,000 cases would have required a shelf almost 4 miles long, to support a weight of 208 tons. With a lot of hard work and overtime, and with the incredible performance of CM/ECF, our bankruptcy clerks were able to begin processing this avalanche of cases—which are still in progress—with minimal adverse impact on the courts.

#### *Disaster Response—Hurricane Recovery Efforts*

In 2001, after the terrorist attacks of 9/11, I created a Judiciary Emergency Preparedness Office at the AO to ensure that the courts have the capability to perform essential activities and function without extended delays in the event of natural disasters, terrorist attacks, or civil emergencies. It is led and staffed by individuals who have other duties during non-emergency periods. The AO’s leadership role for the judiciary in disaster response was demonstrated and tested during the hurricanes of 2005. The staff of the AO met the challenge with commitment, dedication, expertise, and above all—success.

In the wake of Hurricane Katrina, the AO launched an immediate and intensive effort to assure that judges, court staff, and their families were safe, and to return court operations to normal as quickly as possible. Seventy court units from Houston to Miami experienced some break in telecommunications and more than 1,500 court employees were affected. Here in Washington, AO staff from 18 program offices formed the Judiciary Emergency Response Team (JERT) to coordinate information

and assistance to the affected courts in the areas of procurement, space and facilities, technology, travel, finance, human resources, legislative affairs, public affairs, and legal counsel. The JERT met for nearly 7 weeks to assess the situation and provide advice and assistance to the courts, to include site visits to the affected areas.

Staff contacted banks in Louisiana and Mississippi to ensure paychecks were received and processed, negotiated with benefit providers to expedite payments, and made available phone and electronic communication services for courts unable to access their long-distance carriers. At the direction of the Judicial Conference, legislation was pursued by the AO and quickly enacted to allow courts to convene outside their regional jurisdiction during times of emergency. Memoranda were also issued to affected judges and court unit executives addressing areas of key concern such as: relocating judges and court employees; providing guidance on temporary duty travel and related expense reimbursement; allocating funds to cover disaster expenses; delegating certain procurement authority for the immediate replacement of furniture, supplies, and equipment; and reestablishing information technology systems.

Throughout September, teams of experts from the AO were deployed to Jackson in the Southern District of Mississippi, Baton Rouge, Houma, and Lafayette in the Eastern and Western Districts of Louisiana, and to the Hurricane Rita-impacted Southern and Eastern Districts of Texas. The AO staff provided on-site assistance in human resources management, temporary duty travel, information technology, procurement, space and leasing, security, and coordination with other assisting government agencies.

Court operations are running fairly well in the districts affected by the hurricanes of 2005. Mr. Chairman, we owe a debt to you and your subcommittee, which was especially supportive of our emergency supplemental request. Our funding needs were primarily to recover costs associated with per diem, travel expenses, and replacing lost equipment. Fortunately, through quick action and the personal dedication of our court staff, we were able to avoid hundreds of thousands of dollars in equipment replacement costs. I am proud of the work of the AO's Judiciary Emergency Preparedness Office, and the judiciary employees across the country who were instrumental in the judiciary's swift recovery from these natural disasters.

#### *Continuity of Operations Plans (COOPs)*

Since its creation, a principal focus of the AO's Judiciary Emergency Preparedness Office has been to assist each court in the development of continuity of operations plans (COOPs). During the last several years, courts have been testing and validating their COOPs.

Before Katrina hit, and throughout the disaster recovery period, the affected courts used their Continuity of Operations Plans to safeguard staff, court files, and property. At both the circuit and the district court levels, the intensive efforts to develop and test COOPs paid off in the aftermath of Katrina. Court employees knew their space and equipment requirements, knew which employees were critical to the resumption of operations, and the employees themselves knew their roles. Ten days after Katrina hit, the courts affected felt that they were much further ahead than they would have been if Hurricane Katrina had struck 4 years ago.

#### *Cost-containment Initiatives*

Supporting the judiciary's overall cost-containment initiatives has been a top priority of the AO during the past year. Led by Judicial Conference Committees, and working closely with court advisors, AO staff is currently engaged in more than 50 cost-containment initiatives related to space and facilities cost control, workforce efficiency, review of compensation costs, effective uses of technology, program changes in defender services, court security, and law enforcement, and adjustments to fees. To date, initiatives that have already yielded savings include the moratoria on space projects, reductions to probation and pretrial services work requirements, reductions and elimination of Federal Protective Service contract guard services that were deemed to be redundant and/or unnecessary, and productivity adjustments to court staffing formulas.

The AO is also leading by example. During 2005, the AO continued implementation of internal cost-control measures—staffing vacancies were closely monitored and controlled. Because of funding limitations, the AO maintained a vacancy rate of nearly 10 percent also, all operations, projects, and functions were closely examined to identify cost reduction opportunities. Only limited travel and training were allowed, and orders for all other contracts, services, supplies, and equipment were restricted to those essential to basic operations and to supporting Judicial Conference committees, continuing court operations, and implementing information technology projects previously approved. While such restrictions may be acceptable

for a short period, over the longer term, they begin to adversely affect the AO's ability to support the courts. For example, having a properly trained workforce is absolutely critical to maintaining legal, financial, human resources, and technology support for the courts. It is also necessary to maintain up-to-date information technology and office equipment if we are to communicate with the courts effectively. Lastly, it is essential that AO staff travel to the courts in order to perform program reviews and audits, and to assist in the implementation of more cost-effective practices which will benefit the taxpayers in the long run. Later, I will discuss how our fiscal year 2007 budget request will meet these needs.

We also sought and secured, thanks to your subcommittee, changes to judiciary procurement authorities which will allow us to enter into multi-year contracts that are more competitive and cost-efficient. The Executive Branch already had these authorities and we appreciate your extending them to the judiciary as part of the fiscal year 2006 appropriations act.

#### INCREASING PRODUCTIVITY IN THE COURTS THROUGH INFORMATION TECHNOLOGY SYSTEMS

Another key AO responsibility is to lead and manage the development, implementation, and support of new information technology systems that will enhance the management and processing of information and the performance of court business functions. During 2005, the AO focused on continuing to strengthen the judiciary's information technology infrastructure.

##### *Electronic Case Filing*

By the end of 2005, the Federal courts' Case Management-Electronic Case Files (CM/ECF) system was operating in virtually all district and bankruptcy courts. The prototype system was launched in 1995 when a team from the AO helped the U.S. District Court in the Northern District of Ohio cope with more than 5,000 document-intensive maritime asbestos cases. That court faced up to 10,000 new pleadings a week, and a workload that quickly became unmanageable. Together, the team developed a system that allowed attorneys to file and retrieve documents and receive official notices electronically. A year later, the Bankruptcy Court in the Southern District of New York began live operations with a similar system that the AO had tailored for bankruptcy court needs. That court faced some of the early megabankruptcies, and was drowning in paper. Since those early efforts, the system has processed more than 24 million Federal court cases and served hundreds of thousands of attorneys and litigants nationwide.

The implementation of CM/ECF is the largest system development and implementation effort ever undertaken in the judiciary. Virtually all bankruptcy and district courts are now using this system, and the appellate courts are testing a version for deployment later this year. The reach of the project is almost staggering. More than 400,000 attorneys have registered and been trained in CM/ECF and in 1 month alone—August 2005—4.6 million docket entries were made using CM/ECF. In coordination with the Public Access to Court Electronic Records System (PACER), it provides lawyers, the media, and any interested party with access to important case documents from anywhere, at any time, and replaces what had previously been a burdensome, labor- and paper-intensive responsibility. Attorneys have praised the systems, noting that they are easy to use, reduce their service and copying expenses, and provide quick notice of actions.

##### *Bankruptcy Noticing Center*

The AO's Bankruptcy Noticing Center (BNC) electronically retrieves data from bankruptcy courts' case management systems and prints, addresses, batches, and mails the resulting notices. The Bankruptcy Code and Federal Rules of Bankruptcy Procedure require bankruptcy courts to send these notices to all interested parties in a bankruptcy case. The BNC not only eliminates local preparation and mailing of notices by deputy clerks, it also generates notices in a fraction of the time and at a far lower cost than local noticing. The BNC, now in its eighth year, is estimated to have saved nearly \$36 million for the judiciary since its inception.

As bankruptcy courts across the country handled long lines of bankruptcy filers, the Bankruptcy Noticing Center also was generating a flood of notices. In the weeks prior to and immediately after October 17, 2005—the law's effective date—the BNC produced up to 1.7 million individual notices per day, over triple its normal workflow. By the end of October, the BNC was still churning out over 1 million notices a day.

*Probation and Pretrial Services Automated Case Tracking System*

The Probation and Pretrial Services Automated Case Tracking System (PACTS) is a case tracking and case management tool that demonstrated its value in the days and weeks that followed the destruction on the Gulf Coast. PACTS collects case-related information, produces statistical and workload reports, and provides efficient retrieval of case information by probation and pretrial services officers. An interface between PACTS and personal digital assistants (PDAs)—as well as laptop computers—allows officers field access to information in all districts. The system is now implemented in all 94 districts and in the aftermath of the hurricanes, we are working to provide PDAs to as many officers as possible.

Without access to their offices, and in many cases, computers of any kind, probation officers were able to use their PDAs and PACTS to locate and check-up on supervised offenders who were displaced from their homes after the hurricanes hit. One particular lesson learned in our disaster recovery is the need to expedite the provision of PDAs to all probation officers nationwide. At your direction, funding in the Courts' fiscal year 2006 financial plan will allow us to do that.

## ADMINISTRATIVE OFFICE BUDGET REQUEST

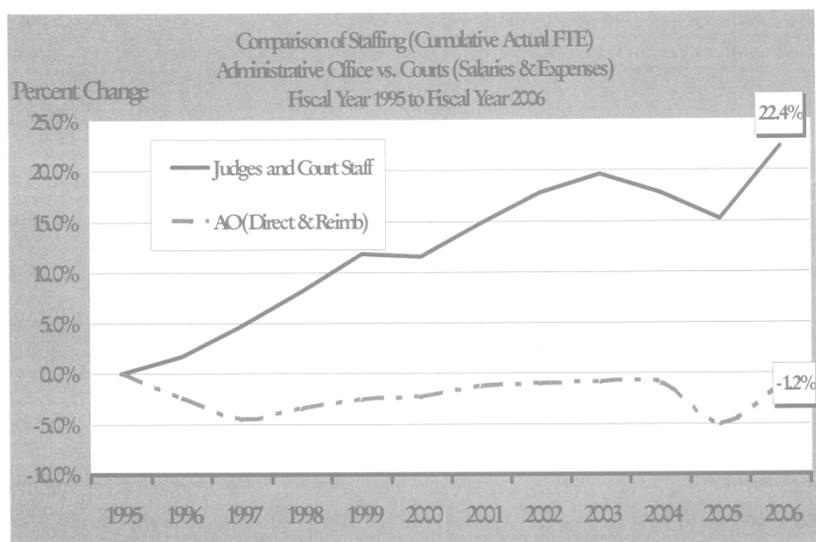
The fiscal year 2007 appropriations request for the Administrative Office of the U.S. Courts is \$75,333,000, representing an increase of \$5,774,000, or 8.3 percent, over fiscal year 2006 available appropriations. While the percentage increase in appropriations we are seeking may appear significant, overall it represents a current services budget request. The primary reason for this large increase in appropriations is to replace non-appropriated funds (fee/carryover) that were used to finance the fiscal year 2006 financial plan, but which are expected to decline in fiscal year 2007.

Specifically, the increases needed to maintain current services include \$1.1 million for standard pay and other inflationary increases and a \$4.7 million financing adjustment associated with a projected decline in fees and carryforward in fiscal year 2007 from what was available in fiscal year 2006. Should our current declining fee and carryover projections come to pass, and they are not replaced with direct appropriated funds, we will be forced to reduce current on-board staffing. This will adversely affect our ability to serve the courts. We will, of course, keep you apprised of actual fee collections and carryover estimates as the year progresses. Should collections surpass our estimates, the amount we are requesting could be reduced.

## AO RESOURCES ARE STRETCHED THIN

The AO's funding situation is extremely tight. Without enough funds to maintain a full complement of staff, the agency and its managers and staff are under enormous strain. As demonstrated by some of my earlier examples, unanticipated events over the past several years have required us to provide greater support to the courts in the areas of security, emergency preparedness and disaster recovery, financial management and planning, technology, and the development and implementation of new business practices resulting from changes in Federal law. Without adequate staff resources, the AO struggles to meet these challenges head on—we have been forced to pull people away from their daily duties to handle the crises as they arise but cannot continue to do this on a long term basis.

As illustrated in the following graph, staffing levels at the AO have actually declined since fiscal year 1995, while during the same time period, the number of judges and court staff being supported by the AO have grown by 22 percent. This widening disparity between staffing and support of the courts has been a hardship for the AO and could be crippling in fiscal year 2007 if the non-appropriated sources of funding available to the AO in fiscal year 2006 are not replaced with direct appropriations.



#### CONCLUSION

Chairman Bond, Senator Murray, members of the subcommittee, I hope that I have conveyed the wide array of responsibilities vested in the AO and the seriousness with which we undertake them. For every issue that affects the judiciary, every new piece of legislation that expands or alters Federal jurisdiction, every administration initiative that impacts Federal law enforcement, every congressional request for information, personnel at the AO must quickly master the subject area and render expert advice and support to the courts.

During these times of fiscal constraint and limited discretionary spending, the AO takes the lead in assisting the courts in developing new, innovative, and cost-effective ways to carry out the business of the judiciary. I am proud of the AO's record of service to the courts in this regard and know that the staff will continue to work tirelessly to ensure the administration of justice is able to be carried out efficiently and effectively. While I recognize that fiscal year 2007 will be another difficult year for you and your colleagues as you struggle to meet the funding needs of the agencies and programs under your purview, I urge you to consider the significant role the AO plays in supporting the courts and the mission of the judiciary. Once again, our budget request is one that will require the staff at the AO to do more with less—it does not seek new resources for additional staff or programs. I hope you will support it.

Thank you again for the opportunity to be here today. It has been a privilege for me to serve the Federal courts for the past 21 years. I have particularly enjoyed working with the Appropriations Committee.

I would be pleased to answer your questions.

#### PREPARED STATEMENT OF THE UNITED STATES SENTENCING COMMISSION

Chairman Bond, Ranking Member Murray, members of the committee, the United States Sentencing Commission thanks you for the opportunity to submit this statement in support of the Commission's appropriations request for fiscal year 2007.

In the Commission's statements in support of its fiscal year 2005 and 2006 appropriations requests, the Commission detailed for the committee the impact the Supreme Court's decisions in *Blakely v. Washington*<sup>1</sup> and *United States v. Booker*<sup>2</sup> were having not only on the Commission, but the entire criminal justice community.

<sup>1</sup> 542 U.S. 296 (2004).

<sup>2</sup> 543 U.S. 220, 125 S. Ct. 738 (2005).

The Commission continues to feel the impact of these decisions but remains firmly committed to meeting all of its statutory obligations.

The Commission continues to be the central agency for the collection, analysis, and reporting of Federal sentencing statistics and trends, and it is dedicated to continuing this critical role. The Commission also continues to develop appropriate guideline penalties for a vast array of new and existing crimes, respond to Congressional directives and inquiries regarding sentencing policy generally, provide education on sentencing issues to the judiciary and other participants in the criminal justice community, and conduct research activities that help to shape the future of sentencing policy.

The preceding fiscal years have been extraordinarily busy for the Commission, and it anticipates that fiscal year 2007 will be equally so. Full funding of its fiscal year 2007 request will ensure that the Commission can continue to meet all of its statutory obligations and, most importantly, continue to provide the criminal justice community with the most comprehensive and timely sentencing information available.

#### RESOURCES REQUESTED

The Commission is requesting \$15,740,000 for fiscal year 2007, representing a 9 percent increase over allotted funding for fiscal year 2006. The Commission recognizes that the fiscal year 2007 budget cycle is extraordinarily tight, and it does not seek this increase lightly. The Commission's request is backed by significant resource demands, including increased demand for Commission work product.

#### JUSTIFICATION FOR COMMISSION'S APPROPRIATION REQUEST

The statutory duties of the Commission include, but are not limited to: (1) promulgating sentencing guidelines to be considered, determined, and calculated in all Federal cases; (2) collecting sentencing data systematically to detect new criminal trends, determine if Federal crime policies are achieving their goals, and serve as a clearinghouse for Federal sentencing statistics; (3) conducting research on sentencing issues and serving as an information center for the collection, preparation, and dissemination of information on Federal sentencing practices; and (4) providing training to judges, prosecutors, probation officers, the defense bar, and other members of the criminal justice community in the application of the guidelines.

The *Booker* decision had a dramatic impact on the Federal sentencing system, but it did not change these core missions. In fact, the Supreme Court reaffirmed these statutory obligations by explaining that the Commission's post-*Booker* mission remained "writing Guidelines, collecting information about district court sentencing decisions, undertaking research, and revising the Guidelines accordingly."

#### *Sentencing Policy Development and Guideline Promulgation*

The Commission has maintained an active policy cycle in the wake of *Blakely* and *Booker*, despite the resource drain responding and adapting to these cases has caused. In fiscal year 2006, for example, the Commission has promulgated proposed amendments and issues for comment in 14 areas of criminal law, including: immigration, steroids, terrorism, transportation, and firearms offenses. With regard to immigration offenses which now make up almost one-quarter of the entire Federal caseload—the Commission has held one round table discussion (in Washington, DC) and two regional hearings (one in San Antonio, Texas and one in San Diego, California) at which it received expert testimony from judges, prosecutors, defense attorneys, probation officers, and others about issues related to immigration offenses. The Commission also met with key congressional staff to advise them of the Commission's findings and actions, and provided them with a detailed staff report on immigration reform and the Federal sentencing guidelines.

The Commission took a similar approach with regard to its consideration of steroids offenses. The Commission held a roundtable in Washington, DC that brought in practitioners, scientists, and other academics to discuss these offenses and their associated harms. Commission staff also met with congressional staff and worked with staff from the Government Accountability Office on this very important topic. As part of its amendment process, the Commission also produced a detailed report on steroids use and abuse.

The Commission anticipates another active amendment cycle in fiscal year 2007. In addition to its own policy priorities (which it identifies each spring and finalizes each fall), the Commission expects to address issues related to terrorism, transportation, sex offenses, and drug offenses, as well as implementation of other pending crime legislation from the 109th Congress warranting a Commission response. The Commission believes that the multi-faceted approach it took with regard to its con-

sideration of immigration and steroids offenses should continue to be the model for its future amendment cycles. As such, the Commission will have to devote more staff (and Commissioner) resources to the planning and execution of this type of outreach, including associated travel costs. This approach to the amendment process also will require greater resources to synthesize the information received into meaningful sentencing policy. Full funding of our fiscal year 2007 request will allow the Commission to meet this key statutory obligation in the most complete manner possible.

#### *Collecting, Analyzing, and Reporting Sentencing Data*

As detailed previously, recent Supreme Court activity has had a major impact on the Commission's workload, primarily in the area of data collection, analysis, and reporting. Immediately after *Blakely* and *Booker*, the Commission realized that the most critical role it could play as the criminal justice community assessed the impact of these decisions was the reporting of the most timely and accurate sentencing data available.

The Commission extracts information from five documents—in every Federal case—that the courts are required to send to the Commission under the 2003 PROTECT Act. On average, the Commission receives 70,000 cases annually, so the number of documents and pages that must be collected, analyzed, and then reported by the Commission is voluminous. Beginning in fiscal year 2005, the Commission refined its entire data collection and reporting process so that it could provide “real time” data about the effects of *Booker* on national sentencing to the criminal justice community. The Commission now reports national sentencing data on an almost monthly basis, a monumental task for any Federal agency, let alone an agency as small as the Commission. This refinement of our data collection and reporting efforts has resulted in very significant demands on the Commission's resources, particularly personnel. The Commission's fiscal year 2007 funding request is designed to increase personnel in the key areas of data collection and analysis, and research. Increased funding during fiscal year 2007 also will allow the Commission to keep up with both the time and volume demands on its data collection and analysis resources it now faces.

#### *Information Technology Issues Associated With Data Collection, Analysis, and Reporting*

As important as meeting the Commission's personnel needs in the area of data collection and analysis, full funding will allow the Commission to continue moving forward with its plans to collect, analyze, and report data in an all-electronic format. Proceeding with these efforts will allow the Commission to work with members of the criminal justice community to gather information efficiently and in a manner that promotes cooperation and efficiency, avoids unnecessary duplication of efforts, and ensures that the entire criminal justice system is operating at optimum levels.

To enhance the Commission's ability to process cases in a quick and cost-efficient manner, it has developed and implemented an electronic document submission system that enables sentencing courts to submit electronically the five required sentencing documents directly to the Commission, as opposed to having to spend court resources on copying, bundling, and mailing hard copies. Currently, 64 districts are using the electronic document submission system. The Commission anticipates that all 94 districts will be using the system by the end of fiscal year 2007.

The Commission also is moving to a fully automated document collection and data analysis system so that by the end of fiscal year 2007, all document receipt and data extraction and analysis will be done electronically. The Commission has spent the last several months building the foundation of this process and expects to have a completed system running by the end of fiscal year 2007. Becoming fully automated is critical to the success of the Commission's statutory missions and offers significant benefits to the entire criminal justice community. First, our electronic document submission system already has reduced personnel and resource burdens on the courts and probation offices, and updating this system so that all aspects are automated will allow for even more efficiencies. Second, by becoming fully automated, the Commission anticipates being able to provide even more detailed and accurate data on national sentencing trends to the criminal justice community at an even more expedited pace. Third, a fully automated system will allow the Commission to work closely with members of the criminal justice community in creating an unparalleled system of document receipt and data reporting that avoids unwarranted duplication of efforts and promotes best practices throughout the system. Finally, by increasing internal efficiencies, the Commission will be able to dedicate more resources to research-oriented tasks that, in the preceding fiscal years, have been curtailed.

Full funding of the Commission's fiscal year 2007 request will ensure that the Commission can meet its information technology needs and continue to work with members of the criminal justice community in a technologically efficient, non-duplicative manner.

*Increased Demands for Commission Work Product from Congress*

In addition to the new demands for national data placed on the Commission by the *Booker* decision, the Commission also is experiencing increased demands for work product from Congress. In addition to providing its monthly reports on national sentencing practices, the Commission is required to assist Congress in assessing the impact proposed crime legislation will have on the Federal prison population. These assessments often are complex, time-sensitive, and require highly specialized Commission resources. In addition, in fiscal year 2005 and 2006, the Commission responded to a number of more general requests from Congress on issues such as gangs, drugs, immigration, and sex offenses. These requests are not expected to diminish during fiscal year 2007, and the Commission must ensure that it has adequate resources to address the needs of Congress.

*Conducting Research*

Research is a critical part of the Commission's overall mission. As such, the Commission has undertaken in fiscal year 2006 to prepare a number of internal and external reports that provide a detailed examination of key policy areas such as immigration, drugs, and firearms offenses. These reports are crucial to the Commission's overall objective of promulgating reasoned and well-informed guideline and policy statement amendments. Also during fiscal year 2006, the Commission released a detailed report on the *Booker* decision and its impact on national sentencing.

The Commission anticipates undertaking a number of new research projects in fiscal year 2007. In addition to reports associated with its policy work, the Commission expects to continue its comprehensive review of recidivism. The Commission is in the midst of a multi-part series on recidivism in the Federal system that is the most comprehensive study of its kind to be undertaken. The Commission also anticipates undertaking other coding projects and research initiatives of interest to the criminal justice community. Full funding of its fiscal year 2007 request will allow the Commission to devote the resources necessary to accomplish its research mission.

*Training and Outreach*

The Commission continues its commitment to providing specialized guideline training and technical assistance to Federal judges, prosecutors, defense attorneys, probation officers, staff attorneys, and law clerks. The Commission provides intensive training sessions throughout the year, and has increased its efforts since the *Booker* decision. In calendar year 2005, the Commission trained over 9,700 people. Commissioners and staff traveled to, and provided training in, 59 districts and all 12 circuits. Commissioners and staff also participated in numerous academic programs and symposia across the country as part of the ongoing debate about the future of Federal sentencing. Commission representatives also attended a number of circuit court conferences, meetings of the Criminal Law Committee of the Judicial Conference of the United States, and the judiciary's National Sentencing Institute. The Commission also held its own annual national training seminar with over 500 representatives of the criminal justice community in attendance.

The Commission expects its training and outreach efforts to continue at this accelerated pace in fiscal year 2007. As a result, the Commission will continue to incur increased personnel and travel demands, including more demands on Commissioners to travel. Full funding of the Commission's request will ensure that these increased demands can be met.

SUMMARY

The Commission is uniquely positioned to assist all three branches of government in ensuring the continued security of the public while providing fair and just sentences. An independent agency housed in the Judicial branch, the Commission is an expert bipartisan body of Federal judges, individuals with varied experience in the Federal criminal justice system, and ex-officio representatives of the Executive Branch. In short, the Commission is at the crossroads of where the three branches of government intersect to determine Federal sentencing policy.

The Commission has worked hard and performed well with the resources available, and it appreciates the funding efforts of this committee. Meeting the Commission's fiscal year 2007 funding request will ensure that the Commission continues to: develop aggressive and timely policy agendas; collect, analyze, and report accurate and comprehensive sentencing data; train members of the criminal justice com-

munity; and engage in meaningful research projects. The Commission urges Congress to support fully our fiscal year 2007 appropriation request of \$15,740,000 so that it can continue its role as a leader in Federal sentencing policy.

PREPARED STATEMENT OF HON. BARBARA J. ROTHSTEIN, DIRECTOR, FEDERAL  
JUDICIAL CENTER

I am Barbara Rothstein. I have been the Center's director since 2003, and a district judge since 1980. I am pleased to submit the Center's 2007 budget request on behalf of the Center's Board, which the Chief Justice chairs, and which approved this request.

Our 2007 request is for \$23,787,000, a \$1,660,000, or 7.5 percent increase, over 2006. The increase includes \$868,000 for standard adjustments to base, and \$792,000 for 9 full-time equivalent positions (12 positions for 9 months).

Before providing more detail on this request, let me provide you with a little background on the Center and its activities. I hope to convey to you the important contribution that the Center makes to the effective and efficient functioning of the Federal courts; the Center's careful, cost-effective use of the money Congress has provided us; and my concern about the effects of having received less than full adjustments to base for 9 of the last 10 years.

THE CENTER'S CONTRIBUTION TO THE COURTS

Speaking not only as the Center's director but also as a judge, I can attest to the importance of the Center to the courts. The Center's mission is to provide objective, well-grounded empirical research and balanced, effective educational programs for the courts.

The courts, and particularly the Judicial Conference of the United States, as well as Congress and the public, are regular consumers of the Center's research projects. They rely on the Center for thorough, unbiased, well-documented research. Examples include: examining the impact of the Class Action Fairness Act of 2005 on the resources of the Federal courts; providing information to assist judges in handling capital cases; surveying the use of visiting judges that resulted in a guide on how to make effective use of this cost-efficient judicial resource. Not only do projects such as these help judges decide cases efficiently and fairly, they also help the judiciary and Congress make better informed decisions about policies and procedures affecting the courts.

Center education programs are vital to judges and court staff. For new judges, orientation programs enable them to assume their new responsibilities quickly. Continuing education programs bring judges up-to-date on topics ranging from case-management techniques to new statutes and case law. (For example, last year the Center produced for judges and court staff 11 different programs on the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, using in-person workshops, satellite and video-streaming television programs, and audio conferences. We also posted dozens of summaries, reports, articles, and analyses on the Act on our intranet site.)

Court staff, who play a critical role in supporting judges and ensuring the efficient operation of the courts, rely on the Center for educational programs and materials that help them do their jobs better, for example, integrating new technologies and executing cost-containment strategies. The Center's Professional Education Institute, which provides basic and advanced programs on leadership and management for managers and supervisors at all levels in the courts, is a key component of court staff training.

The Center uses a wide range of tools to deliver education. One reality of the information age is that people can (and expect to) receive information in many different ways. Twenty years ago the Center relied almost exclusively on in-person programs, audiotapes, and hard-copy publications to reach judges and court staff. Around 10 years ago we were expanding into satellite television broadcasting, teleconferencing, and use of the Internet and the courts' intranet. In just the last 3 years we have moved into web-conferencing and streaming video. And all the while we kept—and enhanced—all the earlier modes of delivery. All these delivery means are needed to meet the diverse needs of a diverse population of judges, managers, and staff.

The importance of the Center's educational programs is reflected in their use by the courts. All Center training is voluntary; large numbers of judges and court staff choose to participate in Center programs and use its services because they know the Center's products will help them do their jobs better. In 2005, nearly 11,500 employees of the courts (including over 2,000 judges) attended Center programs in person—

over 60 percent of these did so in their own districts. Another 4,000 participated in Center video, audio, and web conferences. Thousands more watched Center television programs, downloaded materials from the Center's intranet site, and used Center publications.

#### THE CENTER HAS MANAGED ITS APPROPRIATION RESPONSIBLY

Understanding the need for fiscal responsibility, the Center has made careful use of its appropriation each year. As I noted earlier, we use a wide variety of cost-effective delivery tools to provide education and information to judges and staff efficiently. The various delivery tools we use have enabled us to reach a larger and larger audience for far less money than we could with only one or two of these media—but they also require a highly professional staff with diverse skills in order to take full advantage of these media and to identify and implement newer technologies as they emerge.

In-person programs remain a vital part of our education efforts. Here we economize in several ways. Most staff training (and some judge education) is done by bringing faculty to the courts for local training. Most programs to which participants must travel are conducted in hotels in large cities where we can negotiate reasonable rates and take advantage of competitive airfares. We also conduct smaller seminars in collaboration with several outstanding law schools, enabling us to avoid faculty and overhead costs.

We also stretch our appropriation by working closely with our sister agencies, the Administrative Office of the U.S. Courts and the U.S. Sentencing Commission. We regularly consult with them to avoid duplicative efforts, and we often provide them an opportunity to convey their information to the courts at Center-sponsored programs.

Internally, the Center held to a hard hiring freeze for over 3 years: 22 full-time employees retired or left the Center in 2003–2005 without a single replacement, reducing our staffing level from 147 to 125. We can no longer sustain this attrition, and in late 2005 we hired two full-time employees to fill key vacancies. We will continue to fill only selected vacancies.

Since 2002, the Center has closely controlled pay raises and bonuses for staff. While we have followed the Executive Branch and the rest of the courts in granting the annual ECI and locality pay increases, we have limited additional pay raises each year to 1 percent of total Center salaries, and bonuses to one-quarter of 1 percent of total Center salaries, each year. While this has helped to control costs, it causes us concern over our competitiveness with public and private employers in hiring and retention.

#### BUDGET SHORTFALLS WILL ADVERSELY AFFECT OUR SERVICE FOR THE COURTS

The Center is grateful for the efforts of Congress to provide \$903,000 in adjustments to its 2006 base. After the application of the 1 percent rescission, however, the Center was again, as in prior years, forced to absorb \$223,500 (25 percent) of those important funding dollars. As I mentioned earlier, the Center has suffered shortfalls in its adjustments to base in all but 1 of the last 10 years. This has effectively reduced our spending power by 17 percent. As described above, in the past 3 years alone, we have had to compensate for shortfalls by not filling 22 positions that became vacant during that time, thus reducing our staffing level from 147 to 125. Even as the Center's staff has declined by 15 percent during that time, the courts' needs for its services have continued to grow.

The continued shortfall in our appropriation will erode our ability to provide the quality education and research that the courts need. The tools we have used the last several years—a hiring freeze, salary limits, and other reductions in spending—cannot go on indefinitely without degrading the quality and quantity of work we can perform.

#### THE CENTER'S FISCAL YEAR 2007 REQUEST

Our request for 2007 is modest—standard adjustments to our 2006 base and a small amount to enable us to fill 12 of the most necessary of the 22 vacancies (6 devoted to our education and distance learning efforts; 3 to our ever-increasing number of research projects; and 3 to our automation and technology function). These few positions will return the Center to its fiscal year 2005 staffing level of 134. That is still far below the 158 staff employed by the Center in the early 1990's, but with these resources we can continue to help the courts prepare for and meet the many substantive, procedural, and operational challenges they face.

Thank you for your careful consideration of our request. I would be pleased to respond to any questions you may have.

PREPARED STATEMENT OF PAUL R. MICHEL, CHIEF JUDGE, UNITED STATES COURT OF  
APPEALS FOR THE FEDERAL CIRCUIT

Mr. Chairman, thank you for allowing me to submit my statement supporting the United States Court of Appeals for the Federal Circuit's fiscal year 2007 budget request.

Our request totals \$26,300,000, an increase of \$2,517,000 over the fiscal year 2006 approved appropriation of \$23,783,000, after a 1 percent across-the-board rescission. Although this represents an overall increase of 10.6 percent, 63 percent of that increase, \$1,591,000, is for necessary adjustments to the base appropriation. The remaining \$926,000 (37 percent of the requested increase) is for funding for information technology security upgrades, development and maintenance of a disaster recovery plan for electronic information, and courtroom technology implementation.

Along with the mandatory adjustments, we have included in our base request \$496,000 for off-site leased space for senior judges and their staffs. The court has one judge who took senior status in February 2006 and four other judges who currently are eligible for senior status. The court has no additional space in the courthouse for chambers for these judges when they take senior status as they are expected to do. Keeping these judges working is essential in order to keep up with the caseload handled by the judges of this court which nearly has doubled since its creation in 1982. In the last month the Administrative Office of the United States Courts has directed GSA to begin to negotiate a lease for off-site space for the senior judges.

The \$926,000 requested for program increases includes the following three items previously requested:

- (1) Information technology upgrades account for \$87,000 of that amount to provide the computer security software and hardware required for the detection and prevention of electronic computer attacks and intrusions into the court's network computers and data. This equipment is necessary to provide a secure computer environment which we now lack. For example, court data stolen from unsecured equipment could greatly affect stock market prices of corporate securities if obtained before the court's decisions are made public.
- (2) Disaster recovery of information accounts for \$255,000 of the requested increase to cover the cost of establishing a telecommunications infrastructure and client computer equipment to connect to appropriate services to overcome destruction of the court's electronic communications systems. This would include remote dial-in access; file backup and restoration; and electronic database support, among other emergency access services that would be needed in the event of a disaster at the courthouse.
- (3) The remaining \$584,000 requested covers the large, nonrecurring start-up cost of providing for modern video conferencing technology in two of our three courtrooms. As you know, the judiciary has adopted information technology initiatives for reducing the reliance on paper, achieving economy in its business processes, and providing better service to citizens at locations around the country. This is especially critical to our court because of its Nation-wide jurisdiction. The court requests this funding to implement this program. The amount requested is based on recommendations from the Administrative Office of the United States Courts to provide two-way video and audio transmission between the court and remote sites. We have begun this process in one of our courtrooms by reprogramming money from last year's appropriation as the subcommittee suggested. Further such reprogramming would, however, compromise core court functions. This funding will enable us to proceed with the upgrades in the remaining two courtrooms.

I would be pleased, Mr. Chairman, to answer any questions the committee may have or to meet with the committee members or staff about our budget request.

Thank you.

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PREPARED STATEMENT OF JANE A. RESTANI, CHIEF JUDGE, UNITED STATES COURT  
OF INTERNATIONAL TRADE

Mr. Chairman, members of the committee, I would like to once again thank you for providing me the opportunity to submit this statement on behalf of the United States Court of International Trade, which is established under Article III of the Constitution with exclusive nationwide jurisdiction over civil actions pertaining to matters arising out of the administration and enforcement of the customs and international trade laws of the United States.

The Court's budget request for fiscal year 2007 is \$16,182,000, which is \$840,000 or 5.5 percent over the fiscal year 2006 available appropriation of \$15,342,000. This

request will enable the Court to maintain current services and provide for standard pay and other inflationary adjustments to base. The request also includes funds to pay for increases in costs paid to GSA for rent and to the Federal Protective Service for building basic and building-specific security surcharges. These surcharges provide for the Court's pro-rata share of installing, operating and maintaining the systems for the critical and necessary security of the Federal Complex in lower Manhattan. The Court continues, as it has done for the past 12 years, to budget conservatively and request funds that will provide for mandatory increases in pay, benefits and other inflationary factors, as well as to fund the essential on-going operations and initiatives of the Court.

Within the funds requested, the Court continues to meet the objectives set forth in its Long-Range Plan through the use of its annual appropriation and the Judiciary Information Technology Fund (JITF). These objectives promote access to the Court through the effective and efficient delivery of services and information to litigants, bar, public, judges and staff. As a national court, this access is critical in realizing the Court's mission to resolve disputes by: (1) providing cost-effective, courteous and timely service by those affected by the judicial process; (2) providing independent, consistent, fair and impartial interpretation and application of the customs and international trade laws; and (3) fostering improvements in customs and international trade law and practice and improvements in the administration of justice.

Technology is a critical component of the Court's commitment to service delivery to its varied constituencies. As such, in fiscal year 2005, the Court: (1) purchased new servers for and upgraded the database used in connection with the Federal Judiciary's Case Management/Electronic Case Files (CM/ECF) System; (2) cyclically upgraded, replaced and supported desktop computers and vital existing software applications; (3) purchased new software applications that enhance computer security and ensure the efficient deployment of software updates to all computer systems at the Court; and (4) purchased a fire wall server and software to ensure the security of the Court's network and help build a secure identity management system. Additionally, in fiscal year 2005, the Court continued its cyclical maintenance program by refurbishing its trial courtrooms, robing rooms and jury rooms, and replacing aging furniture.

For fiscal year 2006, the Court plans to expend funds to: (1) implement the new operating system for the CM/ECF System and migrate the attendant database; (2) continue the support of its upgraded data network and voice connections and Virtual Private Network (VPN) System; (3) replace the servers for the Court's library on-line cataloging and acquisition system and for the Court's Internet web site; (4) replace desktop computer systems, laptops and printers in accordance with the Judiciary's extended cyclical replacement program; (5) upgrade and support existing software applications; (6) purchase new software applications to ensure the continued operational efficiency of the Court; (7) support Court equipment by the purchase of yearly maintenance agreements; and (8) upgrade the Court's digital recording equipment. Additionally, the Court will expand its efforts to provide the developmental and educational programs for staff in the areas of job-related skills and technology. In the same vein, the Court will further its work with bar associations and law schools to provide continuing legal education programming to raise the quality of practice in the area of customs and international trade law.

In carrying out its mission in fiscal year 2007, the Court remains committed to enhancing the administration of justice to the litigants, bar, Court family and public. In so doing, the Court will continue its information technology initiatives. Among the technology projects to be supported by the Court's fiscal year 2007 budget request and the carry-forward balance from its JITF are: (1) continuing the deployment of its CM/ECF System and training the bar in its use; (2) supporting and maintaining all technical equipment and systems; (3) supporting new software applications that enable judges and staff to view instructional videos at individual workstations and integrates the Federal Judiciary's Training Network with the Court's local area network; and (4) upgrading the Court's wiring closets with switches and fiber modules.

Additionally, the Court intends to continue its cyclical replacement and maintenance program for equipment, furniture and building maintenance. This program not only ensures the integrity of equipment and furnishings, but maximizes the use and functionality of the internal space of the Courthouse. Moreover, the fiscal year 2007 request includes funds for the support and maintenance of the upgraded security systems implemented by the Court in fiscal years 1999 through 2005, and the Court's COOP. Lastly, the Court again will participate in efforts to address the educational needs of the bar and the Court staff.

As I stated last year, maintaining security systems and ensuring the protection of those who work in and visit the Courthouse continue to be top priorities. In July

2005, GSA received Senate approval for fiscal year 2006 funding for the construction of a security pavilion for entry into the Courthouse. The Court is working closely with GSA in the design and construction of this entrance pavilion. To that end, the Court, in fiscal year 2005, entered into a Reimbursable Work Authorization with GSA for a non-prospectus project for replacing the present entrance doors to the Courthouse with blast resistant glass and for installing video-surveillance cameras in strategic locations in the new pavilion that will further secure the Courthouse and its environs. GSA expects construction of the new pavilion to begin in the fourth quarter of fiscal year 2006. The Court will continue to work in full partnership with GSA to ensure the success of the security pavilion project.

I would like to emphasize that the Court remains committed, as it has in the past, to an approach of conservatively managing its financial resources through sound fiscal, procurement and personnel practices. As a matter of internal operating principles, the Court routinely has engaged in cost-containment strategies in keeping with the overall administrative policies and practices of the Judicial Conference, particularly regarding rent, security costs, equipment costs, technology, contractual obligations and personnel. I can assure you that this management approach with respect to the Court's financial affairs will continue into fiscal year 2007 and beyond.

The Court's "General Statement and Information" and "Justification of Changes," which provide more detailed descriptions of each line item adjustment, were submitted previously. If the committee requires any additional information, we will be pleased to submit it.

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PREPARED STATEMENT OF MARILYN L. GLYNN, ACTING DIRECTOR, U.S. OFFICE OF  
GOVERNMENT ETHICS

Thank you for the opportunity to present this statement in support of the request of the U.S. Office of Government Ethics (OGE) for fiscal year 2007 resources of \$11,489,000 and 80 FTEs. This request, as reflected in the President's fiscal year 2007 budget, represents a 3 percent increase over the amount appropriated for fiscal year 2006.

The Office of Government Ethics is responsible for overseeing the ethics program of the executive branch, a program designed to help prevent conflicts of interest and promote integrity in government. OGE sets the requirements of the program, develops executive branch-wide policies, serves as a resource/consultant to agency ethics officials and monitors agency programs to help ensure that the agencies are carrying out their responsibilities effectively. While each executive branch agency is responsible for carrying out many of the day-to-day functions of the program, OGE's specific role includes: reviewing and certifying the financial disclosure forms filed by Presidential nominees requiring Senate confirmation; reviewing and certifying annual financial disclosure reports filed by senior executive branch employees; serving as the primary authority on executive branch conduct and financial disclosure issues; conducting evaluations of agency ethics programs; training agency ethics officials and developing employee training materials used by agencies in their ethics training; offering direct support to agencies through a desk officer program, under which OGE staff serve as ethics liaison to executive branch departments and agencies; and providing interpretative guidance on the criminal conflict of interest laws.

The ethics program that OGE directs is part of the basic infrastructure that supports good governance within the executive branch of the Federal Government. The resources expended by OGE to help promote integrity and prevent conflicts of interest are small compared to the resources expended by investigators and prosecutors who enforce ethics and conflict of interest rules and laws. Moreover, our preventive efforts help guard against the loss of government resources through inadvertent or deliberate misuse. We believe the resources we have requested are those necessary to support a strong ethics program.

FISCAL YEAR 2007

In order to enhance our ethics program and continue to foster public confidence in government programs and operations, OGE established three strategic goals as outlined in our new strategic plan for fiscal years 2007–2011. OGE's three strategic goals are: (1) strengthening the ethical culture, and promoting an ethical workplace within the executive branch, (2) preventing conflicts of interest, and (3) promoting good governance. What follows is a summary of the major programs OGE is planning to implement to achieve these goals during fiscal year 2007.

OGE expects that there will continue to be a significant number of Presidential nominees to positions requiring Senate confirmation during the third year of the

current administration. OGE performs a key role in clearing these nominees, a process which is designed to help them understand the application of the conflict of interest requirements to their government service and to secure their agreement to take the necessary steps to resolve potential conflicts of interest. Our goal is to review nominee financial disclosure statements in a timely manner to avoid any unnecessary delay in the nomination and confirmation process. Once an individual is appointed, OGE follows through to see that any agreements made by an appointee to address potential conflicts of interest are carried out. In addition, over this period, OGE will continue to conduct a second level review of over 1,000 annual and termination financial disclosure statements filed by Presidential appointees each year.

Through the use of improved technology OGE will enhance the financial disclosure reporting and review process by developing a confidential financial disclosure form that can be filed electronically. In addition, OGE will modify the confidential financial disclosure form in order to make the reporting process more streamlined and user friendly. OGE will also partner with the Department of the Army to develop an electronic filing system for public financial disclosure filers. During fiscal year 2007, this electronic filing system will be available to those agencies within the Department of Defense that meet the web-based security requirements set by the Department of the Army. OGE will continue to partner with the Department of the Army in an attempt to make the electronic filing of public financial disclosure forms more widely available.

OGE prepared and submitted two reports to Congress in fiscal years 2005 and 2006 pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458). The first report, which was delivered in March 2005, evaluated the executive branch financial disclosure requirements. The second report, which OGE compiled in consultation with the Department of Justice, and delivered in January 2006, examined the criminal conflict of interest laws as they pertain to the executive branch. OGE will work with the Office of Management and Budget and the Congress on any Congressional efforts to consider and implement any changes identified by these two reports. OGE will take the necessary steps to revise its financial disclosure forms and regulations to implement any changes in existing law. In addition to implementing any changes in legislative mandates, OGE also plans to improve the effectiveness of ethics policy by publishing a proposed regulation revising the Standards of Conduct for Executive Branch Employees.

OGE expects to purchase some new computer hardware and software. This includes security software to protect our network and keep it FISMA compliant, software necessary to keep our network up to date, and hardware to replace computers that fail. In addition, OGE will implement a comprehensive update to its web site making the information contained on the site more accessible to a variety of users including, designated agency ethics officials, Congress, the media, and the public.

OGE will continue to provide international technical assistance in the areas of anti-corruption and good governance programs in support of international agreements and regional initiatives of the United States in general and the Departments of State and Justice in particular. For example, during the fiscal year, OGE will, as a principal member of the U.S. delegation, represent the United States before the Group of States Against Corruption (GRECO) in the plenary discussion and adoption of a report on GRECO's evaluation of the U.S. adherence to certain of the adopted Guiding Principles in the Fight Against Corruption. OGE will also assist the State Department in the mutual evaluation mechanism that is a follow-up to the Inter-American Convention Against Corruption and with regional good governance/anti-corruption initiatives such as Good Governance for Development for the Middle East and North Africa states (MENA) and the Asian Pacific Economic Cooperation (APEC). Primarily at the request of the State Department, OGE continues to provide briefings to about 40 foreign delegations visiting Washington each year.

As part of our ongoing education and training efforts, OGE will prepare and conduct ethics training for agency ethics officials. To reach ethics officials outside the Washington area, OGE plans to offer three regional symposia. In addition, OGE will hold the fifteenth National Government Ethics Conference for approximately 700 ethics practitioners. These events provide an introduction to the ethics rules and laws for new agency officials and advanced updates and refresher sessions for those who are more experienced. Attendees will include ethics practitioners, trainers, counselors, financial disclosure reviewers, and enforcement officials. In addition, we also plan to develop a 2-day orientation program for new ethics officials and offer the program at OGE headquarters as well as on a regional basis as needed.

OGE desk officers will maintain their day-to-day communications with agencies assigned to them. This continuing liaison between OGE and agency ethics staffs enables OGE to respond to the needs of the agencies in a timely and accurate manner,

as well as provide OGE with an early warning that an agency ethics program is deficient or has problems that require specialized attention. OGE plans to conduct employee surveys regarding individual agency ethics programs, and the information gathered through these surveys provides OGE with a better basis on which to judge the effectiveness of the individual agency programs under review and of the overall ethics program. We also plan to conduct ethics program evaluations in 35 Federal agencies, regional offices and military commands. In addition, OGE will develop a program of self-assessment for agencies to use in years that OGE is not scheduled to perform a program review.

OGE also plans to increase the effectiveness of our support to agencies' ethics programs by raising awareness of ethical issues arising from the presence of contractors in the Federal work place. For example, during fiscal year 2006, OGE participated in and contributed to a National Academy of Public Administration working group on the issues presented by the multi-sector workforce. We will continue to expand our outreach activities to Federal agencies and contractors by providing educational materials and presentations on ethics issues that arise when contractors work side-by-side with Federal employees. Finally, we will also expand our educational and outreach activities to Federal agency procurement officials in order to increase their awareness of various ethical issues that arise from interacting with contractors.

The programs and activities we have described are just some of those envisioned for fiscal year 2007. We are pleased with the past success of the executive branch ethics program and look forward to the challenge of maintaining and enhancing the quality of the program.

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PREPARED STATEMENT OF JOHN E. POTTER, POSTMASTER GENERAL/CEO, UNITED STATES POSTAL SERVICE

Good morning, Mr. Chairman, and members of the subcommittee. I am pleased to be with you today as we discuss the United States Postal Service, its achievements, its challenges, its opportunities, and our appropriations request for fiscal year 2007.

I know this subcommittee shares our mutual goal of protecting affordable, universal service for every American household and business for many, many years to come.

Since it was created by reform legislation in 1970, the Postal Service has demonstrated a remarkable ability to transform itself from a traditional government agency to a customer-focused, business-driven organization—one that has realized outstanding results. For the greater part of three decades, this success was supported by a business model that made it possible to balance the costs of an ever-expanding delivery network with revenue from continuing growth in mail volume, particularly high-contribution First-Class Mail.

Over the last decade, it has become clear that this model would be unsustainable for the long term. The explosive expansion of electronic communications and, to a lesser extent, intense competition for package and document delivery, has had profound effects on mail volume growth, upsetting the delicate balance that is at the heart of our 36-year-old business model.

Against this background, the Postal Service took decisive steps to stabilize finances, increase efficiency, improve performance, and pursue growth by making mail a better value than ever. Our 2002 Transformation Plan defined specific strategies to help us achieve these goals.

The results speak for themselves. We ended 2001 with outstanding debt of \$11.3 billion. By 2006, that debt was completely retired, reducing interest costs on borrowings from more than \$300 million per year to only \$2 million in 2005.

We committed to removing \$5 billion in costs from our system by the end of 2006. We achieved that goal 1 year ahead of time. Cumulatively, our Transformation Plan savings have reached \$17 billion.

By the end of 2005, we achieved a record sixth consecutive year of productivity gains, helping to offset a portion of inflationary cost growth over the same period. Since 2000, our annual productivity gains have, on average, been almost six times higher than those achieved annually from 1972 through 1999. This progress was not a given. It is the result of sound governance, focused management, engaged employees and the effective use of technology, both in operations and administrative activities.

Total revenue of \$70 billion in 2005 was up from \$66.7 billion in 2002. This is a positive reflection of our efforts to drive growth by adding value to the mail by adding products, services and features that meet the needs of our customers, and

by expanding access, making it easier than ever for all mailers to do business with the Postal Service. Significantly, our customers experienced a full 3½ years of rate stability during this period.

Our focus on the bottom line was matched by a focus on service. We closed fiscal year 2005 with 11 straight quarters of 95 percent or better on-time delivery of First-Class Mail with an overnight service commitment. Similarly, customer satisfaction continued to maintain record levels.

Through the dedication and performance of the 700,000 men and women of the Postal Service, we have sustained our historic mission to bind the Nation together and we remain a vital part of American commerce and American life.

And yet, the challenges we face have never been greater.

While we had record volume of 212 billion pieces in 2005, this was marked by a challenging trend in the mix of mail entering our system. For the first time in our history, Standard Mail, primarily catalogs and advertising mail, has exceeded First-Class Mail volume; it is now our largest volume category.

At the same time, First-Class Mail growth was essentially flat, with a 4 percent decline in single piece First-Class Mail offset by growth of just below 4 percent in workshare First-Class Mail.

Single piece First-Class Mail is most vulnerable to electronic diversion, and we expect its continued decline as businesses, organizations, governments, and consumers increasingly shift transactions from the mail to the Internet. Since 1998, the volume of single piece First-Class letters has declined by 20 percent—11 billion pieces—representing a revenue loss of \$3 billion. From a revenue perspective, it takes two to three pieces of Standard Mail to make the same contribution to system overhead as just one piece of First-Class Mail.

While 2005's total mail volume set a new record of 212 billion pieces, the shifting mix of the mail has affected revenues substantially. At 2005 postage rates, the lower volume and the specific mail mix of 2000 would have generated \$3.3 billion more in revenue.

We are also challenged by continued growth in our delivery network, which must expand to serve about 2 million additional homes and businesses every year. The costs of this expansion, coupled with the financial effects of the changes in the mail mix, have resulted in a continued decline in revenue per carrier delivery.

And we are faced with steady increases in costs over which we have little or no control. Every 1 cent increase in the cost of gasoline adds \$8 million to our costs. Last year alone, our transportation costs increased by \$468 million, due primarily to higher fuel costs.

Despite significant reductions to our workforce, the cost of health benefits for current employees has doubled since 2001, reaching \$5.1 billion in 2005. Over the same period, retiree health benefits have grown from \$858 million to \$1.5 billion. Overall, retirement and health benefits for active and retired Postal Service employees, most of which are statutorily mandated, accounted for \$14 billion last year, fully 20 percent of all Postal Service costs, and an increase of almost \$1 billion from 2004.

Looking ahead, we are concerned by a sluggish economy. For the fourth quarter of 2005, the Gross Domestic Product increased by only 1 percent. This was reflected in the Postal Service's first quarter results, with First-Class Mail volume down by 3.8 percent, compared to the same period last year, producing a \$415 million revenue decline. This was only partially offset by growth of 0.5 percent in Standard Mail volume, representing a revenue increase of just \$30 million. Clearly, this is a trend that is unsustainable in the long term.

It is our experience that mail use is an indicator of general economic activity. Quarter 1 results suggest that customers are changing their mailing behavior in response to the economy. We are monitoring this situation carefully and we will continue to do everything we can to increase efficiency to help offset any continued volume decline.

Our focused transformation efforts since 2002, coupled with the limited-term financial relief provided by the Postal Civil Service Retirement System Funding Reform Act of 2003, Public Law 108–18, have made it possible for us to absorb rising costs without the need to raise rates to meet increased operational costs since June, 2002.

The recent 5.4 percent across-the-board postage increase was implemented solely to meet the \$3.1 billion escrow payment required this year by Public Law 108–18. None of the revenue from the new rates is available to offset other costs as they continue to rise over the coming months and years. As a result, we are projecting a loss of up to \$2 billion this year.

Reluctantly, we have concluded that it will be necessary to ask the Governors of the Postal Service to file a rate case in the near future. While we have not determined when the filing will occur, we are working closely with the Governors as we

prepare for this action. This would represent the first adjustment in the price of postage since mid-2002 to address operational cost increases.

As I mentioned, the Postal Service and its customers have benefited from our strategy of pursuing increased productivity. In just the last year, this has resulted in the equivalent of more than \$700 million in cost savings. Looking forward, we must do everything possible to support continued productivity growth.

Building on the momentum of our original Transformation Plan, our Strategic Transformation Plan 2006–2010, is keeping us focused on our core business and the strategies we know produce results. We will promote growth by continuing to create more value for every customer. We will continue to reduce costs by improving efficiency in all of our operational and business processes. We will bring service performance to even higher levels. And we will achieve these results with an energized, customer-focused workforce.

Our transformation goals, and the methods we will use to achieve them, were developed to help us push the limits of business effectiveness and operational efficiency. They represent a sound approach to a dynamic business environment. They are effective. We believe they have the potential to be even more effective when applied to a business model that addresses the challenges of a new century.

I am also here today with more immediate needs—our appropriations request for fiscal year 2007. This request covers funding for revenue forgone and free and reduced rate mail. Our request differs from the amounts recommended by the administration's fiscal year 2007 budget in several ways.

Our first request is for \$29 million for revenue forgone reimbursements. The administration's budget does not include funding for the Federal Government's own debt to the Postal Service for services required by statute. In accordance with the Revenue Forgone Reform Act of 1993, the Postal Service is to receive \$29 million annually through 2035. This payment covers the cost of services we were required to provide in fiscal years 1991 through 1993, but for which there were insufficient amounts appropriated. It also covers payment for services provided from fiscal year 1994 through 1998.

For two decades after the creation of the Postal Service, Congress continued to fund reduced postage rates for certain categories of mail and mailers through the so-called "revenue forgone" appropriations. Congress required that the Postal Service provide reduced postage rates as well as free mail for purposes which Congress considers to be in the public interest. These favored types of mail included reduced-rate bulk standard mail advertising sent by qualified non-profit organizations, and in-county mailings of local newspapers. These appropriations were devoted entirely to the benefit of these historically-favored mailers, and did not financially benefit the Postal Service.

Under the provisions of the Revenue Forgone Reform Act of 1993, approximately half of the former taxpayer subsidy to non-profit mailers was transferred to regular-rate postal customers, and that portion of the "revenue forgone" subsidy was ended. In this same legislation, Congress authorized a series of 42 annual appropriations of \$29 million, without interest, as reimbursement for \$1.2 billion in costs incurred by the Postal Service (\$515 million in past under-funding of revenue forgone plus the cost of phasing reduced postage rates to higher levels over 5 years, under the Revenue Forgone Reform Act). The outstanding balance on this debt is approximately \$840 million. This year's appropriation would be the fourteenth in the series of 42 annual payments to reimburse the Postal Service the \$1.2 billion owed for these purposes. Failure to fund this authorized appropriation places the remaining debt of nearly \$840 million at risk of nonpayment.

As the Postal Service continues to responsibly address its long-term obligations, it is counter-productive to increase those costs through non-payment of a debt already deferred by interest-free installment payments spread over a period of 42 years.

The second part of our request is for \$123.7 million in payment for costs imposed on the Postal Service by statute. This \$123.7 million is for current year costs of \$80.127 million and a \$43.608 million reconciliation adjustment for prior years. This appropriation reimburses the Postal Service for the statutory obligations to provide free mail for the blind and others who cannot use or read conventionally printed materials, the mailing of absentee balloting materials that can be mailed free by members of the armed forces and other United States citizens residing outside of the United States, and balloting materials that can be mailed in bulk between State and local election officials.

This request differs from the administration's budget recommendation of \$79.915 million. The administration provides \$60.725 million for current year costs plus a \$19.190 million reconciliation adjustment. The administration's proposal not only provides an amount less than that requested, but also continues an "advance fund-

ing” process adopted in recent years of deferring actual payment of the recommended funding until the following fiscal year.

Although this approach provides limited funding for these services, these funds are only made available long after the service has been delivered. These actions place the postage ratepayer at a greater risk of absorbing a social service cost beyond the mission of the Postal Service. The Postal Service does not have the authority to control or limit these mailings to reduce the funding needed. And we have no way to mitigate the shortfall in funding. Providing less than the requested amount will continue to compound the financial burden caused by the current “advance” funding.

I should note that the Postal Service takes great pride in its success in funding postal operations solely through the sale of postal products and services. While we are authorized by statute to request a public service appropriation every year for costs incurred in providing effective and regular postal services nationwide, even in communities where Post Offices may not be deemed self-sustaining, we have operated without this appropriation since fiscal year 1982, saving the American taxpayers more than \$11 billion. Again, for fiscal year 2007, we are not requesting an appropriation for public service.

In closing, I would like to take this opportunity to acknowledge the hard work and dedication of the men and women of the Postal Service. They are at the heart of our success. They are valued and trusted members of every community they serve.

Thank you, Mr. Chairman and members of the subcommittee for the opportunity to discuss our fiscal year 2007 appropriations request. I would be pleased to respond to any questions at this time.

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#### PREPARED STATEMENT OF THE UNITED STATES TAX COURT

The United States Tax Court provides a national forum for the resolution of disputes between taxpayers and the Internal Revenue Service (IRS). As such, the U.S. Tax Court handles over 95 percent of Federal tax cases.

The Tax Court is uniquely able to deal with disputes arising under the Nation’s tax laws. As the largest Federal trial court, we receive and close approximately 23,000 cases each year. The Court maintains numerous courtroom facilities and conducts hundreds of weeks of trial sessions in 77 cities across the United States. The Court accomplishes this mammoth task with less than 300 employees, including the judges and their staffs.

#### TAX COURT CASES AND WORKLOAD

Significantly, the Tax Court has no control over the type or volume of cases that are docketed. Congress, through legislation; the Internal Revenue Service, through its audit and enforcement activity, and taxpayers by their choice of forum determines our caseload.

Deficiency cases comprise 90 percent of the current caseload. The remaining 10 percent of cases include: administrative costs, abatement, employment classification, lien/levy, Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) partnership, declaratory judgment, and section 6015 (stand alone, innocent spouse) cases. The Court’s pending caseload increased by 4 percent in fiscal year 2005. The largest increase was in deficiency cases.

The Tax Court’s fiscal year 2007 budget request anticipates a moderate increase in cases of all types. The estimated caseload in fiscal year 2007 is in part, based on the increase in audit and enforcement activity projected by the IRS.

#### FISCAL YEAR 2007 BUDGET REQUEST

##### *Staffing Needs*

The Tax Court studied caseload data and projections of IRS audit and enforcement activity and determined that it could lower the number of funded vacancies from 40 to 15. Maintaining these positions provides the Court the flexibility to promptly address increases in caseload. The requested positions allow the Court to make contingency plans for changes in workload. With no control over the flow of cases into the Court, it is prudent to maintain the flexibility to respond to increases in workload.

The Court expects to have a stable staffing pattern in fiscal year 2007. However, the Court, as of June 1, 2006, will have only 17 of 19 of its presidentially appointed judges on board. Funding for two additional presidentially appointed judges and staff is included in the Court’s request.

### *Training*

As mentioned in the fiscal year 2007 budget request, the training program for Court employees is ongoing. The program, begun in 2005, focuses on improving employees' job-related skills and helping them become eligible for greater responsibility as part of the Court's succession plan.

The Tax Court has a large number of employees eligible to retire. A total of 43.2 percent of the Court's staff can retire over the next 5 years. Of the total eligible to retire, 19.7 percent are eligible now. The training program is a key part of the Court's succession plan. The Court is identifying and training employees, so they are ready to fill positions of increased responsibility or areas where the Court lacks sufficiently trained staff.

Training is provided consistent with guidelines for employee training contained in 5 C.F.R. Part 410. The Court maximizes its training dollars by providing on-site group training where possible.

### *Modular Furniture*

In 2005, the Court initiated a project to replace a large inventory of outmoded wooden desks purchased in 1985, with modular furniture. The modular or systems furniture more suitably accommodates today's office technology by providing built-in electrical outlets and wiring raceways for computer and printer equipment. It provides a further advantage over the traditional desk configuration by offering better space economy and the flexibility to reconfigure workspace to meet the requirements of workload and corresponding staffing changes. To date, using modular furniture has allowed the Court to more efficiently use the space in its headquarters.

The fiscal year 2007 budget request builds on this replacement project. Fiscal year 2007 is the final year for replacing old, traditional office furniture with new, efficient modular furniture. The Tax Court is establishing a cyclical replacement program to ensure cost-effective use and replacement of furniture in the future.

### *Field Courtroom Restoration*

In fiscal year 2006, the Court initiated a multi-year effort to survey, renovate and refurbish, as needed, its field courtroom inventory. The Court's national jurisdiction requires its judges to travel to over 70 cities providing litigants with a geographically convenient forum. The Court leases courtroom and chambers space in 35 of these cities. Many of these leased sites have not been refurbished or refurbished in 20 years. Several of these facilities are in dire need of new furniture to replace worn 25-year-old equipment. Several facilities are in need of new carpet and paint, and a handful will undergo minor remodeling to correct deficiencies.

We are also installing technology systems cabling in all of the leased field courtroom and chambers to facilitate networking capabilities with headquarters. Judges and Court personnel will have secure electronic access to the Court's network and their case files. All of the Court's case information is now electronically stored and must be accessible by the judges and staff when they are hearing cases across the country.

We expect to spend approximately \$1 million in our field courtroom renovation project in fiscal year 2006. This effort will address, at a minimum, the problems in one-third of the Court's leased space inventory. The fiscal year 2007 request contains funding to accomplish needed upgrades in another one-third of field courtrooms. We anticipate requesting funds for the final one-third of needed renovations for fiscal year 2008.

### *Technology Upgrades*

The Court's fiscal year 2007 budget request continues the cyclical replacement of technology begun in the fiscal year 2006 budget. In addition to replacing or upgrading technology at the Court, we have been engaged in a comprehensive review of our operating procedures in an effort to enhance our services to the tax bar and the taxpayers we serve. This comprehensive evaluation is intended to result in the application of technological tools, such as automated master calendaring, comprehensive document imaging and RFID (radio frequency identification) enabled records tracking, to improve the quality of service and the speed at which it is delivered. We expect to continue these improvements within the funding levels requested in the fiscal year 2007 budget.

The Tax Court implemented a new telephone system in February 2006. The Court is now using a voice-over-internet protocol for its phone service. This technology allows Court judges and employees who travel to retrieve voice mail wherever they are by phone or through a web portal. This technology provides faster, less expensive, and more efficient communication between Headquarters staff and traveling judges and employees. The Court also purchased and installed a server that runs

SQL software, allowing us to implement improvements in our accounting, purchasing, payroll and human resources systems. The Tax Court appreciates the subcommittee's support for these projects that will make the Tax Court more efficient in accomplishing its mission.

The Tax Court is launching an e-filing pilot project this year that will be ready for beta testing in fiscal year 2007. In connection with this, the Court is currently reprogramming its case management database and ancillary systems from a legacy language to a sequel medium to permit them to operate on a SQL server. As a result, the Court will be able to receive and process electronically delivered case documents. In advance of implementation, we will update our attorney admissions and enrollment database and will be training, late this fiscal year or early in fiscal year 2007, the enrollees in the selected e-filing pilot group on the e-filing program. In addition to facilitating access to case data, the Court expects electronic filing will save time for the parties and reduce their document processing expenses.

#### *Tax Court Independent Counsel Fund*

The Tax Court independent counsel fund is established by IRC section 7475. The Tax Court uses the fund to retain counsel to assist the Court in its attorney disciplinary process, for example, investigations of alleged misconduct.

The monies in the independent counsel fund are derived from fees charged to individuals who wish to practice before the Court. The current balance in the independent counsel fund is \$404,239.18.

The Tax Court Modernization Act, S. 661, would expand the Court's authority to use the fund to provide more services for *pro se* taxpayers.

#### *The Judges' Survivors Annuity Fund (JSAF)*

The Judges' Survivors Annuity Fund was statutorily created to provide survivor benefits for the spouses and eligible children of presidentially-appointed Tax Court Judges. The Judges' Survivors Annuity (trust) Fund is funded with approximately \$8.5 million. The majority of the funds are invested in Treasury securities with a portion held aside to pay current annuitants. In addition to income from interest payments, judges contribute 3.5 percent of their salary or retired pay to the fund. The JSAF is voluntary. Of the 32 judicial officers of the Tax Court, 21 participate in and contribute to the JSAF. Additional funds, subject to a maximum of 11 percent of the participating judges' salaries and based on an annual actuarial study, are paid into the fund from the Tax Court's annual appropriation to ensure that the JSAF is actuarially sound. The fiscal year 2006 liability for survivorship annuity payments is \$511,911.

For fiscal year 2007, the Tax Court is requesting budget authority of \$1 million in order to make payments to the annuitants of the JSAF.

#### OTHER MATTERS OF CONCERN TO THE TAX COURT

The following matters are of concern to the Tax Court. The Court is not asking the subcommittee for any funds in its fiscal year 2007 budget to address these concerns. These matters are being brought to the subcommittee's attention because of their possible impact on future budget requests by the Court.

#### *Security*

Unlike other Federal judicial officers, the U.S. Tax Court Judges are not protected by the United States Marshals Service (USMS). While Tax Court Judges do not hear criminal matters, they are involved with tax protesters and other individuals who wish to express their opposition to the United States Government. The Marshals Service is not always available to provide courtroom security for Tax Court Judges. They do not provide any security directly to the Tax Court in its Washington, DC Courthouse and offices. The Tax Court has a contractual agreement with the Marshals Service to provide special security officers for the Tax Court building in Washington, DC. The USMS has informed the Tax Court that the Court will have to bear more of the cost of providing courthouse security in Washington, DC, as well as in each of the cities in which we conduct trial sessions. The USMS also has informed the Court that they are not legally required to provide outside-of-the-court-house security to our Court.

The Tax Court believes that the security needs of its judicial officers require the same level of attention as provided for the safety and security of judicial officers in other Federal courts. The Tax Court will continue to work with the Marshals Service and Congress to ensure the security of its judges.

*Leased Space*

The Tax Court holds trial sessions in over 70 cities. The Court currently leases courtroom and chambers space in 35 cities. As noted in our fiscal year 2006 budget, the Court reviewed its space usage and was able to reduce some of its leased space. We continue to monitor our space needs and work with the General Services Administration (GSA) to obtain the space we need to serve the taxpayers.

In the cities in which the Court does not lease space, it must try to borrow space in Federal courthouses and other Federal buildings. The Court finds it increasingly difficult to borrow suitable space in which to hold trial sessions. We are working with GSA to lease space in Seattle, Washington; Nashville, Tennessee; and Columbia, South Carolina, as we have been unable to borrow space from other courts in these cities. The Court continues to work with other Federal courts to obtain space when needed in order to conduct sessions throughout the country. Because the Tax Court must provide a convenient Nation-wide litigation forum, it cannot reduce its space budget at this time.

The Tax Court remits its annual rental payments to GSA. The rental payments made to GSA are approximately 20 percent of the Court's operating budget.

## CONCLUSION

The Court is carefully monitoring its use of resources. The Court also tries to use technology wherever possible to help reduce the cost of service delivery. Substantially all of the Court's budget is non-discretionary—spent for salaries, courtroom space rental, and travel and transportation. The Tax Court also pays for its retired judges from its appropriation, a practice that does not exist in most Federal agencies.

We have one program—managing docketed cases and providing a trial forum for those cases that are not settled prior to trial. In a large agency, a rescission or budget cut might be absorbed by reducing or eliminating one of several programs. With only one program or mission and no discretion over the volume or type of cases the Tax Court receives, we cannot easily absorb reductions to our budget.

However, the Court's ongoing efforts to control costs, improve the Tax Court's infrastructure, and efficiently manage the Court's business resulted in a \$888,000 reduction to the overall budget request for fiscal year 2007.

The Court is committed to being an effective steward of its resources while meeting its responsibilities to carry out its mission. The Tax Court's fiscal year 2007 request was designed to address the Court's needs and those of the government and taxpayers who appear before the Court. Thank you for your consideration of our fiscal year 2007 request.

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PREPARED STATEMENT OF THE HONORABLE HAL STRATTON, CHAIRMAN, U.S.  
CONSUMER PRODUCT SAFETY COMMISSION

I appreciate this opportunity to present to the subcommittee the appropriation request for the U.S. Consumer Product Safety Commission (CPSC) for fiscal year 2007. CPSC is an independent, bipartisan agency charged with protecting children and families from unreasonable risks of serious injury or death from more than 15,000 categories of consumer products under the agency's jurisdiction. Since its inception, CPSC has delivered critical safety benefits to America's families and has made significant contributions to the 30 percent decline in the rates of injuries and deaths related to hazardous consumer products.

While we are proud of these achievements, there still remains an average of over 25,000 deaths and 33 million injuries every year from consumer product incidents. These injuries and deaths and property damage cost the Nation more than \$700 billion annually. Because new products, new trends and new technologies are continuously being introduced into the marketplace, and subsequently into the American home, improving consumer product safety is never a completed task but always an ongoing process of research, standards development, enforcement and public education.

The CPSC appropriation request for fiscal year 2007 is \$62,370,000. This is the same funding level as the agency's final 2006 appropriation. To manage this funding projection for 2007, staff levels at the agency are again being reduced through natural attrition and incentives, such as "early outs" and "buy outs." Such actions will allow the agency to meet the increased costs of salaries and increased costs related to infrastructure that supports the agency's mission.

CPSC is a staff intensive organization with 80 percent of its funding going to staff salaries. Primarily as a result of the proposed 2.2 percent Federal pay increase for 2007 and other compensation costs, we estimate that the cost of staff will increase

in the new fiscal year by \$2 million. To achieve the necessary savings to pay this increase, CPSC's staffing level for fiscal year 2007 is targeted to be 420 FTEs, a decrease of 20 FTEs from the current fiscal year and a decrease of 51 FTEs from fiscal year 2005. This represents a decrease in our FTE ceiling during these 2 fiscal years of over 10 percent.

We estimate that non-salary costs such as service contracts, IT equipment and software maintenance will also increase. For example, over the past few years we have been required to implement several new operating systems, purchase IT infrastructure improvements, and provide increased building and information technology security enhancements. These system startups and enhancements all have recurring annual maintenance charges and cost increases.

Additionally, we foresee an increase in the cost of operation of our most important data source, the National Electronic Injury Surveillance System (NEISS), an internationally-recognized hospital emergency room injury reporting system which provides national estimates for injuries related to consumer products. CPSC staff annually reviews about 360,000 product-related injuries reported by NEISS.

Because quality data is central to the execution of CPSC's mission and lays the groundwork for the agency's standards setting and related hazard reduction activities, continuously maintaining and improving the overall quality of NEISS and other CPSC data is critical. Data collection is the foundation of the agency's early warning system that identifies hazardous products, injury patterns, and causes of deaths and injuries. Early identification of product hazards by our Office of Hazard Identification and Reduction allows CPSC to take prompt action to prevent and reduce injuries and deaths. This information is the underpinning of the agency's decision-making process as it relates to voluntary standards development, compliance, consumer education, product labeling, and rulemaking initiatives.

One example of a CPSC rulemaking that relied on the quality of our data is the new open-flame flammability standard for mattresses that was promulgated earlier this year. This is one of the most important safety standards ever adopted by the agency; it is estimated that when fully effective, the new standard will save over 250 lives per year. As with all Federal standards, its success and effectiveness rely on the accuracy, precision and soundness of the data that was used to develop it.

CPSC's mandatory safety standards are enforced by our Office of Compliance. In fact, whenever potential product hazards are identified, the Compliance staff conducts investigations to determine whether corrective action is required. In addition to monitoring compliance with safety standards by conducting field inspections of manufacturing facilities and distribution centers and making purchases at retail establishments or via the internet, CPSC Compliance staff also conducts surveillance and sampling of imported products at the Nation's ports of entry.

In 2005, CPSC staff conducted over 250 seizures and detentions involving almost 4 million units of imported products at the ports because of possible safety hazards. Examples of these products included over 240,000 units of hazardous toys and other children's products and over 1.3 million non-complying fireworks devices.

Our governing statutes also permit the Commission to assess civil penalties. Due to aggressive enforcement of our safety laws, 2005 set a new record with civil penalty assessments of \$8.8 million including the largest civil penalty ever issued by the agency against a company that failed to report some 12 million products that posed a danger to young children. (All of these amounts are paid to the U.S. Treasury and none are retained by CPSC.) In addition, staff assisted in securing criminal convictions for violations of the Federal Hazardous Substances Act.

In 2005, CPSC announced 398 cooperative recalls, also an all-time record for the agency, involving a wide range of products that included defective bicycles, cribs, all-terrain vehicles, gas grills and pacifiers. Over 100 of these recalls were for toys and other children's products involving nearly 16 million production units.

A key element of any recall is the targeted public notice that goes out to alert owners of the product to the hazard and to the remedies that are available to them. This effort is led by CPSC's Office of Information and Public Affairs which uses numerous outlets to publicize the recall.

In 2005 Public Affairs staff informed the public of hazardous products through 383 press releases and recall alerts, 1.2 million distributed publications (in English and in Spanish), numerous appearances on network television, and through CPSC's consumer hotline and website that had an increase in consumer "hits" from 200,000 in 1997 to 13.7 million in 2005. Staff also placed a number of video news releases that reached an audience of over 85 million viewers and conducted national public awareness campaigns throughout the year on critical issues such as swimming pool safety.

As noted earlier, one of the major challenges facing the agency is the surge in imported consumer products. In addition to our activities at the ports-of-entry, the

Office of International Programs and Intergovernmental Affairs has been expanded to focus on this challenge. Through this office CPSC has established working relationships with our counterparts in other countries through the execution of formal memoranda of understanding with 11 foreign governments including major trading partners such as China, Mexico, Canada, and the European Union.

As I stated last year, China is the No. 1 toy-producing country and the United States is the No. 1 toy-consuming country in the world. It is critical that we work to make certain these imported products are safe for American families before they are ever put on a ship bound for an American port.

CPSC is a small agency with a big mission. By any measure, each year CPSC saves the Nation many times the agency's annual budget. Through our standards work, compliance efforts, industry and consumer partnerships, and education programs, the agency contributes to substantial reductions in deaths and injuries from a wide variety of hazards. Notable CPSC "success stories" include significant death and injury reduction over the years from residential fires, electrocutions, carbon monoxide poisonings, and child poisonings. In fact, consumer product-related deaths in these hazard areas decreased by almost 500 deaths per year by the end of the period covered by our first Strategic Plan.

We have worked diligently to generate savings and implement efficiencies to offset the cost increases that we confront. We have achieved substantial cost savings in the past with such efforts as replacing regional offices with field telecommuting.

In 2005, we began the process of reducing our FTE ceiling from 471 to 440. We achieved those staff reductions, primarily, by focusing on administrative efficiencies. With expected 2006 attrition, by offering "early outs" and "buy outs", and by careful attention to filling only critical vacancies, the agency plans to achieve the necessary 420 FTE staff level by the start of 2007. Our goal is to carefully adjust our activities to this reduced resource level in such a manner that the remaining programs continue to adequately protect American families.

I appreciate the committee's continued interest in our work, and I want to assure the senators that we at the CPSC remain committed to our mission to reduce product hazards and to assure the safety of the consumer products that are used in our homes, backyards and playgrounds across the Nation.

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PREPARED STATEMENT OF PATRICIA BLACK, DEPUTY INSPECTOR GENERAL, OFFICE OF INSPECTOR GENERAL, FEDERAL DEPOSIT INSURANCE CORPORATION

Mr. Chairman and members of the subcommittee, I am pleased to present the fiscal year 2007 budget request totaling \$26.3 million, or \$4.4 million less than fiscal year 2006 (including a 1 percent rescission) for the Office of Inspector General (OIG) at the Federal Deposit Insurance Corporation (FDIC). This budget has been possible because of the improved health of the banking industry since the early 1990's, the continued staff downsizing at the FDIC and within the OIG, and our internal efforts to improve our performance and productivity even with reduced budgets.

As you know, the FDIC was established by the Congress in 1933, during the Great Depression, to maintain stability and public confidence in the Nation's banking system. Our Nation has weathered several economic downturns since that era without the severe panic and loss of life savings unfortunately experienced in those times. The Federal deposit insurance offered by the FDIC is designed to protect depositors from losses due to failures of insured commercial banks and thrifts. While the basic insurance coverage of individual deposits remains at \$100,000, as of April 1, 2006 the FDIC raised the deposit insurance coverage on certain retirement accounts to \$250,000 from \$100,000. As of December 31, 2005, the FDIC insured \$3.893 trillion in deposits for 8,845 institutions, of which the FDIC supervised 5,245. The FDIC also promotes the safety and soundness of these institutions by identifying, monitoring, and addressing risks to which they are exposed.

The Corporation reports that financial institutions have recently had record earnings. The rate of bank and thrift failures has remained at a relatively low level over the past 10 years, and the Corporation has substantially reduced its estimates of future losses from failures. In fact, 2005 was the first year in the FDIC's history where no institution has failed, nor has 2006 seen any failures to date. Assets held in receiverships following bank failures are at comparatively low levels, and significant progress has been made in closing older receiverships. These are important indicators of a healthy banking system, and the Corporation can take pride in its positive contributions in these areas.

The FDIC OIG is an independent and objective unit established under the Inspector General Act of 1978, as amended (IG Act). The OIG's mission is to promote the economy, efficiency, and effectiveness of FDIC programs and operations, and protect

against fraud, waste, and abuse to assist and augment the FDIC's contribution to stability and public confidence in the Nation's financial system.

As the Deputy Inspector General, I have led the office since January 2005 (when Gaston L. Gianni, Jr. retired). I will continue to dedicate myself to carrying out the mission of the OIG until an Inspector General is confirmed. In this capacity, I will support the Congress, the FDIC Chairman, and other corporate management in meeting current and future challenges facing the FDIC and the banking industry.

I am proud of the work the OIG accomplished this past fiscal year. This statement discusses the fiscal year 2005 accomplishments, our assistance to FDIC management, internal management and operational initiatives to improve the OIG, and our new "2006 Business Plan". I am also providing additional details about our fiscal year 2007 budget and how it will be spent.

#### A REVIEW OF THE FDIC OIG'S FISCAL YEAR 2005 ACCOMPLISHMENTS

As in past years, during fiscal year 2005, our work resulted in a number of major achievements, as follows:

- \$42.4 million in actual and potential monetary benefits;
- 76 non-monetary recommendations to FDIC management;
- 42 referrals to the Department of Justice;
- 36 indictments/informations;
- 27 convictions; and
- 3 employee/disciplinary actions.

More specifically, our accomplishments included 38 completed investigations that led to the above indictments and convictions as well as fines, court-ordered restitution, and recoveries that constitute slightly over \$29.5 million in actual and potential monetary benefits from our work. Also, we issued a total of 40 audit and evaluation reports, which included about \$3.3 million in questioned costs and \$9.5 million in recommendations that funds be put to better use. The audit reports contained 76 non-monetary recommendations to improve FDIC policies, operations, and controls that ultimately are designed to improve FDIC's ability to effectively and efficiently accomplish its mission. A number of these recommendations addressed important cross-cutting corporate issues, e.g., the corporate planning process, the use of consultants, and human capital.

Further, the OIG accomplished many of its organizational goals during the fiscal year as outlined in our annual performance plan. Our 2005 Performance Report shows that we met or substantially met 31 of our 37 goals, or 84 percent. This compares to 76 percent met or substantially met in 2004. In a measurable way, this achievement shows the progress we continue to make in adding value to the Corporation with our audits, investigations, and evaluations in terms of impact, quality, productivity, and timeliness.

Examples of the OIG's audit, investigation, and evaluation work that contributed to these accomplishments follow:

#### *Bank Fraud in Connection with BestBank Failure*

After a 3-week trial in the U.S. District Court, District of Colorado, a jury found the owners of Century Financial Services, Inc. and its successor Century Financial Group, Inc. (Century), guilty on charges of conspiracy, bank fraud, wire fraud, and operating a continuing financial crimes enterprise that contributed to the 1998 failure of BestBank in Boulder, Colorado.

By way of background, the owners owned and operated Century, a company that marketed and sold travel club memberships to subprime borrowers. Subprime credit card borrowers are high-risk borrowers with poor credit histories. The subprime borrower would finance a membership by charging it to a new BestBank unsecured VISA card. In 1998, the largest asset of the bank was the portfolio of subprime credit card accounts containing more than 500,000 credit card accounts with a reported value of more than \$200 million.

From 1996 through July 1998, the defendants, through Century, applied \$20 credits to the accounts of numerous cardholders who did not pay their credit card bill and whose accounts otherwise would have grown increasingly delinquent. These payments made the portfolio appear to be performing better than it was. During this same period of time, BestBank continued to fund the growing credit card portfolio with insured deposits. In July 1998, the Colorado State Banking Commissioner and the FDIC determined that the value of the subprime credit card portfolio, the primary asset of BestBank, was overstated because delinquent loans were fraudulently made to appear current. BestBank was found to be severely undercapitalized, with losses exceeding \$200 million, resulting in one of the largest adverse impacts to the Bank Insurance Fund in the last 10 years.

While Century earned in excess of \$460 million in gross receipts, the owners each derived more than \$11 million from the offenses. Each of them faces a possible mandatory minimum sentence of 10 years to life in Federal prison and fines of up to twice the amount gained from committing the offenses. Sentencing has not yet been scheduled by the Court.

Also charged in the same indictment for offenses relating to the failure of BestBank are the dissolved bank's Chief Executive Officer and Chairman of the Board, the Chief Financial Officer, and the President. The jury trial against the remaining three defendants is scheduled to begin in July 2006.

We investigated the case jointly with the FBI and the IRS Criminal Investigative Division. The U.S. Attorney's Office for the District of Colorado and the U.S. Department of Justice are prosecuting the case.

*Investigation Into Misapplication of Bank Funds at Connecticut Bank of Commerce*

The former chairman of the board of directors of Connecticut Bank of Commerce was sentenced in January 2005, to 51 months' incarceration and 36 months' supervised release after pleading guilty to one count of misapplication of bank funds. No criminal restitution was ordered by the court because the parties agreed that the former chairman's payment of \$8.5 million to the FDIC, as part of his settlement of the agency's administrative charges, satisfied all losses directly related to his criminal conduct.

We conducted this investigation jointly with the FBI. The U.S. Attorney's Office for the District of Connecticut prosecuted the case.

*FDIC's Supervision of an Institution's Compliance With the Bank Secrecy Act (BSA)*

We conducted this audit in response to a congressional request for our independent assessment of the circumstances related to an institution's BSA violations. We reported that responsibilities to ensure compliance with BSA were not adequately fulfilled by either institution management or the FDIC. In addition, FDIC examinations lacked sufficient follow-up on corrective measures to address BSA violations. Further, the FDIC needed to more thoroughly consider the impact of BSA compliance violations when qualifying potential acquirers of a failed institution. As a result of our recommendations and its own initiatives, the FDIC has made significant improvements in, and is devoting substantially more resources to, its supervision of institution BSA compliance programs.

*FDIC's Investment Policies*

We issued a report on the results of an audit conducted by PricewaterhouseCoopers, LLP to determine whether the FDIC's investment strategy and portfolio management procedures provided the highest possible investment returns for the FDIC. This audit concluded that the FDIC's Division of Finance performed well in managing the FDIC's investment portfolio in the context of the applicable legal and regulatory framework, stated investment strategy, interest rate environment, and assessment of certain insured institutions undergoing financial stress.

The audit identified opportunities for the FDIC to improve the return on its investments through two broad courses of action. First, in certain market environments, the FDIC should decrease holdings in overnight certificates and increase holdings in longer-maturity securities. Second, the FDIC should explore the possibility of changes in its investment approach, such as expanding the universe of allowable investments. We recommended that the Corporation perform an internal review of its investment policies, adopt certain performance measures and goals, and obtain periodic independent reviews of the investment program. All recommendations in the report were resolved.

Our semiannual reports to the Congress provide many other examples of OIG work that has contributed to fiscal year 2005 accomplishments. These reports can be found on our Web page at <http://fdicig.gov> or obtained by contacting our office.

ASSISTANCE TO FDIC MANAGEMENT

In addition to 2005 audits, investigations, and evaluations, the OIG made contributions to the FDIC in several other ways. We strive to work in partnership with Corporation management to share our expertise and perspective in certain areas where management is seeking to make improvements. Among these contributions were the following activities:

- Reviewed 35 proposed corporate policies and offered comments and suggestions when appropriate.
- Provided advisory comments on the FDIC's 2005 Annual Performance Plan and 2005 Annual Report.

- Participated in division-level conferences and meetings to communicate our audit and investigation work and processes.
- Provided technical assistance and advice to several FDIC groups working on information technology issues, including participating at the FDIC's information technology security meetings. We also participated in an advisory capacity on the Information Technology Subcommittee of the Audit Committee.

#### OIG MANAGEMENT AND OPERATIONAL INITIATIVES

An important part of our stewardship over the funding we receive includes our continuous efforts to improve OIG performance and plans. We provide objective, fact-based information and analysis to the Congress, the FDIC Chairman, other FDIC officials, and the Department of Justice. Our key efforts typically involve our audits, evaluations, or criminal investigations conducted pursuant to the IG Act and in accordance with applicable professional standards. We also make contributions to the FDIC in other ways, such as reviewing and commenting on proposed corporate policies and draft legislation and regulations; participating in joint projects with management; providing technical assistance and advice on various issues such as information technology, strategic planning, risk management, and human capital; and participating in internal FDIC conferences and seminars.

The OIG has continued to downsize with the Corporation through reorganization, closing two field audit offices, and offering buyouts and retirement incentives to impacted employees under an FDIC-wide program. The OIG will continue to carry out several key initiatives to implement our human capital strategic plan and ensure that the OIG is a results-oriented high-performance organization. Many of the planned initiatives relate to staff development and include: the establishment of a mentoring program; providing training and development related to the OIG core competencies and business knowledge needs; and developing a strategy to improve the supervisor-staff feedback process.

Other internal initiatives included our hosting an interagency symposium on the Federal Information Security Management Act (FISMA) of 2002. Representatives from more than 18 Federal agencies attended the symposium to share information, ideas, and best practices related to the implementation of FISMA. The OIG also hosted an "Emerging Issues" conference with participants from other OIGs of financial regulatory agencies, GAO, regulatory agency officials, and congressional staff. The conference brought together distinguished speakers who shared their perspectives on the banking and financial services community with Inspector General staff in the interest of enhancing the value that OIGs can add to their agencies by successfully addressing risk areas. We also sponsored the annual conference of the Federal Audit Executive Council, a working group comprised of the heads of Federal audit organizations. This forum helps ensure that Federal audit organizations keep current with auditing standards, practices, priorities, and issues of concern.

#### BUSINESS PLAN

The OIG developed a new business plan that explains what we are about, what we want to accomplish, and how we will get there. It also provides a means to assess our performance. Our "2006 Business Plan" represents the results of concerted efforts over time, especially during the past year, to improve our planning process and demonstrate the value added by our office to sound FDIC governance and to executive and legislative branch decision-makers.

The "2006 Business Plan" combines the OIG Strategic Plan and Performance Plans. This plan contains six strategic goals to help accomplish our mission. In carrying out the key efforts of our plan, we will strive to demonstrate to the Congress, the public, the FDIC, and the banking industry that the OIG is doing the right things and generating results that are a worthy return on the investment made in us.

The complete "2006 Business Plan" is available at [www.fdicig.gov](http://www.fdicig.gov). We have begun the process for developing performance goals and key efforts for fiscal year 2007, which will continue building on this strategic framework. Our six 2006 strategic goals and selected key efforts follow:

*Strategic Goal 1.—Assist the FDIC to Ensure the Nation's Banks Operate Safely and Soundly*

Bank supervision is a cornerstone of the FDIC's efforts to ensure stability and public confidence in the Nation's financial system. The OIG's role under this strategic goal is targeting audits and evaluations that review the effectiveness of various FDIC programs aimed at providing continued stability to the Nation's banks. The OIG also conducts investigations of fraud at FDIC-supervised institutions,

fraud by bank officers, directors, or other insiders; obstruction of bank examinations; fraud leading to the failure of an institution; fraud impacting multiple institutions; and fraud involving monetary losses that could significantly impact the institution. Below are selected key efforts representing ongoing work or work envisioned in support of this goal.

- Conduct material loss reviews of failed banks, as needed;
- Review bank examination procedures for addressing bank sensitivity to interest rate risks;
- Investigate criminal obstruction of bank examinations;
- Review bank examination procedures for addressing electronic banking risks;
- Review whether bank examinations adequately consider the reliability of property appraisals;
- Investigate financial institution fraud;
- Review the FDIC’s use of the Financial Crimes Enforcement Network (FinCEN); and,
- Review the use of Bank Secrecy Act examinations for foreign transactions.

*Strategic Goal 2.—Help the FDIC Maintain the Viability of the Deposit Insurance Funds*

FDIC deposit insurance remains a central component of the Federal Government’s assurance to the public that it can be confident in the stability of the Nation’s banks and savings associations. Since its establishment in 1933, the FDIC has insured deposits up to the legally authorized threshold, which historically was at \$100,000. For almost two decades following bank crises in the late 1980’s and early 1990’s, the FDIC has managed two deposit insurance funds—one for banks with about \$35 billion, and one for savings and loans with about \$13 billion. These funds, which are primarily an accumulation of premiums that insured depository institutions have paid the FDIC and interested earned, have been used to pay FDIC operating expenses and insured depositors, as necessary. On February 1, 2006, the Congress enacted deposit reform legislation that will create a deposit insurance system that is more focused on risk and better able to adapt to rapidly changing industry. The new deposit insurance reform legislation:

- Merges the two deposit insurance funds into a single Deposit Insurance Fund.
- Maintains deposit insurance coverage for individual accounts at \$100,000, but provides for indexing for inflation every 5 years beginning in 2010.
- Increases deposit insurance coverage for retirement accounts to \$250,000 and provides for indexing for inflation every 5 years beginning in 2010.
- Replaces the current Designated Reserve Ratio of 1.25 percent of estimated insured deposits by permitting the reserve ratio to move within a range of 1.15 percent to 1.50 percent of estimated insured deposits.
- Requires the FDIC to provide cash rebates in amount equaling 50 percent of the amount in excess of the amount required to maintain the reserve ratio at 1.35 percent. Requires the FDIC to provide cash rebates in amount equaling the total amount in excess of the amount required to maintain the reserve ratio at 1.50 percent.
- Provides financial institutions with a one-time transitional premium assessment credit based on the assessment base of the institution on 12/31/96 as compared to the combined aggregate assessment base of all eligible depository institutions.

The Corporation has begun the process for implementing the provisions of the new legislation. To date, the FDIC has merged the two deposit insurance funds into a single Deposit Insurance Fund and raised the deposit insurance coverage on certain retirement accounts to \$250,000 from \$100,000. As insurer, the FDIC must evaluate and effectively manage how changes in the economy, the financial markets, and the banking system affect the adequacy and the viability of the deposit insurance funds. The OIG has a responsibility to evaluate the FDIC’s programs and operations to ensure that the agency has adequate information to gauge the risks inherent as financial institutions consolidate, enter into new business areas, and become more global. In support of this goal, we have planned the following key efforts.

- Review the FDIC’s approach to risks posed by large or multiple bank failures;
- Review the FDIC’s risk-based premium program;
- Review the insurance application process for industrial loan companies (ILCs); and,
- Review FDIC methods for maintaining adequate insurance fund reserves.

*Strategic Goal 3.—Assist the FDIC to Protect Consumer Rights and Ensure Community Reinvestment*

The FDIC oversees statutory and regulatory requirements aimed at protecting consumers from unfair and unscrupulous banking practices. The FDIC has recognized the importance of its role in this regard by establishing its own strategic goal to ensure that consumers' rights are protected and supervised institutions invest in their communities. The FDIC's bank examiners conduct examinations in FDIC-supervised banks on a scheduled basis to determine the institutions' compliance with laws and regulations governing consumer protection, unfair lending, and community investment. When problem institutions are identified, primarily through the examination process, the FDIC attempts using reason and moral suasion to bring about corrective actions; however, the Corporation possesses broad enforcement powers to correct situations that threaten an institution's compliance with applicable laws. The OIG's role under this strategic goal is targeting audits and evaluations that review the effectiveness of various FDIC programs aimed at protecting consumers, fair lending, and community investment. Additionally, the OIG's investigative authorities are used to identify, target, disrupt, and dismantle criminal organizations and individual operations engaged in fraud schemes that target our financial institutions. Our planned 2006 work towards this goal includes the following key efforts:

- Investigate misrepresentations of deposit insurance coverage;
- Work with Congress and FDIC management to strengthen enforcement against misrepresentations of deposit insurance;
- Investigate "phishing," "pharming," and other identity theft schemes;
- Review multiple FDIC efforts to ensure financial data privacy;
- Evaluate the FDIC's approach to examining fair lending and community reinvestment;
- Review risks posed to institutions and the FDIC by predatory lending;
- Assess how the FDIC makes use of data required by the Home Mortgage Disclosure Act; and,
- Review how the FDIC addresses deficiencies reported in compliance examinations.

*Strategic Goal 4.—Help Ensure That the FDIC is Ready to Resolve Failed Banks and Effectively Manages Receiverships*

When a bank that offers Federal deposit insurance fails, the FDIC fulfills its role as insurer by either facilitating the transfer of the institution's insured deposits to an assuming institution or by paying insured depositors directly. Although there have been far fewer failures in recent years than occurred during the years of crisis in the banking industry, the FDIC's responsibility for resolving troubled institutions remains a challenge. The FDIC reports that failures in today's economy would differ in nature, size, and cost from the record failures of the 1980's and early 1990's. Nonetheless, the FDIC could potentially have to handle a failing institution with a significantly larger number of insured deposits than it has had to deal with in the past or have to handle multiple failures caused by a single catastrophic event.

The OIG's role under this strategic goal is targeting audits and evaluations that assess the effectiveness of the FDIC's various programs designed to ensure that the FDIC is ready to and does respond promptly, efficiently, and effectively to financial institution closings. Additionally, the OIG investigative authorities are used to pursue instances where fraud is committed to avoid paying the FDIC civil settlements, court-ordered restitution, and other payments as the institution receiver. Our office is focusing on the following key efforts.

- Assess the FDIC's planning for large or multiple bank failures;
- Review the recovery of unclaimed deposits in failed banks;
- Review the development framework for a new technology-driven asset servicing project; and,
- Identify and investigate instances of assets fraudulently concealed from the FDIC.

*Strategic Goal 5.—Promote Sound Governance and Effective Stewardship of Financial, Human, Information Technology, and Procurement Resources*

The FDIC must effectively manage and utilize a number of critical strategic resources in order to carry out its mission successfully, particularly its financial, human, information technology (IT), and procurement resources. Financial resources are but one aspect of the FDIC's critical assets. The Corporation's human capital is also vital to its success. The FDIC appreciates the importance of its people, with four of its six values, integrity, competence, team work, and fairness specifically referencing the workforce.

Information technology drives and supports the manner in which the public and private sector conduct their work. At the FDIC, the Corporation seeks to leverage IT to support its business goals in insurance, supervision, consumer protection, and receivership management, and to improve the operational efficiency of its business processes. Along with the positive benefits that IT offers comes a certain degree of risk. In that regard, information security has been a long-standing and widely acknowledged concern among Federal agencies. A key effort for all agencies must be the establishment of effective information security programs.

The OIG's role in this strategic goal is to perform audits, evaluations, and investigations that identify opportunities for more economical, efficient, and effective corporate expenditures of funds; recommend actions for more effective governance and risk management practices; foster corporate human capital strategies that benefit employees, strengthen employees' knowledge, skills, and abilities; ensure employee and contract integrity; inspire employees to perform to their maximum capacity; help the Corporation to leverage the value of technology in accomplishing the corporate mission; promote the security of both IT and human resources; and ensure that procurement practices are fair, efficient, effective, and economical. The key efforts below are some of the ongoing work or work to be undertaken in support of this goal.

- Evaluate selected FDIC efforts to operate efficiently, effectively, and economically;
- Review the FDIC's personnel discrimination complaint tracking system;
- Investigate FDIC employee or contractor misconduct, as needed;
- Review succession planning initiatives;
- Review safeguards over sensitive employee information;
- Review the FDIC's information security, privacy, and data protection programs; and,
- Review selected procurement practices.

*Strategic Goal 6.—Continuously Enhance the OIG's Business and Management Processes*

The OIG's final strategic goal has an internal focus on continuous improvement. Our aim under this goal is to:

- Enhance our own business and management practices;
- Enhance strategic and annual planning and performance measurement;
- Strengthen human capital management;
- Ensure the continued quality and efficiency of audits and investigations; and,
- Foster good relationships with clients, stakeholders, and OIG staff.

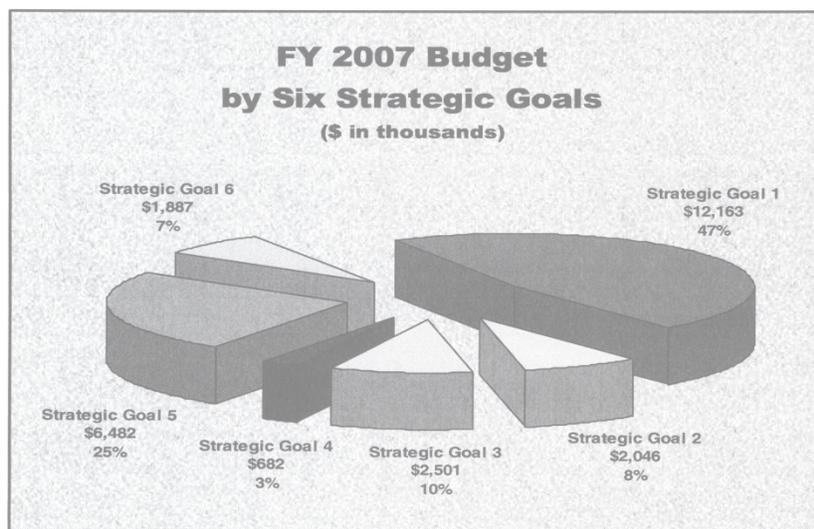
THE OIG'S FISCAL YEAR 2007 BUDGET REQUEST

The proposed fiscal year 2007 OIG budget includes funding in the amount of \$26,256,000, or \$4,434,000 less than fiscal year 2006 (after a 1 percent rescission). This budget will support an authorized staffing level of 130—a 19 percent reduction from the 160 staff authorized in fiscal year 2006. The FDIC has continued a downsizing effort over several years in response to changes in the banking industry, information technology, and fewer bank failures. Consequently, we have conducted a thorough review of our workload and determined that we can reduce the number of audits to be performed and some other aspects of our workload because of certain decreased elements of risk, fewer assets under FDIC receivership management, and fewer bank failures experienced and anticipated. However, the OIG's investigative workload is increasing, with a substantial caseload of financial institution fraud because Federal Bureau of Investigation resources have been redirected to the war on terrorism.

The FDIC OIG has been operating under an appropriated budget since fiscal year 1998 in accordance with Section 1105(a) of Title 31, United States Code, which provides for "a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under Section 11(2) of the Inspector General Act of 1978." The FDIC OIG is the only appropriated entity in the FDIC, and this funding approach is part of the statutory protection of the OIG's independence. As in past years, the funds for the OIG budget would be derived from deposit insurance funds and the FSLIC Resolution Fund. The insurance funds are funded by assessments on deposits held by insured banks and thrifts and from the interest on the required investment of fund reserves held in government securities. These funds are the ones used to pay for other FDIC operating expenses.

## BUDGET BY STRATEGIC GOALS

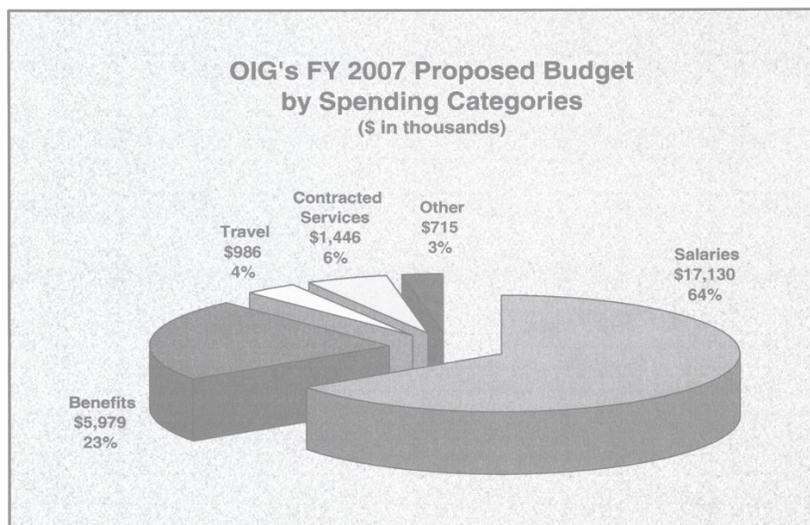
For fiscal year 2007, the OIG developed the budget based on the six strategic goals that I discussed earlier. The six strategic goals, along with their associated portion of budget dollars follow:



- Strategic Goal 1.*—Assist the FDIC to Ensure the Nation’s Banks Operate Safely and Soundly;
- Strategic Goal 2.*—Help the FDIC Maintain the Viability of Deposit Insurance Funds;
- Strategic Goal 3.*—Assist the FDIC to Protect Consumer Rights and Ensure Community Reinvestment;
- Strategic Goal 4.*—Help Ensure the FDIC is Ready to Resolve Failed Banks and Effectively Manages Receiverships;
- Strategic Goal 5.*—Promote Sound Governance and Effective Stewardship of Financial, Human, Information Technology, and Procurement Resources; and,
- Strategic Goal 6.*—Continuously Enhance the OIG’s Business and Management Processes.

## FISCAL YEAR 2007 BUDGET BY MAJOR SPENDING CATEGORIES

The following chart shows the distribution of the OIG’s budget by major spending categories. Mostly, the OIG budget is comprised of salaries and benefits for its employees and the necessary funding for travel and training expenses. Our fiscal year 2007 budget also includes funds to replace our staff’s laptop computers, which will be over 3 years old and due for replacement, in accordance with the Corporation’s computer replacement schedule.



#### CONCLUDING REMARKS

Mr. Chairman and members of the subcommittee, I appreciate the support and resources we have received through the collaboration of the President, the Congress, and the FDIC. As a result, the OIG has continued to make a real difference in FDIC operations in terms of financial benefits and improvements, and by strengthening our own operations and efficiency. I look forward to continue working with this subcommittee and working with the new Inspector General when appointed. I believe our fiscal year 2007 budget strikes an appropriate balance between the mandate of the Inspector General Act, other legislative requirements, our judgments of OIG workload needs, the changing conditions in the banking industry, and the FDIC's downsizing. We continue to seek your support so that we will be able to effectively and efficiently conduct our work on behalf of the Congress, the FDIC, and the American public.

#### PREPARED STATEMENT OF AUSTIN SMYTHE, OFFICE OF MANAGEMENT AND BUDGET

Mr. Chairman, Senator Murray, members of the subcommittee, I am pleased to present the President's fiscal year 2007 budget request for the Office of Management and Budget (OMB).

#### PROGRESS ON SPENDING RESTRAINT

Before reviewing OMB's fiscal year 2007 budget, I would like to take a moment to review the substantial accomplishments in spending restraint we were able to achieve together over the past year. In line with the President's budget request, the Congress sent the President appropriations bills that held the growth of total discretionary spending below the rate of inflation and cut non-security spending. In addition, Congress adopted 89 of the President's proposed 154 cuts and terminations, saving \$6.5 billion in the process. And Congress achieved nearly \$40 billion in mandatory savings over 5 years, the first time in 8 years reconciliation has been used to slow the growth in spending.

President Bush's 2007 budget builds on last year's progress by focusing on national priorities and tightening our belt elsewhere. It gives our troops and those who defend our security what they need to fight and win the Global War on Terror. And it supports the President's pro-growth economic agenda.

In order to stay on track to meet the President's goal of cutting the deficit in half by 2009, we must continue to do two things: keep the economy growing and restrain spending.

First, the 2007 budget will support continued economic growth by proposing to make permanent the tax relief signed into law by the President in 2001 and 2003.

Some have argued that we should let the tax relief expire. A tax increase is the wrong prescription, not only for the Nation's economic health, but for the government's fiscal health as well.

We are not an under-taxed society. By rejecting tax increases on families and small businesses, this budget will help keep the economy on a continuing course of job creation and strengthen the foundations for long-term growth.

The second critical component of deficit reduction is a vigorous policy of spending restraint. Similar to last year, the budget holds overall discretionary spending growth below the rate of inflation. It again proposes a cut in non-security discretionary spending. It calls for major reductions in or total eliminations of 141 Federal programs, saving nearly \$15 billion. And it continues our efforts to slow the growth in spending on mandatory programs, by proposing \$65 billion in savings over 5 years.

The Appropriations Committees and the Congress have achieved considerable progress in restraining discretionary spending. We need to continue this progress on the mandatory side of the budget. The efforts begin to restrain the growth in mandatory spending are vital—not just for our near-term deficit reduction efforts—but especially for the long-term. Toward the end of the next decade, deficits stemming largely from entitlement programs such as Social Security and Medicare will begin to rise indefinitely. At that point, no plausible amount of discretionary spending cuts or tax increases will restore our long-term fiscal health.

The President has shown a willingness to take on these future unfunded obligations and to propose long-term reforms. This year's budget proposes \$36 billion in savings from Medicare, and includes proposals that pave the way for additional reforms in the future. As with Social Security and Medicaid, we do not need to cut Medicare, but we do need to slow its growth—and the President's budget begins to do just that.

#### DELIVERING RESULTS

To ensure the Federal Government spends taxpayer dollars more effectively, the administration continues to implement the President's Management Agenda (PMA). The PMA helps individual agencies and programs focus on and produce results. It promotes this goal through several key components: strategic management of human capital; competitive sourcing; improved financial performance and reporting standards; electronic government (e-gov) initiatives; and integration of budget policy with performance measures.

OMB has successfully designed and implemented the Program Assessment Rating Tool, or PART, to help agencies measure the success of their programs, focus efforts to improve program performance, and set budgetary policy accordingly. To support these efforts, OMB has introduced a new website called ExpectMore.gov. ExpectMore.gov allows taxpayers to review the OMB assessments of nearly 800 Federal programs. You can search the programs by rating, topic, or by a simple keyword search. I urge you and your staffs to use this new resource in evaluating whether programs are achieving the results you, the Congress, intend.

In addition to the PART, I want to highlight our competitive sourcing and electronic government initiatives about which some members of Congress have raised concerns.

The Competitive Sourcing initiative finds the lowest cost, highest quality sources to perform the government's commercial activities. This initiative is expected to generate savings to the taxpayers of more than \$800 million a year.

The Expanded Electronic Government initiative is identifying and eliminating duplicative information technology systems in agencies. The result is improved service delivery to citizens, businesses and Federal employees at a lower cost. Overall, these E-Government initiatives are delivering to Congress and the American people more than \$380 million a year in cost savings and millions more in cost avoidance.

Both of these initiatives have been the subject of statutory restrictions that inhibit their progress. OMB's Deputy Director for Management Clay Johnson is the lead for the administration on these issues and we want to work with you to make these initiatives a success. In this time of fiscal restraint, our mutual goal should be to maximize rather than limit the savings resulting from these common sense programs.

#### OMB'S BUDGET

Consistent with the President's overall fiscal year 2007 Budget, the Office of Management and Budget has submitted a disciplined request for our agency. OMB's budget requests \$68.8 million—a 0.6 percent reduction from the fiscal year 2006 enacted level when measured on an apples-to-apples basis.

To achieve this spending restraint, OMB is pursuing cost savings wherever possible. OMB has been operating under very tight budgets. Our budget is nearly entirely comprised of salaries and expenses and our only significant means to achieve savings is through reductions in staffing. To accommodate lower funding levels, we have reduced OMB staff from 527 positions in fiscal year 2001, to 510 positions in 2004, to 490 positions in 2005.

In last year's appropriations bill, Congress provided a net increase of \$750,000 to our request, boosting our budgeted staff levels to 500 positions. Following the guidance provided by the committee, we have increased staff levels in the resource management offices (RMOs) of OMB. To meet increased pay and other costs and achieve the 0.6 percent reduction proposed in OMB's budget for fiscal year 2007, OMB would reduce staff levels by 11 positions compared to the enacted fiscal year 2006 level.

We believe OMB can continue to deliver high-quality performance and fulfill our many important core responsibilities with these lower staff levels. The best known of OMB's responsibilities is the preparation of the President's annual budget. In addition, our responsibilities include oversight of the other agencies regarding budgetary matters, management issues, the administration's legislative proposals, regulatory reforms, procurement policies and other important subjects. We work to ensure that all the administration's proposals in these areas are consistent with relevant statutes and Presidential objectives. In meeting these responsibilities, OMB is prepared to work within the constraints of a tight budgetary environment.

I look forward to working with the Congress to develop a final budget that is consistent with our goals of spending discipline while focusing on national priorities.

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PREPARED STATEMENT OF W. DOUGLAS BUTTREY, CHAIRMAN, SURFACE  
TRANSPORTATION BOARD

Mr. Chairman, and members of the subcommittee, thank you for the opportunity to submit for the record this testimony on the fiscal year 2007 budget request of the Surface Transportation Board (Board).

BACKGROUND ON THE BOARD

The Board is a three-member, bipartisan, decisionally independent adjudicatory body organizationally housed within the Department of Transportation (DOT) with jurisdiction over certain surface transportation economic regulatory matters.

The Board provides an efficient and effective forum for the resolution of disputes relating to surface transportation regulation. The Board has jurisdiction over railroad rate and service issues and rail restructuring transactions (mergers, line sales, line construction, and line abandonments); certain trucking company, moving van, and non-contiguous ocean shipping company matters; certain matters relating to the structure, finances and operations of intercity passenger bus companies; and certain pipeline matters not regulated by the Federal Energy Regulatory Commission.

The Board's Section of Environmental Analysis performs environmental reviews of construction, abandonment, and merger matters that come before the Board for review and approval, as required by the National Environmental Policy Act. These reviews have become more complex and require significant resources.

THE BOARD'S FISCAL YEAR 2007 BUDGET REQUEST

The budget request submitted by the Board for fiscal year 2007 totals \$25,618,000. This budget level mirrors the Board's fiscal year 2006 budgetary authority enacted by Congress, adjusted for a decrease in funding associated with the one-time build-out cost in fiscal year 2006 for the Board's new office space and offset by the fiscal year 2007 pay raise as well as the amount required to physically move to the new space. The Board also seeks resources and authority to operate at 150 FTEs, the current staffing level authorized by Congress.

The Board is requesting \$375,000 for moving services to complete the agency's relocation by the General Services Administration (GSA) from its current physical site. The Board has been at its current site for the duration of its 10-year lease, which expires early in 2007. The Board cannot remain in its current building and must find new space because the building owners intend to vacate the building to provide for extensive renovation and modernization. GSA had the replacement lease prospectus approved by Congress during 2004. GSA advertised the lease solicitation during the summer of 2005 and will award the lease by the summer of 2006. GSA will begin the design and interior construction in 2006 with an anticipated move-in date of January 2007. Funds included in the fiscal year 2006 appropriations bill

will provide GSA with the resources to schedule the network and telecommunication connections and interfaces and perform the required structural changes to the leased space to support the Board's mission. The Board is requesting funds in fiscal year 2007 for the physical relocation of its furniture, equipment and files to the new space, as well as an amount to pay for the new level of rent.

The Board would use the remaining additional funds requested to cover salary and employee benefit costs associated with the fiscal year 2006 and fiscal year 2007 pay increase and increases associated with employee health benefit and retirement costs. Unlike many agencies, there is little room in the Board's budget to absorb a pay increase without additional resources, because fixed costs, including salary and rent, comprise about 95 percent of the agency's expenses. Absorbing even a small amount of the pay increase would impair the Board's ability to perform its statutory mission.

The requested authorization for 150 FTEs will enable the Board to hire staff to replace retirement eligible staff prior to their anticipated retirement date. Currently, 47 employees, or 34 percent of the Board staff, are retirement eligible. Several retirements can be expected in the near future. Having the flexibility to hire qualified people when they are available is particularly important for an agency that must hire professionals with technical expertise when they are available in the labor market.

Consistent with appropriation acts for past fiscal years, the Board requests a provision allowing user fee collections to be credited to the appropriation as offsetting collections and used for necessary and authorized expenses to the extent that they are collected. The overall budget request reflects the workload that is expected and the statutory and regulatory deadlines associated with the resolution of the cases filed.

#### OVERALL GOALS OF THE BOARD

The Board seeks to resolve matters brought before it fairly and expeditiously. Through use of its regulatory exemption authority, streamlining of its decisional process and the regulations, and consistent application of legal and equitable principles, the Board seeks to facilitate commerce by providing an effective forum for efficient dispute resolution and facilitation of appropriate business transactions. The Board continues to strive to develop, through rulemakings and case disposition, new and better ways to analyze unique and complex problems, to reach fully justified decisions more quickly, and to reduce the costs associated with regulatory oversight. The Board will continue to:

- strive for a more streamlined process for the expeditious handling of rail rate reasonableness and other complaint cases in an effort to provide additional regulatory predictability to shippers and carriers;
- diligently process cases before the Board and ensure that appropriate market-based transactions in the public interest are facilitated;
- adhere to all statutory deadlines for the resolution of matters pending before the Board;
- encourage new opportunities for the various sectors of the transportation community to work cooperatively with the Board and with one another to find creative solutions to persistent industry and/or regulatory problems involving carriers, shippers, employees, and local communities;
- work to ensure the provision of rail service that is responsive to the needs of customers; and
- ensure that the Board's processes are open and transparent to the public.

#### NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) DIRECTED SERVICE PROVISION

The fiscal year 2006 Transportation Appropriations Act directed the Secretary of Transportation to reserve \$60 million of Amtrak's fiscal year 2006 appropriation to fund directed service, that is to direct another carrier or carriers to carry out the functions currently performed by Amtrak that are necessary to continue commuter and freight rail operations, in the event Amtrak ceased to operate during the fiscal year. The fiscal year 2007 President's budget request also proposes to provide the Board with \$60 million to support commuter and freight rail service should Amtrak cease operations. These funds would allow the Board to direct service of commuter and freight rail operations that fail as a result of a cessation of service by Amtrak.

The Board has statutory authority under section 11123 of title 49 to direct service, or in other words, order another railroad to step into the shoes of a rail carrier that has stopped operating (usually because of bankruptcy) and serve its customers. This authority was broadened by Congress in 2005 to include authority for the Board to direct the continuation of commuter and freight rail services that fail as a result

of a cessation of service by Amtrak. The Board participates in a joint working group to coordinate issues relating to Amtrak directed service with the U.S. Department of Transportation's Federal Railroad Administration (FRA). That group has met with all major stakeholders—including Amtrak, the affected commuter and freight railroads, and representatives of labor—to identify issues. It has compiled all of the services Amtrak provides to commuter and freight railroads, and has examined legal issues that might arise. However, these planning efforts would need to be significantly supplemented were the need to implement directed service imminent. While matters brought before the Board are often lengthy, in directed service proceedings section 11123 does alter some administrative procedures to allow the Board to act cooperatively and quickly.

#### FISCAL YEAR 2006 AND 2007 ACTIVITIES OF THE BOARD

The Board's workload involving rail rates and services is expected to remain stable through fiscal year 2007. The Board will continue to look for ways to streamline and improve its regulatory process and to promote private sector resolution of problems. In this regard, the Board is open to proposals filed by parties and independently will look for ways to shorten and streamline its procedures and processes.

The Board has instituted a rulemaking proceeding to address major issues regarding the proper application of the stand-alone cost (SAC) test in rail rate cases and the proper calculation of the floor for any rail rate relief. The Board's general standard for judging reasonableness of rail freight rates are set forth in the Coal Rate Guidelines, which adopted a set of pricing principles known as constrained market pricing (CMP). Most captive rail shippers seek relief under CMP's SAC test. Under the SAC constraint, the rate at issue cannot be higher than the railroad would need to charge to serve the complaining shipper while fully covering all its costs, including a reasonable return on investment. Because the issues being addressed in the rulemaking have been raised or are implicated in the pending rail cases, the Board is holding the pending rail rate cases in abeyance while it examines these important issues.

The Board will continue to handle rail cases involving questions of whether certain State or local regulation of certain rail-related facilities is preempted by Federal law. These issues have generated considerable interest in recent years, as the Board and the courts have explored the extent of Federal preemption on a case-by-case basis.

Board staff expeditiously handles on an informal basis rail consumer inquiries and complaints concerning matters related to rates and other charges, car supply and other service issues, claims for damages, and service-related problems, employee concerns, and community issues. The Board's Rail Consumer Assistance Program is an informal mechanism for resolving disputes between freight railroads, and between those railroads and their customers. This program has a special toll-free telephone number and a website connection to assist rail customers and others with concerns involving railroads. It resolved 121 rail consumer issues during 2005.

The Board has participated in forums between railroads and their customers to facilitate better communications regarding service issues and plans to resolve them. The Board continues to encourage parties in cases before it to reach private sector solutions to their disputes outside of the Board's formal processes.

The Board's responsibility with respect to rail carrier consolidations includes a broad range of control transactions among larger railroads and smaller railroads. In addition, the Board continues to resolve issues related to past Class I rail mergers. We are not aware that any major rail mergers are contemplated in the immediate future, so the workload in this category is expected to remain constant through fiscal year 2007. Of course, it is impossible to predict with certainty that no major merger will be proposed during fiscal year 2007. If a major merger is proposed, that would significantly increase the workload beyond the expected level.

The Board projects that its line construction docket will remain constant through fiscal year 2007. The Board has an unprecedented number of railroad line construction proposals currently under review. These 14 proposals vary in size and scope, ranging from less than 1 mile to 280 miles of new rail line. The associated environmental review work is significant. The Board granted final approval in its decision in STB Finance Docket No. 33407, "Dakota, Minnesota & Eastern Railroad Corporation Construction into the Powder River Basin", for a railroad to construct a 280-mile rail line into the Powder River Basin subject to extensive environmental mitigation conditions. This case represented a major multi-year effort on the part of the Board to address the complexities of a major rail construction case. Demands on the Board to conduct environmental reviews for such transactions continue to grow, and these activities require significant resources to complete.

Other line transaction activity is expected to remain constant through fiscal year 2007 as more carriers continue to sell unprofitable or marginally profitable lines as an alternative to service abandonment. The Board continues to see a number of line acquisitions by both small carriers and noncarriers as the larger rail carriers continue to restructure their rail systems.

Regarding non-rail matters, the Board has pending before it one pipeline rate dispute and one water carrier dispute, in addition to one water carrier dispute that has been decided by the Board and is now under court review. The Board's pipeline work is expected to remain constant as the pending case moves forward. The Board's intercity bus merger and pooling workload are projected to remain constant through fiscal year 2007; as is the Board's noncontiguous domestic water trade rate case activity. The Board expects to devote the same level of staffing resources to work on cases involving motor carrier ratemaking antitrust immunity through fiscal year 2007.

#### SUMMARY

The Board's budget request would ensure the resources needed for the Board to continue to implement its responsibilities expeditiously and effectively as Congress intends. I appreciate the opportunity to submit this statement for the record and would be happy to respond to any questions that the committee may have about the Board's fiscal year 2007 budget request.

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#### PREPARED STATEMENT OF THE FEDERAL ELECTION COMMISSION

Mr. Chairman, Ranking Member Murray, and members of the committee, it is my privilege to present the Federal Election Commission's (FEC's) fiscal year 2007 appropriation request. To begin, on behalf of the agency, I thank you for last year's appropriation. Your bipartisan support of the FEC budget has enabled us to continue to implement the Bipartisan Campaign Reform Act of 2002 (BCRA), which amended the Federal Election Campaign Act of 1971. We have used those funds to continue a process of constantly seeking to improve the FEC's operation in all three of its core missions: disclosure, enforcing compliance with the law, and operation of the presidential matching funds system. Despite some financial belt-tightening in fiscal year 2006, we can see a measurable improvement in the FEC's ability to meet its core functions.

Our fiscal year 2007 appropriation request is for \$57,138,000, an increase of \$2,985,000 or 5.51 percent over our enacted fiscal year 2006 appropriation. This increase will permit the agency to continue its current functions while meeting statutorily mandated salary and benefit increases. This year, the FEC is seeking only a modest increase over its fiscal year 2006 budget of \$54,153,000 (\$54,700,000, less the fiscal year 2006 across-the-board rescission). The fiscal year 2007 request represents a continuation of fiscal year 2006 funding levels, adjusted for inflation and salary and benefit increases. As such, it represents essentially a Current Services request for fiscal year 2007, with no additional funds or staff for new programs or initiatives. I am pleased to report this request conforms to the President's fiscal year 2007 budget request for the FEC. We have provided detailed support for this request in our fiscal year 2007 budget justification.

I would also like to note that our fiscal year 2007 request sets the agency's authorized personnel level at 375 FTE, a decrease of 16 FTE from our previous authorized level of 391. Although the agency is authorized for 391 FTE in fiscal year 2006, we found it necessary to reduce staffing in order to handle the increased cost of operations and to fund some non-recurring expenses in fiscal year 2006. As spelled out in our fiscal year 2006 Management Plan, the FEC's projected FTE utilization for fiscal year 2006 will be approximately 380 FTE. In fiscal year 2007, we estimate that an FTE level of 375 will enable us to maintain operations at the current service level and absorb the full cost of the fiscal year 2007 COLA.

Generally, the Commission submits a package of legislative recommendations to the President and the Congress in March. However, this year the district court's decision in *Shays v. FEC* required the Commission to rewrite some portion of nine of its previous rules in a condensed timeframe. Therefore, the annual review of legislative recommendations will be submitted at a later date. In the meantime, there is one legislative change that the Commission unanimously decided to include in its fiscal year 2007 budget request to Congress.

We are seeking statutory authority to charge and use registration fees for FEC-hosted conferences. The Commission has always relied on effective outreach and our informational programs to reduce violations due to lack of understanding of the law. These programs, such as the 800 informational line, the campaign finance work-

shops and seminars, and the campaign guides and brochures, have all received high marks from the election community, the media, and the public. Unfortunately, due to budget constraints we found it necessary to cancel our campaign finance workshops and seminars for 2006. In order to preserve these conferences in the future, we are seeking legislative authority to charge and use registration fees to help offset the costs of these conferences. If legislative authority is not granted, the Commission will require additional appropriated funds in order to host future conferences.

Over the past few years, the FEC has achieved several major successes, while also seeing a steady improvement in its operations. These significant achievements include meeting statutory and court deadlines for implementing BCRA, successfully defending legal challenges to the constitutionality of BCRA, and settling the largest enforcement case in the history of the agency. In addition, the agency has expanded and invigorated its compliance program and improved the timeliness of reporting. These successes are the result of FEC efforts and support from our Congressional oversight committees.

I now will provide a brief overview of the FEC's three core program areas and relate those areas to the agency's fiscal year 2007 budget request.

#### DISCLOSURE PROGRAM

The FEC's disclosure program reviews, compiles, and places candidate and political committee campaign finance reports and information on the public record, primarily through the FEC's extensive electronic databases. The disclosure program is also responsible for educating the public and practitioners about the Federal campaign finance laws and their application. Over one-third of the agency's staff (143.4 FTE), are involved in our Disclosure program. This includes staff from the Public Records Office, Information Technology Division, Reports Analysis Division, Press Office, Information Office, and attorneys from the Office of General Counsel (OGC) who formulate proposed regulations and draft responses to advisory opinion requests.

A key objective of the Disclosure program is to improve the web accessibility of FEC information. Via the FEC's website at [www.fec.gov](http://www.fec.gov), the public can conduct detailed searches of candidate and political committee reports, closed FEC enforcement matters, and the agency's advisory opinions. The website also provides access to the most up-to-date campaign guides and brochures, past and current regulations, litigation materials, and agenda documents. Beginning this year, the FEC has made audio file podcasts of meetings available for download within 48 hours of meetings.

The Disclosure program provides education outreach to the public and regulated community through campaign finance conferences and seminars, through a toll-free help line, and through the FEC's public records room. Our campaign finance conferences are crucial to the overall success of our Disclosure program, and it is imperative that we receive the statutory authority explained above in order to host these conferences without taking funds away from other core programs.

Improvements in productivity, aided by information technology (IT) enhancements, have enabled the FEC to keep pace with the large increases in Federal campaign finance activity during recent election cycles. Campaign financing has skyrocketed since 1976, when the FEC regulated the \$310 million in disbursements by Federal candidates and committees in the first publicly-funded Presidential election. For the 2004 Presidential and Congressional elections, the FEC regulated the disbursement of approximately \$4.8 billion—an increase of more than 1,500 percent in just eight Presidential election cycles. With your help, we are building an impressive system capable of handling our IT needs well into the future. This system offers the capability of instantly updating our campaign finance database and expanding the types of information collected. As you are aware, however, this system is expensive. Our fiscal year 2007 budget request for IT funding is \$6.5 million. This is the minimum amount required for IT projects. It keeps the "lights on" and supports the basic IT mission only. It forgoes some upgrades and desirable improvements. In future fiscal years we will require additional resources to complete necessary IT infrastructure upgrades and to make needed improvements in our disclosure and review functions. We do, however, plan to apply any savings realized through the course of the fiscal year to our IT programs.

With the passage of legislation mandating electronic filing of campaign finance reports, we are seeing benefits of improved timeliness. Since the institution of electronic filing, the median time to process detailed information from all documents received has improved from 11 (2000 cycle) to 6 (2002 cycle) to 2 days (2004 cycle) from receipt of the disclosure reports by the Commission. Due to both the enhanced use of technology and management initiatives, the FEC is processing and reviewing

disclosure reports more rapidly than ever, despite the huge increase in the amount of campaign finance funds and information to be processed and disclosed. This provides voters with more accurate and timely disclosure information prior to an election, enabling them to make an informed decision when it comes to the sources and uses of campaign funds by the candidate.

#### COMPLIANCE PROGRAM

Obtaining voluntary compliance with Federal campaign finance laws is the foundation of the FEC's mission and central to its strategic and performance plans. An effective and comprehensive enforcement program is, however, an essential complement to any voluntary compliance effort.

Nearly one-half of Commission resources in the proposed fiscal year 2007 budget are dedicated to ensuring compliance with the law. In fiscal year 2007, we anticipate assigning over 175 FTE to compliance, including enforcement, supervisory, and support staff from OGC, Information Technology Division, Reports Analysis, and the Audit Division. In recent years, the administrative fine program and alternative dispute resolution program have been added to the Commission's compliance program.

Together with the standard enforcement program, these three compliance programs allow the FEC to handle significantly more cases than it did several years ago. These programs have allowed the FEC to activate more cases, close more cases with substantive action, resolve cases that would otherwise have been dismissed, and generally enforce the law in a more thorough and efficient manner, while preserving the Commission's legal resources for more complex enforcement matters.

The standard enforcement program, which is the responsibility of the Office of General Counsel, deals with the most complex cases and the most significant violations of the law. The General Counsel has undertaken a number of management and organizational initiatives in the last 5 years to increase the efficiency of processing matters under review (MURs), and those efforts have resulted in a more current caseload and significantly higher civil penalties. Despite a caseload that now involves the most factually and legally complex cases, MURs have been closed on average 35 percent faster in fiscal year 2005 than in fiscal year 2003, and a greater percentage of the assigned (or active) caseload now involves allegations arising from the most recent election cycle (i.e., 2003–2004). The administrative fine and alternative dispute resolution programs have helped to speed the resolution of less serious violations of the law.

Overall, the compliance program has become more effective, as well as more efficient. In 1991, prior to the introduction of the administrative fine and alternative dispute resolution programs, the FEC assessed civil penalties totaling \$534,000. By fiscal year 2004, approximately 4 years after the implementation of the administrative fine and alternative dispute resolution programs, that figure had grown to \$3.46 million. Thus far in fiscal year 2006, the FEC has assessed civil penalties and fines totaling \$5.302 million, including a single \$3.8 million civil penalty, the largest in the history of the agency. Fiscal year 2006 marks the seventh consecutive year with more than \$1 million in civil penalties.

The alternative dispute resolution (ADR) program affords both the FEC and the respondents the opportunity to resolve cases more rapidly with a focus on ensuring future compliance with the law. Since the inception of the program on October 1, 2000, through September 30, 2005, the ADR Office concluded agreements with respondents and formally closed 214 cases, 150 with substantive action (70 percent). These 214 cases were generally closed within 6 months of referral to the ADR program. The ADR Office has negotiated approximately \$310,000 in civil penalties since fiscal year 2001. In fiscal year 2005 alone, civil penalties negotiated through ADR totaled \$154,500. The administrative fine program has closed 1,223 cases since fiscal year 2000 and assessed civil penalties totaling \$2,309,454 in cases of late and non-filed reports. In fiscal year 2005, cases were closed on average 201 days from when the reports were due to be filed at the FEC.

Finally, in the audit track of the compliance program, we are pleased to report that the agency has sufficient resources to enable it to initiate 40 to 45 audits "for cause" for the 2006 election cycle. Further details on the compliance program are contained in the fiscal year 2007 Budget Justification.

#### PUBLIC FUNDING PROGRAM

The Commission also administers the Presidential public funding program. During fiscal year 2007, approximately 55 FTE from the Audit Division, Office of General Counsel, and Information Technology Division will be directly involved in this program. Their responsibilities will include completing the audits of the remaining two candidates who received matching funds for the 2004 election, and the two gen-

eral election candidate committees, for a total of four Presidential audits continuing from the 2004 cycle. In addition, they will be preparing for the 2008 Presidential election cycle by replacing the sampling software used to process matching funds requests and updating the Commission's "Guideline for Presentation in Good Order". The Guideline sets forth the uniform format required for the presentation of matching funds requests and specifies the quality of content standard that must be met.

On a related matter, we believe it is appropriate to bring to your attention the potential shortfall in the Presidential Public Funding Program. There was a brief shortfall in the February primary matching payments for the 2004 Presidential election, which was restored the following month with the February deposits to the Fund. This was the only shortfall for the 2004 cycle. We did not experience a major shortfall for the 2004 Presidential election because several major candidates decided not to take Federal matching funds for the 2004 primaries. This may change, however, in future elections. The Treasury Department maintains the matching fund account, which is comprised of money derived from a taxpayer check-off system. Shortfalls in 1996, 2000, and 2004 occurred for several reasons. First, the Treasury Department does not consider expected election-year check-off proceeds to be available when calculating payout resources on January 1 of the election year. Second, while payouts under the program have been adjusted upward, due to inflation, the \$3 check-off amount has not been increased since 1993. Third, the number of taxpayers participating in the check-off has been declining. Fourth, the "front-loading" of primaries and caucuses, which puts a premium on early fundraising, has resulted in a high demand for matching payments early in the election year. Finally, the eligibility requirements for matching funds have not been adjusted since 1974, and many candidates can qualify for public funding as a result. Absent legislative action, the shortfall problem will recur in future elections.

The foregoing summarizes the FEC's fiscal year 2007 budget request. For a more detailed review of this request, I would urge members of the committee to consult our budget justification, which includes charts delineating how our budget request would be allocated and how it compares to previous years. It also demonstrates how the FEC has developed and used strategic and performance planning.

Again, I thank you, Mr. Chairman and the committee, for your continued support and the opportunity to present our fiscal year 2007 budget request.

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PREPARED STATEMENT OF TERRENCE L. BRACY, CHAIR, MORRIS K. UDALL  
FOUNDATION

Mr. Chairman, members of the subcommittee, thank you for the opportunity to present testimony regarding the fiscal year 2007 budget of the Morris K. Udall Foundation. We have previously submitted our Congressional Justification and met with the subcommittee's staff to answer their questions regarding our programs and budget.

The Foundation has two major program areas, supported by two distinct appropriations funds: First, the U.S. Institute for Environmental Conflict Resolution (the U.S. Institute), supported by a combination of annual appropriations and fees charged for services; and second, the Education Programs, supported by the annual interest from a Trust Fund (invested solely in Treasury obligations).

The President's budget requests \$700,000 for the Institute in fiscal year 2007. The Institute anticipates generating an estimated \$3.1 million in gross revenues in fiscal year 2007, of which an estimated \$2.4 million will fund extramural mediation services and \$700,000 will be applied to intramural costs. The Institute will continue to work toward maximizing its revenues from collection of fees for its services. An additional \$750,000 will be applied from the remainder of the Institute's original appropriation for capitalization expenses.

The President's budget requests no new appropriation for the Trust Fund. The Foundation education programs are expected to have a total budget of \$1.6 million in fiscal year 2007, which includes \$1.5 million in interest and \$100,000 in carryover from fiscal year 2006. This funding is expected to allow the Foundation to maintain current Education Programs in fiscal year 2007, including 80 scholarships of \$5,000 each and a grant of \$296,000 to the Udall Center for Studies in Public Policy, as required by the Foundation's enabling legislation.

The Foundation's budget details are thoroughly discussed in our Congressional Justification. In this testimony, I would like to focus on some of the programmatic highlights at the Udall Foundation over the last year.

The U.S. Institute for Environmental Conflict Resolution continues to be recognized as a significant resource for assistance in resolving and preventing environmental conflicts involving Federal agencies. In November 2005, the Office of Man-

agement and Budget and Council on Environmental Quality jointly issued a memorandum directing all Federal agencies to increase the effective use of environmental conflict resolution and build institutional capacity for collaborative problem solving. The policy memorandum encouraged agencies to draw on the services of the U.S. Institute to assist in resolving disputes, as appropriate, and to help review strategies for increasing the use of environmental conflict resolution by those agencies. The U.S. Institute is coordinating an interagency forum of senior agency staff that will oversee implementation of the policy memo.

In addition, the U.S. Institute has continued to provide conflict resolution and training services around the country. A substantial amount of work has been with the Federal Highway Administration—for example, the Institute has provided conflict resolution services in connection with a FHWA project in Oregon (the West Eugene Parkway), and it also has conducted workshops to strengthen FHWA efforts to work with State, local and tribal governments. One workshop focused on Federal and State consultation with American Indian Tribes, as required by the National Historic Preservation Act, bringing together the Tennessee Division of FHWA, the Tennessee Department of Transportation, and 11 federally recognized Tribes. Additional customized workshops are expected to strengthen Federal and State agencies' efforts to successfully meet agency coordination and cooperation mandates of the Transportation Equity Act for the 21st Century (TEA-21), Section 1309: "Environmental Streamlining" and Executive Order 13274: "Environmental Stewardship and Transportation Infrastructure Project Reviews".

The Institute recently completed one of the few successful mediations on timber issues in the United States, helping the parties to resolve a lawsuit challenging a timber sale in Oregon. The settlement provided for the Bureau of Land Management to continue with logging on 75 percent of the original 152 acres planned for sale and canceled logging on the rest, preserving old growth habitat. One innovation of the settlement was an agreement that community representatives can ride along with contract administrators during logging activities and visit post-harvested sites. The agreement is also important as a possible prototype for other settlements—at present, about 80 percent of proposed Forest Service timber sales are involved in litigation nationwide.

Another area of increasing activity for the Institute has been in customized training for Federal agency personnel in the use of collaborative processes to resolve conflicts. For example, Institute staff designed and led training in multi-party negotiation and conflict management for the U.S. Air Force. This training was first delivered in April at the Air War College in Alabama. The Air Force plans to use alternative dispute resolution more systematically in environmental and land-use disputes, with the goal of reducing dispute resolution cycle times and avoiding unnecessary dispute resolution costs. The Air Force already has reported saving time and much of the cost of litigating contract disputes through use of ADR, while achieving results at least equal to those expected from litigation.<sup>1</sup>

The Education Programs of the Udall Foundation are also thriving. The Foundation continues to draw the highest quality applicants for its scholarships, fellowships, and internships. A total of 836 college scholarships have been awarded through fiscal year 2006 to students from all 50 States and 259 colleges. The Native American Congressional Internship Program has placed 126 interns from 87 tribes in Congressional offices, the Executive Office of the President, and high-placed offices at the Departments of Interior, Education and Defense. Beginning in August 2006, the Foundation is planning a year-long "Celebration of Public Service" to mark the 10th anniversary of its Education Programs. As part of this effort, current and former scholars, fellows and interns will initiate and implement public service projects all around the country.

Native Nations Institute, a joint project of the Udall Foundation and the University of Arizona, has conducted executive education sessions for more than 1,700 councilors, presidents and senior managers from more than 340 Indian nations over the last 5 years and has reached many more through conference presentations. In partnership with the Harvard Project on American Indian Economic Development, NNI has developed the leading research on tribal economic development, leadership and self-determination. NNI has maintained program levels in fiscal year 2006 due to a transfer from the fiscal year 2006 Udall Foundation Trust Fund appropriation

<sup>1</sup>Report to the Secretary of the Air Force on the Air Force Alternative Disputes Resolution Program, January 2005. The Air Force ADR Program said data through fiscal year 2004 showed ADR resolves disputes in less than half the time, on average, compared with litigation through trial, and avoided much of the cost of full litigation, including the government's liability for interest on contractor claims. Early resolution through ADR also meant less disruption to Air Force programs and to the Air Force's working relationships with contractors, the report said.

(as authorized by Congress in Public Law 109–115); in fiscal year 2007, NNI will receive no additional funding from the Foundation but will utilize \$176,000 in carry-over from fiscal year 2006 and an estimated \$62,000 in fees to continue the Native American internships and the executive education program. NNI will continue to seek other funding, including grants from public and private organizations.

I am pleased to report to the subcommittee that the Foundation received an unqualified “clean” audit opinion again for fiscal year 2005, and no material inadequacies were identified by the independent auditor, Clifton, Gunderson, LLP. As in prior years, I want to assure the chairman and members of the subcommittee that the Foundation has taken extraordinary steps to keep down administrative expenses and get the most value out of its limited funds.

Thank you for the opportunity to provide testimony. We look forward to working with you and your staff on fiscal year 2007 appropriations.

PREPARED STATEMENT OF KENNETH D. WADE, CHIEF EXECUTIVE OFFICER,  
NEIGHBORHOOD REINVESTMENT CORPORATION DBA NEIGHBORWORKS AMERICA

Neighborhood Reinvestment Corporation, now doing business as NeighborWorks America, is pleased to submit this testimony for the record, on behalf of the NeighborWorks system. This system includes NeighborWorks America and 240 nonprofit, community-based organizations that comprise the NeighborWorks network. In fiscal year 2005, we served over 4,000 communities and generated over \$2.4 billion in direct investment.

OVERVIEW OF THE NEIGHBORWORKS SYSTEM

To help more Americans seize opportunities to build wealth, strengthen their communities and realize the dream of home ownership, we work on three basic fronts:

- NeighborWorks America headquarters and training agency;
- Our national NeighborWorks network of nonprofit community development organizations; and
- Financial backing through Neighborhood Housing Services of America.

For nearly 30 years, the NeighborWorks System has proven to be an increasingly effective and efficient vehicle for generating significant private-sector resources for community revitalization and affordable housing. The NeighborWorks System relies on public-private partnerships, the leveraging of Federal funding, and flexible revolving loan funds to achieve results. Innovations that are generated in response to community needs are a hallmark of the NeighborWorks System. We were borne out of a real and present community need for more private sector investment in decaying urban areas in the 1970’s and continue to nimbly address real and present community needs today.

*NeighborWorks America*

NeighborWorks America evolved from a 1972 effort by the Federal Home Loan Bank Board to increase thrift-industry lending in declining neighborhoods. Recognizing the model’s effectiveness in community development and turning around urban blight, Congress chartered NeighborWorks America as a public nonprofit organization in the Housing and Community Development Amendments of 1978 (Public Law 95–557).

Today NeighborWorks America:

- As the Nation’s largest certifier of high-quality home ownership education counselors, creates a national force of home ownership and financial literacy education counselors that have educated and empowered 500,000 Americans nationwide.
- Fuels local innovation with a powerful battery of community development training, research, managerial advice, turnaround specialists and an aggressive brokering of business and government partnerships.
- Maintains high performance standards for its NeighborWorks member organizations through rigorous and thorough audits to ensure accountability and results.
- Empowers underserved populations and regions of the Nation. When comparing total lending activity, the NeighborWorks network serves four times as many minorities as conventional lenders and twice as many as served by government agencies (as a percentage of the total clients served).
- Ensures continued responsiveness to local needs through sound dependable capital loan funds that have invested \$2.5 billion in communities in the last 5 years alone.
- Challenges predatory lending with the twin tools of education and customized, responsible lending.

*The NeighborWorks Network*

In the early 1970's, NeighborWorks America founded the NeighborWorks network, a group of community-based nonprofits that has evolved from a few organizations to more than 240 members active in more than 4,000 communities across the country. NeighborWorks organizations operate in our Nation's largest cities, suburban neighborhoods and rural areas across all 50 States, Puerto Rico and the District of Columbia. No matter what their location, NeighborWorks organizations are responsive and effective, because they function as partnerships of local residents, lenders and other business leaders, and representatives from local government. NeighborWorks network results include:

- forging private-sector partnerships that revitalize blighted communities to create an infusion of job retention and economic development strategies to local economies;
- providing full-service affordable rental housing that provides citizens with much more than a roof over their heads;
- creating home ownership incentives that help individuals realize the American dream and build wealth for their families and communities;
- educating communities about strategies that improve safety and attract wealth-building opportunities.

*Neighborhood Housing Services of America (NHTSA)*

Flexible financing enables NeighborWorks organizations to be nimble, competitive and effective. Neighborhood Housing Services of America works in partnership with NeighborWorks America to meet special secondary market needs of NeighborWorks organizations and their clients. The primary mission of NHTSA is to operate a specialized secondary market created to replenish the revolving loan funds and capital pools of local NeighborWorks organizations. As such, it has become an important tool for challenging predatory lenders.

## PROJECTED OUTCOMES FOR FISCAL YEAR 2007

This is a time of unprecedented challenges and opportunities in housing and community development. NeighborWorks America is in a prime position to deliver results.

An appropriation of \$120 million will allow the NeighborWorks system to:

- Award 8,300 training certificates in community development and housing; home ownership and community lending; home ownership education and counseling; construction, production, real estate and housing management; nonprofit management and leadership; and economic development, revitalization and community building to practitioners throughout the country.
- Generate \$20 in other investment for every \$1 appropriated to NeighborWorks America, for a total reinvestment of over \$2.4 billion in American communities.
- Provide affordable housing and counseling to more than 180,000 individuals or families living in 4,000 communities by 240 organizations that comprise the NeighborWorks network.
- Increase financial fitness education in underserved markets to build better money management skills that position families to build assets and achieve financial independence.
- Secure and expend \$85 million in social investments in support of affordable housing loans.

For fiscal year 2006, NeighborWorks America received an appropriation of \$118 (minus an across-the-board rescission). The proposed increase for fiscal year 2007 of \$2 million will further NeighborWorks America's work to create and sustain minority home ownership through grants to NeighborWorks organizations, as well as continue to allow NeighborWorks America to attract and retain qualified and competent staff in community development.

## PRIORITIES FOR FISCAL YEAR 2007

In developing the Corporation's fiscal year 2007 budget, NeighborWorks America is setting more aggressive expectations for the NeighborWorks system. NeighborWorks America has always worked to be good stewards of the funds that Congress has entrusted to us, and the Corporation continues to diligently work to maximize our efficiency and effectiveness. In order to meet these expectations, NeighborWorks America and the NeighborWorks system will:

- Leverage strategic partners and resources to stay on the forward edge of housing and community development needs;
- Monitor the efficiency and results of the NeighborWorks network through financial and performance reviews;

- Fuel network innovation that can be applied across the Nation; and,
- Build skills and performance in the housing and community development field.

*Leverage Strategic Partners and Resources*

Historically, the success of the NeighborWorks System has far exceeded its visibility. In fiscal year 2007, NeighborWorks America will continue its efforts to enhance the visibility of NeighborWorks by launching a public awareness and branding campaign: “NeighborWorks America—Transforming Lives and Strengthening Communities.” The campaign will unite the corporation with the national network it supports—240 NeighborWorks organizations across 50 States. Neighborhood Reinvestment is adopting the name “NeighborWorks America” as its public trade name. A resolution of the Board of Directors directing the Corporation to launch this public awareness and branding campaign passed unanimously on September 20, 2004.

More awareness of NeighborWorks America will help us serve more communities, creating a force of empowered consumers and engaged communities. NeighborWorks America will promote several tools to empower neighbors to maximize their financial position, to become informed homebuyers and savvy homeowners whose home values grow and provide equity. As NeighborWorks America, united with our national network under one name and a singleness of purpose, we will become a more visible and powerful national force for change.

*Increase the Efficiency and Results of the NeighborWorks Network*

Our scale and history allows NeighborWorks America and its affiliated NeighborWorks network to be responsive and innovative, successfully navigating the rocky terrain of the current housing and community development landscape. To keep pace with the breakneck and challenging changes in the current environment, we will:

*Demand Accountability and Results*

NeighborWorks America is committed to promoting and maintaining a network of productive, well-managed, nonprofit housing and community-development corporations that deliver high quality services responsive to local needs and have a measurable impact on the communities they serve.

*Conduct Rigorous and Thorough Audits and Reviews of NeighborWorks System*

As part of its responsibility to be a strong steward of Federal funding and protect the investment of other partners and the reputation of the NeighborWorks network as a whole, NeighborWorks America uses a rigorous and thorough audit and review of all NeighborWorks programs and organizations. Those who don’t measure up are given a defined time period to turnaround or leave the network. We demand high-performance and results.

Through a system of continuous monitoring, we assess the risks faced by each NeighborWorks organization with a thorough collection and analysis of programmatic and financial data.

*Measure the Success of the Community Development Field*

As stewards of taxpayer money and advocates for our most needy neighbors, we must make sure our investments are working in ways that truly make a difference. It’s not good enough to talk about simple counts of housing units produced or dollars leveraged. We must be willing to hold ourselves accountable for results. If banks and actuaries can refine their investment and insurance packages with increasing accuracy and sophistication, we also must find new ways to measure the impact of our work. This year NeighborWorks America will begin using the Success Measures Data System as one important tool to help answer the question: “Are we making a difference?” This state-of-the-art program can measure dividends such as changes in safety, property values, levels of civic engagement and the quality and performance of schools and healthcare, helping us to work smarter in serving the real and present needs in our communities.

The development of this index has been encouraged by OMB through its Program Assessment Rating Tool (PART) process. Federal Reserve Chairman Alan Greenspan cited Success Measures as a model tool for providing “objective and quantifiable standards to assess community development programs.”

*Improve Efficiency and Coverage of Underserved Areas*

The efficacy of the NeighborWorks system is measured in productivity, more efficient use of resources and more responsive service delivery. In many underserved areas, the most effective growth strategy is to expand the reach and/or programmatic services of an existing network member or to facilitate a merger of two

organizations to create one powerful organization with greater impact and efficiency.

We receive far more applicants to become NeighborWorks members than we charter. Through a careful affiliation process, NeighborWorks America ensures that before any organization is chartered as a NeighborWorks entity, it is sound and productive; led by a board of directors reflective of the community it serves; and committed to a mission with goals, values, programs and accomplishments compatible with the focus and priorities of the NeighborWorks network.

#### *Invest in What Works*

Responsible, responsive real-estate development and lending requires dependable equity capital grants. NeighborWorks America provides our network with this critical gap funding and equity, allowing NeighborWorks organizations to make loans for home purchase, property rehabilitation and small business loans.

NeighborWorks America also provides grants to NeighborWorks organizations to address a range of community needs, such as financial fitness education, home ownership counseling and education, development of affordable rental property, loans for improving safety, and much more.

#### *Fuel an Engine of Innovation*

The structure of the NeighborWorks network facilitates collaborative learning to harness all the practical knowledge picked up on the ground and in our research. Initiatives that allow NeighborWorks organizations to learn directly from each other include: the NeighborWorks Campaign for Home Ownership, the NeighborWorks Multifamily Initiative, the NeighborWorks Rural Initiative, and the NeighborWorks Insurance Initiative and its National Insurance Task Force.

To help organizations stay on the forward edge of business practices and community development, we deploy several strategies:

#### *Topflight Expertise and Coaching*

NeighborWorks America deploys a team of experts to provide NeighborWorks organizations with the expertise and coaching needed to continue to serve resident needs.

This on-call team provides help in six areas:

- Organizational development;
- Resource development and marketing;
- Community revitalization and business planning;
- Management systems (including technology and financial management);
- Single-family housing and lending; and
- Real-estate development and management.

#### *Championing Home Ownership Opportunities*

NeighborWorks America has worked for the past 20 years on expanding home ownership opportunities. Over the past 5 years, while access to credit has become easier, access to appropriately-priced mortgages continues to adversely and inordinately affect minority, female-headed households and immigrant families. The NeighborWorks network's financial literacy and homebuyer education efforts work to increase access to the best-priced mortgage for each consumer. The NeighborWorks System provides home ownership opportunities in a number of important and highly effective ways.

- 67 percent of those assisted by the NeighborWorks Campaign for Home Ownership are low- or very low-income households. Only 25 percent of the clients of conventional mortgage lenders have low or very low incomes.
- 51 percent of the households assisted by the NeighborWorks Campaign for Home Ownership are ethnic minorities, compared to only 25 percent of the clients served by conventional mortgage lenders are minorities.
- 46 percent of the buyers assisted by the NeighborWorks Campaign for Home Ownership are female, compared to only 21 percent of the clients of conventional mortgage lenders.

#### *The NeighborWorks Campaign for Home Ownership*

The NeighborWorks Campaign for Home Ownership is a joint effort of government, banks, the insurance industry, secondary markets, the real-estate community and others, coordinated by NeighborWorks America in conjunction with more than 158 community-based NeighborWorks organizations. Since 1993, the combined efforts of the Campaign have created more than 90,300 new homeowners (the majority of whom are low- and moderate-income minority families) and provided counseling to more than 538,300 individuals. As a result, \$9.05 billion has been invested in many of America's distressed communities. The campaign provides resources and

education for homeowners and empowers those for whom the American dream is thought out of reach.

#### *HomeOwnership Centers*

To date, NeighborWorks America has supported the development of nearly 100 NeighborWorks HomeOwnership Centers throughout the Nation. These Centers are one-stop shops for a broad range of home ownership services available to low- and moderate-income families including unbiased advice, counseling, training, referrals to partners such as lenders, real-estate agents, inspectors, contractors, and special financial assistance to income-qualified buyers. The Centers can also help existing homeowners with housing rehabilitation advice and assistance along with maintenance training. Financial counseling to avoid credit problems, loan delinquencies and foreclosures is also available.

NeighborWorks America expects to add at least 10 percent more HomeOwnership Centers in fiscal year 2007. On average, after becoming fully operational, each HomeOwnership Center will produce over 100 new homeowners per year and counsel over 375 families per year.

#### *Minority Home Ownership Strategies*

Between 2003 and 2007 the Campaign for Home Ownership set a goal to reach 30,000 minority homeowners. This goal also helps support the White House's Minority Home Ownership Initiative. Through 2005, the Corporation has developed and implemented a series of strategies to meet this goal. Among the strategies are development of an online searchable database called "Winning Strategies" that documents innovative strategies successfully used to promote minority home ownership in local communities; promoting expansion of financial education with new partners such as churches, schools and employers; working through NeighborWorks Center for Home Ownership Education and Counseling (NCHOC) to initiate new partnerships to develop training and certification classes on home ownership education that will be offered regionally and nationally; hosting national symposia on minority home ownership issues, education and counseling, and promoting stronger partnerships between nonprofits and real-estate agents, credit unions and employers.

#### *NeighborWorks Home Ownership Activities for Fiscal Year 2007*

In fiscal year 2007, the NeighborWorks System will continue to focus attention on helping qualified lower-income families and individuals purchase, maintain and stay in their homes for the long term. Our plans include:

- Delivering new training classes on "Reaching Underserved Homebuyers" that will continue to be offered regularly at the NeighborWorks Training Institutes;
- Designing a new "minority marketing toolbox" in 2005 that will include templates, tools and marketing materials to help local NeighborWorks organizations implement enhanced marketing efforts to attract more minority customers as potential homebuyers;
- Promoting expansion of financial education and home ownership-education programs with new partners such as churches, schools and employers.

#### *Financial Literacy and Education to Help Avoid Predatory Lending*

Predatory lending tactics are at an all-time high, particularly those preying on minority families, immigrants, and financially less-sophisticated borrowers. Too often bad actors encourage homeowners to pursue inappropriate debt consolidation, refinancing schemes, home improvement, or home equity loans that threaten the assets that the NeighborWorks System has worked so hard to help them acquire. NeighborWorks America just added a new course to its training curriculum to help combat predatory lending. The class filled up immediately and given this ballooning need, we are working to accommodate more.

Other strategies we use to combat predatory lending include:

- A Financial Fitness Program that prepares families to build sound finances and be aware of predatory tactics. The Corporation developed standards, adapted and created training materials, trained trainers to initiate this comprehensive program, and supports its growth;
- The addition of 10 Financial Fitness sites in fiscal year 2007 to expand the reach of financial education efforts across the network;
- A new consumer training curriculum for "Refinancing Your Home" that can be offered to assist existing homeowners in making smarter choices when considering the multitude of options in refinancing their home;
- A new consumer training curriculum on "Buying a Manufactured Home" to help consumers who are considering buying manufactured homes; and
- A study on the cost/benefit of providing pre-purchase counseling to consumers.

*Support the Center for Foreclosure Solutions*

We need to prevent foreclosures earlier—before a family even thinks of buying a home. NeighborWorks America’s approach is to provide education and counseling at every stage—pre- and post-ownership. We want to empower individuals, their families, their communities and their economies to be on a path of continued wealth creation. Informed consumers can leverage better service, lower costs and a more transparent, accountable lending and real estate industry.

Over the past 10 years, there have been dramatic increases in high-risk lending, growing job instability and excess consumer debt obligations that are all trademarks of susceptibility to foreclosures. NeighborWorks America has established the Center for Foreclosure Solutions (CFS) to research and test home ownership preservation efforts.

Our NeighborWorks affiliate—Chicago Neighborhood Housing Services—is blazing trails for other organizations across the Nation. Chicago NHS teamed up with city officials and 20+ lenders to reduce geographically concentrated foreclosures that leave neighborhood blocks riddled with vacant homes. The Home Ownership Preservation Initiative (HOPI) provides counseling to financially strapped owners and assistance in working with lenders to discuss refinancing, lowering interest rates and modifying payment plans. Over the past 2 years, the HOPI campaign prevented 940 foreclosures through innovative outreach and counseling efforts.

In fiscal year 2007, NeighborWorks America will expand the work of HOPI to establish a national model to address concerns about growing foreclosure problems. Other national and local partners are critical to successfully addressing these problems.

The goals of the Center for Foreclosure Solutions include market penetration in 15 markets with a phase roll-out approach focusing on key foreclosure hotspots, telephone counseling 24 hours, 7 days a week through a national, third-party intermediary, and implementation of a national and local targeted media and public relations campaign to reach delinquent and at-risk homeowners.

*Rural America*

The NeighborWorks network has become increasingly active in rural communities around the country. Today, 77 out of 240 chartered NeighborWorks organizations—about 30 percent of the network—serves rural populations, across 39 States and Puerto Rico. As a result of a series of growth and programmatic innovations, the number of rural Americans assisted by the network is expected to increase to 50 percent in the next few years. The needs of rural homeowners and renters differ in many aspects from those in urban or suburban areas. In many States, rural areas have the highest rate of substandard housing, the highest poverty rate, and median incomes often 35 percent or less than the median incomes of urban residents. Unfortunately, rural areas traditionally have lacked the financial resources for home financing.

In fiscal year 2007, NeighborWorks America will seek new affiliations with community-based organizations serving rural communities and will boost the capacity of existing NeighborWorks organizations to significantly increase their rural service areas to include high-priority under-served populations.

Hurricane Katrina has demonstrated the importance of coordinating relief efforts. In addition to new and expanded NeighborWorks charters, the Corporation will partner with at least three regional capital intermediaries based in perennially under-served rural regions. The NeighborWorks System will provide access to customized training event, including place-based Training Institutes in areas such as the Gulf and Appalachia; equity capital to leverage targeted investment in housing and community economic development, and at least partial liquidity for those investments through the Corporation’s national partnerships.

During fiscal year 2007, the Corporation will also launch at least six pilot sites for community economic development projects in rural markets. The pilot project will be designed to strengthen communities through job creation, retention and enhancement strategies.

This aggressive growth strategy is designed to increase NeighborWorks America’s overall production in rural communities from \$500 million in direct investments and 16,000 individuals served in fiscal year 2005 to \$750 million in direct investments and 24,000 rural Americans served by the end of fiscal year 2007.

*Areas Affected by Natural Disasters*

The NeighborWorks System (NeighborWorks America, related Capital Corporations such as Neighborhood Housing Services of America and affiliated local NeighborWorks organizations) along with the Corporation’s national partners are well-positioned to play a significant role in rebuilding the areas of the Gulf Coast

region affected by Hurricane Katrina. This nationwide network has access to skilled housing and community development experts who will apply their expertise to the affected are in a number of ways:

- Contractors and construction managers who can do a triage of work on existing properties to determine which properties can be rehabilitated and which should be demolished;
- Real estate developers who know how to take an idea and turn it into a reasonably-priced quality constructed house or subdivision;
- Mortgage lenders who can originate and underwrite loans;
- Counselors on credit and housing issues, who can assist residents through complex processes involved with property rehabilitation and/or mortgage financing;
- Contractors who are knowledgeable of various Federal, State and local programs and funding sources that may be available;
- Organizers who can help provide hope to the affected families and communities, and mobilize volunteers in the rebuilding efforts; and,
- Resource development professional who have a proven track record in soliciting private-sector contributions in support of rebuilding efforts.

#### *Affordable Rental Opportunities*

The desire to own a home is strong across all socioeconomic groups, but not everyone is adequately prepared, and the strongest communities offer multiple housing options. Therefore it remains important to have viable rental housing—especially units that allow a safe, stable environment—with rents affordable enough for occupants to accumulate savings. Tomorrow's first-time buyers are renters today.

A major focus of NeighborWorks Multifamily Initiative, which provides affordable rental housing, has been on strengthening aging property portfolios that may be suffering a weakness in cash flow. Our expert coaches and analysts suggest operational improvements, and explore creative ways to restructure financing, with an eye to improving cash flow across the entire portfolio.

NeighborWorks America also promotes more opportunities to increase the supply of affordable rental homes. In 2004, the Corporation was able to use the special set-aside of \$5 million for multifamily housing to promote mixed income rental homes that truly serve their communities by providing more than just sound housing.

NeighborWorks organizations in our Learning Center Consortium provide after-school care, job training, health care, parenting classes and much more. NeighborWorks America has commissioned a study to measure the impact on the difference made on the kids and their families in the form of dropout rates, GPA, attendance rate, and job retention.

#### *Build Skills and Performance in the Housing and Community Development Field*

##### *NeighborWorks Center for Home Ownership Education and Counseling*

NeighborWorks is the Nation's largest certifier of high-quality home ownership educators and counselors, working to empower consumers to make the biggest investment of their lives a successful one. Although the value of home ownership education and counseling to homebuyers is supported by research and is increasingly recognized as a powerful tool to promote neighborhood revitalization, the quality is uneven and the coverage insufficient. There are few national certification standards, limited continuing-education requirements for trainers and counselors, gaps in coverage across the Nation, and a lack of quality control for home ownership education and counseling—ranging from intensive, multi-day curriculum and standards to “sham” counseling programs that lure potential buyers into predatory loan deals. There is also a dearth of well-trained educators and counselors to meet the growing national need.

To address these concerns, NeighborWorks America, through the nationally recognized NeighborWorks Training Institute, has launched the NeighborWorks Center for Home Ownership Education and Counseling (NCHEC) to create a national force of high-quality home ownership and financial education counselors. To date these counselors have helped more than 500,000 Americans gain critical financial literacy skills and make the most of home ownership.

NCHEC aims to increase the number of home ownership educators and counselors trained and certified through the NeighborWorks Training Institute from 700 to more than 2,000 per year—indirectly ensuring the education and counseling of several million individuals and families by 2007. NCHEC has already provided over 3,800 training certificates a year in more than 20 courses in home ownership, education, counseling and lending.

In the fall of 2004, the Department of Housing and Urban Development awarded NeighborWorks America \$7.75 million over 2 years to train and certify HUD-approved housing counselors around the country through NCHEC. In addition to ex-

panded home ownership and community-lending training offered at the NeighborWorks Training Institutes, NCHCEC has partnered with other intermediaries, State-wide counseling collaboratives, and NeighborWorks organizations to offer trainings in local settings around the country.

*NeighborWorks Training Institutes*

For more than 15 years, NeighborWorks America has been providing outstanding community development training in the country through its NeighborWorks Training Institutes, which are held four to five times a year in different cities throughout the United States. In recent years, NeighborWorks America has begun taking its NeighborWorks Training Institute courses to local markets in the form of "place-based trainings" conducted in collaboration with local and regional partners. NeighborWorks America has also offers an Advanced Practitioner Program (APP) for seasoned community development practitioners and board members.

CONCLUSION

Let me close by thanking the subcommittee for the opportunity to brief you on our work, and the results generated by NeighborWorks America's congressional appropriation. The NeighborWorks System and NeighborWorks America's congressional appropriation represents a precious asset for 240 community development organizations and more than 4,000 communities across America. With our leveraging of dollars, NeighborWorks has been efficient and effective in ensuring the maximum impact of our Federal appropriation. Congress has allowed NeighborWorks America to be flexible and responsive to local needs; as a result, families and communities are stronger and more self-reliant.

NeighborWorks America is committed to continuing to build healthy, strong and safe communities all across America. Your continued support is vital to us in accomplishing this goal.

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PREPARED STATEMENT OF THE HONORABLE STEVEN R. BLUST, CHAIRMAN, FEDERAL MARITIME COMMISSION

Mr. Chairman and members of the subcommittee, thank you for this opportunity to present the President's fiscal year 2007 budget for the Federal Maritime Commission.

The President's budget for the Commission provides for \$21,474,000 for fiscal year 2007. This represents an increase of 5.8 percent, or \$1,180,000, over our fiscal year 2006 appropriation. This budget provides for 132 work-years of employment.

Our fiscal year 2007 budget request contains \$15,691,000 for salaries and benefits to support the Commission's programs. This is an increase of \$1,178,000 over our fiscal year 2006 appropriation. This includes all salaries, including those for employees hired in fiscal year 2006, promotions, within-grade increases, and an anticipated cost of living adjustment. The funding includes annualization of the fiscal year 2006 cost of living adjustment increase, and an anticipated 2.2 percent fiscal year 2007 cost of living adjustment. Further, it includes funds to hire two critical staff: a Commissioner's Counsel and an attorney for our Office of Consumer Affairs and Dispute Resolution Services.

Official travel has been straight-lined at our fiscal year 2006 level of \$237,000. Travel remains an essential aspect of our effort to provide better service to the ocean transportation industry and to accomplish our oversight duties more effectively. We are committed to working within our straight-lined travel funding to ensure that our expanded outreach and compliance programs are fully supported, in addition to providing appropriate travel funds to support all other program efforts.

Administrative expenses have increased \$2,000 net over fiscal year 2006, to \$5,546,000. The Commission is planning for a small increase in rent to accommodate rental rate increases in our field offices, as well as an increase to fund Homeland Security charges. Other administrative expenses will be incurred in fiscal year 2007 to support increases in our customary business expenses, such as maintaining government and commercial contracts, and for items such as telephones, postage, and supplies. These increases are partially offset by a reduction of \$157,000 for furniture and equipment.

Just as in previous years, the Commission's budget contains primarily non-discretionary spending. These items represent the basic expenses any organization faces in order to conduct its day-to-day operations, and are crucial to allow us to meet the responsibilities Congress has entrusted to the agency. This budget request therefore represents a modest increase over the current year appropriation, primarily to address anticipated cost increases over current year expenses.

As you know, Mr. Chairman, the Commission is responsible for the regulation of oceanborne transportation in the foreign commerce of the United States. Since 1916, the Commission and its predecessor agencies have effectively administered Congress' directives for the ocean transportation industry, and its long-standing expertise and experience have been recognized by Congress, as well as by the industry the Commission oversees, courts, and other nations. Working with the industry, we have developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. imports and exports. I would like to highlight for you some of the significant activities in which the Commission is involved.

Last year, I advised you of the Commission's rulemaking proceeding to allow non-vessel-operating common carriers ("NVOCCs") to enter into confidential service arrangements with their shipper-customers. As you will recall, NVOCCs otherwise in compliance with the licensing, financial responsibility, and tariff publication requirements of the Shipping Act are now permitted to enter into confidential NVOCC Service Arrangements, or NSAs, with their shipper customers in lieu of publishing their rates in a publicly-available tariff, provided that the NSA is filed confidentially with the Commission and the essential terms are published in the NVOCC's tariff. This new regulation is consistent with those regulations governing service contracts between ocean common carriers and their shipper customers, and we anticipate that it will result in greater competition in the shipping industry.

Originally the exemption rule did not allow NVOCCs or shippers associations with NVOCC members to participate in NSAs as shippers. We were concerned about the potential antitrust implications of such arrangements. Some of those concerns were ameliorated after issuance of a judicial decision last fall, and the Commission determined that it could remove these limitations. Two or more NVOCCs are still prohibited from jointly offering a single NSA, as we believe this might run counter to recent judicial interpretations which construe the antitrust provisions of the Shipping Act in a manner we believe to be much broader than what was envisioned by Congress, this Commission, and indeed even the industry. I indicated last year that we would continue to work with the industry to address this issue. In fulfillment of this obligation, the Commission requested the comments of industry participants on potential ways to authorize joint NSAs by multiple NVOCCs. The Commission received numerous comments in late 2005, and is presently evaluating them.

As of mid-April 2006, 300 original NSAs had been filed—by 57 NVOCC filers—out of 355 NVOCCs who are registered to be able to offer NSAs. That means that only slightly more than 10 percent of all NVOCCs have registered to offer NSAs, and fewer than 2 percent have taken advantage of the new contracting option. It will take some time for new business processes, skills and recognition of benefit to converge into a new market; however, I forecast a substantial growth in the use of NSAs in the future as the industry becomes more familiar with these agreements.

As part of the Commission's enforcement and ocean transportation intermediary oversight functions, as well as the ombudsman services provided by the Office of Consumer Affairs and Dispute Resolution Services, the Commission recently commenced a formal investigation against nine household goods moving companies operating in violation of the Shipping Act. The Commission's preliminary investigation indicated that these companies were unlawfully doing business as unlicensed NVOCCs without proof of financial responsibility or published tariffs, and were engaging in conduct that created risks of significant financial harm to the public. On January 17, 2006, the U.S. District Court for the Southern District of Florida granted the Commission's motion for a preliminary injunction against four of the companies and three of the individuals named as respondents in the proceeding. The injunction, which prohibits these respondents from operating in violation of the Shipping Act, will remain in effect pending the completion of the Commission's investigation.

The Court injunction and the Commission's formal investigation are based on more than 250 consumer complaints. Some examples of those complaints include failure to deliver cargo and refusal to return the pre-paid ocean freight; loss of the shipper's cargo; charging the shipper for marine insurance never obtained; withholding cargo until the shipper pays a higher rate than the one originally quoted; misleading the shipper as to the cargo's whereabouts; and finally, making the release of cargo dependent upon the shipper paying a second carrier or warehouse for transportation and warehousing already pre-paid to respondents. As most of the injuries of which we are aware involve shippers' personal household possessions, the Commission considers it especially important that every effort be made to prevent the respondents from injuring anyone else. At the moment, the proceeding is before the Commission's administrative law judge and we will seek additional injunctions as warranted.

Last year, I advised you about the agency's public outreach initiative involving a series of informational seminars hosted by the Commission's Area Representatives and other Commission personnel at various locations around the country. These seminars continue to be successful in creating a forum for enhanced dialogue between the industry and the Commission. As you may recall, we also started a program where we have invited representatives from various segments of the industry to brief our staff on current issues and concerns affecting the ocean transportation industry. Thus far, we have met with representatives from the ocean transportation intermediary, passenger vessel and vessel operator communities, as well as shippers, marine terminal operators, and port authorities. We are in the process of planning more informational briefings for 2007 with other segments of the maritime industry, including Federal agencies. One Federal agency, the Maritime Administration, briefed Commission staff last March, and the U.S. Customs and Border Protection is scheduled to brief our agency in June about the Automated Commercial Environment trade processing system. I am confident that these briefings will provide the Commission and its staff with a greater awareness and understanding of the most current issues facing the maritime community.

The Commission continues to address restrictive or unfair foreign shipping practices under section 19 of the Merchant Marine Act, 1920 ("Section 19"); the Foreign Shipping Practices Act of 1988 ("FSPA"); and the Controlled Carrier Act of 1978. Section 19 empowers the Commission to make rules and regulations to address conditions unfavorable to shipping in our foreign trades; FSPA allows the Commission to address adverse conditions affecting U.S. carriers in our foreign trades that do not exist for foreign carriers in the United States. Under the Controlled Carrier Act, the Commission can review the rates of government-controlled carriers to ensure that they are not below a level that is just and reasonable.

In my statement last year, I advised you of several pending proceedings related to shipping conditions in China. In particular, the Commission was investigating whether Chinese laws and regulations might discriminate against and disadvantage U.S. vessel operators and NVOCCs with regard to a variety of maritime-related services. As you know, in December of 2003, the United States, through the Secretary of Transportation, and his Chinese counterpart, the Minister of Communications, signed a bilateral maritime agreement which appeared to address many of the concerns raised by the Commission, including issues affecting vessel operators, NVOCCs, and other industry interests. That agreement became effective with the exchange of diplomatic notes in April of 2004.

Subsequently, the Commission requested comment from the industry on whether the commitments made in the bilateral agreement, which would have relieved the impediments to U.S. companies identified by the FMC, were being honored.

The issues we raised were adequately addressed, and the Commission terminated the formal proceeding investigating these Chinese practices on April 21, 2005. Informally, we continue to receive positive feedback from the U.S. industry in this regard. Another U.S.-flag carrier has entered the U.S.-China trade and has opened offices in two cities in China. Matson Navigation's first vessel in the Ningbo-Shanghai-Long Beach express service called in Ningbo on February 21, 2006. As always, we will continue to monitor practices around the world to determine whether formal action is warranted.

Lastly, the Commission recognizes that its oversight of ocean common carriers, ocean transportation intermediaries, including ocean freight forwarders and NVOCCs, and marine terminal operators, is an important element in the effort to protect our Nation's seaports. We are continuing our efforts to combat unlawful participation in the U.S. ocean transportation system by ensuring that all entities engaged in the U.S. foreign commerce are in compliance with the requirements of the statutes we administer. The Commission has met with the Office of Naval Intelligence, the Department of Homeland Security and the Department of Transportation to discuss information sharing and other possible FMC contributions to maintaining a safe and efficient maritime transportation system. The Commission's regulation of operators of U.S. marine terminals ensures that they follow just and reasonable practices, and that they do not unreasonably prefer or prejudice any person or unreasonably discriminate against carriers using their facilities. While our oversight is limited to the regulation of such commercial practices, we make every effort to work closely with other agencies to share information in this area. Moreover, the Commission is a member of the Committee on the Marine Transportation System, the inter-agency group created by this administration to carry out a joint strategic plan that ensures that the U.S. marine transportation system achieves the expansion goals necessary to support the level of traffic anticipated in the 21st Century in a secure, environmentally sound and coordinated manner for all stakeholders. We also continue to exchange information with the U.S. Customs Service through a

Memorandum of Understanding. As the Commission continues to refine its role in the safeguarding of our national security, we stand ready to provide our technical expertise and assistance to all groups that are on the front lines of securing our ports and vessels.

Mr. Chairman, I hope that my comments have served to give you a clear indication of the important work to be accomplished by the Federal Maritime Commission. I respectfully request favorable consideration of the President's budget for the Commission so that we may continue to perform our vital statutory functions in fiscal year 2007.

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PREPARED STATEMENT OF MARK V. ROSENKER, ACTING CHAIRMAN, NATIONAL  
TRANSPORTATION SAFETY BOARD

Chairman Bond, Ranking Member Murray, and members of the Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies, the National Transportation Safety Board appreciates the opportunity to present testimony on its appropriations request for fiscal year 2007.

The National Transportation Safety Board is an agency with the critical mission of ensuring the safety of the traveling public through transportation accident investigation and special study of transportation safety concerns. The Safety Board investigates aviation, pipeline, rail, hazardous material, marine, and highway accidents. The Board also conducts highly technical laboratory examinations and analyses of voice and data recorders and physical evidence recovered in accident investigations. The Board determines the probable cause of the transportation accidents and makes safety recommendations to prevent similar accidents from happening again. We address these recommendations to the agencies, organizations, and companies that are best able to make improvements. The Board's investigators serve as U.S. accredited representatives as specified in international treaties for aviation accidents outside U.S. borders involving U.S.-registered aircraft or involving aircraft or major components of U.S. manufacture. Beyond our national and international accident investigation work, the Board works closely with State governments to transform our safety recommendations into laws that save lives.

I assure you that we work hard to manage well the people and resources of the Safety Board to perform our critical mission. During last year's appropriations cycle, the committee expressed concerns about the distribution and management of agency resources. Over the last year we have made considerable progress to improve the mission focus of the Safety Board.

Recent leadership changes at the Safety Board have been significant. In March 2005, Joe Osterman began serving as the Board's Managing Director, its highest-ranking career leader. Mr. Osterman is effectively leading a highly talented management team. Over the past year, the Board has changed personnel in 14 of the top 24 leadership positions. Highly qualified and experienced professionals, from both inside and outside the Board, fill these important positions. Some noteworthy new members of the team are Dr. Jack Spencer, the Director of our Office of Marine Safety, and Colonel Gary Halbert, our General Counsel. Dr. Spencer, an MIT-educated naval architect, comes to us from the private sector, and Mr. Halbert—an accomplished attorney and aviator—recently retired from the U.S. Air Force. Both have hit the ground running and are making important contributions to the Board. Also, we are currently recruiting for a Chief Information Officer who will join the agency's management team with the responsibility of managing the agency's information infrastructure. We are improving our performance management system throughout the agency; and, most importantly, we are refocusing our efforts on leadership, internal communication among staff and the Board members, external communications with our committees and the public, and dedication to the Board's mission.

The Safety Board has reinvigorated its focus on the timely completion of investigations and the production of accident reports. We have increased production of reports, with safety recommendations by 50 percent, without compromising the quality that is the hallmark of Safety Board investigations and reports. Since this time last year, the Board has considered and adopted 21 investigation or safety reports in public meetings and conducted two public hearings. Moreover, our leadership team is on track to improve this record even further. A dozen of next year's Board products have been scheduled, and three public hearings and one safety forum have been proposed for the Board's consideration. We are focused on the mission. Furthermore, our leadership team is improving the management of the agency. In each of the last 3 fiscal years, timely and accurate NTSB financial statements have received clean audit opinions from the Department of Transportation Inspector

General. The Board now has a strategic plan, and we are working closely with the Government Accountability Office to examine our management practices to determine where we can make additional improvements.

The Safety Board also has heard clearly the concerns regarding the NTSB Academy. The building is the site of our training center, but it also houses the Board's Mid-Atlantic Aviation Safety Regional Office, the reconstruction of the TWA flight 800 wreckage (an important training tool) and a laboratory. Finally, it serves as the continuity-of-operations site for the Board as well as for other government agencies. In the fiscal year 2006 appropriations for the Board, this committee acknowledged the Academy's benefit in sharing accident investigation best practices with the broader transportation community; however, the committee also believed that the functions of the Academy should be secondary to the Board's core mission of accident investigation. The committee directed the Board to reduce the investigator workforce hours at the Academy so that critical investigative responsibilities would not suffer because accident investigators were diverted to Academy teaching assignments. The committee encouraged the Board to more boldly and directly cover the cost of the Academy using authority to impose and collect fees for the Academy's services. (Consistent with the committee's direction, we have redirected our approach.) The Board now looks at the Academy as an integral adjunct to the core investigative mission, concentrating on the Academy's unique ability to develop and sustain innovative and state-of-the-art training courses that support, not supplant, accident investigation and safety activities.

I would like to provide a brief overview of some of the major accidents, reports, and activities of the Safety Board in each mode of transportation, and also touch on the important work of other major offices during this past year.

*Marine Safety.*—The Safety Board initiated five marine accident investigations in fiscal year 2005 including the sinking of the uninspected passenger vessel *Sydney Mae II* in Oregon in September 2005. Board investigators led the investigation of a fire on board the passenger vessel *Lady Baltimore* in Baltimore, Maryland, and also a fire on the small passenger vessel *Express Shuttle II* in Port Richey, Florida, in October 2004. The Board also investigated accidents involving two foreign ships: the *Norwegian Dawn*, a Bahamian flag passenger vessel en route to New York that suffered heavy weather damage, and the Malaysian flag bulk carrier *Selendang Ayu* that went aground in the Aleutians.

The Board completed four marine investigations in fiscal year 2005. These included the collision of the U.S. Navy submarine *USS Greenville* and the Japanese vessel *Ehime Maru* off the coast of Hawaii, the passenger vessel *Taki Tooo*, the Staten Island Ferry *Andrew J. Barberi*, and the Alaskan Marine Highway System ferry *Leconte*.

*Aviation Safety.*—The Safety Board initiated five major domestic aviation accident investigations in fiscal year 2005, including the crash of a Northwest AirlinK regional jet that killed both crewmembers during a repositioning flight in Jefferson City, Missouri. Just 5 days later, the Board launched a second go-team to Missouri to investigate an accident involving an American Connection commuter flight that crashed on approach to Kirksville causing 13 fatalities. A go-team also was launched to Houston, Texas, in November to investigate an accident involving a Gulfstream jet that was en route to pick up former President Bush for a foreign speaking engagement. Two other accidents involving corporate jets occurred in February: one was taking off from Teterboro, New Jersey; the other was carrying Circuit City executives to Pueblo, Colorado.

The Board launched investigators to assist on 17 foreign accidents in fiscal year 2005, including the crash of a military Boeing 737 charter in Kabul, Afghanistan. August was an extremely busy month for foreign investigations—the Board launched investigators to a Sikorsky S-76 helicopter accident in Tallin, Estonia, and launched investigators to assist in airline accident investigations in Canada, Greece, Venezuela, and Peru.

The Board completed four major investigations in fiscal year 2005: American Airlines flight 587 in-flight separation of the vertical stabilizer in Belle Harbor, New York; Air Sunshine in-flight engine failure near Treasure Cay, Bahamas; Federal Express hard landing and gear collapse in Memphis, Tennessee; and Executive Airlines crash during landing near San Juan, Puerto Rico. During this time, the Board also issued two important aviation safety studies: "General Aviation Activity Reporting Requirements" and "General Aviation Weather Accidents".

Regional investigators initiated 1,862 general aviation accident investigations in fiscal year 2005, and initiated 132 investigations involving commercial (not GA accidents) operations. Regional investigators completed 2,132 investigations during this period. The Board also published annual reviews of aircraft accident data for air carrier and general aviation operations.

*Railroad, Pipeline, and Hazardous Materials.*—In fiscal year 2005, the Safety Board launched teams to investigate 13 railroad accidents and 2 pipeline and hazardous material accidents. These included a launch to Graniteville, South Carolina, in which a freight train dived at full speed onto an industrial siding where it subsequently crashed into a standing train, releasing chlorine gas that killed nine people and resulted in the evacuation of more than 5,400 people. The Board completed eight railroad and three pipeline and hazardous materials accident investigation reports and one pipeline safety study in fiscal year 2005. The accidents included a tank car explosion in Freeport, Texas, that occurred during chemical off-loading operations and the derailment of an Amtrak train in Flora, Mississippi.

*Highway Safety.*—The Safety Board launched investigators on 6 major highway investigations and 31 other investigations during fiscal year 2005. Those included a 14-fatality motorcoach rollover accident in Turrell, Arkansas; a motorcoach that struck an overpass in Alexandria, Virginia, while the driver was talking on a cell phone; two accidents causing 5 fatalities in which gasoline tankers overturned (one near the Pentagon in Arlington, Virginia, and the other in Davie, Florida); a school bus collision with a trash truck in Arlington, Virginia, in which 2 children were killed; and the tragic motorcoach fire in Wilmer, Texas, that killed 23 elderly passengers during the Hurricane Rita evacuation.

Five major reports were completed in fiscal year 2005, including reports on two accidents 7 months apart at a Border Patrol security checkpoint in North Hudson, New York, killing 4 and injuring 54; an accident involving a motorcoach that struck the rear of a parked tractor-trailer near Tallulah, Louisiana, killing 8; and another accident in which a motorcoach crossed a highway median in a rainstorm striking an SUV and killing 7 in Hewitt, Texas. In addition, the office of Highway Safety also completed a special investigation report for the Board on “Medical Oversight of Non-Commercial Drivers” that highlighted the dangers of seizures and other medical issues uncovered during the investigations of four accidents that resulted in 8 fatalities and 27 injuries. The Board also completed a report on the effectiveness of driver’s education programs that involved a public hearing on an accident in Belgrade, Montana, that killed a driver’s education instructor and three students.

*Safety Recommendations.*—The most important result of an accident investigation are the safety recommendations that help prevent future accidents. Our recommendation acceptance rate was over 82 percent in 2005. We currently have 850 open safety recommendations of which 62 percent are to operating administrations of the Department of Transportation and the U.S. Coast Guard in the Department of Homeland Security.

In fiscal year 2005, the Safety Board issued 84 safety recommendations and closed 142, 111 of which were closed with an acceptable response. In aviation, 29 were successfully closed, as were 37 in highway, 8 in pipeline and hazardous materials, 10 in marine, and 27 in rail. The Board also updated its Most Wanted List of critical safety recommendations targeted to Federal regulators and States that, if implemented, will make the most dramatic impact on safety. The Most Wanted List contains 56 recommendations directed to Federal recipients, and 9 directed to the States. Additionally, the Safety Board conducted more than 20 meetings and legislative briefings in 10 States to promote Safety Board recommendations.

Some examples of successfully implemented recommendations include tougher surveillance of rapidly growing air carriers, revised lubrication intervals and pilot checklist procedures for horizontal stabilizer trim systems on DC-9 and MD-80/90 and B-717 aircraft, new regulations upgrading safety requirements for 9- to 15-passenger vans, a requirement that steel pipe used in construction pipelines must have adequate toughness to prevent brittle fracture, and improved crew resource management training for railroad employees.

*NTSB Academy (Training Center).*—Fiscal year 2005 marked the first full year of operational experience on site for the Academy. During the year, the Academy expanded course offerings and received accreditation from the International Association for Continuing Education Training, allowing continuing education credits to be given to students who meet the required criteria. Also, as a result of the direction provided in the Board’s appropriations, the philosophical approach for the Academy has changed significantly and investigative resources are used for Academy programs have been sharply curtailed. The focus of the NTSB Academy is to support the accident investigation mission of the Safety Board and promote transportation safety in the following ways:

- Improving the quality of NTSB accident investigations through technical training and instruction;
- Improving the effectiveness of NTSB staff through skill development instruction;

- Improving the efficiency and effectiveness of NTSB accident investigations by communicating lessons learned, sharing accident investigation techniques, and fostering the exchange of new ideas and experience among organizations that participate in NTSB investigations as parties and the broader transportation safety community;
- Providing a forum for instruction, outreach, and advocacy on issues relevant to the transportation safety community;
- Providing a facility for advanced laboratory and research activity; and
- Utilizing its high-quality training resources to facilitate transportation disaster response programs, collaborative instruction with partner agencies, and other compatible activities.

*Summary.*—Included in the President’s fiscal year 2007 budget for the National Transportation Safety Board is a provision that would rescind the \$1.998 million balance in the Board’s no-year emergency fund and make that sum available in the Board’s fiscal year 2007 1-year appropriation account. In addition, the President’s budget proposal would make up to \$5 million of the 1-year appropriation available until expended, thus allowing the Board to set aside up to \$5 million of the appropriation for extraordinary expenses, such as those that normally would be covered by the emergency fund.

Should the Congress approve this provision, the Safety Board would anticipate initially reserving some portion of its appropriations to ensure that a minimum amount would be available for carry over for emergency expenses. Any additional amounts that are available at year-end would also be carried over for this purpose. Because establishing an adequate pool of money for emergency expenses would likely take several years to accomplish, this provision would necessarily need to be included in the Board’s appropriation language for subsequent fiscal years as well.

As the Acting Chairman of the National Transportation Safety Board, I am very proud of the men and women with whom I work. Other countries have adopted our model, and many countries ask for the Safety Board’s assistance. The employees at the Board are considered to be the best in the business, and prove it every day. What surprises many people is the size of the agency. Currently the Board has only 399 employees. Of this number, 283 employees are investigators or are mission-critical to an accident investigation. Seventy percent of our budget is used for employee compensation and benefits, 15 percent for fixed expenses (such as office space, telephones, etc.) and 15 percent for everything else including travel to accident sites, accident investigation services, and lab equipment replacement and upgrades. I appreciate very much that the Appropriations Committee has had to make difficult choices in the last several years. This year’s appropriation, which was held to last year’s funding level, was further reduced by a 1 percent across-the-board rescission. In addition, the cost of the annual pay increase had to be absorbed in the reduced appropriation. As a result, we reduced our FTE level by 15 and have not been able to replace some key staff.

The Safety Board faces significant challenges. Although the Board has executed a human capital forecast this year to realign our existing resources to continue to meet critical mission needs, the Board will find increasing challenges in some critical areas. Advances in transportation technologies, increases in our necessary involvement in foreign aviation accident investigations, and the sheer complexity of many recent accident investigations will stretch thin our employee resources. The Board has been very careful with its appropriated funds, but we will have difficulty sustaining the high standards we demand of ourselves without sufficient funding. In fiscal year 2005, we have made demonstrable improvements in the management, financial fitness, and mission focus of the NTSB. I would like to request that the subcommittee consider the Board’s critical mission and our future needs for additional professionals to continue the fine work of the Safety Board. In 2004, there were more than 44,000 fatalities in transportation accidents, and we know that Congress shares our belief that more can be done to prevent these fatalities. I would like to thank the subcommittee for your continued support of the Safety Board.

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PREPARED STATEMENT OF HONORABLE PATRICK E. MCFARLAND, INSPECTOR  
GENERAL, THE OFFICE OF PERSONNEL MANAGEMENT

Mr. Chairman and members of the subcommittee, thank you for providing me with this opportunity to discuss the President’s fiscal year 2007 request for appropriations for the Office of the Inspector General. The total request for the Office of the Inspector General is \$17,764,000 which is \$452,000 below the amount enacted in fiscal year 2006. Of this amount, \$1,598,000 is from the salaries and expenses/

general fund and \$16,166,000 is from the trust funds. These resources are requested to perform our core functions which include:

- Conduct audits of agency programs and operations, primarily carriers participating in the Federal Employees Health Benefits Program (FEHBP), associated information systems, and internal agency operations and financial systems;
- Provide investigative oversight of the OPM-administered employee benefit programs; and
- Issue administrative sanctions, including debarments, suspensions, and civil monetary penalties, to health care providers who pose a financial risk to the FEHBP itself or a health care risk to persons who receive health insurance coverage through the FEHBP.

The Office of the Inspector General recognizes that oversight of the retirement and health and life insurance trust funds administered by OPM is, and will remain, its most significant challenge. These trust funds are among the largest held by the United States Government. Their assets totaled \$715.8 billion in fiscal year 2005, their receipts were \$85.1 billion, and their annual outlays were \$94.4 billion. The amounts of their balances are material to the integrity of the government's financial position. I continue to allocate the vast majority of the Office of the Inspector General's efforts and resources to trust fund oversight, and we remain fully committed to trust fund activities.

OPM makes outlays from the retirement trust funds in the form of payments to millions of annuity recipients. The health insurance trust fund provides payments to approximately 270 health insurance plans nationwide. In turn, the health insurance carriers pay millions of claims for services filed by their enrollees and health care providers. We have shown through our investigations and audits that such health insurance payments may be at risk through improper, inaccurate or fraudulent claims.

We are obligated to Federal employees and annuitants to protect the integrity of their earned benefits. Our audit and criminal investigative work reduces losses due to fraud and improper payments and recovers misspent funds whenever possible. We have a special obligation to the Federal agencies and the American taxpayers who provide the majority of the funding.

The Office of the Inspector General has achieved an impressive record of cost effectiveness. Audits and criminal investigations of the OPM administered trust fund programs have resulted in significant financial recoveries to the trust fund and commitments by program management to recover additional amounts. Since fiscal year 1992, these recoveries and commitments total approximately \$1.2 billion which is approximately \$10 of positive financial impact for each direct program dollar spent. During fiscal year 2005, the positive financial impact exceeded \$121.7 million, and current estimates for fiscal year 2006 and fiscal year 2007 are \$130 million and \$115 million respectively. In addition, we believe that audits and criminal investigations provide a significant deterrent against future instances of fraud, waste, and abuse.

With the additional resources received over the past few years, the Office of the Inspector General has established 21 investigative field offices. We have determined that the most effective deployment of investigative staff is to locate them in areas of the country where FEHBP and retirement benefits are more concentrated. Experience has shown that criminal investigators located in these areas often work in cooperation with other law enforcement entities similarly located resulting in additional criminal leads and better protection of OPM programs. In many instances, criminal investigators located outside of Washington, DC work exclusively on cases referred to them by local authorities. During fiscal year 2005, investigative work resulted in 38 arrests, 43 indictments, and 20 convictions and we are projecting similar outcomes in fiscal years 2006 and 2007.

During fiscal year 2007, we will continue to conduct audits of pharmacy benefit managers (PBMs). The premiums paid for prescription drug coverage have risen exponentially over the last 10 years and allegations against PBMs have also increased. It is estimated that approximately \$6 billion was paid during 2004 in prescription drug premiums to experience-rated carriers by the Office of Personnel Management and Federal employees. This represents approximately 26 percent of experience-rated carrier premiums paid for health benefits coverage for Federal employees and annuitants.

Also during fiscal year 2007, we will further our development of a data warehouse of health benefits claims. A data warehouse offers the best opportunity for detecting erroneous health benefit payment transactions by medical providers, insurance carriers and subscribers by accumulating all benefit claims for all fee-for-service insurance carriers in a single data repository. This effort will enhance our current claims reviews by enabling the auditors to target certain types of potential claim payment

errors on a program-wide rather than on a plan-by-plan basis. This will provide a significant improvement in our audit efficiency and effectiveness by offering us the opportunity to address significant issues one time only, instead of multiple times per year and to recover overcharges to the program when appropriate.

The data warehouse also provides information enabling our criminal investigative staff to react quickly to criminal investigative leads. For example, the OIG investigators are able to determine the potential program risks associated with an identified provider or subscriber fraud allegation, and take appropriate action in a matter of hours instead of the days or weeks currently required.

Our administrative sanctions program has continued to improve its effectiveness in protecting FEHBP and its enrollees against untrustworthy health care providers. This program enforces the FEHBP sanctions statute, which authorizes suspension or debarment of providers on the basis of 18 different categories of violations. The most frequently-encountered violations represent criminal convictions or loss of professional licensure. The highest priority sanctions cases involve providers who are the subject of investigation by our Office of Investigations. We have also developed a state-of-the-art capability to obtain sanctions-related information online and integrate it into our decision-making processes. With the nature and extent of electronically accessible information constantly growing, we are now able to identify violations involving providers nationwide who are directly associated with FEHBP as members of preferred provider organization networks and or who have actually submitted claims to FEHBP carriers. We select cases for action on the basis of the seriousness of the provider's violations and the risks that the provider poses to the FEHBP and its subscribers. We currently have over 29,350 active debarments and suspensions in effect.

Thank you for this opportunity to present my resource request for fiscal year 2007.

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PREPARED STATEMENT OF THE HONORABLE LINDA M. SPRINGER, DIRECTOR, OFFICE  
OF PERSONNEL MANAGEMENT

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to submit for the record a statement addressing the appropriations request for the Office of Personnel Management (OPM) for fiscal year 2007.

As you know, OPM provides a variety of products and services to the nearly 1.8 million employees in the Federal Government. Some of our products and services include managing health insurance for approximately 8 million current and former Federal employees and their families, administering retirement services for over 2 million retirees from all branches of government, completing 90 percent of background investigations, and administering career development programs. As the OPM Director, I am committed to successfully delivering on our responsibilities on a timely basis. In short, I believe the American citizens and the Federal civilian workforce expect us to get things done, and our fiscal year 2007 budget request will allow us to do just that.

OPM'S NEW STRATEGIC AND OPERATIONAL PLAN

Mr. Chairman, operational planning and budgeting go hand in hand, and the OPM process is no exception. For an organization to fulfill its mission, it is first necessary to have a clear understanding of that mission, with supporting strategic objectives and operational goals. These goals must be accompanied by strong oversight and accountability in order to reach optimal performance.

With these principles in mind, we recently reassessed the agency's goals and priorities, with an eye toward creating a more transparent and accountable OPM. This planning process was guided by an advisory group consisting of executives and senior General Schedule employees with OPM knowledge and expertise. During these meetings, the advisory group reviewed draft strategic objectives and goals, identified important program needs and milestones, and played a critical role in the development of the resultant plan.

During the planning process, I also reached out to other resources for input, including members of Congress, the Chief Human Capital Officers Council Executive Committee, union leadership, and the Office of Management and Budget.

The result is OPM's new Strategic and Operational Plan, which begins with a concise mission statement—to ensure the Federal Government has an effective civilian workforce. While this plan complies with the Government Performance and Results Act of 1993, it differs markedly from previous OPM plans and other Federal agency plans as well. This is intentional. Its goals are straightforward and readily identifiable, with each being action-oriented and beginning with a verb. Each goal also has

a date by which it will be accomplished. The plan's 170 goals are included in the OPM Senior Executives' performance agreements. This means that, under the new SES performance-based pay system, executive compensation is directly linked to successful execution of the plan's goals. The bottom line is this—program performance will remain subject to high level management attention to ensure achievement.

The new plan was developed concurrently with our 2007 budget request. The budget priorities you have seen in the Congressional Budget Justification can be traced back to program priorities in our new plan. This means that accomplishing the goals of the plan is realistic as long as the funding request is sustained.

We are requesting \$36.6 billion to carry out our mission in fiscal year 2007. Of this total, \$36.4 billion is requested for mandatory programs and \$255.7 million for discretionary activities. The discretionary request reflects \$238 million for Salaries and Expenses—including transfers from the Trust Fund Accounts of \$126.9 million—and \$17.7 million for the Office of the Inspector General. The total discretionary request reflects a net increase of \$17.2 million compared to the fiscal year 2006 enacted level.

Highlights of the request are discussed below.

#### RETIREMENT CLAIMS PROCESSING AND BENEFITS PROGRAMS

OPM's request includes funding to improve the services it delivers to Federal employees, annuitants, and their families through the retirement and insurance programs. Most notably, we will reduce the time needed to process claims for benefits submitted by retiring Federal employees to an average of 30 days. This represents a significant improvement over the timeliness reported for fiscal year 2005—80 days for employees retiring under the Civil Service Retirement System (CSRS), and 93 days for those under the Federal Employees' Retirement System (FERS).

The budget requests an additional \$26.7 million in No-Year Trust funds for the Retirement Systems Modernization (RSM) Project. These funds will allow OPM to continue the conversion of millions of paper retirement records to electronic data and contract for the information technology needed for the system. RSM is the core strategy to meet OPM's long-term customer service, business, and financial management goals for the retirement program. As RSM is implemented, OPM will authorize new retirement benefits within 5 or fewer days (for 17 percent of all claims in fiscal year 2008 and 49 percent in fiscal year 2009). RSM will also improve the accuracy of retirement claims from 90 percent (CSRS) and 93 percent (FERS) to between 95 percent and 97 percent, respectively.

RSM implementation is scheduled for 18 to 36 months from contract award. During this period, OPM will need experienced Legal Administrative Specialists (claims processors) to provide subject matter expertise and advice as the effort progresses. The fiscal year 2007 budget provides the flexibility to support RSM implementation while maintaining timeliness and accuracy in processing retirement claims.

For the Federal Employees Health Benefits Program (FEHBP), OPM will continue to negotiate and contract with private insurance companies that offer a broad range of health insurance benefits, including high-deductible health plans with Health Savings Accounts and consumer-driven health plan options. Customers can make informed health insurance decisions by several means: OPM-sponsored health plan brochures and Web site postings, health plan customer satisfaction survey results, Web-based comparison/decision tools, and the Health Plan Employer and Data Information Set. OPM will continue to carry out tough negotiations with health carriers to contain premium hikes and maintain benefit levels, and continue to provide, improve, and expand tools so customers can make informed health insurance decisions. In addition, OPM will continue to maintain the competitiveness of the insurance programs by implementing the new dental/vision benefits required by Public Law 108-496.

#### HUMAN RESOURCES MANAGEMENT (HRM) REFORM

In fiscal year 2007, OPM will pursue policy initiatives that continue to reform human resources management in Federal agencies. We will work with the Departments of Homeland Security (DHS) and Defense (DOD) to ensure the reforms underway link pay to performance. At the same time, OPM will work with other agencies engaged in Alternative Personnel Systems to assess the lessons learned from various modernization efforts. OPM is uniquely positioned to apply lessons learned from modernization efforts undertaken at DHS and DOD to the rest of the Federal workforce.

Mr. Chairman, in the last half-century, the Federal workforce has changed significantly, and the old personnel system has not kept pace. According to the 2004 Federal Human Capital Survey (FHCS), for example, only 27 percent of Federal employ-

ees believe steps are being taken to deal with poor performers, and only 29 percent believe differences in performance are recognized in a meaningful way. Little of an employee's current compensation is based on performance or mission accomplishment. The fiscal year 2007 request will allow OPM to deliver this needed human resources modernization.

The fiscal year 2007 budget will also allow OPM to maintain the competitiveness of Federal employee benefits by promoting affordable options within the Federal Employees Health Benefits Program, such as health savings plans, explore ways to refine market adjustments to Federal pay, and provide Federal employees with opportunities, benefits, and service delivery that compare favorably with other employers. For instance, OPM will continue to develop new workforce recruitment strategies and tools, and further improve the hiring process.

OPM will assess the results of its strategic human resources policy activities by analyzing data collected from the FHCS and Federal Benefits Survey to be issued in 2006 and by continuing to track and report the extent to which agencies use innovations such as hiring flexibilities, teleworking, and student loan repayments. The results of these surveys will provide broad Government-wide indicators on the status of Federal human capital, which will benefit lawmakers, managers, and employees—and enable OPM to assess its performance in terms of delivering new human resources policies and issuing ongoing policy guidance as needed.

#### IMPLEMENTING HUMAN CAPITAL STANDARDS FOR SUCCESS

OPM will use requested funds to engage Federal agencies in implementing Human Capital Standards for Success, and other best practices in human capital management, in keeping with the Merit System Principles, veterans' preference, and other standards. OPM's success will be measured by the number of agencies that meet the Human Capital Standards for Success. At the beginning of fiscal year 2006, 11 of the 26 agencies reporting under the President's Management Agenda Scorecard met these standards, up from 8 in 2005, and zero in 2003. An additional 14 agencies have made significant progress toward achieving these standards. As a result, more than 99 percent of the Federal civilian workforce is employed by agencies that have made significant progress toward meeting these standards.

OPM expects continued improvement in 2006 and 2007 as it strengthens these standards and engages more agencies to fully adopt them. Also, OPM expects Federal agencies to make hiring decisions more quickly and implement improved and documented succession plans. In addition, OPM anticipates Federal employees to be better trained for their jobs and to be held accountable for their performance as agencies implement improved performance management systems.

Through the Compliance Program, OPM will continue audit, review, and oversight activities to ensure agencies comply with Merit System Principles and veterans' preference, and to ensure whistleblower protection and other rights and privileges are honored and protected. OPM will strengthen this program by implementing a human capital accountability system that holds agencies accountable for adhering to these principles, laws, and rules, as well as the human capital best practices referenced above.

#### HUMAN RESOURCES LINE OF BUSINESS

In 2007, OPM will continue to be a leader in the President's Management Initiative for Expanding Electronic Government and has included \$8,349,000 in its request for this purpose. The requested resources will support the Human Resources Line of Business (HR LOB) and Enterprise Human Resources Integration (EHRI). HR LOB will continue to identify and document common functional, technical, and data requirements consistent with Federal human resources policies. It will work toward the establishment of Federal and private sector Shared Service Centers to meet these requirements. During 2007, the EHRI project will continue to modernize how the Federal Government maintains, stores, protects, and transmits human resources transactions and resulting information.

#### SECURITY-RELATED ACTIVITIES

The fiscal year 2007 request includes funding for a number of important security-related activities. OPM will implement Homeland Security Presidential Directive 12 (HSPD-12), Policy for a Common Identification Standard for Federal Employees and Contractors, which was signed by the President on August 27, 2004. This mandates the circulation of a Federal standard for a secure and reliable form of identification for Federal employees and contractors. HSPD-12 requirements will enhance OPM's strategic goal of improving security and emergency actions throughout the agency. Our request also contains funds for security upgrades at OPM field offices across

the country. These funds will be used to address critical vulnerabilities and correct the most serious problems identified during field evaluations. Failure to correct these deficiencies compromises the security of our employees.

#### OFFICE OF THE INSPECTOR GENERAL

OPM's discretionary request includes a total of \$17.8 million for the Office of the Inspector General (OIG) to carry out its audit, investigative, and oversight responsibilities. This amount reflects a net decrease of \$452,000 (2.2 percent) in general funds from the 2006 appropriated resources. The trust funds annual level is unchanged from 2006 and will enable the OIG to continue its investigative oversight of the Federal Employees Health Benefits Program and the Civil Service Retirement System/Federal Employees' Retirement System programs, to audit FEHBP plans and carrier information systems, and to continue its prescription drug audit plan, established in 2005.

#### REVOLVING FUND

OPM also provides a variety of ongoing services that are financed by other agencies through our revolving fund. These services include providing one-stop access to high-quality e-Training products and services; offering professional development and continuous learning for Federal managers and executives; providing employment information and assessment services; automating other agencies' staffing systems; providing examining services when requested by an agency; providing technical assistance and consulting services on all facets of HRM; testing potential military personnel for the Department of Defense where it is cost-effective for OPM to do so; managing the selection, coordination, and development of Presidential Management Fellows; and conducting investigations for all employees to determine whether they are suitable for employment, as well as more in-depth investigations for employees whose positions require a security clearances. For those ongoing revolving fund responsibilities, the fiscal year 2007 budget includes an estimated \$1 billion in obligations and 2,786 FTE to be financed through payments for OPM's services by other agencies.

#### MANDATORY PAYMENT ACCOUNTS

Since OPM serves as the "employing agency" for Federal annuitants, the OPM budget request also includes, as always, mandatory appropriations to fund the government contributions to the health benefits and life insurance programs for those individuals.

A "such sums as may be necessary" appropriation is requested for each of these accounts because of the mandatory nature of those payments. For the approximately 1.9 million annuitants participating in the Federal Employees Health Benefits Program, we estimate that about \$8.8 billion will be needed to pay the government's share of the cost of coverage. That represents an increase of \$560 million over fiscal year 2006. We estimate that, for the 500,000 annuitants under age 65 who elect post-employment life insurance coverage, an appropriation of \$39 million will be required.

Also, as mandated by the financing system established in 1969 by Public Law 91-93, liabilities resulting from changes (principally pay raises) since that year that affect retirement benefits must be amortized over a 30-year period. For that purpose, we are requesting a "such sums as may be necessary" payment to the Civil Service Retirement and Disability Fund in the amount of \$27.5 billion dollars. This represents an increase of \$350 million to cover the service cost of the Civil Service Retirement System, which is not funded by and for active employees.

#### PAY RAISE

Finally, the President's budget proposes an overall average civilian Federal pay increase of 2.2 percent—the same overall average increase as proposed for the military. This amount is equal to the full increase in the Employment Cost Index for the 12-month period ending in September 2005. It is designed to preserve the relative position of the Federal Government in the overall labor market.

The budget includes a legislative proposal that would provide the President with the flexibility to allocate a portion of the 2.2 percent pay increase to special rate increases for specific groups of employees (by occupation, location, or grade level) for which recruitment or retention efforts are or may become significantly handicapped.

This proposal is designed to send a signal that the Federal pay adjustment process should be "smarter"—i.e., more strategic and market-sensitive. This new flexibility cannot be exercised without congressional approval of the proposed legislation.

It would be used only if the government has sufficient data to support the need for such pay increases in response to demonstrated recruitment/retention problems and OPM determines its readiness to implement.

Thank you again for the opportunity to provide for the record a discussion of OPM's budget request. I would be pleased to provide any additional information the subcommittee may need.

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PREPARED STATEMENT OF THE U.S. MERIT SYSTEMS PROTECTION BOARD

Chairman Bond, Ranking Member Murray and members of the subcommittee, thank you for the opportunity to submit this statement for the record on the fiscal year 2007 appropriations request for the U.S. Merit Systems Protection Board (MSPB or "the Board").

An independent quasi-judicial agency, MSPB employs 227 employees in its Washington, DC headquarters, 6 regional and 2 field offices. The Board has two statutory missions. The first mission is to adjudicate employee appeals of personnel actions such as removals, suspensions, furloughs, and demotions; employee complaints filed under the Whistleblower Protection Act, the Uniformed Services Employment and Reemployment Rights Act, and the Veterans Employment Opportunities Act; Special Counsel complaints of prohibited personnel practices and Hatch Act violations; and appeals of administrative decisions affecting an individual's rights or benefits under the Civil Service Retirement System or the Federal Employees' Retirement System. The Board's second statutory mission is to conduct studies of the Federal civil service and other Federal merit systems in the Executive Branch.

OVERVIEW OF THE REQUEST

The Merit Systems Protection Board is a small agency that uses approximately 79 percent of its appropriation for personnel costs and approximately 20 percent of its appropriation for fixed expenses, such as space rent and utilities. We are requesting \$36,531,000 in appropriated funds and a reimbursement limitation of \$2,579,000 from the Civil Service Retirement and Disability Trust Fund to support the operations of the agency. This request represents a \$1,287,000 increase over the fiscal year 2006 funding level, taking into account the government-wide rescission. This increase covers the built-in cost increases for pay raises and space rent as well as the costs of relocating the San Francisco Regional Office because the current space is not compliant with current earthquake standards.

FISCAL YEAR 2005 ACCOMPLISHMENTS WITH FISCAL YEAR 2007 OUTLOOK (BY BUDGET ACTIVITY)

*Adjudication*

In fiscal year 2005, the Board did an outstanding job, at both the regional and headquarters levels, in adjudicating cases in a timely manner. During fiscal year 2005, the administrative judges in the regional and field offices issued approximately 6,800 initial decisions, with an average case processing time of 92 days.

At the headquarters level, the Board members issued approximately 1,600 decisions, most of which were on petitions for review of decisions issued by the administrative judges. The Board has reduced its inventory of outstanding cases by 48 percent. The average case processing time for adjudicating petitions for review of initial decisions was 265 days in fiscal year 2005. All this was accomplished with no loss of quality, despite the growing complexity of the law and the changing makeup of the Board. The Court of Appeals for the Federal Circuit left unchanged 94 percent of the Board decisions that were appealed to the Court.

The Board expanded its Mediation Appeals Program (MAP) to include all regional and field offices and completed mediation training for new mediators. Of the 105 cases that were processed through MAP, 83 mediations were completed. Settlements were reached in 40 of the 83 cases mediated for a success rate of 48 percent.

Both the Department of Homeland Security (DHS) and the Department of Defense (DOD) have issued final regulations to implement their new personnel systems. While Congress granted both agencies the option of establishing an alternative process to adjudicate their employee appeals, both decided to continue to have the Merit Systems Protection Board adjudicate these appeals. All aspects of the Board's operations will be affected by these new procedures. The regulations of both departments have been challenged in the courts. We expect to see a resolution to the court actions soon.

It should be noted that, while the new DHS and DOD systems require the Board to revise its procedural regulations, the Board will still be adjudicating appeals from

DHS and DOD employees under several laws (e.g., the Whistleblower Protection Act, Uniformed Services Employment and Reemployment Rights Act and Veterans Employment Opportunities Act) under procedures that are applicable to all other agencies subject to the Board's jurisdiction.

As the agency begins adjudicating appeals under the new DOD and DHS regulations with the faster processing times, it is important that the agency have the staffing and administrative resources to process appeals involving all other agencies in a timely manner.

Approximately 198 FTE, or about 84 percent of the approximately 236 FTE, have been allocated to the Board's adjudication function for fiscal year 2007.

#### *Merit Systems Studies and Oversight*

The Board issues 6 study reports and 4 newsletters annually. Our studies and reports are based on objective, independent research using established scientific methods. To ensure the value of our products and the effective use of government resources, we work closely with research groups from the Government Accountability Office, the Office of Personnel Management, and the National Academy of Public Administration to share research agendas and expand the peer reviews of our work. Reports of the Board's studies are directed to the President and the Congress and are distributed to a national audience of human resource practitioners and professional organizations.

Recent study reports include: "Contracting Officer Representatives: Managing the Government's Technical Experts to Achieve Positive Contract Outcomes (2006)"; "Designing an Effective Pay for Performance Compensation System (2006)"; "Reference Checking in Federal Hiring: Making the Call (2005)"; "Building a High-Quality Workforce: The Federal Career Intern Program (2005)"; and "Probationary Period: A Critical Assessment Opportunity (2005)".

In addition to these reports, the Board completed its latest Merit Principles Survey (MPS) in 2005. MSPB has conducted the MPS every 3–5 years for the past two decades. Each administration of the MPS assesses the degree to which Federal agencies adhere to the merit principles, tracks the incidence of prohibited personnel practices in Federal agencies, and gathers information to support other OPE research studies. The MPS 2005 was the first MPS administered via the World Wide Web. Nearly 37,000 full-time civilian Federal employees completed the MPS during the summer and fall of 2005. The Board's Office of Policy and Evaluation is currently analyzing the data from this survey and preparing a report for release by the end of fiscal year 2006.

The new DHS and DOD personnel systems will affect about half of the Federal civil service employees, resulting in the biggest change since the Civil Service Reform Act was passed in 1978. To facilitate the accomplishment of MSPB's statutory mission of studying the health of the civil service system, the Board will be gathering baseline data about how the personnel systems in these agencies are currently working. This data will then be compared with similar data after the new systems have been operational for approximately 2 years.

This function will use approximately 12 FTE, or about 4 percent of the approximately 236 FTE, the Board is projected to use in fiscal year 2007.

#### *Management Support*

The management support function, which will use approximately 26 FTE, or 11 percent of the 236 estimate in fiscal year 2007, provides the information resources management, human resources management, budget, finance, procurement, equal employment opportunity, travel, space, and property management services for the agency.

In the area of information technology, the Board upgraded its wide area network (WAN) infrastructure to improve response time and to support the increasing traffic of electronic documents between the headquarters and regional offices. In fiscal year 2006, we started piloting wireless broadband technologies that enable high-speed access for MSPB staff from any major metropolitan area.

The Board's Office of Information Resource Management (IRM) began an impact analysis study on the transition to IPv6, as directed by OMB (See OMB Memorandum No. M–05–22). This OMB memorandum requires the agency's network backbone to be capable of passing IPv6 traffic by June 30, 2008. This IPv6 project will require careful planning, staff training, hardware upgrade, and possible system changes and budget implications over the next several years in order for us to prepare for a smooth transition to meet all of OMB's requirements.

IRM has also increased its computer security in accordance with the Federal Information Security Management Act. In fiscal year 2002 and fiscal year 2003, IRM developed security plans, analyzed risks, prepared contingency plans, upgraded

servers and system software, installed additional monitoring and access controls, and tested recovery plans. In fiscal year 2004 and 2005, IRM made further enhancements to IT security, following the recommendations of the independent auditors and improvements identified from risk assessments and penetration tests. These enhancements included updating of policies, clarification of the role of program offices in IT security, implementation of a centralized anti-virus server and spam filtering software, improvements in internal network security, annual security awareness training, and additional testing of contingency plans. IRM will continue to make further enhancements to IT security and comply with FISMA guidelines.

The Board has implemented several technology initiatives such as e-Appeal that will expedite case processing and adjudication. Through e-Appeal, individuals may file appeals online. Another innovation provides all Board members with electronic access to complete case files. As a result, Board members can analyze case records and issue decisions while on official travel.

As previously stated, the Board is requesting funds to cover the costs of relocating the San Francisco Regional Office because the current space is not compliant with current earthquake standards.

CONCLUSION

I am honored to serve as Chairman of the Merit Systems Protection Board. My staff and I are mindful of the need for all Federal agencies to exercise fiscal restraint in this tight budgetary environment. We have been, and will continue to serve as, careful stewards of the public resources that have been entrusted to us for the purpose of carrying out our statutory missions. The Board and its staff continue to work diligently to maintain the reputation for efficiency, effectiveness, and fairness it has earned over its long history. We appreciate the support we have received from our appropriations committees and welcome the opportunity to continue our partnership in service to the American public.

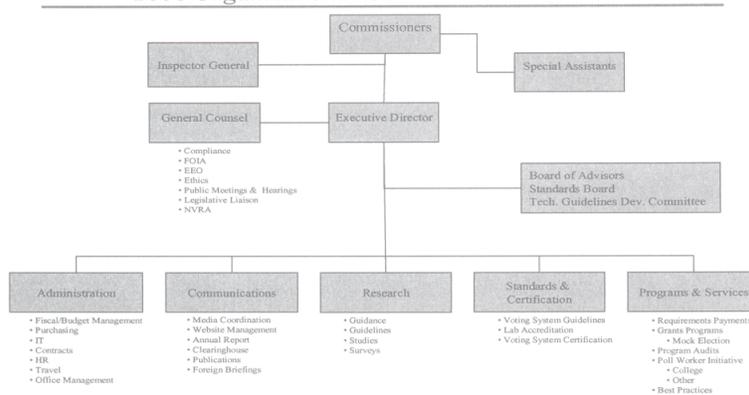
PREPARED STATEMENT OF THE U.S. ELECTION ASSISTANCE COMMISSION

INTRODUCTION

Thank you Mr. Chairman and members of the subcommittee for the opportunity to submit testimony regarding the work of the U.S. Election Assistance Commission (EAC) and its budgetary needs to continue assisting the States in implementing the Help America Vote Act of 2002 (HAVA) and the National Voter Registration Act of 1993 (NVRA) in fiscal year 2007 .

EAC is a bipartisan commission consisting of four members: Paul DeGregorio, chairman; Ray Martinez III, vice chairman; Donetta Davidson; and Gracia Hillman. In addition to the four commissioners, EAC employs 19 full-time staff persons.

**U.S. Election Assistance Commission**  
*2006 Organizational Chart*



HAVA instructs the EAC to develop and update national voluntary voting system guidelines and manage the Federal Government's first voting system certification

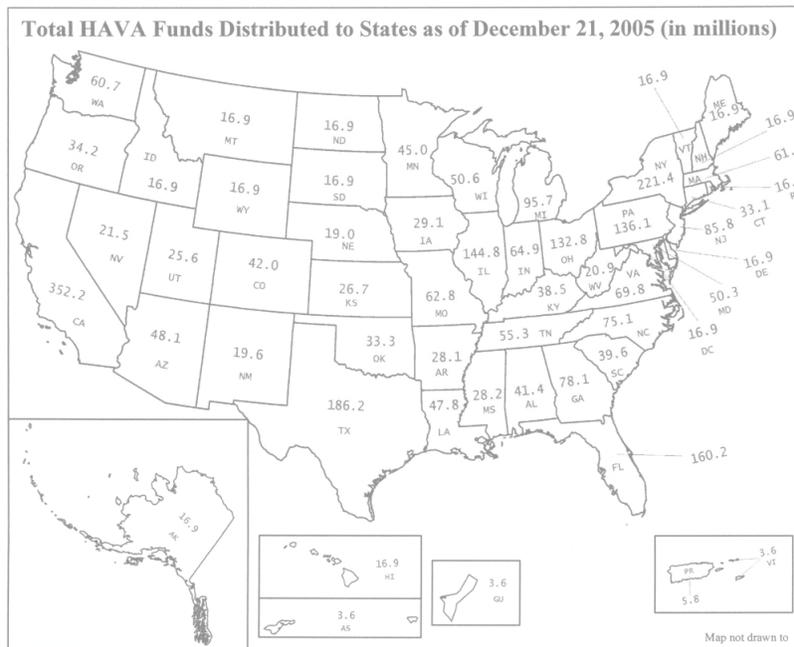
program. EAC is also charged with assisting the 50 States, four territories and the District of Columbia in implementing provisional voting, updated and upgraded voting equipment, State-wide voter registration lists, administrative complaint procedures, and voter identification requirements and procedures.

Under the NVRA, the EAC develops the National Voter Registration form, collects information for Congress and advises States of their responsibilities. Below is a discussion of each EAC program and the financial and human resources needed in fiscal year 2007 for EAC to continue its work in improving the administration of Federal elections.

The following four program areas reflect the agency's mandates under HAVA: (1) distribution and management of HAVA funds; (2) aiding in the improvement of voting systems; (3) national clearinghouse of election information; and (4) guidance and information to the States. EAC conducts its activities in these program areas in an efficient and cost effective manner to ensure maximum value of the funds appropriated to the agency by the U.S. Congress.

DISTRIBUTION AND MANAGEMENT OF HAVA FUNDS

Congress appropriated more than \$3,000,000,000 to help States meet the requirements of HAVA and improve the administration of Federal elections. All HAVA sections 101, 102 and 251 funds appropriated have been distributed. The tables located on EAC's website (Title II Requirements Payments & Early Money) show the disbursement of funds by category and fiscal year. The graphic below shows the funds distributed to each State, including funds distributed by the Department of Health and Human Services under Section 261 of HAVA.



*Responsible Stewardship of HAVA Funds*

Now that the election reform funding has been distributed, EAC is working to ensure that States are good stewards of these Federal funds. To monitor the use of these funds, EAC issues guidance and answers questions on the appropriate use of HAVA funds, reviews reports submitted by the States and territories on expenditure of the funds, and conducts assessments and audits of the States.

*Appropriate Uses of HAVA Funds*

HAVA specifically limits the use of funds distributed under the various funding programs. These uses include purchasing voting equipment to replace punch card

or lever voting systems, implementing provisional voting, purchasing equipment and software to build State-wide voter registration databases, as well as various activities aimed at improving the administration of Federal elections. To help clarify the appropriate uses of HAVA funds, EAC and GSA applied OMB Circulars A-87, A-102, and A-133. In addition, EAC provided guidance and information on the appropriate use of HAVA funds in response to questions from the States. Even with these resources, EAC must answer questions daily from the 50 States, four territories and the District of Columbia about allowable expenses under HAVA.

EAC requires that States, territories and the District of Columbia report their uses of HAVA funds. In the second quarter of each year, States report on their use of both Title I and Title II funds. The Title II report includes: (a) a list of expenditures for each category of activities described in Title III; (b) the number and types of voting equipment obtained with the funds; and (c) an analysis and description of the activities funded to meet HAVA requirements and how such activities conform to the State plan. Title I reports require States to (1) disclose, in separate reports for section 101 and 102 funds, the financial activity for the previous calendar year on a Standard Form 269; and (2) provide the same detail on the expenditures that is required for the reports on Title II requirements payments. EAC conducts a detailed review of each report to validate that the expenditure of funds met the requirements of HAVA and was in accordance with plans filed by the State or territory. The States' Title I and Title II reports are available to the public upon request.

#### *Auditing*

Section 902 of HAVA gives EAC and other HAVA granting agencies the authority to conduct regular audits of HAVA funds. EAC's audit activity will be conducted through EAC's Office of the Inspector General (OIG), which currently consist of two types of reviews to determine if the States are exercising sufficient controls and using the funds distributed under HAVA for appropriate purposes. One is an assessment of procedures each State uses to administer and monitor HAVA funds, as well as a review of certain critical elements such as whether the State has maintained sufficient matching funds. On a concurrent track, OIG will commission audits of several States each year to more fully review the State's internal controls, processes, procedures, and transactions to ensure compliance with Government Auditing Standards.

In addition to EAC's regular audits, HAVA also provides for two other means of extraordinary audit authority—(a) funds are subject at least once during the term of the program to an audit by the Comptroller General; and (b) section 902(b)(6) of HAVA allows EAC to conduct a "special audit" or "special examination" of the funds that are subject to regular audit under Section 902(b)(1). This special audit authority covers every HAVA program, including funds distributed under Title I, Title II, and programs administered by the Department of Health and Human Services. If EAC determines that a special audit is warranted, by vote of the Commission, EAC will refer the matter to the OIG for review.

The OIG currently employs 1 full-time staff person. Two additional persons have been provided to EAC by the Department of Interior via a Memorandum of Understanding (MOU). These persons are responsible for conducting the majority of the State assessments discussed above, monitoring outside contracts for audits, reviewing EAC's internal operations, and coordinating investigations of complaints, as necessary.

#### *Financial and Human Resources Needs for Management of HAVA Funds in Fiscal Year 2007*

In fiscal year 2006, EAC has budgeted \$2.5 million for these activities. Of that, \$1.65 million is allocated to the OIG for auditing the use of HAVA funds and assessing State controls. At this level of funding, EAC anticipates that it will be able to fund the MOU for the two persons provided by the Department of Interior, conduct assessments of four or five States, and begin four or five full audits of States. The remaining \$550,000 is budgeted for management activities such as reviewing reports submitted by the States, answering questions related to the proper use of HAVA funds, and reviewing States' indirect cost proposals. Three full time equivalents (FTE) and two staff persons via MOU with the Department of Interior currently serve these functions.

In fiscal year 2007, EAC anticipates allocating the same amount of funding and personnel to this function, including pay and non-pay adjustments (\$2.6 million). At this rate, EAC will be able to continue assessing and auditing States at the rate projected for fiscal year 2006. Availability of personnel will depend on the willingness of the Department of Interior or other agencies to continue providing assistance through an MOU. It is essential that EAC maintain the current level of staff sup-

port (5 persons), either through FTE or MOU in order to assure that the use of HAVA funds is monitored appropriately.

#### AIDING IN THE IMPROVEMENT OF VOTING SYSTEMS

One of the most enduring effects of HAVA will be the change in voting systems used throughout the country. All major HAVA funding programs can be used by States to replace outdated voting equipment. HAVA also provides for the development and maintenance of testable standards against which voting systems can be evaluated. It also provides for Federal certification according to these standards. EAC is responsible for and committed to improving voting systems through these vital programs.

##### *Voluntary Voting System Guidelines*

One of EAC's most important mandates is the testing, certification, decertification and recertification of voting system hardware and software. Fundamental to implementing this key function is the development of updated voting system guidelines, which prescribe the technical requirements for voting system performance and identify testing protocols to determine how well systems meet these requirements. EAC along with its Federal advisory committee, the Technical Guidelines Development Committee (TGDC), and the National Institute of Standards and Technology (NIST), work together to research and develop voluntary testing standards.

On December 13, 2005, EAC adopted the first iteration of the Voluntary Voting System Standards (VVSG). This document was an initial update to the 2002 Voting System Standards focusing primarily on improving the standards for accessibility, usability and security. These testing guidelines also incorporated standards for reviewing voting systems equipped with voter verifiable paper audit trails (VVPAT) in recognition of the many States that now require this technology. VVSG also establishes the testing methods for assessing whether a voting system meets the guidelines.

Significant work remains to be done to fully develop a comprehensive set of standards and testing methods for assessing voting systems and to ensure that they keep pace with technological advances. In fiscal year 2007, EAC along with TGDC and NIST, will revise sections of the VVSG dealing with software, functional requirements, independent verification, and security and will develop a comprehensive set of test suites or methods that can be used by testing laboratories to review any piece of voting equipment on the market.

##### *Accreditation of Voting System Testing Laboratories*

HAVA Section 231 requires EAC and NIST to develop a national program for accrediting voting system testing laboratories. The National Voluntary Laboratory Accreditation Program (NVLAP) of NIST will provide for the initial screening and evaluation of testing laboratories and will perform periodic re-evaluation to verify that the labs continue to meet the accreditation criteria. When NIST has determined that a lab is competent to test systems, the NIST director will recommend to EAC that a lab be accredited. EAC will then make the determination to accredit the lab. EAC will issue an accreditation certificate to the approved labs, maintain a register of accredited labs and post this information on its website.

In July 2005, NVLAP advertised for the first class of testing laboratories to be reviewed under the NVLAP program and accredited by EAC. Five laboratories have applied for the accreditation program. Pre-assessments of these laboratories began in April 2006 and formal review will proceed thereafter. NVLAP anticipates that those laboratories will be reviewed and those that are eligible to be recommended for accreditation will be delivered to EAC in fall 2006.

Because testing of voting systems cannot be delayed, there must be some interim review and accreditation of laboratories. In late 2005, EAC invited laboratories that were accredited through the National Association of State Election Directors (NASED) program as Independent Testing Authorities (ITAs) to apply for interim accreditation. All three ITAs have applied for interim accreditation. Interim accreditation reviews by EAC contractors will begin in the Spring 2006. ITAs will be accredited on an interim basis until the first class of laboratories is accredited through the NVLAP process. After that time, all testing labs must be accredited through the NVLAP evaluation process.

##### *Voting System Certification*

In 2006, EAC is assuming the duty of certifying voting systems according to national testing standards. Previously, NASED qualified voting systems to both the 1990 and 2002 Voting System Standards. EAC's certification process will constitute the Federal Government's first efforts to standardize the voting system industry.

EAC's program will encompass an expanded review of voting systems. It will utilize testing laboratories and EAC technical reviewers. The program will also include assessments of quality control, field monitoring, vendor registrations, and enhanced public access to certification information.

Historically, voting system qualification has been a labor intensive process. In 6 months, NASED received 38 separate voting system test reports for review and qualification. All requests must be received, processed and monitored while the testing laboratory is assessing compliance. Once a test report is produced, technical reviewers must analyze the reports prior to recommending systems for certification. Based upon the NASED data, this process will take anywhere from 4 to 120 hours per report. In addition, EAC's enhanced testing and certification program will require reviewers to evaluate voting system technical data packages prior to testing, which will take an additional 4 to 20 hours per voting system.

#### *Financial and Human Resources Needs for Fiscal Year 2007*

In fiscal year 2006, EAC has budgeted \$3.95 million for its work to aid in improving voting systems used throughout the country. Of that amount, \$2.772 million is transferred to NIST for its research for and support of the TGDC. The remaining \$1.178 million is dedicated to the development, implementation, and operation of a voting system certification program and laboratory accreditation program. EAC currently employs one FTE to support all of these functions. In addition, EAC anticipates hiring several contractors to serve as technical reviewers in the voting system certification program and one contractor to assist with the development of the VVSG and administration of the voting system certification and laboratory accreditation programs.

In fiscal year 2007, EAC has requested \$6.421 million, which represents an increase of \$2.471 in this program. Of that amount, \$4.95 million, which includes an increase of \$2.178 million, will go to NIST to complete work on the VVSG prior to the 2008 presidential election. The needed work includes updating and revising the testing standards and the development of testing protocols to assess whether a voting system meets the standards. The remaining \$1.471 million will be applied to administering the voting system certification, voluntary voting system guidelines, and laboratory accreditation programs. This includes an increase of \$293,000 to hire two additional FTE to manage the day-to-day operations of the voting system certification and laboratory accreditation programs, including work to assess vendor facilities and processes to assure that quality control provides equipment that is consistent with the caliber of the samples that are certified under the EAC program.

#### NATIONAL CLEARINGHOUSE OF ELECTION INFORMATION

HAVA establishes EAC as a national clearinghouse of election information, which means EAC studies and makes research available on a range of issues including best practices in election administration, hours and places for voting, and election data. EAC has conducted extensive research on a variety of topics related to election administration, has begun an ongoing process of collecting election related data, and has compiled election-related resources such as statutes and regulations. This information is presented to the election community and to the public through the EAC's website as well as through formal reports on studies and data collections. Through this clearinghouse, EAC positions itself as a primary source of information about Federal elections.

#### *Research and Study*

HAVA requires EAC to conduct a number of studies and provides considerable discretion to research other election administration issues to assist States in their efforts to improve election reform. EAC uses its Federal advisory committees to assist in prioritizing research topics that are important to and that will assist election officials. In 2006, EAC will produce guidance, best practices and reports on recruiting, training and retaining poll workers; usability of ballots and information provided to voters; procedures for counting and recounting ballots; provisional voting; voter identification; voter fraud and intimidation; as well as launching a legal resources database that will provide election officials and the public with access to election laws and regulations from each of the 50 States. In addition, EAC will also issue election management guidelines as a companion to the VVSG.

In fiscal year 2007, EAC will focus on completing the research required by HAVA on the use of social security numbers in voter registration, standards for internet voting, and the possibility of postage-free absentee voting. EAC will also collect and analyze data from the 2006 Federal elections including voter turnout, absentee voting, voter registration and military and overseas citizen voting. The 2006 Election

Day Survey will provide comprehensive data indicating the progress States have made in implementing HAVA.

*EAC's Website as a Clearinghouse*

Using EAC's website as its main means of transmitting information to the public is a useful, accessible and cost-effective tool. As its studies, guidance and best practices are completed, EAC will have an increasing amount of information to store and display through its website. EAC will also use the website to provide information about the voting system standards and certification program. EAC currently has a memorandum of understanding with the General Services Administration for its information technology (IT) support including servers to maintain EAC data. In addition, EAC contracts for the hosting and maintenance of its website. To accommodate the expanding clearinghouse, EAC will need to expand its IT capabilities by either enhancing its contracts for web services and IT support or by considering bringing those services in-house.

*Financial and Human Resources Needs for Fiscal Year 2007*

In fiscal year 2006, EAC budgeted \$2.5 million for its research and study. In fiscal year 2007, EAC anticipates spending \$2.13 million on required research projects, data collection and analysis, development of best practices documents, and expansion and maintenance of its technical resources to host a clearinghouse on its website.

GUIDANCE AND INFORMATION TO THE STATES

HAVA established EAC to provide guidance and assistance to the States on implementation of the law and transferred to EAC the responsibility of implementing the National Voter Registration Act (NVRA). EAC has provided valuable guidance to the States on what HAVA means, implementing the law, and appropriate use of HAVA funds. In fiscal year 2007, EAC will continue that work by developing election management guidance, expanding on its voter registration data base guidance, and by updating and revising the NVRA regulations and national voter registration form. The election management guidance is a comprehensive companion document to the VVSG that will assist States in managing an election from receipt of voting equipment to the reporting of results to the canvass or recount that follows. EAC's continued work on voter registration databases will focus on studying the appropriate use of security measures, verification of voter information using appropriate matching protocols, and sharing information with other State agencies and, ultimately, with other States. EAC will address issues involving voter registration using the Federal form by updating the NVRA regulations and the Federal registration form.

*Financial and Human Resources Needs for Fiscal Year 2007*

EAC has budgeted \$750,000 in fiscal year 2006 for these activities. In fiscal year 2007, EAC anticipates spending \$1.2 million on providing guidance and assistance to the States.

ADMINISTRATION

The administration objective represents the efforts of EAC, internally or through contracts and MOUs, to support the mission and work of this agency and meet the HAVA-imposed mandates. These costs include rent, equipment, supplies, human resources functions, finance and budget, computers, telephones, publication, and printing. This objective includes maintaining the leadership and support staff for the agency. Charges for salaries and benefits for the Commissioners and non-programmatic support staff are included in this category. In addition, the administrative objective includes supporting the efforts of EAC's two Federal advisory committees, the Board of Advisors and Standards Board. Between these two boards there are 147 members who meet at least once in each fiscal year to fulfill their responsibilities under HAVA. The leadership of these Boards meets more frequently, approximately once each quarter.

*Financial and Human Resources Needs for Fiscal Year 2007*

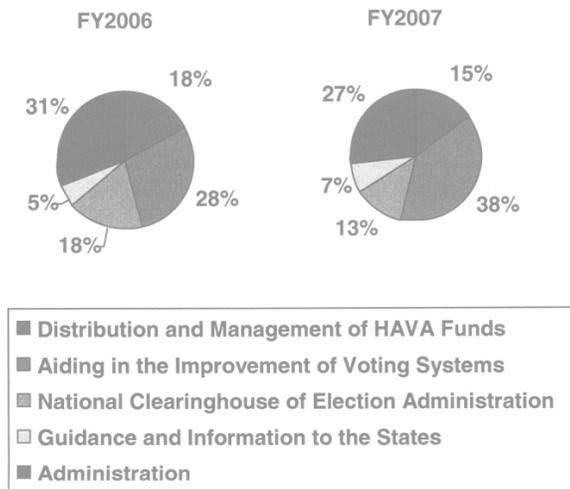
In fiscal year 2006, EAC has budgeted \$4.4 million for these activities. In fiscal year 2007, EAC anticipates spending a similar amount, including pay and non-pay adjustments (\$4.55 million).

CONCLUSION

In the first 2 years of EAC's existence, the main focus was expeditiously completing the distribution of more than \$3 billion in HAVA funds to the States to pur-

chase voting equipment and implement other election administration improvements. During this time, EAC also adopted the 2005 Voluntary Voting System Guidelines within the HAVA-prescribed 9-month timeframe. The completion of these activities generates a new set of related priorities: (1) monitoring and auditing the use of HAVA funds; (2) making sure the VVSG keep pace with technology by updating them periodically, especially in the areas of security and usability; and (3) establishing the Federal Government's first voting system certification program.

Consequently, EAC will direct more funding in fiscal year 2007 to its audit program, the VVSG and the certification program.



EAC will also continue to conduct research about election administration issues and make that information available to election officials to assist them in making policy decisions at the local level. EAC will assure that all HAVA funds are used properly to effectuate the required election reforms.

The EAC appreciates the opportunity to provide this testimony regarding our needs for fiscal year 2007. If you have any questions regarding these activities and allocations of funding, we will be happy to address them.

PREPARED STATEMENT OF WILLIAM A. CHATFIELD, DIRECTOR, SELECTIVE SERVICE SYSTEM

Chairman Bond and members of this subcommittee, it is an honor for me as Selective Service Director to present once again the President's fiscal year 2007 Appropriations request of \$24,255,000 for the agency. This Congress and successive administrations under both parties have acknowledged the wisdom of maintaining Selective Service as a hedge against unforeseen threats and a relatively low-cost insurance policy against underestimating any threat our Armed Forces might face in a still-dangerous world.

This agency is as determined as ever to carry out the mission Congress has given us, no matter how austere the budget climate shaped by the requirements of homeland security and other priorities listed in the President's January 31, 2006, State of the Union Address. To achieve this balancing act of advancing the mission while accepting budgetary realities will require creativity and discipline. I welcome the challenge, and appreciate the opportunity to share my vision for Selective Service with you today.

Personnel reductions at Selective Service have come from planned attrition and will not involve a reduction-in-force. Meanwhile, the agency will continue to employ more state-of-the-art information technologies and public outreach to accomplish its statutory mission of raising nationwide registration compliance by eligible young men while preserving maximum customer service. Satisfying our goals will assure a Selective Service that is beyond reproach while meeting the needs of its primary customer, the Department of Defense.

## WHAT WE DO TODAY

Selective Service is in business to perform two unique functions. Should the Congress and the President authorize a return to a military draft, the agency can conduct a draft that is efficient, fair, and accepted by the public. It is also ready to administer a program of alternative community service for men who are classified as conscientiously opposed to military service.

Additionally, each and every day Selective Service continues its close partnership with the Department of Defense by providing direct support to Armed Forces recruiting and accessions processing. Specifically, Selective Service provides names of registrants to the Secretary of Defense for recruiting purposes, in accordance with a provision in the Military Selective Service Act. Approximately every 1 to 2 weeks, information about Armed Forces opportunities for Regulars, National Guard, and Reserves and a business reply card are enclosed with our registration acknowledgment that the Selective Service sends to each new registrant. For calendar year 2005, these contacts totaled over 2.2 million young men. Consequently, the Defense Department benefits by "piggy-backing" on our routine mailings which generate actual recruiting leads. And it reimburses us for the additional costs in accordance with the Economy Act.

Beyond its compliance with the Military Selective Service Act and providing these tangible services, the agency also promotes an intangible national benefit. For present and future generations of America's young men, Selective Service is a very critical link between society-at-large and today's volunteer military. It is a reminder that, as Americans, every young man is personally responsible to "provide for the common defence" in the time-honored tradition of preceding generations.

## AREAS OF EMPHASIS

To foster a greater public reception of the agency's new approach to its traditional missions, I have approved an augmenting approach to harness the power, passion, and patriotism of air shows to our core mission of raising registration compliance by young men.

My vision for Selective Service is to present the agency in huge, open community venues across the Nation, highlighting authentic American heroes, and promoting public service and patriotic themes appealing to multiple generations. Air shows are the second most attended spectator events in America, and attract a high concentration of registration-age men. I am convinced that funding and implementing this approach will result in a substantial increase in registration compliance, the surest path to assuring Americans that any future draft will be fair and equitable. We are conducting this pilot effort by absorbing the less than \$300,000 expense out of our fiscal year 2006 budget. No new money is involved.

The value of this effort presented itself after several months of assessing the agency's capabilities, priorities, and missions. These events will complement other agency activities directed at conforming to the President's Management Agenda.

I would point to three endeavors that I believe satisfy administration and Congressional charges to Federal agencies to evolve into performance-based organizations.

*Organizational Adjustments.*—The agency continues the process of internal review and analysis it undertook in fiscal year 2004. As part of this comprehensive "bottom-up review," Selective Service is restructuring. This will empower the agency to satisfy its missions more efficiently and to bring Selective Service to full mobilization more effectively in the event of a return to conscription. Additionally, full-time civilian staffing has been reduced, and all full-time military officers eliminated. Also, the number of part-time military officers has decreased. I am convinced benefits accrued from strategic management of human capital, competitive sourcing, improved financial performance, expanded e-Government, and better integration between budget and performance will substantially increase agency efficiency in its core and support processes. Be assured that each of my changes and staffing decisions is being driven by practical, cost-conscious considerations grounded in greater customer service.

*Registration Compliance.*—Here the air shows will play an important role in 2006 and possibly beyond. Although Selective Service has reversed the decline in registration compliance from a high of 98 percent in 1991 to a low of 87.7 percent in 2000, anything less than 100 percent compliance constitutes a challenge. Only when all eligible young men are equally vulnerable will any future draft be considered completely fair and equitable. The public would believe, rightly so, that not everyone who should be in the manpower pool is accounted for; and therefore those who are registered have an increased chance of being called for involuntary service.

Our final accounting for calendar year 2005 indicates about 93 percent of eligible men (ages 18 to 25) are registered. Keeping this rate high is very important because I believe a compliance rate of less than a healthy 90-plus percent would contribute to a lack of public confidence in our ability to administer a fair and equitable draft. The compliance rate of for “on-time” registration of men turning 18 continues at 76 percent.

Naturally, our priority is to maintain an increasing registration compliance rate. We appreciate the subcommittee’s support in ensuring that our work over the past decade continues, and our successes satisfy our congressional mandate to raise and maintain favorable registration compliance. Since public trust in Selective Service is at stake, I will use every resource to continue proven positive trends in compliance. In addition to our outreach air shows effort, Selective Service intends in pursuit of that goal to:

- (a) Continue to develop and distribute public service broadcast messages to low compliance markets, together with printed materials. To support this effort, we have distributed new radio public service announcements in English and Spanish. These high-quality products have been praised by listeners around the country. In calendar year 2005 and so far this year, the agency has secured commercial airings representing 82,036 worth of free airings, a commercial airtime value of more than \$5.1 million. These airings are in markets with no or optional driver’s license supporting legislation and cost Selective Service only the expense of development, replication and distribution. Public service broadcast messaging by Selective Service is a very efficient method of raising public awareness of the legal registration obligation, especially among those who most need access to governmental benefits linked to registration such as minorities. Support of the President’s budget request guarantees that this effective and efficient outreach effort continues and America’s youth are reminded of their civil responsibility.
- (b) Carry on routine updating of the interactive Selective Service pages on the World Wide Web ([www.sss.gov](http://www.sss.gov)) where online registration, database verification, the ability to file changes of information, and to review a wealth of other agency information are available to anyone with access to the Internet. For fiscal year 2005, 81.2 percent of registrations reached Selective Service through electronic means, an increase of more than 2 percent over 2004. Electronic registrations are more cost-effective than processing paper registrations and provide better customer service. We are also placing links to our site with other Federal, State and local agencies, schools, and assorted organizations to enhance public education and facilitate customer responsiveness.
- (c) Profit from an increasing number of States which link obtaining a driver’s license or State I.D. card to the Selective Service registration requirement. These State and territorial laws currently provide Selective Service with an average of nearly 71,000 registrations per month. As of this month, 34 States, three territories, and the District of Columbia have laws enacted. These jurisdictions represent 63 percent of the national 18-year-old male registrant population. We continue to work closely with additional States where such legislation is pending to provide technical expertise. Data electronic exchanges are the most cost-effective, timely, user-friendly, and technology-simple registrations available. Selective Service is committed to aid the remaining 16 States in implementing this easy method to protect their young men’s eligibility for State and Federal benefits and programs. This program has been a valuable tool to reach not only all eligible registrants, but also has enabled a more customer-friendly system.

*Information Technology (IT).*—The agency has applied new initiatives to the traditional way it does business. Support of the President’s request will allow Selective Service to continue to modernize its core and support processes. We are pleased with the returns generated by these IT investments. The agency has turned to information technology because it is a force multiplier to offset reduced staffing and constrained dollars. It permits this small agency to examine how it does business, how it might improve its IT architecture, both hardware and software, and to have the support structure necessary to advance its operations. I am committed to investing in IT because I know that it enhances customer service, increases productivity, compensates for limited human and fiscal resources, and establishes the technological framework to administer well a fair and equitable draft. The agency has no choice but to keep pace with IT applications in the Federal Government and society-at-large.

## FOCUSED YET FLEXIBLE

While there has been much dialogue among the public, private groups, the media, and academia concerning a future draft, volunteerism, homeland security, and national service, the Selective Service System remains focused on its missions. It manages its volunteer board members, is prepared to administer programs of alternative community-based service for men classified as conscientious objectors, and updates its conscription plans and registration procedures. All these efforts are aimed at being ready to conduct a fair and equitable classification procedure to determine who should serve when not all can serve during an emergency. To ensure fairness and equity, each Selective Service board is a gathering of civic-minded men and women reflecting the racial, cultural and ethnic diversity of the young men in the communities it serves. Through these volunteers, a unique bond has been formed at the grass roots with young American men, society-at-large, and the U.S. Armed Forces. Through the Selective Service structure, every American community plays a positive role in providing for the common defense. In short, this agency has extensive practical experience in identifying, contacting and classifying people to participate in a national security or a community service program. Selective Service can lend its expertise and ample experience to any appropriate task directed.

## CLOSING

Mr. Chairman, Selective Service stands prepared to perform its time-tested responsibilities, when directed. The fiscal year 2007 appropriation request of \$24,255,000 will be invested prudently in one of the Nation's important security assets in an increasingly dangerous and ambiguous world. The president's request is adequate to provide a compact, cost-efficient civilian structure capable of expansion in a crisis; to provide manpower to the U.S. Armed Forces as required; and to do it fairly, equitably, and within the necessary timeframes. Additionally, this funding will allow outreach to minority and out-of-the-mainstream youth, better privacy protections in our contacts with the public, and improvements in our registration compliance rates. All these outcomes will advance the guidance of the Congress, satisfy our statutory mandate, and maintain the high registration compliance rates so painstakingly raised over the last decade. Selective Service is staying the course, ever watchful for opportunities to improve. It remains an active partner in the national preparedness community.

Thank you, Mr. Chairman. I would be pleased to answer your questions.

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## NONDEPARTMENTAL WITNESSES

[CLERK'S NOTE.—The following testimonies were received by the Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 2007 budget request.

The subcommittee requested that public witnesses provide written testimony because, given the Senate schedule and the number of subcommittee hearings with Department witnesses, there was not enough time to schedule hearings for nondepartmental witnesses.]

### PREPARED STATEMENT OF INDEPENDENT SECTOR

Independent Sector appreciates the opportunity to comment on fiscal year 2007 Federal appropriations for Internal Revenue Service activities.

Independent Sector is a nonprofit, nonpartisan membership organization committed to strengthening, empowering, and partnering with nonprofit and philanthropic organizations in their work on behalf of the public good. Our coalition of more than 500 nonprofit organizations, foundations, and corporate philanthropy programs collectively represents tens of thousands of charitable groups as well as millions of donors and volunteers serving a wide range of causes in regions across the country. We have worked since our inception to assist our member organizations to meet the highest standards of ethical practice, accountability, and effectiveness.

We write today in support of increased funding of the Internal Revenue Service's enforcement budget and urge you to appropriate, at a minimum, the level requested by the President.

Increased resources for IRS tax law enforcement would:

- Continue Congress' recent efforts to restore the IRS enforcement program;
- Help protect the integrity and credibility of the charitable sector by providing resources to audit organizations' annual returns and deter and penalize wrongdoers; and
- Foster greater compliance by funding additional education of charitable organizations about existing tax law.

### CONTINUE RESTORATION OF THE IRS ENFORCEMENT PROGRAM

During the late 1990's resources for IRS tax law enforcement activities declined dramatically. According to testimony by IRS Commissioner Mark Everson before this committee in April 2004, between 1997 and 2001 the total number of revenue agents, revenue officers, and criminal investigators each declined by over 25 percent.<sup>1</sup> During the same period the number of IRS examinations of tax-exempt annual returns dropped by 22 percent, while the number of returns filed increased by 19 percent.<sup>2</sup> Explaining the consequences of these circumstances in a March 2005 letter to Senate Finance Committee Chairman Charles Grassley, Commissioner Everson wrote that, "This decline, combined with the significant growth of the tax-exempt sector . . . created opportunities for noncompliance."<sup>3</sup>

We applaud the recent increased investments Congress has made toward restoring IRS enforcement activities. In addition to conducting audits of individuals, cor-

<sup>1</sup> Commissioner of Internal Revenue Mark W. Everson, Written Statement, Senate Committee on Appropriations, Subcommittee on Transportation, Treasury and General Government, Hearing on Internal Revenue Fiscal Year 2005 Budget Request, at 2 (April 7, 2004).

<sup>2</sup> Government Accountability Office, "Tax-Exempt Organizations: Improvements Possible in Public, IRS, and State Oversight of Charities" (GAO-02-526) at 21-22 (April 2002).

<sup>3</sup> Commissioner of Internal Revenue Mark W. Everson letter to Chairman Charles E. Grassley, Senate Committee on Finance, p. 3, available at <http://www.senate.gov/~finance/hearings/other/Letter%20from%20Everson.pdf> (March 30, 2005).

porations, and tax-exempt organizations and collecting due revenue, this funding has permitted the IRS to undertake critical investigations into areas of concern in the tax-exempt sector, including abuses by credit counseling agencies and nonprofit compensation practices, and provide valuable guidance educating tax-exempt organizations about their obligations under current law.

We believe, however, that still more needs to be done. The Government Accountability Office noted in a statement for the record before this committee in April 2006 that “. . . tax law enforcement continues to be included on our list of high-risk Federal programs. This is due, in part, to the persistence of a large tax gap.”<sup>4</sup> Commissioner Everson noted in his March 2005 letter to Chairman Grassley that the IRS continues to “struggl[e] with yearly increases in the number of applications for tax exemption.”<sup>5</sup>

The administration has emphasized the need for continued oversight resources, requesting in the President’s fiscal year 2007 Federal budget an increase of \$137 million over fiscal year 2006 to sustain fiscal year 2006 enforcement initiatives. The IRS Oversight Board has recommended an even greater funding increase—\$368 million over fiscal year 2006—as part of a broader effort to address the tax gap. The recently approved Senate fiscal year 2007 Budget Resolution proposes an increase of \$500 million.

ADDITIONAL IRS ENFORCEMENT FUNDING WILL HELP PRESERVE THE PUBLIC’S TRUST IN THE CHARITABLE SECTOR AND FOSTER GREATER COMPLIANCE BY CHARITABLE ORGANIZATIONS

Our country’s expansive network of charitable organizations provides vital services in such fields as health, education, social assistance, community development, and the arts. Charities depend upon the generosity of Americans—their gifts of time and money—to achieve these missions. These gifts are fueled by the confidence that they are used for the purposes for which they were intended. Indeed, this public trust is essential to maintaining a viable and vibrant nonprofit sector, and preservation of that trust depends upon a combination of vigorous self-regulation by the sector and effective enforcement of the law.

In recent years, media stories have revealed increased instances of abuse by taxpayers using charitable organizations for personal gain and individuals claiming excessive contributions. Although few in number, these occurrences threaten to cripple the charitable sector by eroding the public’s confidence. IRS Commissioner Mark Everson encapsulated this threat in testimony before this committee in April 2005, “[i]f we do not act expeditiously, there is a risk that Americans will lose faith in our Nation’s charitable organizations. If that happens, Americans will stop giving and those in need will suffer.”<sup>6</sup>

At the encouragement of the chairman and ranking member of the Senate Finance Committee, owing in large measure to these reports, leading members of the charitable community convened the Panel on the Nonprofit Sector in October 2004 to consider and recommend actions to improve the transparency and accountability of charitable organizations. Over the next 9 months, over 5,000 individuals participated in the Panel’s efforts, making comments on the best methods for providing legitimate oversight of the sector while protecting the independence crucial to its ability to remain innovative and effective.

The Panel submitted its “Final Report to Congress and the Nonprofit Sector”<sup>7</sup> in June 2005 recommending more than 120 actions to be taken by charitable organizations, Congress, and the IRS. A key recommendation is to increase resources allocated to the IRS for oversight of charitable organizations as well as overall tax enforcement.

As noted by the Panel, effective oversight of the charitable sector requires vigorous enforcement of the law. Education of charitable organizations about changes in Federal and State laws and reporting requirements is also critical to increasing compliance. During the past 20 years, however, funding for IRS oversight of exempt

<sup>4</sup> Government Accountability Office, “Internal Revenue Service: Assessment of the Interim Results of the 2006 Filing Season and Fiscal Year 2007 Budget Request” (GAO-06-499T), at 1 (April 27, 2006).

<sup>5</sup> Commissioner of Internal Revenue Mark W. Everson letter to Chairman Charles E. Grassley, *supra* at p. 3.

<sup>6</sup> Commissioner of Internal Revenue Mark W. Everson, Written Statement, Senate Committee on Appropriations, Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies, Hearing on Internal Revenue Fiscal Year 2006 Budget Request, at 8 (April 7, 2005).

<sup>7</sup> Panel on the Nonprofit Sector, “Strengthening Transparency, Governance, and Accountability of Charitable Organizations: A Final Report to Congress and the Nonprofit Sector,” available at [http://www.nonprofitpanel.org/final/Panel\\_Final\\_Report.pdf](http://www.nonprofitpanel.org/final/Panel_Final_Report.pdf) (June 2005).

organizations has remained essentially constant while the sector has nearly doubled in size and become even more complex. While recognizing the fiscal challenges facing Congress, the Panel emphasized “that, without adequate resources for oversight and enforcement, those who willfully violate the law will continue to do so with impunity.”<sup>8</sup>

In addition to continuing recent efforts to restore the overall IRS enforcement program, increased resources for IRS oversight would help protect the integrity and credibility of our Nation’s charitable sector by providing resources to audit organizations’ annual returns and deter and penalize wrongdoers. Moreover, it would foster greater compliance over the long term by making possible increased education of charitable organizations about existing tax law.

#### CONCLUSION

Following a significant decline in resources, the Internal Revenue Service has made great strides toward restoring its tax law enforcement program. This achievement is due in large measure to recent actions by Congress to appropriate increased funding to IRS oversight. We applaud and appreciate this effort.

However, we echo recommendations by Commissioner Everson, the GAO, and others that additional resources are necessary to enable the IRS to continue to ensure effective oversight of the charitable sector and enforcement of our tax laws while also maintaining taxpayer service. We urge you to support the enforcement capacity of the IRS by increasing the agency’s fiscal year 2007 enforcement budget.

We thank you for consideration of these comments.

#### PREPARED STATEMENT OF EASTER SEALS

##### EASTER SEALS PROJECT ACTION (ACCESSIBLE COMMUNITY TRANSPORTATION IN OUR NATION)

Chairman Bond, Ranking Member Murray and members of the subcommittee, Easter Seals appreciates this opportunity to share the successes and needs of Easter Seals Project ACTION.

#### PROJECT ACTION OVERVIEW

The Transportation appropriations process initiated Project ACTION in 1988 by providing funding to the Federal Transit Administration to undertake this effort with Easter Seals. We are indeed grateful for that initiative and the ongoing strong support of this subcommittee in subsequent years.

Following its initial round of appropriations, Congress authorized assistance to Project ACTION in 1990 with the passage of ISTEA, continued the authorization in 1997 in TEA-21 and reauthorized the project in 2005 as part of SAFETEA-LU. The strong interest and support of all members of Congress has been greatly appreciated by Easter Seals as it has pursued project ACTION’s goals and objectives.

Since the project’s inception, Easter Seals has administered the project through a cooperative agreement with the Federal Transit Administration. Through steadfast appropriations support, Easter Seals Project ACTION has become the Nation’s leading resource on accessible public transportation for people with disabilities. The current project authorization level is \$3 million, and Easter Seals is pleased to request the appropriation of that sum for fiscal 2007.

The strength of Easter Seals Project ACTION is its continued effectiveness in meeting the congressional mandate to work with both the transit and disability communities to create solutions that improve access to transportation for people with disabilities of all ages and to assist transit providers in complying with transportation provisions in the Americans with Disabilities Act (ADA).

The activities of the project are guided by input from a national steering committee that includes representatives from transportation and disability organizations. Easter Seals Project ACTION has worked effectively with the Department of Transportation under four Presidents, and numerous Department of Transportation (DOT) Secretaries and Federal Transit Administration (FTA) Administrators. Today, Project ACTION is working closely with Secretary Mineta and the FTA. Secretary Mineta, who worked on the original authorization of Project ACTION, has worked closely with us since taking over DOT.

Easter Seals Project ACTION was also heavily featured in the President’s New Freedom Initiative Progress Report released in 2004. This demonstrates how closely

<sup>8</sup>*Id.* at 25.

the administration is working with Project ACTION to reach our shared goal of a safe, accessible, reliable, efficient and affordable transportation for and by citizens with disabilities at the local, State, regional and national levels throughout the United States.

#### SUPPORT FOR EASTER SEALS PROJECT ACTION

Easter Seals Project ACTION's successes are diverse and the value of the Project to both the transit and disability communities can be well documented. For instance, Barry Barker, Executive Director of the Transit Authority of River City (Louisville, KY) states that, "Easter Seals Project ACTION's support has enhanced our ability to maximize the quality of service we provide to all of our customers. The project helps us provide our customers with the mobility necessary to fully participate in the community."

Maureen McCloskey, National Advocacy Director of the Paralyzed Veterans of America states that, "The forum that Easter Seals Project ACTION has provided has created a dynamic dialogue between the disability and transit communities that has resulted in increased access to transportation for people with disabilities."

#### EASTER SEALS PROJECT ACTION WORKING AT THE COMMUNITY LEVEL

Among the programs pursued by the project in the recent period have been efforts aimed at increasing community capacity to meet the transportation needs of people with disabilities. For instance, in 2001, Easter Seals Project ACTION initiated the first Mobility Planning Services (MPS) Institute. The latest Institute will take place in April of this year and approximately 25 communities will take place in the 2-day event. The teams are representing localities across the country including Thomas Jefferson District, VA; Harford County, MD; Montgomery County, PA; Aiken County, SC; Santee Wateree Region, SC; Jacksonville, FL; Louisville, KY; Ann Arbor, MI; Genesee County, MI; Lake County, OH; Polk County, MN; Washburn County, WI; Capital Area Region, TX; Valencia County, NM; Spearfish, SD; Orange County, CA; Fairbanks County, AK; and Multnomah-Clackamas-Washington Counties, OR. This was the fourth group of communities to go through the MPS training. The first three groups of communities remain active and working with Project ACTION to continue their work at the community level. To participate in the Institute, each community had to identify a leadership team to attend the training. The leadership team had to consist of representatives from transit providers, disability service providers and disability advocacy organizations. This team approach will assure that all stakeholders are involved in implementing MPS. The greatest success so far of the MPS concept has been that it provides the disability community and the transportation industry an opportunity to develop tools for working together where in the past there had often been a lack of communication and in some cases even animosity. By implementing MPS, communities do a better job of meeting the transportation needs of people with disabilities and therefore better meet the transportation needs of all residents. Communities that participate in MPS receive ongoing in-depth technical assistance from Project ACTION staff ranging from access to Project ACTION materials to on-site training and facilitation by Project ACTION staff.

#### EASTER SEALS PROJECT ACTION WORKING AT THE STATE LEVEL

Project ACTION has partnered with the FTA on several initiatives designed to increase the capacity of States to support accessible transportation for people with disabilities.

A good example of this collaboration is the work that Project ACTION is doing with the FTA to support the success of the multi-Federal Department "United We Ride" initiative. Project ACTION helped facilitate a national meeting in March of 2003 of Governor-appointed representatives from State Departments of Labor, Transportation, Education and Health and Human Services. Forty-six States and territories participated in this forum that was one of five elements of an FTA effort to bring together Federal and State agencies to help identify, plan and alleviate barriers to human service transportation coordination. Project ACTION is assisting in the dissemination of the FTA developed Framework for Action planning process guide to help States and communities build and operate coordinated transportation systems and is providing technical assistance on its use throughout the country.

#### EASTER SEALS PROJECT ACTION WORKING AT THE NATIONAL LEVEL

Some of the materials that Easter Seals Project ACTION has developed over the years include:

- A toolkit for assessing bus stop accessibility;
- A guide for employment professionals working with people with disabilities on how to solve transportation issues that serve as a barrier to employment;
- A public transportation curriculum for children with disabilities in grade 8–12; and,
- A guide to transportation resources in rural communities for people with disabilities.

All resource materials available from Easter Seals Project ACTION activities are available free of charge through the Project ACTION clearinghouse on the Project ACTION website: [www.projectaction.org](http://www.projectaction.org).

As mentioned, Project ACTION staff also are involved in continuously providing technical assistance to transit providers, nonprofit human service organizations, people with disabilities, and the general public. The forms of technical assistance provided are provided based on the determination of what would be the most helpful in the situation being addressed. Assistance from Project ACTION ranges from the delivery of basic information in the form of brochures from our national clearinghouse to telephone, e-mail, participation in the training program and on single or ongoing on-site work.

#### CONTINUING NEED FOR EASTER SEALS PROJECT ACTION

Access to transportation is a vital issue for people with disabilities. For many people with disabilities, a lack of accessible, affordable public transportation is the primary barrier to employment, education and participation in community life. In his New Freedom Initiative, President Bush recognized the importance of accessible transportation for people with disabilities, and has proposed an increase in Federal support for promoting innovative and alternative transportation solutions for people with disabilities. As these proposals are implemented, it will become increasingly important that the resources and skills, relationships and knowledge that Easter Seals Project ACTION has fostered remain strong. Should the appropriations process support this New Freedom Initiative, Project ACTION is committed to working with DOT on implementation.

There is a growing need for outreach by Project ACTION to specific populations. While Project ACTION has historically worked with rural communities to help address their transportation issues, the lack of access for rural residents with disabilities is still unacceptable. Easter Seals national headquarters and Project ACTION are working together to coordinate efforts to better serve rural residents with disabilities in a variety of service areas including transportation. Further, as the population ages, there is also a need to develop and provide additional specific resources and assistance to transit providers and older passengers. Since most people will experience some level of disability as they age and require accessible transportation, Project ACTION's resources will again be invaluable as transit providers struggle to meet the needs of this new wave of riders.

#### FISCAL YEAR 2007 REQUEST

In order to continue the outstanding work of Easter Seals Project ACTION, Easter Seals national headquarters respectfully requests that \$3 million be allocated in fiscal 2007 to the Department of Transportation for project activities.

Mr. Chairman, thank you for the opportunity to present this testimony to the subcommittee. Your efforts have improved the accessibility of transportation for persons with disabilities and the ability of the transportation community to provide good service to all Americans. Easter Seals Project ACTION looks forward to continuing to work with you toward the pursuit of these objectives.

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#### PREPARED STATEMENT OF THE SKOKOMISH TRIBE

My name is Gordon James. I am Chairman of the Skokomish Tribe of Washington State. The Skokomish Indian Reservation is a rural community located at the base of the Olympic Peninsula with a population of over 1,000 people. The Skokomish Tribe appreciates the work of the subcommittee and asks that you provide \$2.1 million from the Department of Transportation, Federal Lands Highway Fund for the Skokomish Tribe Highway 101 Improvements and Parkway Access Infrastructure Project. The Tribe requests this funding for construction and improvements on Highway 101 and the access road leading to the site of the Tribe's planned community housing development.

## BACKGROUND AND NEED

The need for housing in the Skokomish community is great. We currently have 91 families with no available housing. Of the existing housing stock, nearly half is within the 100-year floodplain. Flooding has already caused damage to 40 percent of the Reservation's septic systems, resulting in serious community health concerns and environmental damage, such as dissolved oxygen in the Hood Canal. Because it is in the floodplain, Federal funds are not available to rehabilitate this housing.

To meet this need, the Tribe has been working for the past 9 years to plan and develop a safe, practical and culturally relevant housing development for tribal members. The Tribe recently purchased 160 acres and will soon begin construction on the Skokomish Community Housing Development. The development will eventually contain 138 homes and will be constructed in three phases. Phase 1, which will entail construction of 30 homes and the necessary infrastructure to support them, will be constructed over the next 2 years. (Please see Attachment 3: Estimate for Skokomish Master Plan for a detailed budget for the housing development.)

The funding requested for fiscal year 2007 will support the road improvements necessary to complete Phase 1. Highway 101 passes near the development site, but the access road leading to the site is a small logging road used for access to an adjacent State park. In order to use it as a residential area, the access road must be drastically improved. In addition, because the access road leaves the highway at a corner, substantial infrastructure improvement will be needed to improve the line of sight and make the road safe for frequent use. This includes, for example, constructing a retaining wall, widening the highway and adding a left turn lane. In addition to its use as an access road for the Tribe's housing development, this road will also offer improved access to the State park.

## STATUS OF PROJECT

Over the past year and a half, the Tribe has acquired land and developed a master plan for construction of a tribal housing development. On April 1, 2006, construction will begin on the infrastructure for Phase 1 of the development (the first 30 homes), including the water and wastewater facilities. The Washington Department of Transportation has issued a permit so that construction can begin even without an asphalt road. However, improvement to U.S. Highway 101 and the access road will be critical to both the construction process and the eventual use of the development. We anticipate that Phase 1 will be completed within 2 years. Once Phase 1 is completed, tribal members can begin moving into the first 30 homes. Phases 2 and 3 will involve subsequent expansion of the development. Funding from the fiscal year 2007 HUD budget will enable the Tribe to complete the road improvements necessary for Phase 1. Funds for the housing have been secured from other sources.

The total project cost is \$2.1 million for road improvements (highway improvement and parkway access). These improvements will be undertaken during Phase 1 of the project, which we estimate will be completed in approximately 2 years. Of this, at least \$1.1 million will be expended during fiscal year 2007. This amount includes the items listed in Part A of Attachment 2: Parkway, Highway 101 to West Side of Phase 1 & 2 (parkway access). It also includes the cost of Construction Surveying and Engineering & Administration listed in Part B: Highway 101 Improvements (costs necessary to begin surveying for Highway 101 improvements). For additional information please see Attachment 2: Estimate for Highway 101 Improvements and Parkway Access.

## STATE, LOCAL AND FEDERAL SUPPORT

The Tribe has broad Federal and State support for its housing development project. For Phase 1, the Tribe has secured a Community Development Block Grant from HUD for water and wastewater and is pursuing a grant/loan from the USDA for additional infrastructure costs. Infrastructure funding will also come from HUD's Indian Community Development Block Grant program and from the Indian Health Service. Washington's Community Trade and Economic Development Council will contribute money from its revolving fund for housing.

In addition to these financial commitments, the project is supported by the Washington Department of Transportation, the Public Utility Department and various financing institutions, and all these Federal and State entities participate in regular planning meetings with the Tribe.

For the reasons described above, the Skokomish Tribe supports full funding of the Federal Lands Highway Fund and requests a special appropriation of \$2.1 million to support this project. We appreciate the opportunity to present testimony on these

important infrastructure needs. If we can provide any additional information, please contact the Tribe or our Counsel.

*Attachments.*—(1) Letter from Chairman James; (2) Estimate for Highway 101 Improvements and Parkway Access; (3) Estimate for Skokomish Master Plan; and (4) Phase 1 Design diagram. This diagram shows a proposed dual access road that would serve both the housing development and the adjacent State park. We are working closely with the State to ensure that both sites are served by the improved access road.



## Skokomish Indian Tribe

Tribal Center (360) 426-4232

N. 80 Tribal Center Road

FAX (360) 877-5943

Skokomish Nation, WA 98584

February 24, 2006

Dear Ms. Pavel,

I am writing on behalf of the Skokomish Indian Tribe to request a *special appropriation for two critical roads* that will have a direct and immediate impact on the Tribe's new housing development project. The Skokomish Tribe is asking for a **\$2.3 million dollar** earmark that will be used for the realignment of U.S. highway 101 and the access road up to the housing development. The monies for U.S. 101 will be used to create a left hand turn lane, drastically improve the line of sight and create a safe entrance onto the access road leading to the development. The access road to the site is an old logging road with a relatively steep grade that will need substantial earthwork and improvements to meet the necessary fire department codes and regulations.

For nine years the Tribe has been trying to locate suitable land in order to develop new housing, community facilities, and green spaces for our Tribal members. Over the past year and a half, the Skokomish Tribe has worked tirelessly at acquiring land, developing a master plan, and collaborating with federal, state, and local organizations to realize a safe, practical and culturally relevant housing development. Due to the tremendous need for our Skokomish housing project we have gained valuable support from a wide variety of housing professionals and more importantly created a momentum and enthusiasm among Tribal members.

The need for a new housing development for the Skokomish Indian Tribe cannot be overstated. Currently forty percent (40%) of the Tribe's core housing falls within the 100 year flood plain. Due to the excessive flooding and high water tables, individual septic systems have been drastically compromised causing severe community health issues, structural damage to existing housing and environmental degradation to the Skokomish River and the Hood Canal.

There are presently 91 families on the Skokomish housing wait list with no available housing and virtually no land for further development. Compounding the problem is the fact that 40% of the Tribe's core housing is within the 100-year flood plain which eliminates the use of any federal funds and/or grant opportunities for home rehabilitation. This creates a situation where families already in homes take on their extended relatives, currently on the housing wait list, exacerbating overcrowded conditions and creating extreme ware on the current housing stock.

As stated earlier, the Tribe has made significant progress toward realizing the first phase (30 homes) of a three phase housing development. One hundred and sixty acres of land have already been

purchased, the Skokomish Tribal Council has approved the overall master plan for 138 homes, a water tank and well house are due to begin construction in conjunction with the wastewater system the beginning of April, 2006. In addition, the Skokomish Tribe is holding "technical team" meetings every other month to update the *critical path* making sure that tasks, and the people responsible for the tasks, are understood and acted on. Included in our technical team meetings are USDA, HUD, Washington State Dept. of Transportation, Public Utility Dept., financing institutions, Indian Health Services, Tribal Council members and of course Skokomish community members.

A critical path has been established for Roads & Infrastructure, Housing, and Finance, each with an assigned sub-committee to meet on a monthly basis. Sub-committees are responsible for follow through and reporting at the overall planning meetings. The collaboration on the Skokomish housing development has been fully supported and encouraged by all the federal, state, and local agencies and quite frankly has been a complete success.

As we progress, it is clear that the Tribe will need substantial assistance in order to develop safe and reliable roads leading to and from the new housing development. I am encouraged by the progress that the Tribe has made and the potential impact the Skokomish housing project could have for an entire people.

We hope that you can see the critical need of what we are trying to accomplish and would be extremely grateful if you would consider our request to earmark \$2.3 million dollars needed to complete the roads. A safe, new, and much needed housing development will bring hope and security to the future of the Skokomish people.

Sincerely,

/s/

Gordon James  
Tribal Chairman  
Skokomish Indian Tribe

3/1/2006

Cascade Design Professionals, Inc.

PROJECT: SKOKOMISH Neighborhood & Housing Development  
Hwy 101 Improvements & Parkway Access

**PART A PARKWAY, HWY 101 TO WEST SIDE OF PHASE 1 & 2**

NO.	ITEM	UNIT	UNIT PRICE	AMOUNT	TOTAL PRICE
A1.	Mobilization	L.S.	\$10,000.00	All Req'd	\$10,000.00
A2.	Traffic Control	L.S.	\$2,500.00	All Req'd	\$2,500.00
A3.	Erosion Control	L.S.	\$10,000.00	All Req'd	\$10,000.00
A4.	Clearing and Grubbing	Acre	\$6,000.00	6.2	\$37,200.00
A5.	Topsoil, Remove & Stockpile	C.Y.	\$12.00	5037	\$60,444.00
A6.	Unclassified Excavation	C.Y.	\$15.00	7763	\$116,445.00
A7.	Crushed Aggregate Base Course	Ton	\$25.00	7193	\$179,825.00
A8.	Asphaltic Concrete	Ton	\$80.00	2620	\$209,600.00
A9.	Stormwater Detention Ponds	S.F.	\$10.00	8160	\$81,600.00
A10.	12" ADS N-12 Storm Drainage Pipe	L.F.	\$40.00	666	\$26,640.00
A11.	Street Trees	Each	\$150.00	62	\$9,300.00
A12.	Joint Utility Trench and Conduits	L.F.	\$15.00	3400	\$51,000.00
A13.	Electrical Transformer (by Mason County PUD)	L.S.	\$15,000.00	1	\$15,000.00
A14.	Electrical Utility Vault	Each	\$5,000.00	4	\$20,000.00
A15.	Street Lights	Each	\$1,500.00	22	\$33,000.00
A16.	Permanent Signing	L.S.	\$5,000.00	1	\$5,000.00
<b>Subtotal-Part A:</b>					<b>\$867,554.00</b>

<b>PART B HWY 101 IMPROVEMENTS</b>						
NO.	ITEM	UNIT	UNIT PRICE	AMOUNT	TOTAL PRICE	
B1.	Mobilization	L.S.	\$15,000.00	All Req'd	\$15,000.00	
B2.	Traffic Control	L.S.	\$35,000.00	All Req'd	\$35,000.00	
B3.	Erosion Control	L.S.	\$5,000.00	All Req'd	\$5,000.00	
B4.	SPCC Plan	L.S.	\$2,000.00	1	\$2,000.00	
B5.	Clearing and Grubbing	Acre	\$6,000.00	6.2	\$37,200.00	
B6.	Remove Existing Asphalt	S.Y.	\$7.50	7560	\$56,700.00	
B7.	Unclassified Excavation	C.Y.	\$15.00	500	\$7,500.00	
B8.	Borrow	C.Y.	\$12.00	1934	\$23,208.00	
B9.	Crushed Aggregate Base Course	Ton	\$25.00	3780	\$94,500.00	
B10.	Asphaltic Concrete	Ton	\$80.00	1622	\$129,760.00	
B11.	Pavement Marking	L.S.	\$5,000.00	All Req'd	\$5,000.00	
B12.	Remove Existing Culvert	L.S.	\$5,000.00	1	\$5,000.00	
B13.	36" ADS N-12 Storm Drainage Pipe	L.F.	\$100.00	64	\$6,400.00	
B14.	Trimming and Cleanup	L.S.	\$2,000.00	1	\$2,000.00	
B15.	Permanent Signing	L.S.	\$3,000.00	1	\$3,000.00	
					<b>Subtotal-Part B:</b>	<b>\$427,268.00</b>
					<b>PART A + PART B:</b>	<b>\$1,294,822.00</b>
GENERAL CONDITIONS AT 10% OF CONSTRUCTION:						\$129,482
TOTAL ESTIMATED COST OF PARKWAY & HWY 101:						\$1,424,304
CONTINGENCY AT 30% OF PROGRAM COST:						\$427,291
CONSTRUCTION SURVEYING:						\$30,000
ENGINEERING & ADMINISTRATION @ 13% OF CONST.						\$185,160
<b>TOTAL ESTIMATED COST:</b>						<b>\$2,066,755</b>

Estimate for Skokomish Master Plan-Phase 1					
Item	Description	Unit	Quantity	Unit Cost	Total Cost**
<b>SITE/CIVIL</b>					
1	Clearing and Grubbing (5% of Grading and Site Impr Cost)	LS	1		\$33,000
2	Parkway (not incl. Section through Potlatch SP)	LF	1522	77	\$117,000
	Intersection Improvements	LS	1	150000	\$150,000
3	Subdivision Streets + lighting	LF	1905	30	\$57,000
4	Paving				
	Parkway	LF	1522	51	\$78,000
	Subdivision Streets + lighting	LF	1905	47	\$90,000
5	Subdivision Grading	CY	3000	15	\$45,000
6	Landscaping				
	Trail	LF	565	10	\$6,000
	Community Area	SF	0	1	\$0
	Elder Housing	SF	0	1	\$0
	Central Open Space	SF	43560	1.5	\$65,000
	Shelter with grills & electrical hookups (30' x 40')	SF	1200	35	\$42,000
	Outdoor basketball court	LS	1	15000	\$15,000
<b>SITE/CIVIL SUBTOTAL</b>					<b>\$698,000</b>
<b>WATER</b>					
1	Well Development - Test well	LS	1	35000	\$35,000
	Second community well	LS	1	35000	\$35,000
	10-hp Pump Assembly (60 gpm)	EA	2	15000	\$30,000
	Control Building w/appurtenances	LS	1	170000	\$170,000
2	Storage Tank	LS	1	250000	\$250,000
3	Distribution				
	Service Lines	EA	30	3000	\$90,000
	8" PVC, C900	LF	4000	35	\$140,000
	Appurtenances (50% of distribution piping cost)	LS	1		\$70,000
<b>WATER SUBTOTAL</b>					<b>\$820,000</b>
<b>SEWER</b>					
1	WWTP	gpd	17300	20	\$346,000
2	Conveyance				
	12"	LF	1040	26	\$27,000
	8" PVC, 3034	LF	1660	20	\$33,000
3	Disposal System	SF	30000	3	\$90,000
<b>SEWER SUBTOTAL</b>					<b>\$496,000</b>
<b>OTHER UTILITIES</b>					
1	Electrical Power	LS	1		\$198,000
2	Telecommunications	LS	1		\$99,000
<b>OTHER UTILITIES SUBTOTAL</b>					<b>\$297,000</b>
<b>INFRASTRUCTURE SUBTOTAL</b>					<b>\$2,311,000</b>
General Conditions at 5% of Construction					\$116,000
<b>TOTAL ESTIMATED COST OF INFRASTRUCTURE CONSTRUCTION</b>					<b>\$2,427,000</b>
Contingency @ 25% of Program Cost					\$607,000
Surveying (Topo and Boundary)					\$50,000
Engineering & Administration at 13% of Construction					\$316,000
<b>TOTAL ESTIMATED INFRASTRUCTURE COST</b>					<b>\$3,400,000</b>
<b>HOUSING</b>					
Single Family Homes (w/o garage & pole storage)					
1	1300 SQ. FT. Single Family (11)	SF	14300	88	\$1,258,000
2	1500 SQ. FT. Single Family (11)	SF	16500	83	\$1,370,000
3	1750 SQ. FT. Single Family (7)	SF	12250	81	\$992,000
<b>HOUSING SUBTOTAL</b>					<b>\$3,620,000</b>
General Conditions at 5% of Construction					\$181,000
<b>TOTAL ESTIMATED COST OF HOUSING</b>					<b>\$3,801,000</b>
Contingency @ 20% of Program Cost					\$760,000
Arch/Engr Design & Administration at 7% of Construction					\$263,000
<b>TOTAL ESTIMATED HOUSING COST</b>					<b>\$4,814,000</b>
<b>TOTAL PROGRAM COST</b>					<b>\$8,214,000</b>

\*\*Total cost rounded to the nearest thousand.

Cascade Design Professionals, Inc.

Estimate for Skokomish Master Plan-Phase 2						
Item	Description	Unit	Quantity	Unit Cost	Total Cost**	
<b>SITE/CIVIL</b>						
1	Clearing and Grubbing (5% of Grading and Site Impr Cost)	LS	1		\$13,000	
2	Parkway (not incl. Section through Potlatch SP)	LF	0	77	\$0	
	Intersection Improvements	LS	0		\$0	
3	Subdivision Streets + Lighting	LF	1700	30	\$51,000	
4	Paving					
	Parkway	LF	0	51	\$0	
	Subdivision Streets + Lighting	LF	1700	47	\$80,000	
5	Subdivision Grading	CY	1800	15	\$27,000	
6	Landscaping					
	Trail	LF	1410	10	\$14,000	
	Community Area	SF	13200	1	\$13,000	
	Elder Housing	SF	34675	1	\$35,000	
	Central Open Space	SF	24053	1.5	\$36,000	
	Shelter with grills & electrical hookups	SF	0	35	\$0	
	Outdoor basketball court	LS	0	15000	\$0	
<b>SITE/CIVIL SUBTOTAL</b>					<b>\$269,000</b>	
<b>WATER</b>						
1	Well Development	LS	0	35000	\$0	
	Second community well	LS	0	35000	\$0	
	10-hp Pump Assembly (60 gpm)	EA	0	15000	\$0	
	Control Building w/appurtenances	LS	0	170000	\$0	
2	Storage Tank	LS	0	250000	\$0	
3	Distribution					
	Service Lines	EA	0	3000	\$0	
	8" PVC, C900	LF	1700	35	\$60,000	
	Appurtenances (50% of distribution piping cost)	LS	1		\$30,000	
<b>WATER SUBTOTAL</b>					<b>\$90,000</b>	
<b>SEWER</b>						
1	WWTP	gpd	0	10	\$0	
2	Conveyance					
	12"	LF	0	26	\$0	
	8" PVC, 3034	LF	1700	20	\$34,000	
3	Disposal System	SF	0	3	\$0	
<b>SEWER SUBTOTAL</b>					<b>\$34,000</b>	
<b>OTHER UTILITIES</b>						
1	Electrical Power	LS	1		\$38,000	
2	Telecommunications	LS	1		\$19,000	
<b>OTHER UTILITIES SUBTOTAL</b>					<b>\$57,000</b>	
<b>INFRASTRUCTURE SUBTOTAL</b>					<b>\$450,000</b>	
General Conditions at 5% of Construction					\$23,000	
<b>TOTAL ESTIMATED COST OF INFRASTRUCTURE CONSTRUCTION</b>					<b>\$473,000</b>	
Contingency @ 15% of Program Cost					\$71,000	
Surveying (Topo and Boundary)					\$50,000	
Engineering & Administration at 13% of Construction					\$61,000	
<b>TOTAL ESTIMATED INFRASTRUCTURE COST</b>					<b>\$655,000</b>	
<b>HOUSING</b>						
Single Family Homes (w/o garage & pole storage)						
1	1300 SQ. FT. Single Family (7)	SF	9100	88	\$801,000	
2	1500 SQ. FT. Single Family (7)	SF	10500	83	\$872,000	
3	1750 SQ. FT. Single Family (5)	SF	8750	81	\$709,000	
<b>HOUSING SUBTOTAL</b>					<b>\$2,382,000</b>	
General Conditions at 5% of Construction					\$119,000	
<b>TOTAL ESTIMATED COST OF HOUSING</b>					<b>\$2,501,000</b>	
Contingency @ 12% of Program Cost					\$300,000	
Arch/Engr Design & Administration at 7% of Construction					\$167,000	
<b>TOTAL ESTIMATED HOUSING COST</b>					<b>\$2,968,000</b>	
<b>TOTAL PROGRAM COST</b>					<b>\$3,623,000</b>	

\*\*Total cost rounded to the nearest thousand.

Estimate for Skokomish Master Plan-Phase 3					
Item	Description	Unit	Quantity	Unit Cost	Total Cost**
<b>SITE/CIVIL</b>					
1	Clearing and Grubbing (5% of Grading and Site Impr Cost)	LS	1		\$61,000
2	Parkway (not incl. Section through Potlatch SP)	LF	1012	77	\$78,000
	Intersection Improvements	LS	0		\$0
3	Subdivision Streets + lighting	LF	4875	30	\$146,000
4	Paving				
	Parkway	LF	1012	51	\$52,000
	Subdivision Streets + lighting	LF	4875	47	\$229,000
5	Subdivision Grading	CY	5500	15	\$83,000
6	Landscaping				
	Trail	LF	865	10	\$9,000
	Community Area	SF	154237	1	\$154,000
	Elder Housing	SF	92064	1	\$92,000
	Central Open Space	SF	193735	1.5	\$291,000
	Shelter w/ grills and electrical hookups (40' x 60')	SF	2400	35	\$84,000
	Outdoor basketball court	LS	0	15000	\$0
<b>SITE/CIVIL SUBTOTAL</b>					<b>\$1,279,000</b>
<b>WATER</b>					
1	Well Development	LS	0	35000	\$0
	Second community well	LS	0	35000	\$0
	10-hp Pump Assembly (60 gpm)	EA	0	15000	\$0
	Control Building w/appurtenances	LS	0	170000	\$0
2	Storage Tank	LS	0	250000	\$0
3	Distribution				
	Service Lines	EA	0	3000	\$0
	8" PVC, C900	LF	4875	35	\$171,000
	Appurtenances (50% of distribution piping cost)	LS	1		\$86,000
<b>WATER SUBTOTAL</b>					<b>\$257,000</b>
<b>SEWER</b>					
1	WWTP	gpd	32000	20	\$640,000
2	Conveyance				
	12"	LF	1012	26	\$26,000
	8" PVC, 3034	LF	4875	20	\$98,000
3	Disposal System	SF	53000	3	\$159,000
<b>SEWER SUBTOTAL</b>					<b>\$923,000</b>
<b>OTHER UTILITIES</b>					
1	Electrical Power	LS	1		\$240,000
2	Telecommunications	LS	1		\$120,000
<b>OTHER UTILITIES SUBTOTAL</b>					<b>\$360,000</b>
<b>INFRASTRUCTURE SUBTOTAL</b>					<b>\$2,819,000</b>
General Conditions at 5% of Construction					\$141,000
<b>TOTAL ESTIMATED COST OF INFRASTRUCTURE CONSTRUCTION</b>					<b>\$2,960,000</b>
Contingency @ 15% of Program Cost					\$444,000
Surveying (Topo and Boundary)					\$100,000
Engineering & Administration at 13% of Construction					\$385,000
<b>TOTAL ESTIMATED INFRASTRUCTURE COST</b>					<b>\$3,889,000</b>
<b>HOUSING</b>					
Single Family Homes (w/o garage & pole storage)					
1	1300 SQ. FT. Single Family (34)	SF	44200	88	\$3,890,000
2	1500 SQ. FT. Single Family (34)	SF	51000	83	\$4,233,000
3	1750 SQ. FT. Single Family (23)	SF	40250	81	\$3,260,000
<b>HOUSING SUBTOTAL</b>					<b>\$11,383,000</b>
General Conditions at 5% of Construction					\$569,000
<b>TOTAL ESTIMATED COST OF HOUSING</b>					<b>\$11,952,000</b>
Contingency @ 12% of Program Cost					\$1,434,000
Arch/Engr Design & Administration at 7% of Construction					\$797,000
<b>TOTAL ESTIMATED HOUSING COST</b>					<b>\$14,183,000</b>
<b>TOTAL PROGRAM COST</b>					<b>\$18,072,000</b>

\*\*Total cost rounded to the nearest thousand.

Estimate for Skokomish Master Plan-Extension to HWY 101					
Item	Description	Unit	Quantity	Unit Cost	Total Cost**
<b>SITE/CIVIL</b>					
1	Clearing and Grubbing (5% of Grading and Site Impr Cost)	LS			\$27,000
2	Parkway	LF	1805	77	\$139,000
	Intersection Improvements	LS	1	300000	\$300,000
3	Subdivision Streets + Lighting	LF	0	30	\$0
4	Paving				
	Parkway	LF	1805	51	\$92,000
	Subdivision Streets + Lighting	LF	0	47	\$0
5	Subdivision Grading	CY	0	15	\$0
6	Landscaping				
	Trail	LF	0	10	\$0
	Community Area	SF	0	1	\$0
	Elder Housing	SF	0	1	\$0
	Central Open Space	SF	0	1.5	\$0
	Shelter w/grills & electrical hookups	SF	0	35	\$0
	Outdoor basketball court	LS	0	15000	\$0
<b>SITE/CIVIL SUBTOTAL</b>					<b>\$558,000</b>
<b>WATER</b>					
1	Well Development	LS	0	35000	\$0
	Second community well	LS	0	35000	\$0
	10-hp Pump Assembly (60 gpm)	EA	0	15000	\$0
	Control Building w/appurtenances	LS	0	170000	\$0
2	Storage Tank	LS	0	250000	\$0
3	Distribution				
	Service Lines	EA	0	3000	\$0
	8" PVC, C900	LF	0	35	\$0
	Appurtenances (50% of distribution piping cost)	LS	0		\$0
<b>WATER SUBTOTAL</b>					<b>\$0</b>
<b>SEWER</b>					
1	WWTP	gpd	0	10	\$0
2	Conveyance				
	12"	LF	0	26	\$0
	8" PVC, 3034	LF	0	20	\$0
3	Disposal System	SF	0	3	\$0
<b>SEWER SUBTOTAL</b>					<b>\$0</b>
<b>OTHER UTILITIES</b>					
1	Electrical Power	LS	0		\$0
2	Telecommunications	LS	0		\$0
<b>OTHER UTILITIES SUBTOTAL</b>					<b>\$0</b>
<b>INFRASTRUCTURE SUBTOTAL</b>					<b>\$558,000</b>
General Conditions at 5% of Construction					\$28,000
<b>TOTAL ESTIMATED COST OF INFRASTRUCTURE CONSTRUCTION</b>					<b>\$586,000</b>
Contingency @ 15% of Program Cost					\$88,000
Surveying (Topo and Boundary)					\$50,000
Engineering & Administration at 13% of Construction					\$76,000
<b>TOTAL ESTIMATED INFRASTRUCTURE COST</b>					<b>\$800,000</b>
<b>HOUSING</b>					
Single Family Homes (w/o garage & pole storage)					
1	1300 SQ. FT. Single Family (0)	SF	0	88	\$0
2	1500 SQ. FT. Single Family (0)	SF	0	83	\$0
3	1750 SQ. FT. Single Family (0)	SF	0	81	\$0
<b>HOUSING SUBTOTAL</b>					<b>\$0</b>
General Conditions at 5% of Construction					\$0
<b>TOTAL ESTIMATED COST OF HOUSING</b>					<b>\$0</b>
Contingency @ 12% of Program Cost					\$0
Arch/Engr Design & Administration at 7% of Construction					\$0
<b>TOTAL ESTIMATED HOUSING COST</b>					<b>\$0</b>
<b>TOTAL PROGRAM COST</b>					<b>\$800,000</b>

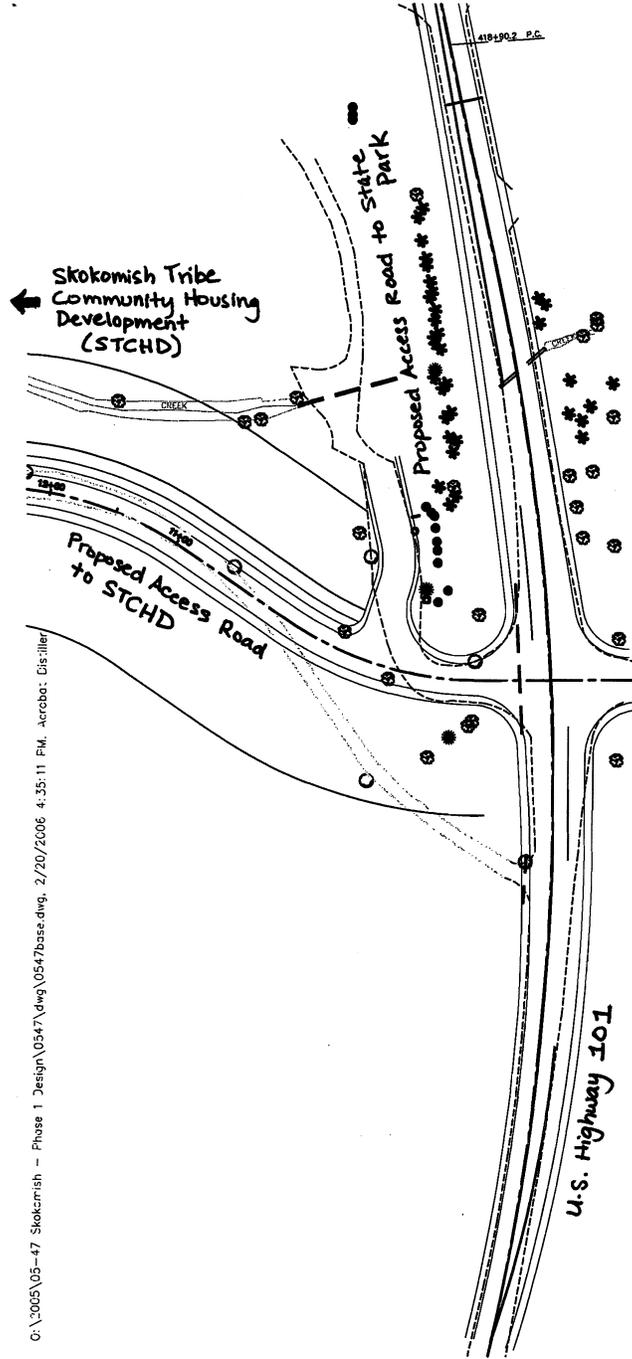
\*\*Total cost rounded to the nearest thousand.

Cost Estimate for Skokomish Master Plan-Total					
Item	Description	Unit	Quantity	Unit Cost	Total Cost**
<b>SITE/CIVIL</b>					
1	Clearing and Grubbing (5% of Grading and Site Impr Cost)	LS			\$133,000
2	Parkway	LF	4339	77	\$334,000
	Intersection Improvements	LS			\$450,000
3	Subdivision Streets + Lighting	LF	8480	30	\$254,000
4	Paving				
	Parkway	LF	4339	51	\$221,000
	Subdivision Streets + Lighting	LF	8480	47	\$399,000
5	Subdivision Grading	CY	10300	15	\$155,000
6	Landscaping/Site Improvements				
	Trail	LF	2840	10	\$28,000
	Community Area	SF	167437	1	\$167,000
	Elder Housing	SF	126739	1	\$127,000
	Central Open Space	SF	261348	1.5	\$392,000
	Shelter w/grills & electrical hookups	SF	3600	35	\$126,000
	Outdoor Basketball Court	LS	1	15000	\$15,000
<b>SITE/CIVIL SUBTOTAL</b>					<b>\$2,801,000</b>
<b>WATER</b>					
1	Well Development - Test Well	LS	1	35000	\$35,000
	Second Community Well	LS	1	35000	\$35,000
	10-hp Pump Assembly (60 gpm)	EA	2	15000	\$30,000
	Control Building w/appurtenances	LS	1	170000	\$170,000
2	Storage Tank	LS	1	250000	\$250,000
3	Distribution				
	Service Lines	EA	30	3000	\$90,000
	8" PVC, C900	LF	10575	35	\$370,000
	Appurtenances (50% of distribution piping cost)	LS	3		\$185,000
<b>WATER SUBTOTAL</b>					<b>\$1,165,000</b>
<b>SEWER</b>					
1	WWTP	gpd	49300	20	\$986,000
2	Conveyance				
	12"	LF	2052	26	\$53,000
	8" PVC, 3034	LF	8235	20	\$165,000
3	Disposal System	SF	83000	3	\$249,000
<b>SEWER SUBTOTAL</b>					<b>\$1,483,000</b>
<b>OTHER UTILITIES</b>					
1	Electrical Power	LS	1		\$529,000
2	Telecommunications	LS	1		\$264,000
<b>OTHER UTILITIES SUBTOTAL</b>					<b>\$793,000</b>
<b>INFRASTRUCTURE SUBTOTAL</b>					<b>\$6,212,000</b>
General Conditions at 5% of Construction					\$311,000
<b>TOTAL ESTIMATED COST OF INFRASTRUCTURE CONSTRUCTION</b>					<b>\$6,523,000</b>
Contingency @ 25% of Program Cost					\$1,631,000
Surveying (Topo and Boundary)					\$250,000
Engineering & Administration at 13% of Construction					\$848,000
<b>TOTAL ESTIMATED INFRASTRUCTURE COST</b>					<b>\$9,252,000</b>
<b>HOUSING</b>					
Single Family Homes (w/o garage & pole storage)					
1	1300 SQ. FT. Single Family (41)	SF	67600	88	\$5,949,000
2	1500 SQ. FT. Single Family (41)	SF	78000	83	\$6,474,000
3	1750 SQ. FT. Single Family (21)	SF	61250	81	\$4,961,000
<b>HOUSING SUBTOTAL</b>					<b>\$17,384,000</b>
General Conditions at 5% of Construction					\$869,000
<b>TOTAL ESTIMATED COST OF HOUSING</b>					<b>\$18,253,000</b>
Contingency @ 20% of Program Cost					\$3,651,000
Arch/Engr Design & Administration at 7% of Construction					\$1,217,000
<b>TOTAL ESTIMATED HOUSING COST</b>					<b>\$23,121,000</b>
<b>TOTAL PROGRAM COST</b>					<b>\$32,373,000</b>

\*\*Total cost rounded to the nearest thousand.

<b>Cost Estimate for Skokomish Master Plan-Total</b>						
<b>Item</b>	<b>Description</b>	<b>Phase 1</b>	<b>Phase 2</b>	<b>Phase 3</b>	<b>Access</b>	<b>Total Cost*</b>
<b>INFRASTRUCTURE</b>						
	Site Civil	\$ 698,000	\$ 269,000	\$ 1,279,000	\$ 558,000	\$ 2,804,000
	Water Supply, Storage and Distribution	\$ 820,000	\$ 90,000	\$ 257,000	\$ -	\$ 1,167,000
	Wastewater Collection and Treatment	\$ 496,000	\$ 34,000	\$ 923,000	\$ -	\$ 1,453,000
	Other Utilities	\$ 297,000	\$ 57,000	\$ 360,000	\$ -	\$ 714,000
	<b>INFRASTRUCTURE SUBTOTAL</b>	<b>\$ 2,311,000</b>	<b>\$ 450,000</b>	<b>\$ 2,819,000</b>	<b>\$ 558,000</b>	<b>\$ 6,138,000</b>
	General Conditions at 5% of Construction	\$ 116,000	\$ 23,000	\$ 141,000	\$ 28,000	\$ 307,000
	<b>TOTAL EST. COST OF INFRASTRUCTURE CONSTRUCTION</b>	<b>\$ 2,427,000</b>	<b>\$ 473,000</b>	<b>\$ 2,960,000</b>	<b>\$ 586,000</b>	<b>\$ 6,445,000</b>
	Contingency @ 25% of Program Cost	\$ 607,000	\$ 118,000	\$ 740,000	\$ 147,000	\$ 1,611,000
	Surveying (Topo and Boundary)	\$ 50,000	\$ 50,000	\$ 100,000	\$ 50,000	\$ 250,000
	Engineering & Administration at 13% of Construction	\$ 316,000	\$ 61,000	\$ 385,000	\$ 76,000	\$ 838,000
	<b>TOTAL ESTIMATED INFRASTRUCTURE COST</b>	<b>\$ 3,400,000</b>	<b>\$ 702,000</b>	<b>\$ 4,185,000</b>	<b>\$ 859,000</b>	<b>\$ 9,144,000</b>
<b>HOUSING</b>						
	Single Family Homes (w/o garage & pole storage)					
1	1300 SQ. FT. Single Family (41)	\$ 1,258,000	\$ 801,000	\$ 3,890,000		\$ 5,949,000
2	1500 SQ. FT. Single Family (41)	\$ 1,370,000	\$ 872,000	\$ 4,233,000		\$ 6,475,000
3	1750 SQ. FT. Single Family (21)	\$ 992,000	\$ 709,000	\$ 3,260,000		\$ 4,961,000
	<b>HOUSING SUBTOTAL</b>	<b>\$ 3,620,000</b>	<b>\$ 2,382,000</b>	<b>\$ 11,383,000</b>		<b>\$ 17,385,000</b>
	General Conditions at 5% of Construction	\$ 181,000	\$ 119,000	\$ 569,000		\$ 869,000
	<b>TOTAL ESTIMATED COST OF HOUSING</b>	<b>\$ 3,801,000</b>	<b>\$ 2,501,000</b>	<b>\$ 11,952,000</b>		<b>\$ 18,254,000</b>
	Contingency @ 20% of Program Cost	\$ 760,000	\$ 500,000	\$ 2,390,000		\$ 3,651,000
	Arch/Engr Design & Administration at 7% of Construction	\$ 253,000	\$ 167,000	\$ 797,000		\$ 1,217,000
	<b>TOTAL ESTIMATED HOUSING COST</b>	<b>\$ 4,814,000</b>	<b>\$ 3,168,000</b>	<b>\$ 15,139,000</b>		<b>\$ 23,122,000</b>
	<b>TOTAL PROGRAM COST</b>	<b>\$ 8,214,000</b>	<b>\$ 3,870,000</b>	<b>\$ 19,324,000</b>	<b>\$ 859,000</b>	<b>\$ 32,266,000</b>

\*Costs are in 2005 dollars & are rounded to the nearest thousand



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PREPARED STATEMENT OF THE CALIFORNIA INDUSTRY AND GOVERNMENT CENTRAL  
CALIFORNIA OZONE STUDY (CCOS) COALITION

Mr. Chairman and members of the subcommittee, on behalf of the California Industry and Government Central California Ozone Study (CCOS) Coalition, we are pleased to submit this statement for the record in support of our fiscal year 2007 funding request of \$500,000 from the Department of Transportation for CCOS. These funds are necessary for the State of California to address the very significant challenges it faces to comply with new national ambient air quality standards for ozone and fine particulate matter. The study design incorporates recent technical recommendations from the National Academy of Sciences (NAS) on how to most effectively comply with Federal Clean Air Act requirements.

First, we want to thank you for your past assistance in obtaining Federal funding for the Central California Ozone Study (CCOS) and California Regional PM<sub>10</sub>/PM<sub>2.5</sub> Air Quality Study (CRPAQS). Your support of these studies has been instrumental in improving the scientific understanding of the nature and cause of ozone and particulate matter air pollution in Central California and the Nation. Information gained from these two studies is forming the basis for the 8-hour ozone, PM<sub>2.5</sub>, and regional haze State Implementation Plans (SIPs) that are due in 2007 (ozone) and 2008 (particulate matter/haze). As with California's previous SIPs, the 2007–2008 SIPs will need to be updated and refined due to the scientific complexity of our air pollution problem. Our request this year would fund the completion of CCOS to address important questions that won't be answered with results from previously funded research projects.

To date, our understanding of air pollution and the technical basis for SIPs has largely been founded on pollutant-specific studies, like CCOS. These studies are conducted over a single season or single year and have relied on modeling and analysis of selected days with high concentrations. Future SIPs will be more complex than they were in the past. The National Academy of Sciences (NAS) is now recommending a weight-of-evidence approach that will involve utilizing more broad-based, integrated methods, such as data analysis in combination with seasonal and annual photochemical modeling, to assess compliance with Federal Clean Air Act requirements. This will involve the analysis of a larger number of days and possibly an entire season. In addition, because ozone and particulate matter are formed from some of the same emissions precursors, there is a need to address both pollutants in combination, which CCOS will do.

Consistent with the new NAS recommendations, the CCOS study includes corroborative analyses with the extensive data provided by past studies, advances the state-of-science in air quality modeling, and addresses the integration of ozone and particulate pollution studies. In addition, the study will incorporate further refinements to emission inventories, address the development of observation-based analyses with sound theoretical bases, and includes the following four general components: Performing SIP modeling analyses, 2005–2011; Conducting weight-of-evidence data analyses, 2006–2008; Making emission inventory improvements, 2006–2010; Performing seasonal and annual modeling, 2008–2011.

CCOS is directed by Policy and Technical Committees consisting of representatives from Federal, State, and local governments, as well as private industry. These committees, which managed the San Joaquin Valley Ozone Study and are currently managing the California Regional Particulate Air Quality Study, are landmark examples of collaborative environmental management. The proven methods and established teamwork provide a solid foundation for CCOS.

For fiscal year 2007, our Coalition is seeking funding of \$500,000 from the DOT through Highway Research funds. DOT is a key stakeholder in air quality issues because Federal law requires that transportation plans be in conformity with SIPs. Billions of dollars in Federal transportation funds are at risk if conformity is not demonstrated for new transportation plans. As a result, transportation and air agencies must be collaborative partners on SIPs and transportation plans, which are linked because motor vehicle emissions are a dominant element of SIPs in California and nationwide. Determining the emission and air quality impacts of motor vehicles is a major part of the CCOS effort.

Heavy-duty trucks are known to have very different driving patterns than light duty cars and, despite smaller numbers, are responsible for a disproportionate amount of emissions (e.g. approximately 50 percent of California's mobile source NOx emissions). The continued growth of heavy-duty truck travel, including increases in inter-State and international goods movement, makes this element of the SIP transportation emission estimate critical. Thus, to support the region's new SIPs and to address the new NAS recommendations, improvement of the temporal and spatial distribution of heavy-duty truck emissions is needed. We propose fund-

ing of this activity at a level of \$500,000. The funding will go to collect data that can be used to more accurately characterize heavy-duty truck emissions, including those resulting from NAFTA.

Thank you very much for your consideration of our request.

#### COOPERATIVE PARTNERSHIP

##### *Private Sector*

Western States Petroleum Association; Pacific Gas and Electric Company; Electric Power Research Institute; Nisei Farmers League and Agriculture; Independent Oil Producers' Agency; California Cotton Ginners and Growers Associations.

##### *Local Government*

San Joaquin Valley Unified Air Pollution Control District (On Behalf of Local Cities and Counties); Bay Area Air Quality Management District; Sacramento Metro Air Quality Management District; San Luis Obispo County Air Pollution Control District; Mendocino County Air Pollution Control District.

##### *State Government*

California Air Resources Board; California Energy Commission.

##### *Federal Government*

Environmental Protection Agency; Department of Agriculture; Department of Commerce; National Oceanic and Atmospheric Administration; Department of Transportation; Department of Interior; Department of Energy (Invited Partner).

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#### PREPARED STATEMENT OF THE COALITION OF NORTHEASTERN GOVERNORS

As the subcommittee begins the fiscal year 2007 transportation appropriations process, the Coalition of Northeastern Governors (CONEG) is pleased to share with the subcommittee testimony on transportation and community development programs in the fiscal year 2007 Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations bill. The CONEG Governors commend the subcommittee for its past support of funding for the Nation's highway, transit, and rail systems. We understand that the complex, interlocking issues that the subcommittee faces in crafting this appropriations measure are compounded by the overall budget challenges—challenges that are intensified by the deficit and defense and security needs. We urge the subcommittee to continue the important Federal partnership role that is vital to strengthening the Nation's multimodal transportation system. This system is a critical underpinning to the productivity of the Nation's economy and the security and well-being of its communities.

#### TRANSPORTATION

The subcommittee's challenge in the transportation arena is compounded by the uncertainty surrounding the future of contributions to the Highway Trust Fund and its ability to sustain the structure created by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Public Law 109-59). The CONEG Governors strongly support the National Surface Transportation Policy and Revenue Study Commission created by SAFETEA-LU (Section 1909) and are concerned that it produce a credible report. We encourage the subcommittee to review the funding levels provided to the Commission and urge your active involvement.

The Governors urge the subcommittee to fund the combined highway, public transit and safety programs at levels consistent with the authorized levels in SAFETEA-LU. This Federal funding is essential to continue the progress in recent years to improve the condition and safety of the Nation's highways, bridges and transit systems. Continued and substantial Federal investment in these infrastructure improvements—in both urban and rural areas—is necessary if the Nation's surface transportation system is to safely and efficiently move people and support the substantial growth in freight movement that is projected in the coming decade.

—We are pleased that the President requested a Federal aid highway obligation limit of \$39.1 billion for fiscal year 2007, a level equal to the authorized contract authority plus \$842 million from the Revenue Aligned Budget Authority (RABA).

—The Governors strongly urge the subcommittee to fund public transit at the fiscal year 2007 authorized funding level of \$8.97 billion. The proposed \$100 million shortfall in the newly-created Small Starts program is of concern. This program is attractive since it provides the flexibility to fund small but vital transit

projects, such as bus rapid transit, that might not be efficient or cost-effective if subject to the lengthy approval process needed for larger endeavors. Although the administration questions the funding level needed as the Small Starts program gets underway in fiscal year 2007, this does not justify a reduction in the overall funding level for the Capital Investment Grants program—a program which is highly competitive and oversubscribed. Furthermore, a failure to fully fund transit would undermine the important and historic 80/20 funding split between highways and transit.

—The Governors also urge the subcommittee to provide sufficient funding for the Coordinated Border Infrastructure Program. A strong program—one that invests in transportation projects addressing both security and transportation needs—can contribute to safer, more efficient and secure flows of people and goods across international borders and through gateways.

The CONEG Governors also request that the fiscal year 2007 appropriations include \$1.598 billion in Federal funding for intercity passenger rail, with specific funding levels provided for operations, capital and debt service. This funding level requested by the Amtrak Board can ensure the stability of the current national system as capital investment and operations reform are undertaken through concerted and hopefully coordinated activities of Amtrak, the U.S. Congress, the U.S. Department of Transportation (USDOT), and the States. The administration's request of \$900 million for Amtrak, particularly its exclusion of funds required for debt service, could undermine the reforms and critical capital investments currently underway.

—Capital investment in infrastructure and equipment is the key to improved reliability, increased ridership, and greater operational efficiency. It is essential that the Federal Government continue to be a consistent partner in funding the capital needs of the Nation's intercity passenger rail system. Across the Nation, States already partner with Amtrak by investing in tracks, stations and equipment. Between 2002–2006, the Northeast States have spent or committed approximately \$1.7 billion for infrastructure improvements that benefit intercity passenger rail. Amtrak is embarked upon a long-deferred capital program to bring the federally-owned Northeast Corridor (NEC) to a state of good repair. In fiscal year 2006, Northeast Corridor States and commuter agencies and other third parties will provide almost half of Amtrak's NEC infrastructure budget. We are particularly concerned that the subcommittee ensures that Amtrak can continue to fund the critically needed bridge repair projects and life-safety work in the New York and Baltimore tunnels.

—Intercity passenger rail is a complex and interconnected system. Therefore, operations reform, such as that being developed for Amtrak's long distance service, is an incremental process that must be carefully designed and implemented to minimize unintended consequences for ridership and revenues. Since actual savings may not be realized for a number of years, we urge the subcommittee to continue providing Federal operating funds to Amtrak as part of its regular quarterly grant, not as the discretionary Efficiency Incentive grant. The quarterly operations and capital grant process is already subject to USDOT oversight and approval.

—Amtrak has incurred substantial debt in past years to maintain operations of the national system, acquire and improve equipment for the entire system, and invest in infrastructure. As in fiscal year 2006, we believe that the fiscal year 2007 appropriations should specifically include adequate Federal funds for debt service so that this expense, incurred on behalf of the entire national system, should not be paid at the expense of essential capital investment.

The CONEG Governors recognize that the Appropriations Committee has assumed a primary role in instituting reforms of Amtrak's internal management, and more recently, reform of system management. We previously shared with the subcommittee and the administration our concerns with a number of specific and immediate reform provisions imposed by the fiscal year 2006 transportation appropriations bill (Public Law 109–115). We appreciate the subcommittee's recognition of the importance of consulting with States in a number of these proposed system reforms. However, we continue to believe that reform of intercity passenger rail must occur in an orderly, timely process that reflects collaboration with the States—not through an annual appropriations process.

—We are deeply concerned with the NEC commuter access fee provision that, for the first time, injects the USDOT into the public-private contractual arrangements that govern passenger rail cost-sharing on the Northeast Corridor. Rail service on the NEC is governed by hundreds of carefully negotiated legal, financial and operating agreements that involve substantial State financial investments and numerous in-kind exchanges. The Northeast Governors met with Secretary Mineta and Deputy Secretary Cino, and chief executive officials from

the State transportation agencies and commuter authorities are engaged in ongoing discussions about this access fee. As previously noted, Northeast Corridor commuter agencies already fully pay for the additional operations expenses incurred by Amtrak due to commuter rail service, and they participate in numerous joint-benefit capital projects on this vital national transportation corridor. Therefore, we urge the subcommittee to allow the issue of cost-sharing to continue as part of negotiated agreements between the commuter agencies and Amtrak—and to allow any future changes to be undertaken as part of these negotiations or parallel authorization legislation.

—As the subcommittee also reviews the fiscal year 2006 appropriation bill's reform provision dealing with restrictions on ticket pricing and food and beverage service, we urge careful consideration to ensure that any legislative requirements do not negatively impact the ability of State-supported intercity services to offer innovative food and beverage service and market-based fares to grow intercity ridership, improve overall financial performance, and meet State transportation goals.

A number of other national rail programs are important components of the evolving Federal-State-private sector partnerships to enhance passenger and freight rail across the country. SAFETEA-LU creates a new Rail Relocation Program and enhances the Swift High Speed Rail Development Program. We encourage the subcommittee to provide funding for both these programs. We are concerned with the President's budget proposal to eliminate the Railroad Rehabilitation and Improvement Financing (RRIF) loan program, the principal Federal program for addressing shortfalls in rail infrastructure investment. This proposal is at odds with the tenfold increase in the RRIF program authorized by SAFETEA-LU. The RRIF program provides an important financial tool, particularly for the many regional and short line railroads that serve communities across the Northeast and the Nation, as they seek to upgrade infrastructure and equipment to meet the demands of changing and competitive markets.

The CONEG Governors also support a modest increase in funding for the Surface Transportation Board (STB) to \$25.6 million. This funding level will allow the STB, which provides essential oversight services for the Nation and the Northeast, to maintain current service levels while also addressing its increased building and security costs.

#### COMMUNITY DEVELOPMENT

The CONEG Governors urge the subcommittee to maintain the fiscal year 2006 funding level for the Community Development Block Grant (CDBG) program in fiscal year 2007. Federal funding for CDBG is an efficient Federal investment since it leverages significant private and public funds. Each \$1 of Federal CDBG funding is matched by \$3 in private funds. The CDBG enables States to provide funding for infrastructure improvement, housing programs, and projects that attract businesses to urban and rural areas. It helps create new jobs and spurs economic development, growth and recovery in the Nation's low income and rural communities.

The CONEG Governors thank the entire subcommittee for the opportunity to share these priorities and appreciate your consideration of these requests.

#### PREPARED STATEMENT OF THE NATIONAL TREASURY EMPLOYEES UNION

##### FISCAL YEAR 2007 IRS BUDGET

NTEU represents 150,000 Federal employees in 30 Federal agencies and departments, including the men and women who work at the Internal Revenue Service. I appreciate the opportunity to provide the subcommittee with comments on the IRS budget for fiscal year 2007.

There are several items in the administration's IRS budget that NTEU believes would be detrimental to the IRS's mission. The two most egregious items include the administration's plans to contract out tax collection to private collection agencies starting this summer, and an inadequate budget request that will prevent the IRS from continuing to improve its customer service record while bolstering enforcement.

##### BUDGET

The IRS budget forms the foundation for what the IRS can provide to taxpayers in terms of customer service and how the agency can address the ever-increasing tax gap through enforcement. Without an adequate budget the IRS cannot expect continued IRS customer service performance ratings and to shrink the tax gap. I commend the administration for acknowledging in its fiscal year 2006 Budget in

Brief (page 12) that the “IRS yields more than four dollars in direct revenue from its enforcement efforts for every dollar invested in its total budget.” However, I must criticize the administration for failing to request a budget for fiscal year 2007 that is commensurate with the needs of the agency to meet its customer service, as well as enforcement challenges.

NTEU supports the IRS Oversight Board’s overall IRS budget recommendation which calls for an increase of \$732 million over the enacted fiscal year 2006 IRS budget. The Board’s budget represents a 6.9 percent increase over the fiscal year 2006 budget and includes increases in enforcement and taxpayer service programs, in contrast to the President’s budget request which calls for a cut of 2,500 full-time equivalent (FTEs) employees and relies on unrealistic assumptions such as an increase of \$135 million in user fees. NTEU specifically supports the increased enforcement budget proposed in S. Con. Res. 83, the fiscal year 2007 Budget Resolution, as passed by the Senate. The Senate Budget Resolution quadruples the President’s enforcement request from a \$137 million increase over fiscal year 2006 to an additional \$500 million increase for IRS enforcement in fiscal year 2007.

NTEU believes that if the IRS is going to continue to ask for improved performance from its employees then it must request a realistic budget that is commensurate with the agency’s goals. The President’s budget request falls short and I would urge the subcommittee for an appropriation that is commensurate with the IRS’s goals of bolstering enforcement and improving customer service.

#### SPAN OF CONTROL

I realize that Congress does not operate in a vacuum and it must consider all Federal Government budget needs. In its fiscal year 2006 IRS Budget/Special Report, the IRS Oversight Board stated that it “agrees that investing in enforcement does pay for itself many times over, not only in increased revenues but by reinforcing the belief that all taxpayers are paying their fair share.” Although it’s widely recognized that additional funding for enforcement may provide a great return on the investment, the administration seems reluctant to request an adequate budget for the IRS enforcement budget. Thus, the agency must look toward other cost-cutting measures within its budget framework.

NTEU recommends the IRS look at the management-to-bargaining-unit employee ratio to find much needed resources for additional collection work. Although the number of frontline employees who do the work at the IRS has decreased by 5.1 percent since 2000, the number of managers who supervise these employees has increased by 1 percent over this same period. If the IRS decreased the number of managers and management officials at the same rate as it has decreased its rank and file employees, the agency could put the savings toward bolstering collections work, and avoid cuts to customer service.

#### CUSTOMER SERVICE

Congress must continue to reject IRS’s plan to implement draconian cuts to customer service. I was pleased that the subcommittee decided to halt IRS’s plans to move forward with cuts to customer service at the end of last year with language in H.R. 3058 (Section 205), the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006. H.R. 3058, Section 205, uses broad language that prohibits any of the appropriated funds to “be used to reduce taxpayer services as proposed in fiscal year 2006 until the Treasury Inspector General for Tax Administration completes a study detailing the impact of such proposed reductions on taxpayer compliance and taxpayer services . . .”. The IRS decided to move forward with cuts to the toll-free service by reducing hours of service and closing call sites, despite the language this subcommittee imposed in H.R. 3058. In response, the subcommittee followed up with additional language to clarify its intent in H.R. 2863, Section 5021 (the fiscal year 2006 Defense Appropriations bill) further explaining that “reduced taxpayer services” in the Transportation-Treasury Appropriations bill included—but was not limited to—any reductions in telephone service.

Despite these two explicit directives from Congress not to make any taxpayer customer service cuts, the IRS closed the Chicago and Houston telephone call sites. Furthermore, the IRS continues to consider cutting Taxpayer Assistance Centers (TACs) as a cost-saving measure, as confirmed in a recent TIGTA report (Reference Number: 2006-40-061). The report also indicates that management does not have reliable data on the TACs to make decisions about TAC operations. TIGTA also points out that 47 of the 400 TACs nationwide—nearly 12 percent—are “critically understaffed—meaning that they would be in danger of closing were it not for the dedicated IRS employees who are filling in from nearby TACs and through the use

of seasonal employees. In its first report responding to the congressional mandate in Section 205 of H.R. 3058, TIGTA sharply criticizes the business model the IRS used to justify the TAC closings last year (see TIGTA Reference Number: 2006-40-067). Clearly, the IRS lacks the management information necessary to provide adequate oversight of its TAC operations—much less make a decision to close any of them.

I urge the subcommittee to continue to oppose the IRS's plan to drastically cut customer service until the IRS has the data to justify its customer service cuts and can explain the effects of such cuts on taxpayers.

#### PRIVATE TAX COLLECTION

NTEU strongly opposes the administration's plan to privatize IRS debt collection, as authorized by Congress in 2004 in H.R. 4520, the American Jobs Creation Act of 2004. Under the statute, the IRS is permitted to hire private sector debt collectors and pay them a bounty of up to 25 percent of the money they collect. NTEU opposes this short-sighted proposal, anticipates its complete failure as witnessed in a similar 1996 pilot program and will continue to work towards its repeal.

The IRS has said that it has learned from the 1996 project and is better equipped to address the problems raised. However, a revealing report by the Treasury Inspector General for Tax Administration (TIGTA Audit No. 2003-20-010) provides evidence to the contrary. It shows how IRS contractors, revamping IRS computers, put taxpayers' data at risk.

The objective of the TIGTA audit was "to determine whether the Internal Revenue Service (IRS) has adequately protected Federal Government equipment and data from misuse by contractors." The review found: "The involvement of non-IRS employees in critical IRS functions increases the risk of misuse or unauthorized disclosure of taxpayer data, and could lead to loss of equipment or sensitive taxpayer data through theft or sabotage." The TIGTA audit found that the "lack of oversight of contractors resulted in serious security vulnerabilities." The report, found that, "contractors blatantly circumvented IRS policies and procedures even when security personnel identified inappropriate practices."

A more recent report by the General Accounting Office (GAO-06-328) highlights the continuing failure of the IRS to ensure the internal security of sensitive taxpayer data. GAO reported the IRS has corrected only 41 of the 81 information security weaknesses it previously discovered at two of the agency's critical data processing sites; moreover, GAO said it has identified "new information security weaknesses that threaten the confidentiality, integrity and availability of IRS financial information systems and the information they process." These include, for example, the agency's failure to implement effective "electronic access controls related to network management, user accounts and passwords; user rights and file permissions; and logging and monitoring of other information security controls to physically secure computer resources, and to prevent the exploitation of vulnerabilities." Its report added: "Collectively, these weaknesses increase the risk that sensitive financial and taxpayer data will be inadequately protected against disclosure, modification, or loss, possibly without detection, and place IRS operations at risk of disruption."

The GAO report presents yet another warning signal about the dangers of the IRS effort to move ahead with plans to hire private sector debt collectors to pursue tax debts. Rather than seek to move personal and sensitive taxpayer information into private hands the IRS needs to devote time, attention and resources to ensuring it can protect these vital data when the information is in its own hands. I don't think anyone can realistically be satisfied right now that the agency has accomplished that.

Clearly, the IRS does not have sufficient oversight of the current contractors or technology it employs. Combine this fact with a 25 percent bounty incentive paid to the contractors and you have a recipe for disaster, resulting in overly aggressive and abusive tactics on the part of the private debt collectors.

While the IRS is currently liable for damages caused by an IRS employee's misuse of sensitive taxpayer information, taxpayers would not have proper redress with the Federal Government for misuse of their confidential information by contractors. Instead, taxpayers would be left to seek damages against the private collection agency while the reputation of the IRS and the Federal Government is tarnished.

Furthermore, the debt collectors won't be given the same training that is given to IRS collections employees. Even the National Taxpayer Advocate in her 2005 Annual Report to Congress recognizes the problems with implementation of the private debt collection initiative:

"However, the current plan shortchanges taxpayers by exempting private collectors from the type of training required of IRS employees in similar

functions . . . Yet, the private collectors will not receive even a small fractions of the training that is given to the IRS employees in similarly situated positions. Moreover, the private collectors themselves will administer the PDC training.” (Volume 1, page 78).

Not only will the private debt collectors not be given the same training as IRS employees, but the contractors will be administering the training. IRS collection professionals have a wealth of tax knowledge that they have at their disposal in every case where they deal directly with the taxpayer. The private debt collectors on the other hand, will only be given a fraction of the training and not have that same level of expertise as the IRS employee.

One of the most often-heard arguments in favor of the use of private collection agencies is that if they are paid out of the proceeds of what they collect, IRS’s enforcement capabilities increase without having to increase appropriations. Numerous congressional supporters said they would prefer to have tax collection done by Federal employees, but would go along with the use of private collection agencies solely because it avoids the difficult issue of getting Congress to approve additional appropriations for the IRS.

The statute that gives the IRS the authority to use PCAs allows 25 percent of collected revenue to be returned to the collection companies as payment and 25 percent to be retained by the IRS for enforcement efforts, thereby circumventing the appropriations process altogether. There is nothing magical about revenues collected by private collection companies. If those revenues could be dedicated directly to contract payments and IRS enforcement efforts, there is no reason some small portion of other revenues collected by IRS employees couldn’t be dedicated to IRS enforcement efforts. This would allow for increased enforcement by IRS employees, which most people indicate is the preferable route and eliminate large payments (up to 25 percent of collections) to private collection companies, significantly increasing net revenue to the General Treasury. While legislation would be required to allow for this kind of dedication of revenue, I believe the precedent has now been set with the private collection agency funding provisions. Congress should consider supporting this approach as a common sense way to make real progress in closing the tax gap, lowering our deficits and making more funding available for our Nation’s critical needs.

It is a plain and simple fact: This plan to privatize tax collection at the IRS will hurt U.S. taxpayers, will hurt IRS workers and will erode the great gains the IRS has made with improved customer satisfaction ratings. I urge the subcommittee to scrutinize the IRS’s accountability of its contractors and hold the private collection agencies to the same standards as IRS employees.

#### PAY PARITY

The administration has asked Congress to provide only a 2.2 percent pay raise for Federal workers in fiscal year 2007. This would be the lowest raise since 1998, at a time when the cost of living rate is steeply increasing and health insurance premiums are going up dramatically. While in past proposals the Bush Administration did not honor the historic practice of parity between the civilian and military workforce, this year’s proposal provides an equally insufficient pay raise to both parts of government service.

Not only are Federal employees taking an effective pay cut once inflation and health care costs are considered but the pay gap between them and the private sector is widening. The Federal Employees Pay Comparability Act (FEPCA), enacted in 1990 to close the gap between Federal and private sector pay, has never been fully implemented. Today, Federal pay lags 13 percent behind the private sector. Bringing Federal worker pay into line with the private sector would be the most effective cure to the Federal Government’s hiring crisis.

Further reducing the potential fiscal year 2007 pay raise, the administration proposes to reduce pay in fiscal year 2007 by funding special rate pay out of this meager increase. While agencies should have the resources they need to provide special rate pay, it should not come by raiding the locality adjustments and annual pay increase for Federal workers.

NTEU urges the subcommittee to oppose the administration’s legislative proposal to fund special rate pay by diverting part of the locality and annual pay raise. I also seek your continued support for a fair and equitable pay raise for the Nation’s Federal civilian and military workforce for fiscal year 2007.

#### CONTRACTING OUT

Last year, the House and Senate Transportation-Treasury HUD subcommittees worked in a bipartisan, bicameral fashion to enact legislation in H.R. 3058, Section

852 that begins to level the playing field for Federal employees. NTEU supports the provisions and thanks the subcommittee for its work last year. The legislation allows Federal employees to offer their own realistic best bid with a most efficient organization (MEO) in job functions being performed by more than 10 Federal employees; requires a 10 percent or \$10 million cost savings of the contractor in order for the work to be contracted out; and allows executive agency heads to conduct public-private competitions to bring contracted work back in-house. NTEU would strongly recommend that the same provisions be included in the fiscal year 2007 Transportation-Treasury Appropriations bill and additional flaws in the process be examined.

For example, the process should prohibit the contractor from receiving a cost advantage in the competition by offering an inferior employer-sponsored health benefit than the Federal employees receive. Contractors have an incentive to cut benefits to their workers in order to reduce labor costs when offering their best bid. However, contracting out should not be a race to the bottom. If contractors want to offer inferior benefits to their workers, they should not be rewarded for this by being given an advantage in the competition for the work. Congress must also make sure that Federal employees are treated fairly throughout the competition process by allowing us the same legal standing before GAO for appeals purposes as has long been enjoyed by contractors.

This list is by no means exhaustive but it's a good starting point. If the administration is going to insist on using its flawed revised A-76 Circular, then Congress must insist on correcting those flaws in the competitive sourcing rules.

RIFS

I commend the subcommittee for acknowledging the IRS's haphazard approach to reorganizing the agency and directing "the IRS to consult with the Committee prior to elimination, consolidation, or reorganization of its workforce, and prohibits the IRS from proceeding with matters relating to such job movement prior to the Committee's action on the IRS budget." (Senate Rept. 109-109—Transportation, Treasury, the Judiciary, Housing and Urban Development and Related Agencies Appropriations Bill, 2006).

Despite the committee Report language, the IRS moved forward with its planned reductions in force (RIFs) in several different areas. Generally speaking, NTEU believes that the IRS would benefit both in terms of cost savings and human resource satisfaction by placing a greater emphasis on retraining current employees for other positions within the IRS. Unfortunately, this has not been the approach taken by the IRS with regards to RIFs at the agency. A more sensible downsizing model is needed if the IRS wishes to keep the talented workforce it currently has but also in order to attract new talent. A more comprehensive, thoughtful approach to RIFs will also ensure that the improved customer service gains made since 1998 are not lost.

CONCLUSION

It is indisputable that the IRS workforce is getting mixed signals regarding its value to the mission of the Service and the level of workforce investment the Service is willing to make. Without a doubt, the frontline employees are committed to working with management to increase efficiency and customer satisfaction. NTEU is committed to striking a balance between taxpayer satisfaction, business results and employee satisfaction. I invite Congress to join us in this endeavor.

PREPARED STATEMENT OF THE CITY OF SAN MARCOS, TEXAS

AIRPORT IMPROVEMENTS REQUEST—SAN MARCOS MUNICIPAL AIRPORT, SAN MARCOS, TEXAS

Mr. Chairman and members of the subcommittee, on behalf of the City of San Marcos, Texas, I am pleased to submit this statement in support of our requests for project funding for fiscal year 2007.

The City of San Marcos requests Federal funding for the San Marcos Municipal Airport to accomplish improvements that are in the public interest. The improvements are described in the three specific projects listed below:

	Amount
Northside T-Hangar Construction .....	\$3,500,000
New Terminal Building .....	4,500,000

	Amount
Fixed Base Operator (FBO) Facility .....	1,500,000
Total Request .....	9,500,000

The San Marcos Municipal Airport is a public general aviation airport owned and operated by the City of San Marcos, Texas. It is located just east of Interstate Highway 35 on Texas Highway 21 approximately 30 miles south of Austin and 45 miles north of San Antonio in one the fastest growing corridors in Texas.

The airport is part of a closed military base; the remainder of the former Air Force Base is occupied by the United States Department of Labor’s Gary Job Corps Center. When the base was closed and divided in 1966, the Job Corps retained the portion of the property with the buildings and other amenities while the City of San Marcos was given the aeronautical facilities consisting of runways, taxiways, and the parking apron.

This arrangement has resulted in a “bare bones” airfield that lacks the support structure to sustain an economically viable modern airport. We have adequate aeronautical facilities and real estate but little other facilities. In addition, current legislation provides for airport capital improvement funding assistance through the Federal Aviation Administration for aviation infrastructure, but not for the type of improvements that this airport needs.

The City of San Marcos requests help to transform the airport into a modern, self-sustaining enterprise. After analysis and master planning, we have determined that the three projects herein described will get us the “biggest bang for the buck.” These projects will meet our highest priorities and most immediate needs, and they will be a highly visible indicator that the San Marcos Municipal Airport is on the move. We are firmly convinced that these improvements will kick-start further development and attract private investment that will far surpass the amount that we are seeking in Federal support.

The following program descriptions outline our three requests:

NORTHSIDE T-HANGAR CONSTRUCTION—\$3,500,000

The layout of the former Gary Air Force Base is such that all the buildings and developed area of the base were to the south of the airfield. When the base was divided between the Gary Job Corps Center and the San Marcos Municipal Airport, the airport was given only a thin sliver of land on the south side to provide access and support the airfield. There is not enough room for all the support facilities such as hangars, maintenance shops, and terminal buildings that an active airport requires.

However, on the north side of the airfield is real estate that has never been developed. One prime piece of the northside area consists of approximately 40 acres of very desirable airport land that fronts on Texas Highway 21 and borders a newly refurbished main airport taxiway. Except for the absence of infrastructure, it is the “McDonald’s” location on the airport. The area requires an access road, drainage improvements, pavements, and utilities. It also needs a seed project to stimulate private investors to move into the area.

Our plan proposes to construct the infrastructure and to then build approximately 50 nested T-hangars in two or three city-owned buildings. Our planning estimate for the cost to implement this project is \$3,500,000. We are also convinced that once this northside development ball starts to roll, the future of the new San Marcos Municipal Airport will shift from the limited and constrained south side to the several hundred acres of undeveloped land available on the north side.

NEW TERMINAL BUILDING—\$4,500,000

The commercial, economic, and public service hub of a modern airport is the public terminal building. The terminal building provides public amenities such as a waiting room or lounge, airport administration offices and public meeting rooms, restrooms, flight planning facilities and communications links to obtain flight planning information, commercial lease space for such businesses as an airport restaurant, airport shops, and other aviation-related commercial activities.

These facilities are sorely lacking in our present airport configuration. It is opportune that the Federal Aviation Administration is programming a new air traffic control tower for our airport in fiscal year 2007. A new terminal building located adjacent to the control tower could be architecturally coordinated with the control tower for aesthetic advantage. The two facilities could achieve a significant efficiency in the coordinated construction of road access, utility services, parking facilities, drain-

age improvements, and landscaping. This same concept is being touted at several other airports similar to ours. (Dallas Executive Airport is a prime example.) The planned terminal building planning concept is for a building of approximately 10,000-square-foot first floor and total cost estimated at \$4,500,000.

FIXED BASE OPERATOR (FBO) FACILITY—\$1,500,000

For general aviation operations, airport activity centers on the FBO. This is where the transient and based pilots and aircraft operators go to buy fuel and obtain direct support for their flights. It is also a place where transient and based pilots can arrange to have their aircraft serviced, repaired, and hangared overnight or longer when required.

It is again opportune that the San Marcos Municipal Airport has an established FBO that is capable of accomplishing these vital services if a facility were available for them to lease. We propose that a modern, state-of-the-art FBO be constructed to meet the airport's present and future commercial requirements. The approximately 30,000 square foot structure would be mainly hangar space with an attached business, shop, and office area. Cost is estimated at \$1,500,000. Lease payments and other airport fees would offset this investment; and the investment is calculated to be a profitable enterprise for the airport in the long term.

The 1,356 acre San Marcos Municipal Airport is a potential economic dynamo for this region of Central Texas. The three airport improvement projects that we are proposing will result in an increase in activity and private investment. This is a good investment of public revenue that will result in more high-paying aviation jobs, an increased tax base, and more direct revenues in the form of airport fees and rents. Our airport will also better serve the aviation needs of the region and spur further growth, development, and prosperity for our citizens. These projects are grounded in sound public policy principles. They will result in excellent value for the American taxpayer and for the traveling public that will utilize the facilities.

The City of San Marcos sincerely appreciates your consideration of these requests for funding in the fiscal year 2007 cycle, and respectfully requests your support.

PREPARED STATEMENT OF THE ACCESS BOARD

The Access Board is requesting a total budget authority of \$5,956,000 for fiscal year 2007. The proposed budget is a 1.28 percent increase over the amount requested for fiscal year 2006. The Board is not planning new costly initiatives in fiscal year 2007. The Board will continue its primary programs and has followed the directives issued by the Office of Management and Budget for the preparation of the fiscal year 2007 budget.

INTRODUCTION

The Board was established by section 502 of the Rehabilitation Act and is the only Federal agency whose mission is accessibility for people with disabilities. The Board has three primary programs: guidelines and standards development; technical assistance, training, and research; and enforcement.

The Board is responsible for developing accessibility guidelines under the Americans with Disabilities Act, the Architectural Barriers Act, and the Telecommunications Act. The Board is also responsible for developing standards under section 508 of the Rehabilitation Act for accessible electronic and information technology used by Federal agencies. Additionally, the Board has responsibilities under the Help America Vote Act to serve on the Election Assistance Commission's Board of Advisors and Technical Guidelines Development Committee.

The Board provides technical assistance and training on each of its guidelines and standards, and on a variety of other accessibility issues. The Board also maintains a small research program that develops technical assistance materials and provides information needed for guidelines and standards development.

Finally, the Board enforces the Architectural Barriers Act, which requires federally financed facilities to be accessible.

The Board has adopted this mission statement to guide its programs: The Board is the catalyst for achieving an accessible America. The statement recognizes that achieving an accessible America requires bringing together the public and private sectors.

The Board has established long-range goals and annual objectives for its programs in accordance with the Government Performance and Results Act. The objectives are described in terms that permit future assessment regarding whether the objectives were achieved. To satisfy the requirements for an annual performance plan, this dis-

cussion and budget justification presents information under each of the Board's programs and reports on the results from fiscal year 2005 activities, reviews the planned fiscal year 2006 activities, and presents the fiscal year 2007 objectives.

The Board's long range goals are to promote accessibility by being a:

- Leader in developing and updating guidelines, standards, and codes for accessibility;
- Leader in information, education, and outreach on accessibility; and
- Leading partner with Federal agencies to make the Federal Government a model of compliance with accessibility standards.

The Board's strategies for achieving its long-range goals and annual objectives involve working with its stakeholders. The Board involves its stakeholders through advisory committees and review of draft guidelines and standards to establish consensus-based guidelines and standards that provide accessibility. The Board involves its stakeholders in developing and disseminating information, education, and outreach that will help covered entities understand and comply with the guidelines and standards. Where the Board has enforcement responsibilities over Federal agencies, the Board assists those agencies to achieve compliance with accessibility standards.

The Board's programs will result in accessible buildings and facilities, transportation vehicles, telecommunications equipment, and electronic and information technology across our country and, ultimately, the full economic and social integration of people with disabilities into our society. Achieving these results will depend not only on the Board's activities, but also on the level of commitment and action taken by other Federal agencies, State and local governments, and businesses that are required to comply with or enforce the various laws that guarantee the civil rights of people with disabilities.

#### GUIDELINES AND STANDARDS DEVELOPMENT

The Board's long-range goal is to be a leader in developing and updating guidelines, standards, and codes for accessibility. The Board will continue to develop and update accessibility guidelines and standards and to work cooperatively with organizations that develop codes and standards affecting accessibility through fiscal year 2007 and beyond.

In January 2006, the Board committed itself to three new rulemaking priorities. The three priorities include: (1) updating and revising the Section 508 standards for accessible electronic and information technology and the Telecommunications Act Accessibility Guidelines; (2) updating and revising the Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles; and (3) rulemaking on a variety of communications access issues.

Updating and revising the Section 508 standards and the Telecommunications Act Accessibility Guidelines is the Board's top new rulemaking priority. The Board plays a central role in the implementation of Section 508 and keeping our standards current is a vital part of this role. The telecommunications provisions in the section 508 standards are based on and are consistent with the Board's Telecommunications Act Accessibility Guidelines. Therefore, updating and revising the Section 508 standards and the Telecommunications Act Accessibility Guidelines should be done in one rulemaking. The Board plans to charter a Federal advisory committee in fiscal year 2006 to begin this rulemaking. The committee will include representation from other Federal agencies, disability organizations, industry trade associations, and others. It will also include representation from other countries and international standards-setting organizations so the new standards are harmonized with efforts being taken around the globe.

Updating and revising the ADA Accessibility Guidelines for Transportation Vehicles is needed to address emerging technologies such as bus rapid transit and low floor vehicles. This rulemaking will be accomplished by holding a series of information meetings in fiscal year 2006 and 2007 to collect information before issuing a proposed rule.

Rulemaking on communications access issues will address features not already addressed, or not addressed fully, by the Board's guidelines such as interactive transaction machines, point of sale machines, drive-through machines, alerting devices for deaf and hard-of-hearing individuals including carbon monoxide detectors and sleeping room applications, and public address systems. This rulemaking will be accomplished by holding a series of information meetings in fiscal year 2006 and 2007 to collect information before issuing a proposed rule.

The status of current guidelines and standards efforts is presented below.

#### *Outdoor Developed Areas*

The Board's Outdoor Developed Areas Regulatory Negotiation Committee presented its report to the Board in September 1999. This committee developed new sections for parks, trails, camping and picnic areas, and beach access routes. In October 2001, the Board sponsored an information meeting on the final report of the Outdoor Developed Areas Regulatory Negotiation Committee. The meeting was held in Denver, CO during the annual meeting of the National Recreation and Park Association. The meeting was informal and provided an opportunity for a dialogue with Board members about the report.

In September 2003, the Board decided to develop a proposed rule on outdoor developed areas using only its rulemaking authority under the Architectural Barriers Act. Taking this approach will help move this rulemaking forward and allow the Federal Government to take the initiative of addressing accessibility in this area before applying requirements to State and local governments or private entities. Future rulemaking under the ADA will be enhanced by the experience of implementing accessibility guidelines at Federal facilities and the Federal Government will gain experience in implementing the guidelines. This experience should prove important before applying them to other entities. The Board expects to publish a proposed rule for public comment in fiscal year 2006.

#### *Passenger Vessels*

In September 1998, the Board convened a 21-member Passenger Vessel Access Advisory Committee to develop accessibility guidelines for cruise ships, ferries, excursion boats, and other vessels covered by the Americans with Disabilities Act. The Committee presented its report with recommendations to the Board in November 2000. The Board created an ad hoc committee of Board members to review the recommendations and begin developing a proposed rule on access to passenger vessels.

On November 26, 2004, the Board published for public comment an advance notice of proposed rulemaking (ANPRM) which addressed access to and in smaller passenger vessels and a notice of availability (NOA) releasing draft guidelines that addressed access to and in larger passenger vessels. The Board is coordinating this rulemaking with the Department of Transportation. The Department of Transportation issued an ANPRM on operational issues affecting passenger vessels on the same date as the Board. The Board held three public hearings in fiscal year 2005 to gather information and input on the ANPRM and the NOA. Over 150 vessel designers and operators, pier operators, persons with disabilities, and others attended the hearings. The Board plans to issue a second draft of the accessibility guidelines before issuing a notice of proposed rulemaking. The second draft is expected to be published in fiscal year 2006.

#### *Public Rights-of-Way*

In October 1999, the Board created a 32-member Public Rights-of-Way Access Advisory Committee to assist it in developing new guidelines for access to sidewalks, street crossings, and related pedestrian facilities. The Committee presented its report with recommendations to the Board in January 2001. The Committee will develop recommendations for a technical assistance manual for agencies and practitioners to support implementation of the future guidelines. In June 2002, the Board released draft guidelines on accessible public rights-of-way for public comment prior to issuing a notice of proposed rulemaking. Over 1,400 comments were received on the draft. The Board also held one public hearing during the comment period. The Board has revised the draft guidelines based on public comments and issued a notice of availability in November 2005 placing the revised draft guidelines in our rulemaking docket. The purpose of placing the draft guidelines in the docket is to facilitate gathering of additional information for the regulatory assessment and the preparation of technical assistance materials to accompany a future rule. The Board is not seeking comments on the draft guidelines. The Board will issue a notice of proposed rulemaking in fiscal year 2007 and will solicit comments at that time.

#### *Codes and Standards*

The Board works with model codes organizations and voluntary consensus standards groups that develop and periodically revise codes and standards affecting accessibility. We have voting membership in several codes and standards organizations, and monitor or are actively involved in the development or revision of dozens of other codes and standards affecting accessibility.

By working cooperatively with codes and standards-setting bodies, Federal and private codes and standards will be more similar, or harmonized, and the Board will be more alert to non-Federal influences affecting its constituencies. Harmonization between Federal and private requirements will make it more likely that buildings

and facilities will be accessible, thus reducing the necessity for complaints and litigation.

*Fiscal Year 2005 Results—Rulemaking*

In fiscal year 2005, the Board:

- Published a notice of availability of revised draft guidelines on access to public rights-of-way.

*Fiscal Year 2005 Results—Codes and Standards*

In fiscal year 2005, the Board:

- Actively participated in the development of the NSPI-9 Standard for Aquatic Recreation Facilities. This new standard addresses water parks and water attractions. The American National Standards Institute’s (ANSI) Board of Standards Review approved NSPI-9 2004 “Aquatic Recreation Facilities” as an American National Standard.
- Provided comment on revisions to the Manual on Uniform Traffic Control Devices (MUTCD) which includes coverage of pedestrian signals, intersection design issues, pavement markings, signage, signalization, and other traffic control issues and actively participated on the Signals Committee Task Force to develop a draft standard for accessible pedestrian signals.

*Fiscal Year 2006 Planned Activities—Rulemaking*

In fiscal year 2006, The Board will issue two proposed guidelines:

- NPRM on outdoor developed areas.
- Second draft of guidelines for passenger vessels.

The Board will also charter a Federal advisory committee to begin the process of updating and revising the Section 508 standards and the Telecommunications Act Accessibility Guidelines.

*Fiscal Year 2006 Planned Activities—Codes and Standards*

The Board worked with the Election Assistance Commission (EAC) in the development of voluntary voting system guidelines under the Help America Vote Act. The guidelines were made available in January 2006. The voting system guidelines were developed with the assistance and input of a Technical Guidelines Development Committee and Board of Advisors. Two Access Board members serve on these groups. In fiscal year 2006, the Board will continue working with the EAC on the next version of the guidelines.

*Fiscal Year 2007 Objectives—Rulemaking*

In fiscal year 2007, the Board will issue one final rule and two proposed rules:

- Final rule on access to outdoor developed areas.
- NPRM on public rights-of-way accessibility.
- NPRM on access to passenger vessels.

*Fiscal Year 2007 Objectives—Codes and Standards*

In fiscal year 2007, the Board will continue efforts to harmonize its guidelines with model codes and standards, including the ICC/ANSI A117.1 Standard for Accessible and Usable Buildings and Facilities.

TECHNICAL ASSISTANCE, TRAINING, AND RESEARCH

The Board’s long-range goal is to be a leader in information, education, and outreach on accessibility. The Board provides technical assistance to a wide variety of people regarding the accessibility guidelines and standards it issues. The Board’s customers include architects, builders, designers, manufacturers, people with disabilities, State and local governments, and Federal agencies. The Board’s technical assistance program has four components:

- Responding to customer inquiries. The Board responds to about 12,000 customer inquiries each year. We have four toll-free telephone lines for customers to call with questions. Customers also e-mail and fax us questions. Many literally are sitting at a drawing table with a design problem. They want accurate, reliable, and timely advice. Our customers value being able to discuss their questions directly with our accessibility specialists who developed the guidelines and standards.
- Developing and disseminating bulletins, manuals, and other publications. The Board maintains about 30 publications on accessibility issues. These range from short bulletins responding to frequently asked questions about specific issues such as accessible parking, to manuals on the Board’s guidelines and standards. We send out about 15,000 publications each year in print and alternate formats.

- Providing training. The Board conducts about 90 training sessions each year. Training usually is provided at conferences and seminars sponsored by other organizations. Training sponsors generally reimburse us for travel expenses.
- Maintaining the Board's website. The Board's website ([www.access-board.gov](http://www.access-board.gov)) has become a very effective way to distribute information to the public. Customers can download many of our publications and view our accessibility guidelines and standards from our website. We received over 2.2 million user sessions on our website in fiscal year 2005.

The Board also has informal partnerships with other organizations such as the American Institute of Architects, the National Association of ADA Coordinators, and the Disability and Business Technical Assistance Centers (DBTAC) to disseminate information about the Board's programs. Many of the Board's guidelines and publications are available through these organizations' on-line networks. The Board also provides training for these organizations.

As the Board develops guidelines for new areas such as outdoor developed areas, passenger vessels, and public rights-of-ways, there will be increased demands for technical assistance from existing and new customer groups. There also will be opportunities to use existing partnerships and establish new partnerships with customer groups to disseminate information about the Board's guidelines and standards.

#### *Fiscal Year 2005 Results—Technical Assistance, Training, and Research*

Recently, the Board adopted a "focus issue" approach to public outreach and technical assistance that will allow the Board to reach a wider variety of audiences than it does now. The focused approach will supplement the Board's existing outreach programs. Focusing on an issue will allow the Board to make a large impact in a narrow segment of society in a way that its current approach does not allow. The Board selected access to courthouses as its first focus issue and in October 2004 created a 31-member Courthouse Access Advisory Committee to guide this work. The committee has met five times since its creation. It is scheduled to complete its work in November 2006. The committee will develop technical assistance materials related to the accessibility of courthouses, particularly courtrooms, including best practices, design solutions, and the promotion of accessible features.

The Board unveiled its newly redesigned website in June 2005 using the Board's new agency graphic identity. This new graphic identity provided the Board with a coordinated range of new templates for the layout of reports, bulletins, internet presence, and other print and electronic materials. The Board developed this new and more appropriate graphic expression, including both logo and text, for its family of print materials. The Board did this to reflect its professionalism and to communicate that the Board is the only Federal agency devoted to accessibility in the built environment and in communications and electronic technologies.

In fiscal year 2005, the Board responded to 12,271 customer inquiries; distributed 1,250 information packets; and conducted 108 training sessions, which were attended by 9,100 people. An information packet usually contains several publications. Since the Board does not collect data on publications disseminated through partner organizations, the actual number of publications disseminated to its customers is greater than the current data indicate.

The Board has used its website to provide copies of the Board's guidelines and answers to frequently asked questions about the guidelines so that more customers can get the information they need. The number of user sessions on the Board's website continues to grow. There were approximately 2.2 million user sessions in fiscal year 2005, nearly 600,000 more than the previous year. Due to the increasing use of the its website, the Board is focusing on web-based dissemination of information since this allows a variety of options for speedy distribution at a low cost to the Board. The Board also published and distributed six issues of Access Currents, a free newsletter issued every other month by mail and e-mail.

Technical assistance, research, and training projects funded in fiscal year 2005 include:

- Retail Checkout Counters and Point-of-Sales Machines.*—This project will develop a technical assistance bulletin demonstrating in well-illustrated and detailed case studies and best practices the application of accessibility requirements to the design, engineering, fabrication, and construction of check-out counters and transaction machines.
- Wheeled Mobility Research.*—This multi-year project will research and report on the space requirements, horizontal and vertical maneuvering parameters, reach ranges, and other key factors of occupied power wheelchairs and scooters in use in buildings, facilities, and transportation vehicles. The data collected is to be presented in a report that will facilitate comparison with provisions in current

accessibility guidelines, with key published studies of mobility aid space and maneuvering requirements, and will enable consideration of several increments of accommodation for both power wheelchairs and scooter types.

- Effects of Static Electricity in Play Areas.*—Static electricity in play areas is potentially harmful to children who have cochlear implants. This project will collect measures of the levels of static electricity being created in play areas where plastic play components are installed. The contractor will analyze the findings from several test areas and compare them to the charges that result from other sources and charges known to have effects on hearing technologies. A second phase of work will support additional site testing.
- Measures and Materials.*—This project will bring together representatives of design and construction industry organizations to work with the Board to incorporate information on tolerances relative to accessibility in industry specifications. A technical assistance publication will also be developed.
- Wayfinding at Intersections.*—This project funded a workshop that brought together highway engineers, orientation and mobility specialists, and people with disabilities in a 2-day workshop to consider possible changes to roadway design to facilitate wayfinding. Fiscal year 2005 funding supported continued discussion and development of standard intersection plans based upon workshop recommendations, with the objective of arriving at consensus schemes that can be implemented by industry.
- Passenger Vessels Regulatory Assessment.*—This project will develop an initial case study for use in the Passenger Vessels Regulatory Assessment.

*Fiscal Year 2006 Planned Activities—Technical Assistance, Training, and Research*

In November 2005, the Board set its research priorities for fiscal year 2006. The projects include the following:

- Communications in Transportation Facilities.*—This project will study and determine the need for changes in communications accessibility provisions in the Board's guidelines for transportation facilities and vehicles.
- Pedestrian Signals at Roundabouts.*—The draft public rights-of-way guidelines require pedestrian signals at multi-lane crossings of roundabouts. This study will identify candidate technologies in use elsewhere around the world.
- Wayfinding Research.*—The Department of Blind Rehabilitation at Western Michigan University is using seed funding from the National Eye Institute to assess the relative effectiveness of several physical wayfinding cues in the outdoor environment, including returned edges, tactile surfaces, guidestrips, and curb ramp orientation. Our funding will enable them to do more dispositive research with a larger group of subjects and test a wider range of cues.
- Standards for Assisted Transfer.*—This project will follow-up on an earlier one that collected and presented information on current practices in medical care and assisted living facilities by convening an expert group of stakeholders to recommend changes to the Board's guidelines.
- Slope and Surface Effects on Manual Wheelchair Users.*—This project will commission a comparative analysis relative to manual wheelchair use of the several standard protocols used to measure work, effort, energy expenditure, efficiency, difficulty, and rollability to develop a more accurate protocol.
- APS Troubleshooting.*—This project will commission a technical assistance bulletin regarding how to specify accessible pedestrian signals that are appropriate to specific intersection types and conditions.
- Sign Language Versions of Selected Board Material.*—People who are deaf would like to access materials in their native language, American Sign Language. This project will develop short video clips using American Sign Language to convey information about the Board and ways to file Architectural Barriers Act complaints and place the clips on the Board's web site.
- Indoor Environmental Quality Follow-up.*—This project will commission the National Institute of Building Sciences to pursue key recommendations of a previous Board sponsored study on improving the indoor environment for individuals with multiple chemical sensitivities and electromagnetic sensitivities.
- Study Lighting for Low Vision Users.*—This project will commission a research synthesis on existing lighting research and standards affecting people with low vision. This synthesis will be useful in providing technical assistance to improve access for people with low vision and could lead to eventual rulemaking.
- Regulatory Assessment for Passenger Vessel Rulemaking.*—This work is required by our rulemaking agenda.
- Regulatory Assessment for Public Rights-of-Way Rulemaking.*—This work is required by our rulemaking agenda. This year the Board will fund the incidental

expenses necessary to convene industry leadership to plan for data gathering and analysis.

Because of the Board's expertise in accessibility issues, many government agencies and private organizations ask for its assistance in ensuring access at their facilities. The Board provided technical assistance to the Department of Commerce on the proposed new Census Bureau building in Suitland, MD. Members of the Maryland Congressional delegation requested the Board's assistance to help make this building a model of accessibility. The Board also reviewed accessibility issues for the planned new Department of Transportation headquarters building.

*Fiscal Year 2007 Objectives—Technical Assistance, Training, and Research*

In fiscal year 2007 and beyond, the Board will develop training and technical assistance materials on its planned final rules on outdoor developed areas, passenger vessels, and public rights-of-ways. As the Board publishes final rules, it makes every effort to ensure that training and technical assistance materials will be available to organizations and individuals that must apply the new requirements.

ARCHITECTURAL BARRIERS ACT ENFORCEMENT

The Board enforces the Architectural Barriers Act (ABA), which requires that most buildings designed, constructed, altered, or leased by the Federal Government and certain other federally financed facilities be accessible to people with disabilities. Complaints received by the Board concern post offices, national parks, military facilities, veterans hospitals, courthouses, and a variety of other facilities. When the Board has jurisdiction and finds that the applicable accessibility standards were not followed, it requests a corrective action plan and monitors the case until the barrier is removed. Even when the Board does not have jurisdiction or no violation is found, it attempts to negotiate voluntary barrier removal.

The Board's long-range goal is to be a leading partner with Federal agencies to make the Federal Government a model of compliance with accessibility standards. The Board's experience with enforcement of the ABA is that most violations are not intentional. When violations are found, it is usually because the people responsible for designing buildings, reviewing plans, and on-site construction did not have a good understanding of the accessibility standards and how to apply them. People responsible for building planning and design at headquarters, regional and field offices, and local sites must have a working knowledge of the accessibility standards if compliance is to be achieved. As Federal agencies are reorganized and personnel assignments and responsibilities change, it is important that agencies have effective systems for training new people responsible for applying the accessibility standards and for monitoring compliance with the ABA. The Board has also worked with the Federal agencies responsible for issuing accessibility standards for facilities covered by the ABA to update their standards to be consistent with the Board's new ADA and ABA Accessibility Guidelines that were issued in July 2004. In November 2005, the General Services Administration updated its accessibility standards for the ABA. The new standards will apply to most Federal facilities that are constructed, altered, or leased after May 8, 2006. The United States Postal Services also updated its ABA standards for postal facilities in May 2005. The Board continues to work with the Department of Defense and the Department of Housing and Urban Development to update their ABA standards.

*Fiscal Year 2005 Results—ABA Enforcement*

In fiscal year 2005, the Board received 168 written complaints. These included complaints investigated under the Architectural Barriers Act, and also those concerning facilities not covered by that law but potentially covered by other laws, such as the Americans with Disabilities Act and the Rehabilitation Act. Of the 168 complaints, the Board opened 90 as new Architectural Barriers Act cases. Although the Board did not have authority under the Architectural Barriers Act in the other 78 complaints, the Board responded to the complainants, usually by referring them to the appropriate enforcement agency. In addition, the Board referred another 46 complainants to other agencies for action when our investigations revealed there was no violation of the Architectural Barriers Act or the Board did not have jurisdiction.

The Board responds quickly to all new complaints and contacts complainants frequently to update them on the status of their complaints. In fiscal year 2005, the Board sent initial letters to complainants acknowledging receipt of their complaint or began an investigation of the issues they raised within an average of 5 days. The Board's customers regularly say they are pleased to hear from a Federal agency so promptly. It is Board practice to keep complainants informed on a regular basis

throughout the course of our investigations. In fiscal year 2005, the Board contacted 159 complainants to provide updates on the status of their complaints.

*Fiscal Year 2006 Plans—ABA Enforcement*

In fiscal year 2006, the Board will continue to investigate complaints under the Architectural Barriers Act. The Board anticipates responding to complaints in an average of 5 or fewer business days and will continue to provide periodic updates to complainants on the status of their complaints. At the beginning of fiscal year 2006, the Board had 107 active cases. The Board expects to receive 180 new complaints in fiscal year 2006. Of this total, the Board estimates that 100 will be opened as new Architectural Barriers Act cases and 80 will be referred to other agencies for enforcement under other laws, such as the Americans with Disabilities Act and the Rehabilitation Act. This represents an increase over fiscal year 2005, which are anticipated in response to an outreach effort the Board just completed to provide informational packets on the Architectural Barriers Act to independent living centers and technical assistance centers throughout the country.

*Fiscal Year 2007 Objectives—ABA Enforcement*

In fiscal year 2007, the Board will continue to investigate complaints under the Architectural Barriers Act. The Board estimates that it will have 105 active cases at the beginning of fiscal year 2007 and will receive 180 new complaints. The Board expects to open 100 new Architectural Barriers Act cases and refer 80 complaints to other agencies for enforcement under other laws. The Board will continue to provide good customer service.

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PREPARED STATEMENT OF THE CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

Mr. Chairman and members of the subcommittee, on behalf of the Capital Metropolitan Transportation Authority in Austin, Texas, I am pleased to submit this statement for the record in support of our fiscal year 2007 funding requests from the Federal Transit Authority for Capital Metro—the transportation provider for Central Texas. I hope you will agree that the appropriating of funds for these Central Texas projects warrants serious consideration as Austin and the surrounding Texas communities plan for our region's growing transportation needs.

First, let me thank you for your past financial support for transportation projects in Central Texas. Your support has proven valuable to Capital Metro and to our Central Texas community as we face new challenges.

As you know, Interstate 35 runs from Canada to Mexico, and along the way it also runs through the City of Austin and Capital Metro's 600-square-mile service area. While traffic in this important corridor has always been a challenge, the North American Free Trade Agreement has resulted in increased traffic and congestion for our region. In fact, a 2002 study by the Texas Transportation Institute determined Austin, Texas to be the 16th most-congested city nationwide.

Also, Central Texas' air quality has reached near non-attainment levels. Together, our community has developed a Clean AirForce, of which Capital Metro is a partner, to implement cooperative strategies and programs for improving our air quality. Capital Metro has also unilaterally implemented several initiatives such as offering free rides on ozone action days for the last 14 years, converting its fleet to clean-burning Ultra Low Sulfur Diesel (ULSD), becoming the first transportation authority in Texas to introduce environmentally-friendly hybrid-electric buses, and creating a GREENRide program to carpool Central Texas workers in low emission hybrid gas/electric automobiles.

To address these transportation and air quality challenges as well as our region's growing population, in 2004 Capital Metro conducted an extensive community outreach program to develop the All Systems Go Long-Range Transit Plan. This 25-year transportation plan for Central Texas was created by Capital Metro, transportation planners, and local citizens. More than 8,000 citizens participated in the design of the program that will bring commuter rail and rapid bus technologies to Central Texas. The plan will also double Capital Metro's bus services over the next 25 years.

By a vote of over 62 percent, this long-range transportation plan was adopted by the Central Texas community in a public referendum on November 2, 2004. The plan received bipartisan support, along with endorsements from the business community, environmental organizations, neighborhood associations, and our community leaders.

An important component of the All Systems Go Long Range Transit Plan is the creation of an urban commuter rail line along a 32-mile-long freight rail line currently owned and operated by Capital Metro. The proposed starter route would pro-

vide urban commuter rail service extending from downtown Austin (near the Convention Center) through East and Northwest Austin and on to Leander.

To implement the community's All Systems Go Transit Plan, Capital Metro is seeking \$10 million for fiscal year 2007 for five projects of importance to our Central Texas community:

RAPID BUS PROJECT—\$2 MILLION

The All Systems Go Long-Range Transit Plan relies heavily on new rapid bus technologies. The plan creates several new rapid bus routes throughout the Central Texas region. The Rapid Bus Project is designed to provide faster, frequent and dependable service in main bus corridors with high ridership while avoiding large fixed costs and long lead times. Capital Metro is seeking \$2 million for the Rapid Bus Project.

ENHANCEMENT AND IMPROVEMENT OF BUSES AND BUS FACILITIES—\$5 MILLION

Capital Metro has embarked on a long-term plan to improve and expand bus service. In addition to improving bus routes, the agency is investing in critical park and ride facilities, transit centers and enhanced bus stop locations and amenities. As Capital Metro's service area and the population we serve continue to grow, we will continue to enhance our system and facilities while addressing traffic congestion and air quality concerns. In the next 3 years, Capital Metro has planned to invest \$82.5 million in capital projects to better serve our growing population. Capital Metro seeks \$5 million from the appropriations process for these improvements and expansions of our bus service and facilities.

Also, Capital Metro is seeking funds for three new strategically located park and ride facilities in our service area.

LEANDER PARK AND RIDE FACILITY—\$1 MILLION

The Leander Park and Ride will anchor Capital Metro's Urban Commuter Rail and express bus services serving Leander and rapidly growing areas of Western Williamson and Travis Counties. Connecting circulator service in Leander is also planned to expand and improve Capital Metro's service in Northwestern suburbs and throughout Central Texas. Capital Metro is seeking \$1 million for this project.

OAK HILL PARK AND RIDE FACILITY—\$1 MILLION

The Oak Hill Park and Ride facility will anchor Capital Metro's future rapid bus services to rapidly growing areas of Southwest Austin and Travis County. This facility and its routes will connect local service to several nearby neighborhoods to serve the growing number of suburban commuters in this portion of Capital Metro's service area. Capital Metro is seeking \$1 million for this project.

SOUTH IH-35 PARK AND RIDE FACILITY—\$1 MILLION

The South IH-35 facility will anchor Park and Ride and Rapid Bus services to Downtown Austin. It will also serve as a connecting point for local bus services in Far South Austin. These local services will expand as the area grows to improve Capital Metro's service in Southern suburbs and throughout Central Texas. Capital Metro is seeking \$1 million for this project.

I look forward to working with the committee in order to demonstrate the necessity of these projects. Your consideration and attention are greatly appreciated.

PREPARED STATEMENT OF THE GREATER ORLANDO AVIATION AUTHORITY

Chairman Bond and distinguished members of the Senate Appropriations Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies, the Greater Orlando Aviation Authority ("the Authority") greatly appreciates the opportunity to present written testimony in support of our funding request for important safety and capacity enhancements at Orlando International Airport.

The Authority respectfully requests your subcommittee's consideration and support of the following Federal initiative: Runway 36L Instrument Landing System Category II (ILS Cat II), with an Approach Lighting System with Sequenced Flashing Lights, associated Environmental Assessment and West Airfield modifications at Orlando International Airport (MCO).

The Authority respectfully requests the subcommittee to include the following line item in the fiscal year 2007 FAA F&E Budget:

“Acquisition and Installation of Runway 36L Instrument Landing System Category II (ILS CAT II) with an Approach Lighting System with Sequenced Flashing Lights (ALSF-2); and associated Environmental Assessment and West Airfield modifications at Orlando International Airport—\$4,140,000”.

Serving nearly 34 million passengers in 2005, Orlando International Airport is Florida’s busiest commercial service airport and is ranked as the 14th busiest airport nationwide. With its four parallel runway system, the airport averages nearly 1,000 daily aircraft operations (over 350,000 take-offs and landings annually). Runway 36L serves as the predominant arrival runway when aircraft are landing in a “north flow” approach at MCO. This runway end currently does not have precision instrument approach capability.

Installation of ILS/ALS equipment will increase capacity, reduce flight delays and provide enhanced safety and aircraft separation, by allowing FAA Orlando Air Traffic Control staff to optimize its preferred operational procedures of landing on outer runways and taking off on the interior runways.

In addition, Orlando International Airport is currently served by 56 different air carriers. The ILS CAT II system is the only established navigational system that is fully compatible with existing air carrier instrument flight capabilities.

#### JUSTIFICATION AND CLOSING

Orlando International Airport remains steadfast in its commitment to help our Nation in its mission to provide safe, efficient, and affordable air travel as an integral part of our Nation’s aviation system.

Orlando International Airport (OIA) is one of the Central Florida’s primary assets and has been previously designated as a U.S. Security Category X airport. In 2005, OIA served over 34 million passengers, surpassing Miami International Airport as the busiest commercial passenger airport in Florida. Additionally, OIA is the 14th busiest commercial service airport in the Nation and the 24th busiest in the world. In terms of origin and destination (O&D) passenger traffic at domestic airports, OIA ranked 4th behind Los Angeles International, Las Vegas’ McCarran International and traditional airline hub airports such as Chicago’s O’Hare International. O&D passengers represent approximately 95 percent of all passengers at OIA. This high level of O&D activity is expected to continue.

OIA has scheduled service to 84 non-stop domestic destinations and 19 non-stop international destinations, promoting increased airline service and competitive fares. The largest rental car market in the world is located at OIA. The airport shares a unique relationship with the regional economy. An Economic Impact Study completed in 2004 estimated that OIA generates a \$20.7 billion annual economic impact to the Central Florida Region and is responsible for 62,100 direct and indirect jobs.

The Authority expresses its gratitude for the opportunity to present this testimony to your subcommittee. We look forward to working with you and your staff in advancing these safety and capacity initiatives that will benefit the National Aviation System. If the subcommittee requires any additional information regarding the identified funding needs, please do not hesitate to contact the Greater Orlando Aviation Authority.

#### RUNWAY 36L INSTRUMENT LANDING SYSTEM CATEGORY II (ILS CAT II), APPROACH LIGHTING SYSTEM WITH SEQUENCED FLASHING LIGHTS AND ASSOCIATED ENVIRONMENTAL ASSESSMENT AND WEST AIRFIELD MODIFICATIONS AT ORLANDO INTERNATIONAL AIRPORT

“All of us who work for and with aviation safety professionals take pride in the results of our collective efforts, especially given the economic turbulence being experienced by U.S. carriers. But even as we recognize how safe it is to travel in commercial air transportation, we must look beyond to face the challenge of how to make the system safer. How can we continue to improve aviation safety as demand and complexity increase? We are facing record setting passenger numbers, new light jets, UAVs, . . . even space travel is not as far away as it once was. We cannot afford to rest on our laurels.”—Statement of Marion C. Blakely, FAA Administrator, before the Senate Commerce Committee, Subcommittee on Aviation on Safety Issues on Aviation Safety, November 17, 2005.

The Authority respectfully requests the subcommittee to include the following line item in the fiscal year 2007 FAA F&E Budget:

“Acquisition and Installation of Runway 36L Instrument Landing System Category II (ILS CAT II), with an Approach Lighting System with Sequenced Flashing

Lights (ALSF-2); and associated Environmental Assessment and West Airfield modifications at Orlando International Airport—\$4,140,000<sup>2</sup>.

This high priority airfield capacity enhancement project will include the following elements:

- Development of an Environmental Assessment (EA) to evaluate the planned ILS and ALS.
  - Procurement of ILS and ALS related equipment: glide slope, localizer, marker beacons (inner, middle, outer/DME), Runway Visual Range (RVR) and ALSF-2.
  - Design, construction, installation, and certification of ILS and ALS equipment.
- To support this airport capacity and safety related initiative, the following upgrades to existing facilities will be necessary:
- Runway/taxiway pavement markings and signage.
  - Electrical system and lighting.
- Installation of an ILS CAT II on Runway 36L will provide the following benefits:
- Increased capacity.
  - Reduced flight delays.
  - Enhanced safety and aircraft separation.
  - Allow FAA Orlando Air Traffic Control staff optimization of its preferred operational procedures by landing on outer runways and taking off on the interior runways.
  - Full compatibility with existing instrumentation utilized by all 56 air carriers currently serving Orlando International Airport.

PROJECT COST ESTIMATE—RUNWAY 36L ILS & ALS AND WEST AIRFIELD IMPROVEMENTS,  
ORLANDO INTERNATIONAL AIRPORT (MCO)

Item Description	Cost	Comments
ILS CAT II <sup>1 2</sup> .....	\$1,500,000	ILS eqpt. to be upgraded to CAT III as a future project. To serve R/W 36R ILS CAT II & future ILS CAT III. EA—Environmental Assessment.
ALSF-2 <sup>1 2</sup> .....	1,500,000	
ILS/ALS EA .....	35,000	
Subtotal .....	3,035,000	Allowance for electrical system, lighting, marking, signage improvements.
West Airfield Modifications .....	100,000	
Construction Total .....	3,135,000	
Professional Fees/Markups .....	1,008,216	
TOTAL .....	4,143,216	
TOTAL (ROUNDED) .....	4,140,000	

<sup>1</sup> Costs were provided by Dave Gigowski (FAA Southern Region) and are stated in 2006 dollars.

<sup>2</sup> Includes costs for NAVAID design, equipment procurement, installation/construction and flight certification.

PREPARED STATEMENT OF THE NAVAJO NATION

NAVAJO DIVISION OF COMMUNITY DEVELOPMENT—INDIAN COMMUNITY DEVELOPMENT  
BLOCK GRANT

INTRODUCTION

The Navajo Nation reservation lies within the three States of Arizona, New Mexico and Utah and covers about 27,000 square miles—about the size of the State of West Virginia. According to the 2000 Census count the Navajo Nation has a population of 269,202 enrolled members and is considered the largest federally recognized Indian Tribe in North America. Most of its members still live in substandard housing, consisting of one room dwelling units with no running water or electricity and continue to suffer from high unemployment with about 43 percent of Navajos living below the poverty level with per capita income averaging about \$7,269 as compared to the national poverty level of 9.2 percent and \$21,587 for the national per capita income level. The Navajo people suffer chronic unemployment and must cope with a chronic massive need for housing and infrastructure. While unemployment in American averages 5 percent, the Navajo unemployment rate averages 38 percent to 56 percent, depending on the season.

The Navajo Nation's need for adequate housing is amply supported by other distressing statistics. For example, over 32 percent of Navajo homes do not have

plumbing or water, 60 percent do not have telephone services and 28 percent lack of adequate kitchen facilities. We have estimated the need for at least 30,000 new housing units and over 50,000 needing basic utility services.

#### NAVAJO NATION COMMUNITY DEVELOPMENT

The Navajo Nation Division of Community Development is responsible for providing housing and related assistance to low-income families who qualify under the following programs: (1) Weatherization Assistance Program; (2) Housing Services Program, and (3) Community Development Block Grant Program.

The Navajo Division of Community Development is established as part of the Executive Branch within the Navajo Nation government. It is the only Division responsible for providing community development throughout the Navajo Nation in terms of governmental buildings and home construction and related infrastructure. The Division of Community Development administers the Weatherization Assistance Program, the Housing Services Program, and the Community Development Block Grant Program, the Capital Improvement Office, Design and Engineering Services and Local Government Support Centers that provide assistance and services to communities throughout the Navajo Nation. The services provided by these programs are funded through the treasury of the Navajo Nation government and through external funds received from State and Federal grants and through appropriations administered through the Bureau of Indian Affairs.

The Navajo Nation relies on revenues generated from mineral leases that flow into its tribal treasury and is used to operate the Navajo government. In fiscal year 2007 the Navajo Nation will lose about \$21 million from its main employers who operate mineral leases that will expire or will cease to continue operations if negotiations fail with companies that do not upgrade their operation under the Clean Air Act and Court Decree filed by environmental groups. For this reason, the Navajo Nation looks to its trustee, the Federal Government to provide Federal appropriations to serve its vast population, many of whom live in rural and remote locations of the reservation and continue to have inadequate housing and no running water and electricity. This is all due to the vast Navajo land base that requires tens upon thousands of dollars to run power lines, sewer lines and other basic necessities through the rural communities and without Federal dollars to address basic services from the Federal Government and as part of its trust obligation to the Navajo Nation, the many Navajo members will continue to live below the poverty level well into the next decade and beyond.

#### COMMUNITY DEVELOPMENT BLOCK GRANT

The Navajo Nation hereby provides a position on the following proposed policy as it pertains to the Community Development Block Grant.

##### *The Navajo Nation Recommends More Tribal Consultation of Any Proposed Allocation That Impacts Tribal Governments*

At the present time there is basically no consultation between the Federal Government and the Navajo Nation.

The Navajo Nation strongly opposes President Bush's proposal to reform the CDBG formula by consolidating Native American Programs with other similar programs. Native Americans live in a very unique society and should not be grouped or compared with other distressed communities.

The President's fiscal year 2007 budget proposes to reform the ICDBG by consolidating and eliminating several economic development programs. The President's proposal will establish regional councils to focus more on programs that have regional impacts. The regional councils will not be familiar with Native American communities and have a different interpretation of rural communities. Indian country simply cannot sustain or support such a severe reduction in funding or changes in the ICDBG.

If other programs are consolidated into CDBG, the primary intentions of the ICDBG program will be lost. The focus will shift from infrastructure development such as water, electric, public facilities and economic development other types of development.

##### *The Navajo Nation Opposes the Transfer of ICDBG to the Department of Commerce*

The Navajo Nation strongly opposes the Bush Administration's proposal to transfer the Indian Community Development Block Grant program to the Department of Commerce. The Navajo Nation urges the Congress to keep the ICDBG program within the U.S. Department of Housing and Urban Development. Most of the work the Department of Commerce has done has been with municipalities and urban areas. If the ICDBG is transferred to Commerce, the rural areas and particularly

the Indian tribes will be neglected, because of the unfamiliarity of the Department of Commerce with rural development and Indian tribes.

If the ICDBG is transferred and consolidated with other programs with a common set of performance goals, it will probably be oriented towards established communities and not rural areas.

*The Navajo Nation Opposes Any Budget Cuts in the ICDBG and NAHASDA Programs*

The Navajo Nation opposes any proposed budget cuts in the ICDBG and NAHASDA. The Navajo Nation has been providing infrastructure of basic utilities to hundreds of Navajo families since 1976. The need for infrastructure and housing continues to escalate while the funding remains at the same level. The cost in materials, labor, inflation, and the increase in the Navajo population has all resulted in increase costs. A large number of the Navajo people need infrastructure development (electricity and water/wastewater facilities). The Navajo Nation continues to advocate for an increase in ICDBG funding to start addressing a large number of families.

Despite the proposed changes, reform, or decrease in funding, the ICDBG has made tremendous positive impacts to communities who have received ICDBG funding in the past. Within the past 5 years, the ICDBG has accomplished the following:

Year	Amount Funded	No. of Families Benefited
1999 .....	\$5,000,000	407
2000 .....	\$5,000,000	314
2001 .....	\$5,000,000	240
2002 .....	\$5,000,000	345
2003 .....	\$4,345,941	295
2004 .....	\$5,491,000	314

CONCLUSION

Therefore, the Navajo Nation urges the Congress to either increase the level of funding of ICDBG or maintain the current level of funding to provide the basic infrastructure for the increasing Navajo population. Lastly, Navajo urges Congress not to make any changes in organizational structure or formula structure of the CDBG until tribal consultation is made.

PREPARED STATEMENT OF THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

APTA is a nonprofit international association of more than 1,600 public and private member organizations including transit systems and commuter rail operators; planning, design, construction and finance firms; product and service providers; academic institutions; transit associations and State departments of transportation. APTA members serve the public interest by providing safe, efficient and economical transit services and products. More than 90 percent of persons using public transportation in the United States and Canada are served by APTA members.

INTRODUCTION

Mr. Chairman and members of the committee, on behalf of the American Public Transportation Association (APTA), we thank you for this opportunity to submit written testimony on the need for and benefits of investment in Federal Transit Administration (FTA) programs for fiscal year 2007.

OVERVIEW

Mr. Chairman, the fiscal year 2007 Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Appropriations bill is an opportunity to advance national goals and objectives through increased investment in our surface transportation infrastructure, particularly public transportation. For that reason, we strongly urge Congress to fund the Federal transit program at no less than the \$8.975 billion level authorized in the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU), which Congress approved by overwhelming margins just last summer.

Transit plays a number of important roles, including advancing energy independence. It reduces congestion and it provides mobility options. In fact, expanding pub-

lic transportation options is more important than ever, since transit is the single quickest way for individuals and families to beat the high cost of gasoline.

Americans took more than 9.7 billion transit trips in 2005, and transit ridership grew faster than highway travel (1.3 percent vs. 0.1 percent). Since 1995, the use of public transportation has increased by 25.1 percent—more than the growth of highway travel (22.5 percent) over that period. The growth of transit ridership during the past 10 years demonstrates that Americans want transportation choices and will leave their cars behind when convenient, quality public transit service is available. As gas prices continue to rise, the demand for public transportation will only continue to grow.

Additionally, it is important to recognize that public transportation benefits those who drive, as well as those who use transit. According to the 2005 Texas Transportation Institute's Annual Urban Mobility Report, transit is successfully reducing traffic delays and related congestion costs in America's 85 largest urban areas. Without transit, nationwide delays would have increased 27 percent, costing residents and businesses in those major urban areas an additional \$18.2 billion in lost time and fuel.

#### FISCAL YEAR 2007 GOALS

APTA recognizes the need to wisely invest limited Federal resources, and we believe that investment in public transportation is a wise use of limited resources. Our Nation has a tremendous need for new investment in transit and the rest of our surface transportation infrastructure. According to a recent study by the U.S. Chamber of Commerce's National Chamber Foundation, if the Federal share of transportation investment remains constant, in 2015 the Federal share of the average annual capital investment needed to maintain the Nation's existing highway and transit systems will be \$64 billion, and the Federal share to improve highway and transit systems will be \$89 billion.

APTA's funding request for FTA programs in fiscal year 2007 is based upon SAFETEA-LU, which was enacted last year. SAFETEA-LU authorizes and guarantees \$8.975 billion for Federal Transit Administration programs in fiscal year 2007. APTA urges Congress to fund the transit program at the authorized level so that communities across the Nation, utilizing State and local resources in tandem with Federal funds, can begin to address the overwhelming need both to preserve the existing transit infrastructure and to expand and improve that infrastructure in growing communities and those without good transit service.

SAFETEA-LU builds on the success of the two most recent surface transportation authorization laws—the 1991 Intermodal Surface Transportation Efficiency Act and the 1998 Transportation Equity Act for the 21st Century. Under SAFETEA-LU, the Federal transit program structure remains largely the same, retaining formula programs that target Federal investment to transit systems based on need and capital investment programs that address special needs and projects. The new law also provides for increased transit investment in rural communities, many of which have little or no transit service. It also establishes a number of new programs, including programs for new small fixed guideway projects, transit in our national parks, and another meant to help address the needs of people with disabilities beyond service required under the Americans with Disabilities Act.

#### PRESIDENT'S BUDGET PROPOSAL

The administration's fiscal year 2007 budget proposal recognizes the importance of public transportation investment. While we are pleased that the administration's proposal adheres to the authorized transit program in most respects, we want to identify two concerns APTA has with the President's fiscal year 2007 budget proposal.

First, the administration proposes to fund only \$100 million of the \$200 million authorized in fiscal year 2007 for the small starts program that is meant to assist the development and construction of smaller fixed guideway projects such as streetcars, trolleys, commuter rail, and bus rapid transit systems. This program is part of the program that provides funding to new fixed guideway projects—heavy and light rail, bus rapid transit, commuter rail, and trolleys—and the President's proposal would actually reduce total funding for this program below the fiscal year 2006 level.

Second, the President's budget proposal for the Federal Railroad Administration (FRA) proposes, consistent with last year's appropriations bill, that commuter railroad riders will assume a higher portion of maintenance and capital expenses on the Amtrak-owned portions of the Northeast Corridor. We are concerned that the imposition of these fees by the Federal Government will increase operating costs for

these commuter railroads and result in higher costs for commuter rail users and the State and local taxpayers who fund these systems, and therefore urge Congress not to include this fee in this year's appropriations bill.

#### NEW STARTS/SMALL STARTS

Mr. Chairman, APTA is disappointed that the administration has proposed to fund transit below the level so recently authorized and guaranteed by Congress. The administration requested \$100 million less than the amount authorized from the general fund for the new starts program, proposing only half of the funding authorized for the new small starts program, a program to fund less costly fixed guideway projects such as light rail, commuter rail, and bus rapid transit systems.

As this committee knows, there is overwhelming demand for new starts projects, and SAFETEA-LU authorized 387 projects. New fixed guideway projects are an important part of meeting transit needs, but these major capital projects take years to develop and require a predictable funding commitment. Once appropriated for a fiscal year, new starts program funding remains available for the 2 subsequent fiscal years. The effect of underfunding the small starts/new starts program will be felt disproportionately in future years by causing transit providers to fall further behind in the development of new, less expensive projects due to the cuts that would be implemented under the administration's proposal, robbing communities of the congestion relief and environmental benefits associated with the projects.

We want to make another point, Mr. Chairman. SAFETEA-LU restructured the general fund and Mass Transit Account (MTA) funding sources so that MTA outlays are now scored when they are actually spent rather than when they are appropriated. The good news is that MTA balances now are significantly higher than they would have been under the old scoring system. But this also means that the new starts program is now funded exclusively from the general fund. Mr. Chairman, it is important to emphasize that this was done to improve the overall financing of the Federal transit program, and was not meant to create funding uncertainty or program cuts, as the administration proposes.

Finally, and importantly, we note that 2005 ridership on light rail systems in the United States has grown at a faster rate than any other form of transit. Ridership on light rail grew by 6 percent in 2005. Some light rail systems showed double digit increases in ridership: Minneapolis (168.9 percent); Houston (38.0 percent); New Jersey (17.8 percent); Salt Lake City (13.3 percent); Sacramento (12.8 percent); and Los Angeles (10.5 percent). There is clearly overwhelming demand for these and other new starts projects. We look forward to working with this committee and ask for your support for fully funding new starts and all other elements of the fiscal year 2007 Federal transit program at the authorized level.

#### NORTHEAST CORRIDOR COMMUTER RAIL ISSUES

We are also concerned about another issue in the proposed fiscal year 2007 budget. The administration proposes that commuter railroads will assume a higher portion of capital and maintenance expenses on the Amtrak-owned portion of the Northeast Corridor. An amount of \$59 million in fees on commuter railroads is assumed in each of fiscal year 2006 and 2007 to support Amtrak spending.

The provision in the fiscal year 2006 Transportation Appropriations law that requires the Federal Railroad Administration to assess these fees has proven very difficult to implement. The administration began the process with a "top down" approach that did not take heed of the accompanying conference report which directed the Secretary to seek to achieve consensus among all stakeholders in the corridor. In fact, the FTA went so far as to place a notice in the Federal Register indicating its intent to make payment of these fees a condition for receipt of Federal transit grants to commuter railroads. More recently, the process has improved, but it still requires a series of very difficult calculations and has absorbed a considerable amount of time among top leaders of the FRA, State DOTs and commuter railroads.

The only silver lining for the 2006 process is that significant time has been invested by governors, State DOTs and commuter railroads in working with FRA on corridor issues. This time and effort should be devoted to developing a long-term plan for improving the corridor not to figuring out how to add to the substantial payments commuter railroads already make for corridor maintenance and capital improvements.

For fiscal year 2007, APTA urges Congress not to include language on commuter railroads similar to last year's appropriations law. Commuter railroads already pay a fair share of Northeast Corridor costs as established through carefully negotiated legal, financial and operating agreements involving substantial State investments.

## PUBLIC TRANSPORTATION AND ENERGY INDEPENDENCE

APTA is pleased that President Bush highlighted the need to focus on energy independence in his State of the Union address earlier this year. The President said that "keeping America competitive requires affordable energy . . . America is addicted to oil, which is often imported from unstable parts of the world." He further stated that "the best way to break this addiction is through technology."

We agree, Mr. President! We cannot think of a more important technology in that regard than fixed guideway transit, including heavy and light rail, commuter rail, and bus rapid transit. This technology is readily available and many communities already have systems which can be expanded with more investment.

We must remember also that at its current level of use, public transportation is already reducing Americans' energy bills:

—For every passenger mile traveled, public transportation is twice as fuel efficient as private automobiles.

—Public transportation saves more than 855 million gallons of gasoline a year, or 45 million barrels of oil. These savings equal about 1 month's oil imports from Saudi Arabia. In 2005, 9.7 billion trips were taken on public transportation.

Moreover, transit agencies are increasingly investing in alternative fuel buses to reduce dependence on oil. Almost 17 percent of fixed route buses now use alternative fuels and 20 percent of buses on order will use alternative fuels. Public transportation is clearly doing its part to promote energy independence through innovative technologies, and that is why we urge Congress to honor SAFETEA-LU and fully fund the transit program in fiscal year 2007.

## CONCLUSION

Public transportation plays a key role in meeting the goals of the administration and Congress in providing energy independence, congestion relief and transportation mobility options for Americans. APTA strongly believes that the Federal Government should invest no less than the level authorized and guaranteed by Congress for fiscal year 2007 in SAFETEA-LU if we are to advance these goals.

Mr. Chairman, on behalf of APTA's member organizations, I thank you for this opportunity to express our views.

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PREPARED STATEMENT OF THE NATIONAL ALTERNATIVE FUELS TRAINING  
CONSORTIUM, WEST VIRGINIA UNIVERSITY

Chairman Bond, Ranking Member Murray and members of the Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies Subcommittee on Appropriations, the National Alternative Fuels Training Consortium (NAFTC) respectfully supports the request of the National Association of State Fire Marshals (NASFM) fiscal year 2007 funding of \$950,000 to develop, offer and implement a comprehensive nationwide training program for all first responders to learn about the specifics of Alternative Fuel and Advanced Technology Vehicles. This program will provide first responders with the necessary training to safely respond to accidents involving these vehicles to minimize the potential for injury to themselves as well as the accident victims.

I am Al Ebron, Executive Director of the NAFTC, a consortium consisting currently of 27 educational institutions (listed in the attached table) dedicated to supporting the use of alternate fuel vehicles (AFVs)/advanced technology vehicles. First responders (including fire, police, EMT and other emergency personnel) need standardized training on the proper procedures to follow in accidents/incidents involving alternative fuel and advanced technology vehicles. These first responders require training to recognize the dangers inherent in advanced technology vehicles in order to ensure their safety, that of the persons involved in the accident, and bystanders. For example, the new hybrid technology vehicles contain battery packs which can discharge shocks in excess of 500 volts to the unwary. Fuel cell vehicles contain hot surfaces which can cause burns. Hydrogen-powered cars may be inherently dangerous from storage cylinders or fuel lines. All are safe with proper training.

I would like permission to enter into the record as part of my testimony a letter dated May 24, 2006, from Frank A. Burns, President of the NASFM, to the leadership of the Senate and House Appropriations Committees making them aware of this training needed for our first responders. This letter adds validity and urgency to our ability to jointly respond to this training need in order to save lives.

Many of these alternative fuel vehicles (AFVs) and advanced technology vehicles are in service today. These vehicles have all of the appearances of a conventional-

technology vehicle, but contain components which can be dangerous to personnel unfamiliar with advanced technology vehicles.

General Motors, Ford, Toyota, Honda and other automobile companies have sold hundred of thousands and have announced their intentions to build hundreds of thousands more of these advanced technology vehicles over the next 5 to 10 years. This large a fleet dramatically increases the potential for hazards faced by first responders at the scene of accidents involving these new vehicles. The U.S. Department of Energy's (DoE) Energy Information Administration estimates that in the near future, AFVs /advanced technology vehicles will comprise more than 20 percent of the light duty vehicles in the United States. This means that one in every five accidents could involve an AFV/advanced technology vehicle.

First responders (including other emergency personnel) should have standardized training on the proper procedures to follow in accidents/incidents involving alternative fuel and advanced technology vehicles. Such training can be accomplished through the development and dissemination of specialized courses that meet industry standards and the offering of such courses through a network of properly trained instructors. Currently available curricula are not structured to provide comprehensive training for working safely with damaged vehicles of these types. Resources to provide training for First Responders are limited. This program proposes to evaluate and review all known resources, combine the relevant resources into one training curriculum and associated training programs, and disseminate the materials across the United States. This type of integrated program is currently not available on a comprehensive basis. We propose to conduct 2 to 3 regional or nationwide events/meetings to disseminate the information and to conduct numerous local training classes.

West Virginia University and its National Alternative Fuels Training Consortium has the ability to conduct this project with the management of the National Association of State Fire Marshals and industry assistance. The NAFTC is a nationwide organization of post-secondary education institutions that develops advanced training curricula, conducts training classes taught by certified instructors, and promotes the use of alternative fuel and advanced technology vehicles. The NAFTC is prepared and ready to develop, offer and promote comprehensive training programs for first responders that cover the following alternative fuel or advanced technology vehicles:

- Hybrid Electric;
- Electric;
- Fuel Cell;
- Hydrogen ICE;
- Biodiesel;
- Ethanol/Methanol Flex-Fuel;
- Natural Gas (Compressed and Liquefied); and
- Propane.

NAFTC training is modular in concept to allow instructors to:

- Address all of the alternative fuels and advanced technologies in a course;
- Customize the course for a specific need;
- Training modules will include: Instructor Manuals, Participant Manuals/Text-books, PowerPoint Presentations for Effective Lectures, and Scenario Training With Videos;
- Classes taught by certified NAFTC instructors and industry instructors to train students and future instructors; and
- Education and outreach materials.

Individuals completing these courses would learn how to: (1) determine the type of vehicle being approached; (2) avoid or circumvent on-board systems that could cause injury during victim extraction; (3) safely extract victims from vehicles; and (4) minimize damage to the environment, others, and themselves.

The National Alternative Fuels Training Consortium (NAFTC) is the only nationwide training organization dedicated to improving air quality and decreasing U.S. dependence on foreign oil by promoting, supporting, and expanding the use of alternative fuel and advanced technology vehicles. It is the premier organization to develop first responder training and provide train-the-trainer courses for first responder organizations.

The NAFTC currently:

- Offers over 20 courses and workshops nationwide on alternative fuels and advanced technology vehicles;
- Develops and delivers new courses and workshops yearly to meet demand and updated technology needs;
- Provides extensive technical assistance through timely and accurate technical data available on NAFTC web site;

- Produces two NAFTC Newsletters reporting on alternative fuel and advanced technology vehicles—the NAFTC eNews, a monthly web based newsletter and the NAFTC Clean Alternatives Report (CARReport), a printed bi-annual publication.

Since its inception in 1992, the NAFTC has created tremendous impact through:

- Delivery of over 700 courses and training to over 7,000 technicians, fleet managers, students, decision makers, and others on alternative fuel and advanced technology vehicles;
- Conducting over 775 workshops and education/awareness events with over 160,000 attendees;
- Enhanced liaisons with automobile manufacturers;
- Enhanced alliances with aftermarket retailers;
- Heightened awareness for millions about alternative fuels and advanced technology vehicles by conducting National AFV Day Odyssey. In 2004, this event consisted of 54 sites throughout the United States and two sites in Canada with nearly 25,000 direct attendees and over 24,000,000 people reached through media coverage.

The NAFTC has conducted training classes and workshops for government and private organizations such as the U.S. Department of Energy, U.S. DoE Clean Cities Coalitions, NASA, General Services Administration, U.S. Postal Service, U.S. Air Force, U.S. Navy, U.S. Federal Law Enforcement Training Center and Disney World.

Organizations in support of establishing a training program for first responders include the National Association of State Fire Marshals and the 27 members of the National Alternative Fuels Training Consortium (NAFTC), headquartered at West Virginia University. The NAFTC members are post-secondary academic institutions (with 10 to 25 new members to be added over the next year). Other supporters include numerous industry organizations in the AFV/Advanced Technology Vehicle and the Automotive Industry (including automobile manufacturers), Professional Associations, and Industry Trade Associations (including electric, biodiesel, natural gas, hydrogen and flex-fuel). The NAFTC will work cooperatively to promote and distribute the training through regional agencies (e.g., WVU Fire Extension Service and State Fire Academies), national agencies such as the National Association of State Fire Marshals, the National Fire Protection Association (NFPA), the National Fire Academy in Emmitsburg, Maryland, the Transportation Emergency Rescue Committee, International Association of Fire Chiefs and other first responder organizations.

I am pleased that the NAFTC has centers in the States of Chairman Bond and Ranking Member Murray as well as many other members of the committee. The NASFM has nationwide representation and leaders of their organization are in your States.

Thank you very much for your committee consideration of the joint NASFM-NAFTC proposal to bring our first responders up to speed on dealing with alternative fuel and advanced technology vehicles that are growing in popularity.

Today's worsening energy crisis and consumers flocking to alternative fueled vehicles are cause for concern among firefighters and other first responders. Firefighters and emergency personnel arriving on the scene of accidents and vehicle fires are sometimes searching for the answers to complex questions about alternative fueled vehicles. The answer to this dilemma is fiscal year 2007 funding of \$950,000 to launch a much-needed national program to provide alternative fuels safety training for emergency responders.

The need for this program was not so apparent just a few months ago. With energy prices at record levels, we have seen consumers, corporations, and government agencies move increasingly to alternative energy sources. Hundreds of companies have launched alternative energy products into the market place and are involved in extensive R&D in almost all States. These new technologies are vital to the future security and energy independence of our country, but a barrier threatens to halt progress. Firefighters simply are not prepared to protect the public or themselves in incidents involving these new technologies.

The United States has learned the hard way with pipelines, LNG and other energy infrastructure that local officials and the public take notice when emergency responders are apprehensive about new risks. Responders already have expressed concern about electrical hazards with hybrid autos, the proper firefighting foams to use on ethanol fires, and explosion risks with compressed gases. Fire departments have refused permits for some hydrogen demonstration projects.

Proper training and education of responders is the only practical solution. The National Association of State Fire Marshals (NASFM) consists of senior State-level public safety officials who either manage or play a key role in emergency responder

training at State, regional and local academies in their States. NASFM has the ability to reach responders quickly and efficiently.

With modest funding from U.S. Department of Transportation, NASFM has organized a national consortium of emergency responders, Federal and State agencies, universities, auto producers, energy companies and others who have been working on an alternative fuels safety training program for emergency responders.

Our plan is to complete work on a curriculum and materials, rapidly deploy the program to five existing academies which shall serve as regional centers, provide instructors and the program materials, and initiate train-the-trainer programs by the end of fiscal year 2007. The regional centers will require support to improve facilities and add training props, but these costs can be discussed at a later date. Without adequate resources, this program is unlikely to be ready much sooner than 2008 and would be slow to implement and inadequate in its content.

Elements of a strong and credible curriculum already exist. The National Alternative Fuels Training Consortium (NAFTC) at West Virginia University has much of what is needed, and other elements are available from industry, existing hazardous materials safety curricula and other sources. That process is underway with NAFTC working in collaboration with the University of Montana's College of Technology and the Missouri Transportation Institute, with input from the U.S. Departments of Energy and Transportation.

While the curriculum is developed, the NAFTC will adapt its material for the purpose of training first responders and add scenario and video training. NASFM and NAFTC are in the process of designating five State agencies to coordinate the regional training centers we will need to deliver the program. The leading candidates are the Missouri Division of Fire Safety; the Office of the State Fire Marshal, State of New Hampshire; the New Mexico State Fire Marshal; the Florida State Fire College; and the Office of the State Fire Marshal, State of Washington.

To move this program forward now, the NASFM, with support from the NAFTC is requesting a total of \$950,000 in fiscal year 2007 for the following tasks, consisting of these costs:

- \$600,000 to assemble and validate these components, produce and test a videotape and manual, and establish a website for on-line training.
- \$100,000 to enable us to make needs assessments of the existing fire academies to serve as regional alternative fuel safety training centers;
- \$100,000 to support two senior trainers to work with regional academy staff; and
- \$150,000 to produce and distribute sufficient copies of the videos and program materials to launch the program.

Safety is a shared responsibility. The public must be assured that their safety is in the forefront of a shift to alternative fuels. We have the people, the ideas and the responsibility to work with Congress and the administration to make the transition to alternative fuels.

The States and localities already invest much in our Nation's emergency responder training. In subsequent years, NASFM and NAFTC will seek support from industry partners. Many have been generous in helping State and local academies upgrade facilities for the pipeline safety programs that NASFM operate in cooperation with the U.S. Department of Transportation. But, it is doubtful that first responders can be adequately prepared for the influx of alternative fueled vehicles without fiscal year 2007 Federal dollars.

#### CURRENT NATIONAL TRAINING CENTERS

State	Educational Institution	City
Arizona	Gateway Community College	Phoenix
California	Rio Hondo College	Whittier
Connecticut	Gateway Community College	North Haven
Florida	Travis Career Center	Lakeland
Illinois	Morton College	Cicero
Indiana	Ivy Tech Community College of Indiana	Gary
Iowa	Des Moines Area Community College	Ankeny
Louisiana	Louisiana Technical College	Baton Rouge
Maryland	Com. Col. of Baltimore County (Catonsville)	Baltimore
Massachusetts	Wentworth Institute of Technology	Arlington
Michigan	Lansing Community College	Lansing
	Kalamazoo Valley Community College	Kalamazoo
Missouri	Ranken Technical College	St. Louis
Nebraska	Central Community College	Columbus

## CURRENT NATIONAL TRAINING CENTERS—Continued

State	Educational Institution	City
Nevada .....	Community College of Southern Nevada .....	North Las Vegas
New York .....	Onondaga Community College .....	Syracuse
North Carolina .....	Wake Technical College .....	Raleigh
Ohio .....	University of Northwestern Ohio .....	Lima
	Ohio Technical College .....	Cleveland
Oregon .....	Portland Community College .....	Portland
South Carolina .....	York Technical College .....	Rock Hill
Tennessee .....	Nashville Auto-Diesel College .....	Nashville
Texas .....	Tarrant County College .....	Ft. Worth
Washington .....	Shoreline Community College .....	Shoreline
West Virginia .....	West Virginia University .....	Morgantown

## TARGETED NATIONAL TRAINING CENTERS

State	Educational Institution <sup>1</sup>	City
Alaska .....	University of Alaska .....	Anchorage
Utah .....	Salt Lake Community College .....	Salt Lake City
Vermont .....	Vermont Technical College .....	Randolph Center
Virginia .....	Northern Virginia Community College .....	Alexandria

<sup>1</sup> Additional training centers will be recruited next in Alabama, California, Colorado, Idaho, New Mexico, New York, Oklahoma, and Pennsylvania.

## PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

The National Association of Railroad Passengers strongly supports Amtrak's fiscal year 2007 grant request of \$1.598 billion and the additional \$275 million in "strategic investment initiatives" Amtrak outlined. That \$275 million includes:

- \$100 million to be administered by the Secretary of Transportation, for a matching-funds program to support State efforts to improve and expand intercity passenger rail services. This would help address rail's longstanding competitive disadvantage with other modes of transportation, which enjoy Federal funding matches of 50 to 90 percent. We also support Amtrak's call for a Federal-State partnership including "reliable" Federal funding (80 percent Federal match).
- \$50 million (which also could be administered by the Secretary) for "joint investment [with States and railroads] targeted to network chokepoints and linked to threshold performance improvements in intercity passenger rail on-time performance."
- \$100 million to restructure some of Amtrak's debt, saving money both for Amtrak and the Federal Government. Amtrak says the restructuring "is intended to achieve savings of \$45 million, above the initial \$100 million cost, and a rate of return of 14.8 percent per year."
- \$25 million for Americans with Disabilities Act compliance (supplementing \$22 million for this purpose in the \$1.598 billion "base request").

This is the second straight year that Amtrak's board, composed entirely of Republicans appointed by President Bush, has supported a significant increase in Federal investment in Amtrak and passenger rail.

We of course agree with this from a May 28 New York Times editorial: "Amtrak does not need to make a profit, but it does need to work. The government directs billions of dollars to roads and bridges. Airports get plenty of help, but somehow very little trickles down to the rails. Amtrak, which at one point was to have received zero federal funds after 2002, has been offered \$900 million by the administration for next year. That amount is so low it should be an insult . . . If President Bush really wants transportation alternatives, it is time for a strategic look at how the railroads can serve as an even more important escape valve for the nation's overloaded transportation system."

Viewed in the context of national need and world energy concerns, as well as the last sentence in the above quotation, Amtrak's request, which totals \$1.873 billion, is conservative.

## WHY TRAINS ARE A GOOD INVESTMENT

*Citizens Want Them!*—Harris Interactive, Inc. provides the latest major poll indicating that Americans want more rail service and believe that this should be mainly a responsibility of the Federal Government. Significantly, the poll—released February 8—was taken December 8–14, 2005, before the latest run-up in gasoline prices.

Harris Interactive, Inc. asked, “In the future, as more people travel, which two of the following would you like to see have an increasing share of all passenger transportation?” Americans overwhelmingly chose commuter and long-range trains (44 percent and 35 percent, respectively) compared to long distance travel by car (10 percent) and bus (6 percent).

When Harris asked “. . . which of the following would you like to see have an increasing share of all goods and commodities movements in the United States?” the response was even more striking: fully 63 percent of respondents favored freight railroads, more than air freight (35 percent) and trucks (24 percent) combined. The survey then asked: “Who do you think should be mainly responsible for maintaining and improving the transportation system in the Nation as a whole?” More than two-thirds (68 percent) of adults said the Federal Government. (Full poll: [http://harrisinteractive.com/harris\\_poll/index.asp?PID=638](http://harrisinteractive.com/harris_poll/index.asp?PID=638))

*The Traveling Public Votes “Yes”.*—Amtrak ridership has risen in 8 of the last 9 years, with fiscal year 2005 ridership 29 percent above that for fiscal 1996.

I will not repeat the list of “justifications” for passenger rail I recited a year ago. However, when energy price increases are “above-the-fold” news, normal public support for passenger rail becomes even stronger, as does the public policy case for providing that service.

In his State of the Union Address, President Bush said, “America is addicted to oil, which is often imported from unstable parts of the world.” He was correct. Strengthening and expanding passenger rail will help reduce the vulnerability of our citizens and our economy to high energy prices. Strengthening public transportation in general as a response to high energy prices and concerns about long-term oil supplies is at once popular and sound policy.

The longer the Federal Government starves intercity passenger rail, the angrier the American people will be when they discover they do not have choices that help them adapt to higher energy costs while still preserving their freedom to travel and maintaining their quality of life.

We urge that all Amtrak routes be continued—and the New Orleans-Orlando segment restored—while Amtrak improves its cost-effectiveness in various ways, many of which are discussed below.

## AMTRAK EFFICIENCY CONCERNS

We share the concern of the subcommittee—and every responsible, interested party—that Amtrak use its revenues (both commercial and taxpayers) efficiently.

*Mechanical.*—Some of the biggest opportunities to improve Amtrak’s bottom line while maintaining and even expanding service involve updating Amtrak’s maintenance practices. The much-quoted GAO report on Amtrak management cites an important report by the Amtrak Inspector General. A key passage from the Amtrak IG’s report reads: “Both of our consultants independently commented that Amtrak’s maintenance operations are being performed similar to the way the other major railroads in North America did maintenance over 20 years ago. The other Class I railroads have since moved on to more sophisticated approaches to maintenance to improve reliability and reduce costs.”

Thus, Amtrak is updating and improving its practices, with an expectation that its Mechanical Department can boost output and quality while reducing costs.

*Dining Cars.*—Amtrak is well underway with projects that will significantly reduce the net cost of on-board food and beverage services. On long-distance trains, Amtrak is revising dining car processes and reducing on-board staff; reductions began before Christmas and are scheduled to be complete before the end of May.

Reducing food losses is a reasonable goal; eliminating them is not. Carriers worldwide consider on-board food and beverage service not as a profit center but as a necessary expense to attract and retain business. In a November 2005 speech, Jonathan Metcalf, Chief Operating Officer of Britain’s Great Northeastern Railway, said that food service on his trains “probably loses £2–£3 million a year, if we didn’t do food, we’d lose passengers . . . it’s a key reason why they travel with us . . . we probably would have lost £20–£30 million in ticket revenue (without food service).”

*Mail.*—Our Association repeatedly testified in support of David Gunn’s work to improve Amtrak. We believe Amtrak is much better off for his having served there. Nonetheless, we have urged Amtrak to look seriously at undoing one ill-advised step

that he took. He completely eliminated mail carriage even though every study of which we are aware indicated mail was profitable for Amtrak. Amtrak invested in the mail business and still owns relevant infrastructure and a sizable number of cars with good life expectancy. I have written to Amtrak urging a careful review of opportunities to restart mail carriage where this would be incrementally profitable.

*Fares and Technology.*—Amtrak is not buying market-share with low prices. Amtrak ridership has grown in spite of fare increases. Amtrak's yield (average fare per passenger-mile) has increased every year since at least fiscal year 1994 with the sole exception of fiscal year 2003. (A passenger-mile is one passenger traveling 1 mile.) Fiscal year 2005 yield was 65 percent above that in fiscal year 1994.

Through the first 7 months of fiscal year 2006 (October-April), the yield was 9.8 percent above the same period in fiscal year 2005. If anything, Amtrak arguably has been too aggressive in raising fares.

Amtrak does offer good deals on-line where this makes business sense—i.e., handling “distressed inventory” (that is, seats that otherwise would go empty and where eliminating their operation is impractical or would not achieve savings). This is also important for cultivating tomorrow's revenues, since some of the people who have time to search the internet for elusive good deals are young people who may become tomorrow's “full fare,” loyal customers. If Amtrak was not doing this sort of thing, others would criticize its fare-setting practices as out-of-date.

Creative use of the internet is not new at Amtrak. It offered full booking capability on-line starting in February, 1997, at about the same time as Continental Airlines and well before the other major airlines. Another indication of Amtrak's on-line sophistication is the interactive route map Amtrak recently introduced.

The DOT Inspector General, incidentally, criticized GAO's report for its glass-half-empty approach, that is, for not giving “equal time and space [to] what works’ at Amtrak, and what has been improved at Amtrak.”

*Fares and Public Policy.*—Sound public policy should encourage low fares. Lower fares mean higher ridership, and help America and its people deal more effectively with scarce oil. California's financial support for its three Amtrak corridors helps support lower fares than are found in many other parts of the Amtrak system. This should be encouraged!

#### STATUTORY DIRECTIVES (INCLUDING REPORT LANGUAGE)

We urge Congress to hold Amtrak accountable for the bottom line, but to be as restrained as possible with regard to specific directives as to how to get there.

The history of Amtrak is replete with examples of “good legislative intentions” which sometimes have resulted in higher costs rather than reform—including directives in the 1980's regarding food service.

The more the law contains specific directives about how to manage the company, the greater the danger that management focus would be distracted from doing what is best for the bottom line, and that responsibility for results would shift from management to the sources of the specific directives.

#### FUNDING LEVELS

The Bush Administration's request of \$900 million—30 percent below the current level of \$1.3 billion—would not keep the trains running. The administration characterizes its budget request as a “reward” for progress that Amtrak has made on reforms, but the numbers are clear.

—Debt service is estimated at \$295 million. Amtrak has taken on no new debt since June, 2002. From September, 2002, to December, 2005, total outstanding debt fell by \$300 million—from \$3.9 billion to \$3.6 billion.

—The operating grant requirement is estimated at \$498 million, which Amtrak's Board says “represents a significant stretch goal . . . \$42 million below the approved fiscal year 2006 budget [of \$540 million] and \$88 million below the DOT Inspector General's baseline operating budget.”

—Amtrak seeks \$730 million for capital (not counting \$177 million in non-Federal funding), and \$75 million for working capital.

If a \$900 million Federal grant did not cause an immediate shutdown, it certainly would begin a visible, downward spiral in service quality and reliability, due to elimination of rolling stock heavy overhauls and of work on infrastructure. Chances would grow that the failure of a moveable bridge would end Boston-New York service.

After debt service and operations (the first two bullets above), only \$107 million would remain for capital. This would be almost totally consumed by the \$90 million Amtrak seeks for “investment required to address legal and regulatory require-

ments, including NY tunnel life safety program, environmental remediation and pollution control, police and security, FRA-mandated rolling stock investment, and initial ADA station compliance work.”

#### LONG-DISTANCE TRAINS

Amtrak’s long-distance and shorter corridor services both are important, complementing each other and other U.S. transportation.

- Long-distance trains continue to show strength. In fiscal 2005, they carried an average 356 passengers per run, and the number on board at any one time (passenger-miles-per-train-mile) was 171. Sleeping car ridership was up 30,000 (or 6 percent) from fiscal 2004. Sleeping car passengers accounted for 15 percent of ridership but 39 percent of revenues on these trains.
  - A substantial number of coach passengers on long-distance trains travel very long distances—55 percent traveled at least 400 miles, 25 percent at least 800 miles. These fiscal year 2005 figures understate trip length since they are “unlinked trips,” that is, for example, a Washington-Milwaukee passenger must change trains in Chicago and thus is recognized as a Washington-Chicago passenger and a Chicago-Milwaukee passenger.
  - Therefore, elimination of dining cars would hurt coach ridership. Any analysis that assigns 100 percent of dining-car costs to sleeping car passengers is wrong. Amtrak reports that usage of dining cars by coach passengers has been increasing with the new “simplified dining service” Amtrak has introduced on most trains in the past several months.
  - Sleeping cars and food service are needed to attract discretionary travelers. If trains were operated only for those without any other option, “bottom fishing” would produce lower-volume, higher-unit costs and lower economic efficiency.
  - On a passenger-mile basis, corridor and long-distance trains require similar levels of operating support. [A passenger-mile is one passenger traveling 1 mile.] In fiscal year 2004, the “fare box loss” per passenger-mile actually was higher (“worse”) for short-distance trains (25 cents) than for long-distance trains (15 cents).
  - Long distance trains are the only intercity passenger trains in 25 States.
  - One cannot simply “buy everyone a plane ticket cheaper than running an Amtrak train” because hundreds of cities that Amtrak serves have no access to discount airline service. In addition, many Americans cannot or chose not to fly.
- Thank you for considering our views. We stand ready to help the subcommittee as we are able, including by providing such further information as you may request.