S. HRG. 110–381

Senate Hearings

Before the Committee on Appropriations

Departments of Transportation and Housing and Urban Development and Related Agencies Appropriations

Fiscal Year 2008

110*th* CONGRESS, FIRST SESSION

H.R. 3074/S. 1789

AMTRAK
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
DEPARTMENT OF TRANSPORTATION
NONDEPARTMENTAL WITNESSES

Departments of Transportation and Housing and Urban Development, and Related Agencies Appropriations, 2008 (H.R. 3074/S. 1789)

S. HRG. 110–381

DEPARTMENTS OF TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

ON

H.R. 3074/S. 1789

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2008, AND FOR OTHER PURPOSES

Amtrak
Department of Housing and Urban Development
Department of Transportation
Nondepartmental witnesses

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TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

THURSDAY, FEBRUARY 8, 2007

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

The subcommittee met at 9:30 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

Present: Senators Murray, Lautenberg, Bond, Bennett, Brownback, Stevens, Alexander, and Allard.

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

STATEMENT OF HON. MARY E. PETERS, SECRETARY

ACCOMPANIED BY PHYLLIS F. SCHEINBERG, ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. The hearing will come to order.

Today the Subcommittee on Transportation and Housing and Urban Development, and Related Agencies, is holding its first hearing of the year, and before we begin I do want to welcome four new members to the subcommittee: Senator Alexander, Senator Feinstein, Senator Johnson, and Senator Lautenberg. And I also want to give a warm welcome to our principal witness today, Transportation Secretary Mary Peters.

Today's hearing comes at a very important time. While the official purpose of this hearing is to review the President's transportation budget for 2008, the reality is that Congress has not yet enacted a transportation budget for 2007.

Currently pending in the Senate today is H.J. Res. 20, the joint funding resolution. That bill was developed by both the House and the Senate Appropriations Committees on a bipartisan basis. Its goal is to finalize the funding levels for the Department of Transportation and most other departments for the remainder of this year. It was made necessary by the fact that the last Congress never completed the appropriations process before adjourning.

The joint funding resolution for the most part freezes programs across the Government at their 2006 funding level. Importantly, however, the bill also makes necessary funding adjustments to deal with critical programs that cannot and should not endure a funding freeze.

In the case of the Transportation Department, we were not prepared to ignore our responsibility to ensure safety in our skies, on our highways, and on our railroads. The bill provides funding increases totaling more than a quarter billion dollars to ensure that there are adequate numbers of personnel to control air traffic, as well as inspect and enforce safety rules governing commercial airliners, trucks, railroads, and pipelines. Without this additional funding, the FAA administrator told us that she would be required to put every air traffic controller and every aviation inspector on the street for 2 weeks without pay between now and the end of September.

The joint funding resolution currently before the Senate boosts funding for Amtrak to $1.3 billion. Under the continuing resolution, Amtrak's funding would remain $200 million lower than it was last year. That would endanger passenger rail service across the country, as well as the annual maintenance expenses that must be made to ensure safe operations in the Northeast Corridor.

Finally, the bill pending before the Senate provides an additional $3.75 billion in additional formula funding for our Nation's highway and transit systems. That funding will serve to create almost 160,000 new jobs, while alleviating congestion. It will be an important infusion of cash to the States to help them address their most pressing bridge replacements, highway widenings, and safety enhancements. When you look at all the highway needs across my State of Washington, the additional $71 million the State will receive is urgently needed and will be put to work right away.

The Department of Transportation, like most of the rest of the Government, is now operating under the terms of a continuing resolution that makes none of the funding adjustments I just talked about. It simple freezes all programs or cuts them to reflect the cuts that were passed in the House of Representatives during the last Congress. That CR will expire a week from today, February 15.

Now, some of our Senate colleagues have suggested we should not adopt this new joint funding resolution, and have advocated that we extend the existing CR through the remainder of the year. They are saying that we should forego these desperately needed funds for highways and transit, that we should allow the FAA to furlough all its safety personnel for 2 weeks, and that we should allow our aviation, truck, railroad, and pipeline inspection work force to dwindle.

As part of this hearing, we will learn Secretary Peters' views on that question. And very soon, Senators will have their first opportunity to vote on this question one way or another. Are we going to debate and pass the new joint funding resolution, or will we ignore our responsibility to transportation safety and investment for an entire fiscal year.

Now for 2008 the President has sent us a transportation budget totaling just under $67 billion. That represents an increase of $4.6 billion above the 2007 level that we hope to achieve by enacting the joint funding resolution. This 7.3 percent increase is a substantial boost, given the tight funding we find across the rest of the President's budget.

My biggest concern with this budget proposal is not what it does do but what it doesn't do. It seeks substantial new resources for one critical need, alleviating highway congestion, while providing little growth and even less emphasis on an equally critical need, reducing highway fatalities.

As a resident of the Puget Sound region, I can attest to the critical national need to address congestion. Congestion is keeping parents from their children and workers from their jobs. My State serves as a critical cargo gateway from Asia. Our future prosperity requires that we can get cargo out of our ports, onto highways and railways that are moving, not clogged with congestion.

The administration's budget proposes $175 million for a series of new programs designed to relieve congestion. We are told that this investment is part of a new comprehensive, department-wide national strategy to reduce congestion. The Secretary is serious about this initiative, and I am willing to give it a very careful look.

But I also have to ask, where is the new comprehensive, department-wide national strategy to reduce highway deaths? Back in early 2003, when she was serving as our Federal Highway Administrator, Secretary Mary Peters noted that there were 41,000 highway-related fatalities annually and said we were facing a national safety crisis. She was right.

Tragically, however, the only thing that has happened since then is that the number of highway fatalities have increased, and it's not just the number of deaths that have increased. The fatality rate has increased as well, and the numbers are all going in the wrong direction. The 41,000 fatalities that alarmed the Secretary back in 2003 have now grown to more than 43,400. That is the highest number recorded in 15 years.

The Bush administration established a performance goal for the Department of Transportation to reduce highway fatalities to 1 fatality per 100 million vehicle miles traveled by 2008. Unfortunately, for 2005, the most recent year for which we have data, the rate was 45 percent higher than that, 1.45 fatalities.

The administration's budget documents indicate that the Department, instead of redoubling itself to achieving its goal, is now pushing off this goal until 2011. The Bush administration is lowering the bar when it comes to saving lives, and I personally find that disappointing. The growing carnage on our highways cries out for national attention and national leadership, and instead we see resignation and retreat.

The Department of Transportation has many different responsibilities. One of the jobs of this subcommittee is to make sure that the policy direction and funding we provide is balanced between all the transportation modes and all the challenges the department faces. I do commend the department for trying to seriously reduce congestion on a department-wide basis and asking for some innovative funding to back that up. But the department I hope also will bring an equally serious focus to reducing highway deaths. With the statistics moving in the wrong direction, one thing that is clear is that the current strategies are not working.

In the next few weeks our subcommittee will have a special hearing on just this topic with the National Highway Traffic Safety Administration, the NTSB and other officials to address the problem, and I encourage all of our subcommittee members to attend that.

With that, I would like to recognize my partner and ranking member, Senator Bond, for any opening remarks he would like to make.

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you very much, Madam Chair, and I congratulate you and wish you well on assuming the chair of Transportation, HUD, and Related Agencies. I congratulate you on your new responsibilities, and based on our good working relationship in THUD over the last 2 years, I know we will have a good relationship in balancing the many needs and the important issues that are within what is left of our jurisdiction.

And it is with sadness that as I turn the gavel over to you, half the gavel is gone, with all the things that have been taken away from our jurisdiction. Now, it's no secret that I would have preferred to have remained chair, but I have the utmost respect for my partner from Washington's abilities and sensitivities to the many issues and points of controversy that are parts of our responsibility. We share many of the same concerns and objectives with regard to the programs and activities within the THUD subcommittee.

Again, we appreciate the close working relationship that we have had and our staffs have had in crafting the THUD portion of this ominous—excuse me, I used to call it "ominous"—omnibus appropriations bill called a CR. I'm glad we have an omnibus and not a CR, because a CR would have left us terribly underfunded, although I do share the concerns of many, my partner to the left, on the fact that Milcon was not funded, which the overall committee is going to have to address very, very shortly.

And now to turn to the new Secretary, Madam Secretary, congratulations to you. We are absolutely delighted to see you back. Now that it's snowing in Phoenix, it may not be so bad to come back to Washington. We've worked very closely over the last couple of years, during the passage of SAFETEA–LU, when you were Administrator of FHWA, and I know that we will continue to have a good working relationship.

As the chair has noted, the 2008 budget for DOT proposes $67 billion in gross budgetary resources. Similar to last year, however, the administration chose to underfund popular programs such as the Airport Improvement Program, Amtrak, and new starts. Nevertheless, Congress is not likely to provide lower levels of funding in 2008 than what was done under H.J. Res. 20 covering the remainder of 2007.

I am pleased that the administration remains committed to meeting the guaranteed funding levels for highways as authorized under SAFETEA–LU. These funds will allow an increased investment in key highway and transportation projects which will complement and assist the continuing growth of the economy.

However, the administration chose to cancel the revenue-aligned budget authority put in place, I might add, as part of the Bond-Chafee amendment to a previous highway bill. I'm concerned over the loss of funding, since SAFETEA–LU calls for an upward adjustment if receipts into the Highway Trust Fund exceed what we had anticipated. This results in a $631 million loss for 2008, and as one of the original co-authors, I need to listen to the people in Missouri and other States to see where we should go in addressing our additional highway needs nationwide.

The administration also proposes a rescission of the unobligated balance of contract authority for demonstration projects authorized under ISTEA in 1991. These funds will provide for a $175 million pilot to address congestion, which is, no doubt about it, a major problem for our economy and families across the Nation, and we see it here in Washington as it impacts both this city and rural and urban areas across the country.

Different approaches are needed for all our modes of transportation, and I will carefully review the administration's proposals to see whether these new ideas will actually provide us with ideas for the future or whether we're just continuing down the same path where we get little bang for lots of bucks. I continue to believe that while congestion on our rail and port systems are important areas to address, Highway Trust Fund dollars should be used only to address congestion on our Nation's crumbling road structure and not on other modes of transportation.

Now, Madam Chair, I'm unclear on the proposed $900 million for Amtrak. Amtrak will directly receive $800 million for capital spending grants, efficiency incentive grants, and $100 million dedicated to issue capital matching grants to States for intercity passenger rail. While I remain critical about the expenditure, the manner of expenditure of Federal funds for Amtrak, I question whether this funding level will meet anticipated expenses for 2008, considering H.J. Res. 20 includes $1.29 billion for Amtrak.

I continue to look for the administration to outline a precise vision for Amtrak and maintain pressure for the organization to meet its overall objectives and goals Congress has set. If detailed transportation improvement plans were provided by Amtrak, we would be better able to understand what the needs are and whether or not providing additional funds for passenger rail service is effective and efficient.

Another area I look forward to working with the department on FAA reauthorization. I know the administration is looking at a hybrid funding proposal involving user fees, increased fuel taxes, and general revenue. The details I guess we'll get next week. While it's too soon to pass judgment on the reauthorization without seeing the total picture, it's my hope the proposal will be fair and equitable to all parties involved in the aviation system: both commercial and general aviation.

I think it's critically important we get it right when dealing with how to fund the next generation of our air system. It's obvious FAA faces major challenges adapting to future changes such as the expanded use of very light jets and the anticipated increase in overall air traffic. Couple this with the complex challenge of managing a modernization program as large as the Next Generation Air Traffic System, and it's clear that the department and FAA will have their hands full. I know that Senator Murray will conduct further hearings on the FAA, and we look forward to working with you, Madam Secretary, and Administrator Blakey.

Another area of particular concern to me is the proper way to adjust the corporate average fuel economy or CAFE standards for passenger cars and light trucks. I was pleased to hear in the President's State of the Union that the administration proposes to reform and increase CAFE standards for passenger cars, using sound science and detailed cost-benefit analysis, and without impacting the safety of the motor vehicle fleet. In addition to the proposal for cars, the President supported the continued increase in fuel standards for light trucks and SUVs under an extension of the current light truck rule.

Nevertheless, we need to ensure that we make appropriate CAFE reforms that will not discriminate against domestic automakers in favor of foreign automakers, and that is a concern. It's important for Members of Congress and the traveling public to realize that CAFE is very complex and requires scientific analysis. In recent studies, several leading engineering and highway safety organizations, including the National Academy of Sciences and the National Highway Traffic Safety Administration or NHTSA, have warned that any significant increase in CAFE standards could have adverse impacts both on safety for the traveling public and the economic health of an already struggling U.S. automotive industry.

As one of the leaders in pushing for NHTSA to determine what technology is available to ensure increased fuel mileage without raising safety concerns, I think I should note that NHTSA was the one, after the first major increases in CAFE, that estimated that roughly 2,000 additional lives were lost on the highway when the original CAFE proposals led to a significant decrease in weight in cars without having the technology to achieve the greater mileage. The lighter cars did increase highway fatalities, a significant number of them, even in one-car crashes.

PREPARED STATEMENT

But, in closing, I do have concerns about the administration's budget and funding proposals as proposed for this committee, especially the funding proposed for housing programs that are the safety net for many low-income families, including seniors and persons with disabilities, as well as many of the other funding proposals that are contained in the jurisdiction of other subcommittees. How we meet these demands will be a challenge for the Appropriations Committee and the Congress.

Madam Chair, I thank you.

[The statement follows:]

PREPARED STATEMENT OF SENATOR CHRISTOPHER S. BOND

Good morning Madam Secretary. I'm glad to see you back with the Department. We worked closely over the last couple of years during the passage of SAFETEA when you were the Administrator of the FHWA and I look forward to continuing our working relationship as well as hearing your comments today on the overall budget for all modes of transportation within the Department.

I also look forward to continue working with Senator Patty Murray as the new chair of the Transportation, HUD and Related Agencies Appropriations Subcommittee. I congratulate you on your new responsibilities and, based on working together on THUD over the last 2 years, I think we will continue to have a good relationship in balancing the many needs and important issues that are within our jurisdiction. While I would have preferred to remain chairman, I have the utmost respect for Senator Murray's abilities and sensitivities to the many issues and points of controversy that are part of our responsibilities. I know that we share similar concerns and objectives with regard to many of the programs and activities that are within the THUD appropriations subcommittee.

The fiscal year 2008 budget for DOT proposes $67 billion in gross budgetary resources. Similar to last year, the administration chose to under fund popular programs, such as the Airport Improvement Program, Amtrak and the New Starts. Nevertheless, the Congress is not likely to provide lower levels of funding in fiscal year 2008 than what is done under H.J. Res. 20, covering the remainder of fiscal year 2007.

I am pleased the administration remains committed to meeting the guaranteed funding levels for highways as authorized under SAFETEA. These funds allow an increased investment in key highway and transportation projects, which will complement and assist the continuing growth of the U.S. economy. However, the administration chose to cancel RABA, "revenue aligned budget authority". I am concerned over the loss of funding since SAFETEA calls for an upward adjustment if receipts into the Highway Trust Fund exceed what we had anticipated when we were drafting the bill. This results in $631 million for fiscal year 2008. As one of the original authors of this concept, I will need to talk to people in Missouri and other States and see where we should go from here in addressing our additional highway needs nationwide.

The administration also proposes a rescission of unobligated balances of contract authority for demonstration projects authorized under ISTEA in 1991. These funds are to be provided for a $175 million pilot to address congestion. As everyone knows, congestion is a major problem for both our economy and families across the Nation. Congestion impacts both rural and urban areas. Different approaches to addressing the issue are needed for all of our modes of transportation. I need to review carefully the administration's proposal to see whether we are spending these crucial dollars on pilots that will actually provide us with ideas for the future, or whether we are just continuing down the same path where we get little bang for the biggest bucks. I continue to believe that while congestion on our rail and port systems are important areas to address, highway trust fund dollars should be only used to address congestion on our Nation's crumbling road structure, and not on other modes of transportation.

I am still unclear on the proposed $900 million for Amtrak. Amtrak will directly receive $800 million for Capital Spending Grants and Efficiency Incentive Grants and $100 million dedicated to issue capital matching grants to States for intercity passenger rail projects. While I remain critical of Federal funds for Amtrak, I question whether this funding level will meet anticipated expenses for fiscal year 2008 considering H.J. Res. 20 includes $1.29 billion for Amtrak. I continue to expect the administration to outline a precise vision for Amtrak and maintain pressure for the organization to meet its overall objectives and goals Congress has set. If detailed transportation improvement plans were provided by Amtrak, we would be better able to understand what the needs are, and whether or not providing additional funding for passenger rail service is both effective and efficient.

I look forward to working with the Department on the reauthorization of the FAA. I am aware that the administration is looking at a hybrid funding proposal involving user fees, increased fuel taxes and general revenue. I understand the exact details of the long awaited reauthorization proposal will be unveiled next week. While it is too soon to pass judgment on the reauthorization without seeing the full picture, it is my hope that the proposal will be fair and equitable to all parties involved in the aviation system: both commercial and general aviation.

I think it is critically important that we get it right when dealing with how to fund the next generation of our aviation system. It is obvious that the FAA faces major challenges in adapting to future changes in aviation, such as the expanded use of very light jets and the anticipated increase in overall air traffic volume. Couple this with the complex challenge of managing a modernization program as large as the Next Generation Air Traffic System and it is clear that the Department and the FAA will have its hands full. I am certain Senator Murray will conduct further hearings on FAA where we can better understand and address these issues, and we look forward to working with both you and Administrator Blakey on these immense challenges.

Another area of concern is the proper way to adjust Corporate Average Fuel Economy (CAFE) standards for both passenger cars and light trucks. I was pleased to hear in the President's State of the Union that the administration proposes to reform and increase CAFE standards for passenger cars using sound science and detailed cost/benefit analysis and without impacting the safety of the motor vehicle fleet. In addition to the proposal for cars, I was glad to hear that the President supports the continued increase in fuel standards for light trucks and SUVs under an extension of the current light truck rule. Nevertheless, we need to ensure that we make appropriate CAFE reforms that will not discriminate against domestic automakers in favor of foreign automakers and that appears to remain a concern under the proposal.

It is important for members of Congress and the traveling public to realize that CAFE is a complex issue that requires much thought and careful scientific analysis. In recent studies, several leading engineering and highway safety organizations including the National Academy of Sciences and NHTSA have warned that any significant increases in CAFE standards will have adverse impacts on the both safety of the traveling public and the economic health of an already struggling U.S. automotive industry.

I close by noting that I have many concerns about the President's budget and funding proposals, both as proposed for this subcommittee (especially the funding proposed for housing programs that are a safety net for many low-income families, including seniors and persons with disabilities) as well as many of the funding proposals that are contained in the jurisdiction of other subcommittees. How we meet these demands will be a challenge for both the Appropriations Committee and the Congress.

Thank you, Madam Chair.

Senator STEVENS. Madam Chair, I have another committee. I'd like to submit a question for the record concerning the Indian Roads Program. Would you do that for me, please?

PREPARED STATEMENTS OF SENATORS FRANK R. LAUTENBERG AND SENATOR SAM BROWNBACK

Senator MURRAY. The Senator has that right, and it will be submitted for the record. Senator Lautenberg and Senator Brownback have also submitted statements for the record, which will be included as well.

[The statements follow:]

PREPARED STATEMENT OF SENATOR FRANK R. LAUTENBERG

Madam Chair, statistics tell a story. When it comes to transportation, the story they tell is of a system that is costly to consumer and is not safe.

In 2005, more than 43,000 families lost a loved one in a car crash. And traffic on our roads costs Americans more than $60-more billion dollars a year—or 2.3 billion gallons—in wasted fuel.

In 2006, flight delays were the worst they have been in 6 years, according to a report released yesterday by the Department of Transportation. One in four flights arrived or took off late. Because of delays, it often takes 2 hours to fly from here to New York and New Jersey, and you are only airborne for 36 minutes.

But this budget does not offer a solution solve these problems.

This budget seems to feed our addiction to oil. President Bush proposes full funding of highway programs but cuts to transit funding by more than $300 million. Cuts to Amtrak of almost $500 million would tear apart the national passenger rail system or send the company into bankruptcy.

Who suffers here? Not the oil companies. Last year, Exxon made some $40 million in profits. Working families pay the price for our failure to act—people who trying to get to work, or get home from work. People who need transit options.

I look forward to hearing witness testimony today.

Thank you, Madam Chair.

PRESS RELEASE, THURSDAY, FEBRUARY 8, 2007

WASHINGTON, D.C.—United States Senator Frank R. Lautenberg (D-NJ) issued the following statement during today's hearing of the Appropriations Subcommittee hearing on the President's budget request for the Department of Transportation for fiscal year 2008.

"For a president who used his State of the Union Address to say that we are too dependent on foreign oil, it is ironic that his budget proposal would slash transit funding by $300 million, affecting 33 million transit riders each weekday.

"Instead of making air travel safer, the President wants to leave old equipment in place and air traffic towers low on staff. Instead of giving commuters more choices by bringing Amtrak into the 21st Century, President Bush wants to give people fewer choices by destroying the nation's passenger rail system.

"Without adequate funding for Amtrak, rail service for New Jersey commuters who travel along the Northeast Corridor everyday could be in jeopardy.

"Given how crowded our skies and highways are becoming, I would have thought the President would propose more choices for New Jersey's commuters. Instead, he proposed fewer.

"I look forward to working with my colleagues to get this budget request on the right track."

Is The Bush Fiscal Year 2008 Budget Proposal Addicted to Oil?

Cuts funding for transit projects by more than $300 million when transit ridership is growing some 33 million transit riders each weekday.

Cuts funding for Amtrak by 38 persent—$500 million—which is insufficient to operate National Passenger Rail System.

PREPARED STATEMENT OF SENATOR SAM BROWNBACK

Madame Secretary, I want to thank you for coming before this committee today to discuss the President's budget request for our Nation's transportation system. Before I go into my questions, I'd like to take a moment to speak on a topic that is of great importance to me and the people of Kansas, and that is aviation.

You recently traveled to Wichita and made stops at some of the various aircraft manufacturers who call my State's largest city home. Kansans are proud of their legacy as the designers and producers of the world's finest aircraft, and the Air Capital of the World is home to five major aircraft manufacturers: Cessna, Spirit Aerosystems, Hawker Beechcraft, Boeing, and Bombardier Learjet. Last year, these companies employed over 31,000 people with a combined payroll of $1.65 billion. Additionally, they are the driving force of south-central Kansas' economy: they purchased over $1.9 billion in supplies from other Kansas-based companies. It is estimated that over 20,000 people are employed by subcontractors that provide services to the big five. Because of this, any indication of wholesale changes in the way the FAA does business sends shivers down the spines of thousands of my constituents.

This budget, which we assume is a precursor to the administration's detailed plan for FAA modernization, proposes to make large changes to the way in which the aviation trust fund is financed. Significantly, I read here that the administration wants to shift from our current model to a user-fee based model. Also, I read that the administration will likely recalibrate the fuel tax rates for general aviation.

First, I want to say that I understand the pressing need for the United States to update and modernize its air traffic control systems and get to a point at which the skies are open to fair usage by both airlines and private aircraft owners. However, I'm confused as to why the administration has linked the ability of the FAA to modernize with placing a greater share of the burden for paying for such updates on general aviation.

Here in front of me, I have estimates that come from the President's fiscal year 2008 budget request, and these estimates indicate that over the next 5 years, the current financing structure for the aviation trust fund would actually result in more receipts than would a user-fee alternative. These estimates note that under the current financing structure, receipts into the trust fund would increase at either 5 percent or 6 percent per year until 2012, resulting in net receipts for those 5 years of $68 billion. These estimates further note that under a user-fee structure, receipts into the trust fund would increase anywhere from 2 percent to 8 percent per year with net receipts coming in at $67.1 billion. Additionally, the FAA's budget levels have increased at a steady rate for the past 12 years. These numbers indicate that the FAA has been working with a stable increase in receipts from year to year for at least 12 years.

If changing the financing structure of the trust would result in fewer receipts in the future, and the current structure has produced a stable funding mechanism in the past, why change it? I simply don't understand how the administration intends to modernize our air traffic control system by instituting a financing mechanism that shifts a greater financial burden to a marginal user of the system—general aviation—and results in fewer receipts into the trust fund.

As to the budget's insinuation that the FAA will raise fuel taxes for general aviation, I want to remind the administration of a fundamental principle of economics: if you tax it, you get less of it. If you raise taxes on general aviation, you'll have fewer people flying small aircraft. General aviation users are sometimes portrayed as corporate fat cats who won't even notice a tax increase. However, the numbers tell a different story. Typically in 1 year, approximately 80 percent of general aviation flight hours are consumed by people who are using single piston aircraft. In other words, these are small business owners and independent pilots who use only the smallest of small aircraft. These are the people who would be harmed the most by a tax increase on fuel. If a sharp tax increase becomes a reality, I'm sure many of them would find it uneconomical to fly.

I hope you understand my concern with the administration's proposal on user fees and fuel tax increases. If instituted, they would have an immediate effect on my State's economy.

Senator MURRAY. Senator Bond, thank you for your statement, and I am looking forward to getting the 2007 bill behind us and working together with you on this committee in a bipartisan way, as we have done so well in the past. I look forward to working with you.

Senator BOND. Thank you.

Senator MURRAY. For all the committee members, we have 21 members on this committee, a large committee, so knowing the Secretary's time is concise this morning, we are going to have her make her statement and then we will have rounds of questions, 6 minutes per Senator, alternating between sides based on when you arrived. So we will move forward to Secretary Peters' opening statement and then to questions. Secretary Peters.

STATEMENT OF HON. MARY E. PETERS

Secretary PETERS. Madam Chairman and members of the subcommittee, I want to thank you—

Senator BOND. Madam Secretary, could you pull that microphone—

Secretary PETERS. Will do, sir. Madam Chairman and members of the subcommittee, I want to thank you for the opportunity to be here with you today to share the highlights of President Bush's fiscal year 2008 budget plan for our Nation's transportation programs. Transportation, as you all know so well, lies at the core of the freedom we enjoy as Americans—freedom to go where we want, when we want; freedom to live and work where we choose; and freedom to spend time with our families.

Our goal is to deliver a transportation system that frees people to make daily decisions confident that they can reach their destination safely, without worrying about how they will get there or even if they can make it on time. To reach that goal, the President's budget requests $67 billion for America's transportation network. Nearly one-third of the department's resources will be devoted to transportation safety.

TRANSPORTATION SAFETY

Madam Chairman, you are exactly right. There is no acceptable fatality rate when it's our loved ones, our communities, who are at risk. The President's budget proposes resources for equipping our Nation's airports and roadways with new safety technologies for targeting growing problems like motorcycle crashes, something that I have had a little experience with, and for supporting aggressive inspection of trucks, tracks, and pipelines to ensure the highest safety standards are met.

In addition to supporting our efforts to raise the bar on safety, the President's budget will help cut congestion and bring our transportation system into the 21st century. For those who use our aviation system, it provides a framework for reforming our approach to paying for the safety and technology improvements needed to keep air travelers, freight, and pilots on schedule.

FAA REAUTHORIZATION

We have put together a package that will tie what users pay to what it costs the Federal Aviation Administration (FAA) to provide those services with air traffic control. Our plan puts incentives in place that will make the system more efficient as well as more responsive to the needs of the aviation community. Without reforms, we can all expect to spend more time waiting in airports or strapped in an airplane seat, sitting at the end of a runway.

While we will soon announce the details of our aviation proposal, I can tell you that the budget targets almost $175 million for a 21st century satellite navigation system that will replace the current dated air traffic control architecture, as well as over $900 million for additional capital projects that will support the move to this Next Generation system. For travelers, this transformation is going to bring greater convenience and reliability to the state-of-the-art technology that can safely handle dramatic increases in the number and the type of aircraft using our skies without being overwhelmed by congestion.

CONGESTION RELIEF

And for drivers stuck in traffic, the budget proposes a record $42 billion in funding for highway and highway safety programs. Our budget proposes resources to help get traffic moving on clogged highways and city streets by directing $175 million to support the comprehensive congestion relief initiative that was announced last year, and thank you, Madam Chairman, for recognizing that.

This funding will help our growing metropolitan areas that want to lead with leading edge solutions. It will help distribute real-time traffic information to commuters, so that they will know prior to traveling when the roads are congested and be able to make alternative travel plans. And it will allow us to accelerate development of the trade and travel corridors that will be key to moving freight and people without congestion in the future, particularly at our ports of entry.

Accessible and cost-effective transit projects also help fight congestion, and the budget provides $9.4 billion for transit programs. The funding includes $1.3 billion for major projects that will help provide commuter rail and other travel options in large urban areas, and another $100 million will support transit alternatives in smaller communities and in rural areas.

FUNDING TRANSPORTATION INVESTMENTS

Even as we make these investments, we realize that a business-as-usual approach to funding these programs will not work much longer. There is, and will continue to be, money coming into the Highway Trust Fund from gasoline taxes, and revenues are growing every year, but so is spending, and at an even faster rate. The bottom line is that we're spending more than we're taking in, and we've nearly run through the balances that had built up in the fund.

The highway funding problem is not going to go away, nor can we put it off until the last minute. So as we go through this budget process, I hope to start working with Congress now on solutions for long-term funding. In the long term, we need serious reform of our approaches to both financing and managing our Nation's transportation network to win the battle against congestion.

Serious reform must include reform of the legislative process itself. The explosive growth of earmarks in recent years has hit transportation programs especially hard, and I sincerely appreciate the decision by this subcommittee not to include appropriations earmarks in the continuing resolution. I support President Bush's call for transparency and a 50 percent reduction in earmarks in the coming year. As a former State DOT director, I strongly support giving States the freedom to set priorities and use Federal dollars where they will provide the maximum benefits for their citizens.

PREPARED STATEMENT

Madam Chairman, members of the subcommittee, thank you so much for giving me the opportunity to speak with you today. I look forward to working with each of you and the transportation community to ensure a safe transportation system, and to begin to break America free from stifling congestion. I look forward to answering your questions, and I am also joined here today by our Assistant Secretary for Budget and Programs, Phyllis Scheinberg. Thank you.

[The statement follows:]

PREPARED STATEMENT OF HON. MARY E. PETERS

Madam Chairman, and members of the subcommittee, thank you for the opportunity to appear before you today to discuss the administration's fiscal year 2008 budget request for the U.S. Department of Transportation. Transportation lies at the core of the freedom we enjoy as Americans—freedom to go where we want, when we want . . . freedom to live and work where we choose . . . and freedom to spend time with our families. Our goal is to deliver a transportation system that frees all of us to make daily decisions confident that we can reach our destinations safely without worrying about how we will get there, or if we can make it on time. To reach that goal, President Bush is requesting $67 billion for America's transportation network in the next fiscal year.

For those who fly, the President's budget includes $14 billion for the Federal Aviation Administration (FAA). The budget includes $175 million to support the transition to a 21st Century satellite navigation system that will replace the current dated air traffic control architecture and over $900 million for ongoing capital projects that will also support the move to this Next Generation system. For the flying public, this investment is critical if we are to deploy the state-of-the-art technology that can safely handle dramatic increases in the number and type of aircraft using our skies, without being overwhelmed by congestion.

Technology is critical, but the budget also includes significant resources to hire and train the people that keep the system safe. The fiscal year 2008 budget supports a total of 1,420 new air traffic controllers that will help replace controllers leaving the system due to retirements and other attrition. Based on our current projections this will result in a net gain of 144 controllers.

Most importantly, the fiscal year 2008 budget provides the framework of a new proposal that the administration will announce shortly to tie what users pay to what it costs the FAA to provide them with air traffic control and other services. Our plan puts incentives in place that will make the system more efficient and more responsive to the needs of the aviation community. Without reforms to help finance increased air traffic control capacity and modernization, we can all expect to spend more time waiting in airports or strapped in an airplane seat, sitting at the end of a runway. We hope that there will be a vigorous debate about the structure of the system, and we look forward to working with the Congress to enact legislation later this year.

For drivers, the budget proposes a record $42 billion, consistent with the funding envisioned in the Safe, Accountable, Flexible, Efficient Transportation, Equity Act: A Legacy for Users (SAFETEA–LU) for highway construction and safety programs.

Building on our safety accomplishments over the last 6 years, this budget will allow us to target problem areas like motorcycle crashes and drunk driving. The President's budget includes $131 million for alcohol impaired driving countermeasures incentive grants as well as $124.5 million for Safety Belt Performance grants to encourage States to enact primary seat belt laws for all passenger motor vehicles.

Crashes not only cost precious lives, but also precious time for everyone waiting for the road to be cleared and re-opened. So our budget supports aggressive development of "Intelligent Transportation Systems," which put the latest technologies to work both to help eliminate crashes and to cut congestion. We believe that technology has a central role to play in reducing the growing costs of congestion and system unreliability. We are proposing $175 million to support specific elements of the comprehensive, department-wide National Strategy to Reduce Congestion announced last year. We hope to target these funds to support some of our most congested cities and explore cutting edge demonstrations of concepts such as time of day pricing, flexible transit systems, real-time traffic information, and improved incident management strategies. We also propose to accelerate development capacity and operations projects along our most congested trade and travel corridors through our Corridors of the Future program. We must get ahead of freight and travel trends along our most critical corridors to ensure that our interstate system continues to support the country's economic growth.

Accessible and cost-effective transit projects also help fight congestion, and the budget provides $9.4 billion for transit programs. The President's budget includes $5.8 billion to help meet the capital replacement, rehabilitation, and refurbishment needs of the existing transit system. Also included is $1.3 billion for major projects that will help provide new commuter rail and other transit projects in large metropolitan areas. Another $100 million will be used to implement a new program with a simplified funding process to help provide smaller scale transit alternatives such as rapid transit, to relieve congestion in both urban and suburban locations.

But even as we make these investments, we realize that a business-as-usual approach to funding these programs will not work much longer. There is—and will continue to be—money coming into the Highway Trust Fund from gasoline taxes, and the revenues are growing every year. But so is spending, and at an even faster rate. We are spending more than we take in, and we have nearly run through the balances that had built up in the fund.

We continue to be concerned in particular about the solvency of the Highway Account in the Highway Trust Fund. Our projections suggest that spending may outpace receipts before the end of fiscal year 2009. Because we do not want to burden the trust fund further, the budget proposal does not include $631 million for revenue aligned budget authority—or RABA. As we go through this budget process, I pledge to keep the Congress informed of the administration's revenue projections, and work closely with you to ensure that we do not outspend our resources.

Long-term, we need serious reform of our approaches to both financing and managing our transportation network to win the battle against congestion. We must fully explore the variety of mechanisms available to us to pay for transportation, as well as analyze the relationship between each mechanism and overall system performance. Serious reform must include reform of the legislative process itself. The explosive growth of earmarks in recent years has hit transportation programs especially hard. The law that funds highway, transit, and safety projects had over 6,000 of them, a practice that takes away from the freedom that States have to put the money where it will do the most good. I want to reiterate the President's call to cut the number and cost of earmarks in half this year—which is vitally important if we are to maintain a transportation network responsive to our customers' needs.

We also urge action on making needed reforms to the Nation's Intercity Passenger Rail system. The President's fiscal year 2008 plan provides a total funding level of $900 million for intercity passenger rail. Included in this total is $100 million for a new matching grant program that will enable State and local governments to direct capital investment towards their top rail priorities.

Our "safety first" priority includes ensuring the safe and dependable transport of hazardous materials throughout the transportation network. The President's plan provides $75 million for the Pipeline and Hazardous Materials Safety Administration's pipeline safety programs specifically for this purpose.

Finally, we are requesting $154 million to support a fleet of 60 vessels in the Maritime Security Program—ensuring ships and crews to assist the Department of Defense with mobilization needs. Our support is critical in supporting our military as they give so much to protect our way of life.

Freedom is at the core of our American values. But we lose a little more freedom each time we venture into traffic. This budget proposal takes a big step in helping us get our freedom back.

Thank you for the opportunity to appear before you today. I look forward to working with the Congress and the transportation community to ensure a safe transportation system that helps America break free of stifling congestion.

Senator MURRAY. Madam Secretary, thank you for your opening remarks, and I look forward to working with you. Before I move to my questions, I just want to mention that I know that Deputy Secretary Maria Cino has resigned and has moved on to other responsibilities. She did an outstanding job for the Department, and I just wanted to make special recognition of the work she did in challenging times, moving the agency forward. She has now been replaced by another capable woman, and as my friend Senator Mikulski says, with a lot of women and a few good men, we'll get some things done on transportation this year.

Secretary PETERS. Thank you, Senator.

FUNDING TRANSPORTATION SAFETY PROGRAMS

Senator MURRAY. So I'm delighted to be working with you.

Madam Secretary, as I said in my opening statement, the joint funding resolution that is now before the Senate provides an increase totaling $270 million for some of the critical safety programs in your agency. We included in that funding levels the Bush administration requested for 2007 air traffic control, aviation safety, railroad safety, truck safety, and pipeline safety. Our goal in doing that was to make sure that inspectors and enforcement agents were on the job rather than having to face furloughs.

I wanted to ask you, while you were in front of us today, if you could describe for us what would be the impact on your overall safety mission if we do not pass the joint funding resolution and instead freeze programs for the remainder of this year.

Secretary PETERS. Madam Chairman, as you indicated earlier, if we were funded at the 2006 levels without any opportunity for adjustment, it would have drastic consequences not only at the FAA but, as you mentioned, within other safety programs such as our rail safety programs, our truck inspection programs, and of course the air traffic controllers and safety inspectors of aviation maintenance facilities. We very much appreciate Congress considering adjustments to that process that would avoid these very negative consequences in our budget. We also would ask for, to the extent possible, flexibility in order to reprogram money within some of the funds so that we can meet these high priority safety needs.

Senator MURRAY. Thank you. And we're already into the fifth month of the current fiscal year. I assume your administrators need to know when this funding is coming fairly soon?

Secretary PETERS. Absolutely, Senator.

Senator MURRAY. Well, when it comes to hiring and employing adequate safety enforcement officials, tell me what the impact would be if we don't get this done by next Thursday.

Secretary PETERS. If not able to do this, we will see a serious decline in the number of safety inspectors, truck safety inspectors, rail safety inspectors, aviation inspectors, across-the-board in our programs. Madam Chairman, it would also eliminate some of our ability to work on important safety improvements that we need to make for the traveling public and those who use our aviation system.

Senator MURRAY. You used to serve as a State transportation commissioner as well as the Federal Highway Administrator. The joint funding resolution proposes to boost highway formula spending to all 50 States by $3.4 billion. It's already well into February, and the States still don't know whether they're going to see this 9.6 percent increase. Can you describe for us what State transportation commissioners are saying today?

Secretary PETERS. Certainly, Madam Chairman. It is critical for State transportation commissioners to know how much money will be available to them in order to execute their capital improvement programs. It is especially important to those States who have a construction season that will be upon us very shortly. If they are uncertain that this funding is coming and unable to let contracts accordingly, we can easily miss an entire construction season.

HIGHWAY FATALITY RATE

Senator MURRAY. Okay. Thank you very much for outlining that, and I hope that we can all work together to get this out soon, so that they can get to work and we don't miss that construction season, so thank you.

Let me go to what I talked about in my opening statement, about the recent highway fatality data that has been released by your department. It's very disturbing, frankly. The number of highway fatalities grew to 43,400. That is a rate of 1.45 fatalities per 100 million vehicle miles traveled. That figure, as I said, represents the highest number of fatalities since 1990, and in real terms it means 1 life lost on our Nation's highways every 12 minutes.

Given those really grim statistics, why is your Department actually weakening your goal of reducing the fatality rate to 1.0 next year?

Secretary PETERS. The Department of Transportation is firmly committed to meeting its goal of the 1.0 fatality rate, but we have realized that we won't be able to achieve that goal by fiscal year 2008 as planned. To move the fatality rate even one-tenth of a point requires preventing approximately 3,000 additional fatalities at current fatality and vehicle-miles-traveled (VMT) levels, but we recognize how important it is to do so.

The Department has assembled a cross-modal working group to identify new strategies and technologies that will help reduce highway fatalities. The working group is analyzing trends and taking into account new technologies that are coming into the fleet such as the electronic stability control. Electronic stability control has the promise of saving as many lives as the seat belt did when it first came into prevalent use.

We want to use these tools to establish new performance targets in key areas, to focus the Department's effort on the critical factors responsible for these highway fatalities, and especially this very tragic increase. These key focus areas include passenger vehicle occupants, non-occupants such as pedestrians and bicyclists, motorcycle riders, and large trucks and buses. These groups were chosen, in part, to cover the breadth of users.

Madam Chairman, I have heard you this morning about how important this is, and I promise you that I will personally go back and redouble our efforts to work on these safety issues, and call upon my colleagues throughout the transportation community to make this a very, very important issue this year.

Senator MURRAY. Well, I assume that you're not happy with having to move your deadline down 3 years on this.

Secretary PETERS. I'm not.

Senator MURRAY. And I guess I was really disappointed. You've got some great, bold new proposals in your budget on combating congestion, which we all agree is a problem, and I was hoping to see some bold new proposals that could take effect immediately, because these numbers have been coming at us for some time now and it's pretty disheartening.

So I hope that we can come back to this and talk about this again. And as I said, I will be having some hearings on this because I think it's something that we can't push down the road 3 years from now. With that, I'm going to turn to Senator Bond, and I will come back to this issue again in my next round.

HIGHWAY TRUST FUND

Senator BOND. Thank you, Madam Chair. And, Madam Secretary, we know that we've got some problems in both the funding for the Aviation Trust Fund and the Highway Trust Fund. We've seen several Highway Trust Fund runs showing a negative balance of approximately $200 million by 2009. This is, as I indicated, the first time to my knowledge that the administration has not proposed funding the RABA funds.

You, as a former chair of the National Commission for the Future of the Highway Trust Fund, have been deeply involved in this question for a long time. Does the administration have a position on how to address the Highway Trust Fund going down, going into the red by 2009?

Secretary PETERS. Madam Chairman and Senator Bond, we are working on that as we speak. As you mentioned, I chair a commission that was appointed by this Congress to look at the future of surface transportation funding, and it's something we take very seriously.

In the near term, Senator, the administration has begun to take action to protect the solvency of the Highway Trust Fund, and these actions will result in a projected $238 million shortfall in 2009, as opposed to the Congressional Budget Office (CBO) projection, which is $3.62 billion. The safeguards that we have taken in order to protect the solvency of the fund include, as you mentioned, our recommendation that we not include the $631 million in revenue aligned budget authority in the program this year.

Another step that we have taken is a new accounting procedure where we use flex funding from the highway account of the Highway Trust Fund to the mass transit account when the money is actually needed for outlays, rather than in one lump sum when the contract authority and obligation authority are transferred. Because the mass transit fund outlays at a slower rate, there isn't any harm to the fund in our doing this.

But, Senator, I agree with you. We have to do something, and we have to do something in the nearer term, not the longer term. And you have my commitment to work with you in the coming year to look at possible solutions.

FAA REAUTHORIZATION

Senator BOND. We'll look forward to that. Do you have any idea yet how the administration's plans to deal with the Aviation Trust Fund will impact the funds required from general revenue and the trust fund in this committee for the 2008 year?

Secretary PETERS. Senator, in our budget that we have submitted, we have outlined some of the initial steps that we would like to take in order to modify and modernize funding for the air traffic control systems and for aviation safety in our Nation. I wanted to take just a moment of your time to talk about some of the limitations that have resulted in less than optimal customer service within the current system.

Safety is, and must always be, our highest priority, but we have seen more delays and a lack of reliability due to capacity and capability of the current system. In fact, many of you, like myself this morning, saw this headline in our own Washington Post, "Flying Late, Arriving Light." Too often we have delays in our transportation system, and we seek to remedy those delays within our proposed funding.

I wanted to share with you some of the statistics that have alarmed me, and I think all of us, in terms of what we need to look to in the future. In less than 10 years the Nation's air space will be 30 percent more crowded than it is today.

By 2012, FAA projects 23 percent more passengers will be flying, and by 2025 U.S. commercial carriers will be carrying 1.4 billion passengers. That is nearly an 87 percent increase over the number of people who are flying today. In 2012, FAA projects that aircraft handled by FAA en route centers will be 17.6 percent higher than in 2006, and by 2025 that demand will increase to 86.5 million aircraft, an increase of 87 percent.

The current funding structure that's based largely on the price of a ticket provides no direct relationship between the taxes paid by the users and the air traffic services provided by the FAA. In order to meet both current and future consumer demand, we need to transition to a dynamic 21st century structure that ties the use of the system to the cost, a system that is equitable and a system that is responsive to demand.

We have developed a proposal in consultation with the Joint Program Development Office and many of our stakeholders. That plan is represented in the President's budget and will also be in our reauthorization proposal next week.

Senator BOND. Thank you very much, Madam Secretary. That headline about arriving late kind of struck home to me. Twenty days ago, in the middle of a snowstorm, I arrived at Reagan Airport in Washington, and the plane landed at 6:40. They said the gates were filled, so we sat on that plane, two other fully loaded planes, sat there during, I might add, during the first three quarters of the Colts-Patriots game, and we offloaded that plane at 9:20, 2 hours and 40 minutes later.

Needless to say, this does not generate happy feelings among the flying public. I commended the attendants on board for being nice. The pilot was funny. But the whole problem is absolutely unacceptable, which I have shared with the airline as well. But I also, just in case anybody thought I was not counting, I did count the time and I do remember it.

But I also fly, I have 1 million frequent flyer miles on small airplanes, and we need to find adequate funding for the AIP program, or the Nation's airport infrastructure is not going to keep up with demand. Are you going to have a proposal?

Secretary PETERS. Senator, yes, we are going to have a proposal. Proposed changes to the Airport Improvement Program (AIP) and the passenger facility charges will be forthcoming in our reauthorization proposal, which again, we hope to deliver to you next week.

Senator BOND. Thank you very much.

Senator MURRAY. Thank you, Senator Bond, for sharing.

Senator Lautenberg.

AIR TRAFFIC CONTROL

Senator LAUTENBERG. Thanks, Madam Chairman. This is the first time in 6 years that I have sat in the Transportation subcommittee, any subcommittee on Appropriations. In my previous service for 12 years I was either ranking or chairman of this subcommittee. I used to like that.

And I still like it, and I hate to think that I have to stay another 18 years to regain that position.

When I look at the proposal—and welcome, Madam Secretary—that has been offered in the President's budget, I see a lot of woe out there, and I don't mean W-H-O-A. I'm talking about W-O-E. In your testimony you introduced the fact that 1 in 4 flights these days is either late going or late coming, but late, and I see it.

I fly a lot to the New Jersey, New York airports. I live midway between LaGuardia and Newark Airports, depending on the traffic flow, and the flight is listed to be 36 to 40 minutes. That's after sometimes a 1-hour delay sitting on the ground or waiting for a gate when you finally get there. And so the proposal to increase the air traffic control population by 140-some, it's a rounded number, strikes me as being an impossible solution to the problem.

We know that light jets are going to be pouring into the sky, purportedly 5,000 of them in the next 10 years. That's not going to make it easier to manage the traffic. And when you look at the number, you're proposing over 1,000 hires but it's going to be a net of 140-something with the retirees.

How are we going to manage this traffic? We talk about safety being the principal factor, 45,000 people dying on the highways, and the delays in air travel that worry people, the unwillingness to finance Amtrak at a rate that makes sense. How do you justify that small number of additions to the controller population?

Secretary PETERS. Senator Lautenberg, you bring up a very important point, and we very much value our air traffic controllers who make sure that our airspace is safe. Accordingly, the President's budget provides funding to bring the total number of air traffic controllers to nearly 15,000.

An important fact is that controllers today operate the same number of aircraft as controllers did in the year 2000, and certainly there are more controllers and more airplanes in the sky today. We will have our updated controller work force plan out in March of this year. Administrator Blakey and I would be happy to share it with you at that time, Senator. The plan will demonstrate that we are ensuring adequate numbers of controllers.

Senator LAUTENBERG. Yes, but we're short now. It's estimated that there are almost 1,000 less air traffic controllers than 3 years ago, and the strain is obvious. So how do we look forward to managing what we've got? I don't see any way to do it, and I think the numbers are disastrously short.

AMTRAK

Let me talk for a minute about Amtrak. The company's last projection for fiscal year 2008 calls for almost $1.7 billion in Federal funding. So why does the President only request less than half of that, $800 million for Amtrak? Included in that, by the way, is a substantial amount of money owed on debt that must be paid each year. The number is over $285 million. What do we do to keep this thing going, besides going into bankruptcy?

Secretary PETERS. Senator, we also are concerned about Amtrak, and we are very pleased to have seen a lot of progress in the last year by the Amtrak board and the Amtrak management. The President's budget for 2008 does support Amtrak and recognizes——

Senator LAUTENBERG. How much? Can you tell me?

Secretary PETERS. I'm sorry, sir?

Senator LAUTENBERG. What kind of progress did we see in the last year?

Secretary PETERS. In terms of the Amtrak board, sir, they are controlling costs in a better way. They are looking at their operating subsidies and attempting——

Senator LAUTENBERG. I'm sorry. That's a little too general for me. There are still empty chairs on the Amtrak board. Have you yet been to an Amtrak board meeting?

Secretary PETERS. Sir, I have not been to an Amtrak board meeting. I have, however, met with members of the board, and I also have met with Alex Kummant and talked with him about Amtrak. As I said to you in my confirmation hearing, Senator, I do support intercity passenger rail, and want to work with you and with the Amtrak board to make sure that they continue to provide service to Americans.

The other factor, though, sir, is that they do have fiscal resources in addition to the President's budget proposal of $900 million. They have approximately $2 billion in normal operating revenue that comes in each year. They also have nearly $250 million in State subsidies, and with the $100 million that we have proposed for the intercity rail grant program that could encourage more State participation, they could avail themselves of another $100 million in matching funds.

Senator LAUTENBERG. It was said that they need $1.8 billion for the next year, so to come back and say, "Well, there are other sources," the other sources are not sufficient to give the railroad the money it needs to improve the structure, the capital structure, or to support the operating losses. And at a time—and Madam Chair, I'm sorry—when security is so much on everybody's mind, here we are, we're locked into aviation, we spend a lot on highways, and we need a third leg on our transportation tripod in order for us to be able to manage. Heaven help if we need an evacuation in a time of trouble.

Thank you, Madam Chairman. Thank you, Madam Secretary.

Senator MURRAY. Senator Alexander, do you have any questions?

CONGESTION RELIEF

Senator ALEXANDER. Thank you, Madam Chairman. I look forward to being a member of the committee.

Madam Secretary, thank you for being here. I'm impressed with the attention you're paying to surface congestion, and the numbers that you have in your budget are really staggering. I mean, we take these things for granted or we have come to accept them. You say 3.7 billion hours of travel delay, 2.3 billion gallons of fuel costing $63 billion. That's a lot of money and time and lost productivity.

And you list a number of things that you're encouraging to try to reduce traffic jams which occur in almost every major city in America today, but based on your own experience, what do you see as the most promising ideas for making a real difference in the traffic jams and congestion that Americans experience every day driving to and from work?

Secretary PETERS. Senator Alexander, thank you for giving me the opportunity to answer that question. Some of the most promising things I see in terms of relieving congestion and getting our transportation system to flow more smoothly are within the technology realm. Many of our intelligent transportation systems can help us manage traffic in real time.

The sad fact is that once traffic breaks down, it takes up to four times longer to get that traffic moving again. So if we can use technology to inform us of what's happening on the system, to give motorists the information they need, that certainly is one of the most promising aspects.

But another aspect, sir, that is very promising in terms of relieving congestion is using road pricing, dynamic pricing, or variable pricing as it's sometimes called. On roads in southern California that are using dynamic pricing, we have found that we can get up to a 40 percent increase in throughput by using a pricing model on the same lane configuration. An adjoining, so-called, free lane gets 40 percent less throughput than does the price lane.

USE OF CELL PHONES DURING FLIGHTS

Senator ALEXANDER. I'll switch to another subject. The Federal Communications Commission is currently considering proposals to allow passengers on airlines to use cell phones after takeoff. The FAA has some rules about that which limit the use of cell phones during flight for safety reasons.

I can think of some other reasons that that might not be a good idea, that have something to do with safety. It seems to me that it would add to the cost of travel. I mean, you would have to hire more air marshals to stop the fistfights when people started yakking on their cell phones.

You would have to land, have emergency landings of the airplane to deal with the heart attacks and the injuries that would occur. You would have additional stress for 2 million travelers, who would come home after being strapped in between two people talking about their love life and their office personnel policy as they go along.

So I think it's cruel and unusual punishment even to think about the prospect of that, and I wonder what steps you're taking to— I wonder what the status of that is and whether we can expect that as we travel, that we'll be—that cell phones will be permitted after takeoff?

Secretary PETERS. Senator Alexander, I certainly share your concern about being trapped and strapped into a seat with someone carrying on a loud phone conversation on a cell phone next to me. I am not immediately aware of what the status is, sir, but I will look into that and get back to you as soon as possible.

[The information follows:]

The Federal Communications Commission (FCC) issued a Notice of Proposed Rulemaking (NPRM) on February 15, 2005 proposing to relax the ban on 800 MHz cell phone use on aircraft in-flight. Prior to issuance, the FAA had provided suggested language, which was adopted by the FCC, to mutually assure adequate protection of airborne and ground systems.

The FAA position remains the same on the use of cell phones in-flight. Before an operator can allow the use of Portable Electronic Devices (PEDs), including cell phones, it must determine that device won't interfere with any aircraft system.

FAA, along with the FCC, participates on the Radio Technical Commission for Aeronautics (RTCA) committee that was formed to develop the guidance procedures for PED allowance. RTCA continues to work on this issue.

One of the most contentious issues regarding in-flight cell phone use is the "loud-talking seat mate" concern. FAA shares this concern and, if cell phone use is allowed, the FAA will continue to monitor its impact on a flight crew's ability to perform critical safety duties.

Senator ALEXANDER. I would appreciate that. We value our freedoms in America, but I think you put it pretty well. In this case we don't have a choice. We're assigned a seat, we're strapped in it, we don't know who is next to us. So I hope it's something you'll pay attention to, and I'll look forward to hearing from you, what you find out.

Thank you, Madam Chairman.

Secretary PETERS. Thank you, sir. I will do so.

Senator MURRAY. Senator Bennett.

Senator BENNETT. Thank you, Madam Chairman. Welcome, Madam Secretary.

Secretary PETERS. Thank you.

Senator BENNETT. I hadn't planned to go into this, but I'm stimulated by Senator Lautenberg.

Senator LAUTENBERG. Thank you.

Senator MURRAY. Thank you for sharing.

Senator LAUTENBERG. Intellectually.

Senator MURRAY. I think this committee hearing is really getting out of hand.

AMTRAK

Senator BENNETT. As members of the committee have heard me say, maybe too often, I helped create Amtrak when I was serving at the Department of Transportation under Secretary Volpe during the Nixon administration, and I remember assuring the Congress—it was my responsibility to sell the idea to the Congress—I remember assuring the Congress that within 2 or 3 years Amtrak would be a freestanding private corporation, for profit, and there would be no Federal money involved. We are decades away from that promise, and it is clearly never going to come to pass.

You have talked a great deal about congestion relief, and a viable passenger rail, passenger system in corridors where there is a tremendous amount of traffic can be, should be a major form of congestion relief. Maybe we should be thinking about the Amtrak budget less in terms of, “Gee, this is what they need to maintain their present relatively inadequate service,” to “This is what we need to spend to get some congestion relief in this area.”

Now, the area where I part company with my friend from New Jersey has to do with the question of whether or not rail passenger should be a national system, and I have repeatedly in these hearings offered up Amtrak service in Utah to help get rid of the deficit, because the number of passengers that come into Salt Lake City could be handled on a single bus. One airplane a month, practically, if it were a 747, could fill the entire rail passenger usage into Utah, and the amount of money that is spent maintaining these long-range hauls for very few passengers has always struck me as being a foolish expenditure.

I would be more than happy to have that money go into the Boston-Washington corridor to give reliable, fast service to get people off the airplanes. But when I take Amtrak to New York, as I have done, frankly the on-time performance of the Delta shuttle is a whole lot better. Even when you add showing up at Reagan 1 hour early to get through security, and the mind-boggling, harrowing taxi ride from Laguardia into town, and add those two time delays onto the 45-minute flight, you will get there faster on the airplane than you do on Acela, that is supposed to be the high-speed system, and it’s almost always broken down or it runs into some other kinds of delays, and I very, very seldom have had an Amtrak experience that has been on time.

So maybe we need a think tank of some kind within the Department of Transportation to say break out of the traditional stovepipes of saying we have this for rail traffic and we have this for bus traffic and we have this for airline traffic, and say okay, we have this many people that need to get across this piece of real estate, and what is the most efficient, rapid, logical way to move them? And then maybe we, in the name of congestion relief, take some money out of the Airport/Airways Fund—I don’t know what you call it now, that’s what we called it when we created it—and say for congestion relief we’re going to supply Amtrak with these kinds of funds that will allow them to become reliable.

I’ve taken an Amtrak situation, I could have gotten across the country in an airplane in the period of time I spent on the train, and cabin fever on the train gets to you after a while when you’re constantly stopping for this or slowing down for that. You can only see so many back yards by the time you say, "Well, the scenery doesn't excite me anymore."

So I just raise that. I'm a conservative Republican who doesn't like to spend money, but the benefit of relieving the congestion in this most highly populated part of our country is something we ought to look at. And every year we go through the same Kabuki dance. Every year it's, "Why is Amtrak losing money?" "Well, we've got a new plan." "Well, the board is being tight now." "Well, we've got cost-cutting."

Maybe we just push all that off the table, take a clean sheet of paper and say we've got so many people that we have to move in this corridor, and what's the best way to move them? And if the best way to move them is by buses that are controlled by GPS systems and smart transportation, let's spend the money to do that. If the best way to move them is by train, and it's a high-speed train that goes at 150 miles an hour, let's spend the money to get track that stays up and stays operative at 150 miles an hour, instead of it's always down and always broken. And look at the whole situation, to use a term I learned at the department, intermodally, but perhaps with a new view of intermodal transportation than we ever had before.

Could you think about putting together a group of smart folks and locking them in a hotel room to think about this until they come out with some answers?

SYSTEM PERFORMANCE

Secretary PETERS. Senator, I think you make a very valid suggestion, and I certainly will talk with people back at the Department and within the industry about this. It is one of the challenges that the Surface Transportation Policy and Revenue Study Commission is looking at very closely, in fact. We're looking at how can we meet transportation demand in better ways than we have in the past, both in terms of freight and in terms of passengers.

It's one of the goals that I gave the President when I accepted the nomination, and you graciously confirmed me here in the Senate. I want to look at how our system is performing, as well as our funding and authorizing structures, and determine if they are meeting our needs in the way they should. I share your concern about the modal silos; we need to break those down and look more comprehensively at transportation for the future than we have in the past.

Senator BENNETT. Thank you. One last quick comment, Madam Chairman.

Senator MURRAY. I've been very generous with you.

Senator BENNETT. All right. Never mind.

Senator MURRAY. Senator Allard.

DENVER SOUTHEAST CORRIDOR LIGHT RAIL PROJECT (T–REX)

Senator ALLARD. Thank you, Madam Chairman. I come to this subcommittee as former chairman of the authorizing subcommittee on mass transit. It's a subcommittee on banking. And if there ever was an agency that overpromises and underdelivers, it's Amtrak.

You ought to look at some of our hearings if you want more information on that.

But I want to talk about a project that we have had in Colorado. It's called T–REX. It's a combination of rail and highway. I've talked to them about not overpromising to the Department of Transportation, certainly, and then underdelivering. That's very important. So I stressed it to them, how important it was that they keep the project on time—it's a huge project—and they do it within budget. They accomplished both those goals.

The most discouraging thing to me is that now the Congress and the national Department of Transportation are not keeping their end of the deal, and they have not put the money into the project to pay for their shared cost. In fact, the local governments had to borrow money to cover the cost that the Federals should have been carrying on their share of the deal.

I hope that when you work with local governments and States on these projects, that you don't overpromise and underdeliver, because I think that everybody's better served if we just watch and make sure that we don't overpromise and underdeliver. That's one particular case that's right in my backyard, that I think deserves mentioning. I think that we probably have to carry the message back to our States to be careful about the kind of project size, and make sure again that there is some fiscal responsibility and that it's going to serve the constituents and taxpayers the way it should.

The other thing that I wanted to bring up is, you asked the question about or you have in the budget—and Senator Alexander I think talked about this, about programs that relieve congestion on the highways. There are a couple of programs that we've already put in place, we authorized.

TRANSIT NEW STARTS AND SMALL STARTS

One is the new starts program, the other one is the small starts program. New starts was to encourage large communities, large cities to get into the mass transit system, and small starts was to go down to a smaller size city and encourage them to put together some mass transit systems that work. These programs are not being fully funded in your budget.

Congress has already in many ways begun to address what it is that we can do to get people off the congested highways. High technology is some thing that can be done but it's going to have minimal effect. I think we have some programs right now that, if you go ahead and provide the money for them, they're going to help get people out of congested situations on our highways.

I'd like to have you respond to those two, if you would, please.

[The information follows:]

The Full Funding Grant Agreement (FFGA) for the Denver Southeast Corridor, signed in November 2000, provides a total of $525 million in New Starts funds for fiscal year 1999 through fiscal year 2008. The FTA seeks the amount indicated in Attachment 6 to the FFGA, a year-by-year agreed upon funding commitment in the FFGA as part of the President's annual budget request. By the end of fiscal year 2006, $366.2 million had been appropriated for the T–REX project. This amount is $27.2 million less than the Attachment 6 amounts in the FFGA for fiscal year 1999 through fiscal year 2006. Thus, as you mentioned at the hearing, there is a shortfall in the amounts appropriated compared to amounts requested in the President's annual budgets for these years.

The President's budget for fiscal year 2007 requested $80 million, the FFGA Attachment 6 amount for fiscal year 2007. I am pleased to inform you that the President's budget for fiscal year 2008 requests $78.8 million, compared with $51.6 million in the FFGA Attachment 6, which will make up for the shortfall that you expressed concerns about during the hearing. lithe fiscal year 2008 appropriations are enacted in accord with the President's budget request, the Denver Southeast Corridor project will be fully funded in accord with the Federal commitment originally called for in the FFGA.

TRANSIT NEW STARTS AND SMALL STARTS

Secretary PETERS. Senator, I certainly understand your concern about funding for transit in general, and the small starts and the new starts program specifically. Sir, we had some tough budget decisions to make within the administration, much like you do here on the Hill as well, and we endeavored to put as much money as we could to these programs.

But, as has been indicated earlier, we are funding transit about $309 million below the fiscal year 2008 level authorized in SAFETEA–LU. In the President's budget, we also have put the brakes on the revenue aligned budget authority (RABA) for the highway program, to the tune of $631 million.

But, sir, I will assure you that the President's budget has provided funding for every project that's ready to go in our fiscal year 2008 budget proposal. No projects that are ready for funding have been left on the table, and we have funded 11 existing full funding grant agreements, and have sufficient funding for two pending and two proposed grant agreements. We also have set aside $72 million for six projects that aren't quite there yet, but we will continue to watch those projects, Senator, to make sure that we're not dropping funding.

For small starts projects, we have set aside $51.8 million for four projects that have been approved to date and reserved $48.2 million for additional small starts projects. One of the issues with smalll starts is that the regulations governing the program will not be fully in place until 2008, so we don't believe that there will be more projects than the $100 million would satisfy in the near term.

ESSENTIAL AIR SERVICE PROGRAM

Senator ALLARD. Another program I wanted to bring to your attention is called the Essential Air Service Program. This enables air carriers to provide service between selected rural communities and hub airports. Now, the fiscal year 2008 budget proposes funding of $50 million, less than half that provided for in the House-passed continuing resolution. Can you explain the impact on the program if we were to fund at less than half of the current level?

Secretary PETERS. Senator, I understand how important the Essential Air Service Program is to a number of small communities, and the President's budget includes $50 million to continue service to the most isolated communities. Clearly this amount of money would not meet every eligible community's needs.

So our recommendation is to limit funding to those communities that are currently subsidized by the EAS program, that are more than 70 driving miles from the nearest large- or medium-hub airport, and the subsidy does not exceed $200 if the community is more than 70 miles but less than 210 miles from the nearest large-or medium-hub airport. We would then rank communities that are eligible under these criteria and allocate the $50 million to the most isolated communities.

Senator ALLARD. With those priorities and that way of establishing priorities, do you think you'll have enough money, then, for half of the fiscal year?

Secretary PETERS. Sir, we believe we'll have about enough for the most isolated communities.

Senator ALLARD. How is that funded? I mean, where does the money come from for that?

Secretary PETERS. I'm going to turn to my Assistant Secretary for Budget for that question.

Ms. SCHEINBERG. The money comes from overflight fees that FAA collects.

Senator ALLARD. Okay. Thank you. Thank you, Madam Chairman.

Senator MURRAY. For the committee members, I've been very generous recognizing Senators as they come in and have not gone back to our side. Senator Brownback has come in. I'm going to allow him to speak. I will then return and reclaim my time, Senator Bond, and back to Senator Lautenberg.

Senator Brownback.

FAA REAUTHORIZATION

Senator BROWNBACK. Yes, thank you, Madam Chairman. I appreciate that. And Madam Secretary, delighted to see you, glad to see you were in my State not long ago, in Wichita, meeting with the aircraft manufacturers. They appreciate that greatly, and we appreciate it. It is, as you saw, a big industry in our State and they're doing quite well now. That hasn't always been the case. Some of the changes in the tax laws here and the growing economy have really made a big difference for them, and so they're hiring and doing very nicely.

One of the things they're real concerned about, and I want to get some of your thoughts on this, is shifting some of the burden on FAA modernization to general aviation. I had a group in my office yesterday. They, as I mentioned, they're growing. You saw them, what's taking place. It is a world class manufacturing operation. They're engaging more and more global competition, and they're just fearful that you're going to shift a bunch of the FAA costs onto general aviation.

And so I want to get you, if you could, to address some of these questions and concerns. Particularly there was an article in the Wall Street Journal this past Tuesday where the FAA Administrator said this: "I'm talking about shifting of cost, not increasing of cost." Now, we can assume that the shift in question would result in increasing the burden on general aviation, or that's what we're hearing. Now, is that the plan? Is it to shift it more to the general aviation manufacturers, or not? I'd like to hear your comments about that.

Secretary PETERS. Senator Brownback, we certainly appreciate the general aviation community, and they provide a very important service in the United States. Our reauthorization proposal will be out next week, and I believe that if we could wait until we have that document, I can more fully answer your question about the impacts of modernizing the air transportation system on various industry segments.

Senator BROWNBACK. Well, I appreciate that. That doesn't give much solace. If you were addressing the Wichita City Council, my guess is they would want a little more fuller discussion or an assurance from you that you're not going to shift costs to general aviation.

I was noting in some of your budget projections that if you stayed within the current fee structure, you would actually raise more revenue than if you shifted a fee structure that's being projected under new user fee proposals. The current one would produce $68 billion and the new fee structure, $67.1 billion.

My point in saying this I think probably should be obvious. Here's an industry that's growing. It's doing well. But if you start putting on a 40 percent increase in general aviation fuel taxes, that's going to have a big hit in the system and it's going to drive a reduction in purchasing of the aircraft.

I hope you can understand that these have direct implications. The industry took back off after we made some tax changes here to allow people to purchase aircraft. It really helped the industry. But you can also do it in reverse and hurt it a great deal as well.

Are those being contemplated, increasing fuel taxes for general aviation?

Secretary PETERS. Senator, I know that the structure is being looked at. Again, not to be disrespectful of the question, I would prefer to answer that once the reauthorization proposal is out, so that I can correctly answer what might be included in the new funding system.

Senator BROWNBACK. Okay. I notice that you do have in your Department of Transportation budget proposal this statement: "General aviation users would continue to pay a fuel tax that would be deposited in the Airport and Airway Trust Fund. Fuel tax rates will be calibrated based on the costs these users impose on the system."

That sounds like to me an increase in fees is in your base. Now, I don't mean to try to trick you, but that's in your base document.

Secretary PETERS. Senator, yes. We have heard from the general aviation community, and I certainly heard this when I had the opportunity to visit Kansas. Their preference is to pay through the fuel tax system as opposed to any new user fees that would be problematic and difficult for them to pay. That is the issue to which we're referring in the budget. We do plan to have the cost allocation study come out at the same time as the reauthorization proposal, which will help us see where costs are imposed on various industry segments of the system.

PROPOSED AVIATION FEE STRUCTURE

Senator BROWNBACK. And I would hope you would look at your current fee structure versus your new proposed fee structure. If the current one is producing more in revenues than a new one, that wouldn't seem to make much sense. If you're looking for FAA modernization and funds to be able to do the modernization, it doesn't seem like changing to a fee structure that produces less would be a wise move to go.

Secretary PETERS. Senator, one of the problems with the current system is that it is not dynamic and is not able to align costs to revenue based on system usage. Funding the Next Generation Air Transportation System will help us dynamically match the costs to system usage. But I absolutely understand your concerns about the general aviation community, and commit to you that we will look very closely at them.

In terms of the numbers that are included in the budget about the difference between what the new system would collect versus the old system, I'll ask our Assistant Secretary to explain how that was calculated.

Senator BROWNBACK. Please. I would just note before she gets on and my time runs out, I have heard people talking about as much as a 40 percent increase in general aviation fuel tax. That's going to hit people when you increase at that level, and I really don't think that's meritorious to do. I think it's going to be very harmful.

Ms. SCHEINBERG. Senator, I believe the numbers you're referring to are from a table in the President's budget. That table shows what revenues would be generated if the FAA user fees were in place in fiscal year 2008, which we're not planning to do until 2009, compared to the current system. There is a difference of about $600 million.

What that says is that under our proposal, users will pay for what is needed in that fiscal year. The current system generates $600 million more than the budget requests for FAA in fiscal year 2008. This difference is one of the reasons we're proposing a new system that generates the amount we need rather than money that is in excess for the year. There could be years in the future when we would need more money, but right now we're collecting money that is not completely correlated to the amount that we need in the budget. That's what that table is trying to show.

Senator BROWNBACK. Thank you, Madam Secretary. Thank you, Madam Chairman.

OVERSIGHT AND CONTROL OVER FAA FUNDING

Senator MURRAY. Thank you.

Madam Secretary, let me continue on the issue of the FAA reauthorization. I know we're not going to see your proposal until next week, but there is one major issue that really concerns me and really should concern every member of this subcommittee, and that is whether or not you're going to propose taking funding control and oversight of the FAA away from this subcommittee. Some of the major airlines have proposed that funding for the FAA be converted from discretionary category to mandatory category, taking it out of the control and oversight of this appropriations subcommittee, and I wanted to ask you today if the FAA reauthorization proposal that you're going to present will convert any of the FAA's accounts to mandatory funding outside the appropriations process.

Secretary PETERS. Madam Chairman, no, they will not. Those accounts will not be mandatory, and of course they would be subject to annual appropriation.

Senator MURRAY. Okay. Thank you very much. And even if your proposal finances the FAA through user fees, do you anticipate that this appropriations subcommittee will still set the annual disbursements of those funds for each program and project within the FAA?

FAA FINANCIAL MANAGEMENT

Secretary PETERS. Madam Chairman, yes.

Senator MURRAY. Given the considerable problems we have had with FAA procurements that have come in late, have come in over budget, or deliver less than was originally promised, would you agree that the FAA's acquisition budget needs an annual review both by the Office of the Secretary and by this appropriations subcommittee?

Secretary PETERS. Madam Chairman, we know that there have been problems in the past, and that GAO has had some of these programs on its "high risk" list. We have made significant progress within FAA in improving the management of some of the major investments. For example, in 2006, 97 percent of the major capital projects, which account for 90 percent of the capital spending, were on schedule and within budget, and we're on track to meet that level this year as well. We understand that this has been a long-term issue, and if I may, the Assistant Secretary has more information on that topic.

Ms. SCHEINBERG. As the Secretary mentioned, GAO has been looking at this for years, and they have come out with their most recent high-risk list. GAO reported that the FAA has done a number of things to improve its project management for capital improvements, and has given the FAA a complementary report. While this program is still on GAO's high-risk list, it's much improved according to GAO. We have spent a lot of time and effort inside the Office of the Secretary overseeing this program.

Senator MURRAY. Well, as you reported, your Department, as you know, received a clean audit of its financial statements for each of the last 4 years until this year, and this year your auditor couldn't issue a clean audit because of significant accounting weaknesses at the FAA. And I understand that the central problem pertains to the FAA's inability to accurately account for the value of all of its properties.

You stated that your authorization proposal is going to look at levying new user fees on the aviation industry based on the extent to which they use FAA services. So given that the FAA undermined the opportunity for a clean audit for the entire Department because of those accounting weaknesses, why are you now confident that the FAA can appropriately assess the true value of its services and charge user fees fairly for each of those services?

Ms. SCHEINBERG. If I may, Madam Chairman, the issue with the audit had to do with past years' documentation of FAA's capital improvement projects. The problems are consistent with FAA's past problems because they are from previous years.

The most recent years are much improved. Part of what this reflects is that FAA had major problems in past years. In current years, we have addressed the issues, but the accounting records go back. We need to clean up previous years as well. The weakness was documentation for equipment that we had purchased in previous years.

As far as the cost accounting system and the cost allocation system, that has gone on separately, and FAA has led the way in the Department for being able to allocate its costs.

Senator MURRAY. Well, they will be before this committee at some point here in the future, but it just seems to me with the basic accounting problems that they have, it wouldn't be appropriate to put their budget on automatic pilot through the authorization of mandatory funding. I assume you would agree with me on that.

Secretary PETERS. Madam Chairman, we are not doing that, and we would agree with you on that point.

PRIMARY SAFETY BELT LAWS

Senator MURRAY. Thank you very much. Okay, with my minute left here I did want to go back to highway safety, just to follow up on that. I don't think that money is the answer to everything, obviously. None of us do. Senator Lautenberg here has been a champion of effective drunk driving action that has been mandated on the States, that has made considerable improvement.

Your department has long supported the enactment of primary seat belt laws by our States, and those laws have been on the NTSB's most wanted list for a very long time, but even so, only half the States have enacted laws. Some of our States in fact have been debating this for a very, very long time. Do you think it is time for us to go the route of sanctioning the States if they don't enact primary seat belt laws?

Secretary PETERS. Madam Chairman, we prefer to use incentives and rewards for behavior that helps improve safety, as opposed to sanctions. I would point out how effective that has been with the seat belt laws, in terms of providing incentives for States that adopt those laws.

Senator MURRAY. But have you personally traveled to any State to try and get them to enact their own laws?

Secretary PETERS. Yes, I have.

Senator MURRAY. Has that worked?

Secretary PETERS. Right now 80 percent of the States have laws. And I would harken back to my own home State of Arizona, where as a State administrator I tried very hard to get them to adopt that law. Once the incentives were put in place they ultimately adopted it.

Senator MURRAY. Well, I hope you and I can have this discussion as we go along, because it is disconcerting to me that only half the States yet, though the use of words, have used in that direction. And again, we're seeing high fatalities, so I think it's something we ought to take a look at.

Secretary PETERS. Madam Chairman, we recognize how important it is. In fact, I participated over the holiday period with a number of States on driving under the influence (DUI) task forces, and personally went out and spent the evening with them to try to tackle this drunk driving issue. We agree with you that it is very important.

Senator MURRAY. And how about the seat belt laws?

Secretary PETERS. They're also enforcing the seat belt laws. Again, as you said, it's much easier to enforce a primary seat belt law, so an officer doesn't have to stop a motorist for another reason.

Senator MURRAY. But only half the States have that——

Secretary PETERS. That is correct, Madam Chairman. I misspoke earlier. It's 80 percent seat belt use, but not all the States have primary seat belt laws.

Senator MURRAY. Senator Bond.

HIGHWAY TRUST FUND REVENUES

Senator BOND. Thank you, Madam Chair.

Madam Secretary, we've been talking about CAFE and increasing the fuel mileage. I understand that hybrid cars have been having some impact on reducing fuel usage, and my staff who have hybrids are very pleased to be freed from the costs at the pump. But what are these reductions in fuel usage having in terms of an impact on the Highway Trust Fund? Do you have some ideas, some figures on that, and any suggestions about what if any remedies might be needed?

Secretary PETERS. Senator Bond, I think you're exactly right. We are seeing declining amounts of funding coming in from the gasoline taxes, or I should say a flatter portion of fuel taxes coming into the Highway Trust Fund. I think it's one of the reasons that we need to comprehensively evaluate this system.

Sixty-five percent of the Highway Trust Fund revenues are related to gasoline and gasohol. We're seeing that the annual growth in the Highway Trust Fund revenues has slowed considerably over the last 5 years as compared to the previous decade. We're also seeing a slowdown in the vehicle-miles traveled, as well.

These are all precursors, in our opinion, to a need to look comprehensively at the effect these things are having on funding and whether or not fuel taxes are an appropriate mechanism for the future.

CORPORATE AVERAGE FUEL ECONOMY (CAFE)

Senator BOND. Well, I think that's appropriate to look at. Now, Madam Secretary, you and I know that there have been some very wonderful, exciting, bold proposals by those of us with all-knowing insight into vehicles, to propose corporate average fuel standards of 30, 40, 50 miles per gallon, and they are very ambitious. Do you have any views on why it makes sense for fuel economy standards to be set by DOT and NHTSA instead of having Congress legislate a particular numeric fuel economy increase?

Secretary PETERS. Senator Bond, I do. I think it's very important to have the opportunity to set those standards through a rulemaking process that considers the attributes of various models of vehicles that are in the fleet today. We also want to make sure that we look at the scientific data, the cost-benefit analysis, the impacts on safety, the impacts on the economy, and the impacts on jobs as part of setting those standards.

Senator BOND. I hope you will, because Congress doesn't always look at them when it makes those wild proposals. And I would note that the automotive industry has been struggling for the past few years. We've had significant layoffs across the country, including my State of Missouri, and many stakeholder groups within the automotive industry, including the United Auto Workers, have expressed serious concerns about negative impacts that large CAFE increases might have on automotive jobs.

I assume from your previous answer that the administration will be considering the negative impacts that CAFE standards have on U.S. automotive jobs. The current standards for vehicles as opposed to light trucks, sport utility vehicles (SUVs), might have that impact. Does the administration support a more targeted fuel standard based on the size of vehicles, so we won't disadvantage the U.S. auto industry?

Secretary PETERS. Senator Bond, we believe that we should use an attribute-based system which takes into account different vehicles that are in the fleet in establishing these standards. The President has laid out a very ambitious goal to attempt to save 8.5 billion gallons of fuel by 2015, but we also believe that we need to set these standards based on different sizes of vehicles that are in the fleet. Some families can't always use a small sedan, and so we have to take that into account as well, and not to have a disproportionate impact on any industry segment in the process.

FUNDING FOR CONGESTION MITIGATION

Senator BOND. Thank you. I think that's very important.

As I mentioned in my statement, we know that congestion is a major problem, and we've had some very innovative suggestions from my colleague from Utah. I will look forward to hearing more from him. But I want to see some more flesh on your congestion mitigation skeleton. Have you looked at alternative funding for this congestion program?

Secretary PETERS. Senator Bond, yes, we have. The SAFETEA–LU legislation that was enacted in 2005 provides opportunities for private activity bonds, which have been very helpful in attracting private sector investment to transportation infrastructure, and also by giving States the opportunity to use public-private partnerships more broadly than they did in the past.

I had a conversation with Ric Williamson, who is the chair of the Texas Transportation Commission, just this week. He related to me how these provisions have substantially helped them attract additional funding for transportation. But those should not be the only methods that we're using, Senator. We need to look more broadly at available revenues for transportation and what the impacts of those various revenue sources would be.

Senator BOND. Well, my former colleague was a very strong supporter of private activity bonds. We'll look forward to your proposals. Thank you.

Secretary PETERS. Thank you.

Senator MURRAY. Senator Lautenberg.

INTERCITY PASSENGER RAIL AND TRANSIT

Senator LAUTENBERG. Thanks, Madam Chairman.

To my friend from Utah, for whom I have a great deal of respect, he has had a lot of experience with Government and he's a thoughtful fellow, and he was one of the 93 who voted for the bill in effect when it was presented. That was a good vote. Only six people were so conservative that they couldn't support it. So I thank you.

Now, in terms of your experience, Senator, you may bring bad luck, because the average wait time, on-time performance on Acela is 90 percent, other Northeast trains, 85 percent, all airlines is 75 percent. So I don't think I want to travel on the train with you.

Senator BOND. Senator, you probably don't want to travel on a plane with me, either.

Senator LAUTENBERG. I know Utah fairly well. Cottonwood Canyon has been a favorite place of mine in the Wasach Mountains. I love them dearly and I've been up and down them a lot of times.

And for our colleague from Missouri, my first training in the military was digging foxholes in the Ozarks, and I will tell you it's not possible, and I've seen a lot of muscle used.

I have fond memories of that State, and that's why I was pleased to see that the mule train is getting reinstated, and that there is service that could be employed between Chicago and St. Louis and other cities across the country. St. Louis to Kansas City would also be a good one.

In all seriousness, when we look at this energy savings, a passenger on Amtrak uses 2,900 Btu's per passenger mile. Automobiles, it's 3,500, and airlines, it's also 3,500. So the savings would be enormous. And I would tell you, in a very serious moment, I look at what happened when the Trade Centers went down, and railroad was the only thing operating. The aviation system came to a total halt. The highways were jammed. A country like ours ought to have a more reliable, robust rail system, and one of the things that we have to look at is what the energy savings might be.

But I think in terms of security of this country, and I remember the problems with two nuclear energy plants, one built in Long Island and one built in New Hampshire, and the principal problem with one of them, total abandonment of billions of dollars of construction because they couldn't offer a decent evacuation system to get people out of there in the event of a problem. So I think we have to look at the system.

And I am told, Senator Bennett, that if the train which passed through Salt Lake wasn't at 3 a.m. in the morning, maybe the traffic and service would be better. And for long-distance trains, the biggest problem for them is that they are often stuck behind freight railroads. That's tough, and they just can't command it.

So I have heard many cases made for projects, but you made a case for capital investment in railroads such as I have never heard, and that is if we could be a kind of Brussels to Paris kind of thing, 200 miles in an hour and 20 minutes. I was in the cab of the engine there, and the cows were flying by. It was really quite an experience.

Could you just imagine, if we could make the investment that we have to in Amtrak and long-distance rail, how many places could be improved in terms of their transportation? Washington State, Portland, for instance, making good use of rail service. Oklahoma City to Dallas, Texas would be an excellent corridor. So many places.

And I would ask, Madam Secretary, passenger rail I think clearly holds promise for not just getting cars off the roads but also reduction of our Nation's reliance on foreign oil. It was mentioned how much is lost as a result of congestion and delay. Does the administration see rail as an important mechanism to promote energy efficiency, reducing that reliance on foreign oil?

Secretary PETERS. Senator Lautenberg, I see your chart, and it certainly makes a compelling argument about the use of oil and the different modes of transportation.

Senator LAUTENBERG. Well, then, why aren't we getting more money for improving passenger rail service? You know, in Penn Station in New York the train traffic is equivalent to a 747 that leaves every 30 seconds. We see what happens now. They recently repaired and renovated a rail line from Philadelphia, Pennsylvania to Harrisburg, and the ridership went up 30 percent. That's what we're seeing. Wherever new rail systems are in there, transit systems, people take them out of necessity, to get out of the traffic and have more reliable arrivals when they have to go someplace.

And, you know, I see 3 weeks after the President's State of the Union address he proposed cutting funding for transit projects by over $300 million from the congressionally authorized level. Now, in light of the President's environment and energy goals set forth in his speech, how do we justify these cuts for transit?

Secretary PETERS. Senator, we had some very difficult decisions to make in putting the President's budget together. We have been asked to keep non-defense discretionary spending down to 1 percent growth. We have actually allocated more than that to transit and highway programs, but we faced overall limitations, sir. Again, we are not leaving any transit project that is ready for funding on the table. All of those projects are funded.

Senator LAUTENBERG. Return on the dollar is the fact that it's got to be in consideration. Thanks very much. Thanks, everybody, for your tolerance during my reintroduction to the Transportation subcommittee.

Senator MURRAY. It's great to have you back.

Senator Bennett.

MASS TRANSIT AND CONGESTION RELIEF

Senator BENNETT. Thank you very much, Madam Chairman. I will be more succinct this time. I apologize for getting carried away before. I do remember learning in the department that in order to have mass transit make sense, you have to have a mass that needs to be transited.

There are those of us, you have a transit program, you talk about that as being funded, Salt Lake to Ogden, in my State, I'll defend that as vigorously as the Senator from New Jersey will defend Amtrak on the Northeast corridor because there is a mass that needs to be transited. But the mass that needs to be transited over the long distances of the West, to me it still don't make that much sense, but we'll have that debate later on.

Let me go back to, you're talking about congestion relief and the use of technology to get there. I simply want to call your attention to an example that you're probably familiar with but may not be, and that is the experience that we had in Salt Lake City in the

2002 Olympics. I learned, being connected to a State that put on the Olympics, that the biggest challenge of putting on a successful Olympics is transportation. That was the problem in Atlanta. That was a huge problem in Athens. And it was a problem that got solved extremely well in Salt Lake City.

A lot of folks don't realize, we had buses literally from all over the country, and I was in Salt Lake City and I would see these strange buses on the street and think that was kind of interesting, until I finally saw a bus that was a home town bus that I felt comfortable with and then did a double-take. It was a D.C. bus, not a Utah bus.

The thing that made it work was the electronic gizmos that I think you're talking about here. Every bus driver could be contacted from a central facility and told, "Avoid this intersection. You can get to where you want to go if you go two streets left. This is where we are." And the whole thing worked seamlessly by virtue of that kind of technology available.

One of the key parts that made it work was the training. And when we got buses imported from these various cities, we also had the drivers imported, who were properly trained so that they knew the vocabulary that was coming at them either electronically in the form of a GPS system or by voice in the form of a dispatcher. They instantly knew what to do.

And as you look at this whole question of congestion relief, don't just look at the technology but look at the training that has to go in it. Again, I'm willing to be one who will spend dollars for this kind of thing because of the value added that comes. People complain about an extra 2 or 3 cents on the gas tax, and then they don't realize that that 2 or 3 cents on the gas tax is going into the trust fund that could produce the technological changes that could reduce congestion. They will get that 2 or 3 cents back in huge multiples, being at their office on time, being at their appointments on time, getting their goods on time.

I'm glad that the overall statistics for Amtrak indicate that my personal experiences are not typical, but if we could say the value added of increasing the reliability and the speed of ground transportation in these areas can justify the additional taxes in other areas that get shared, we can make a case that people can be comfortable with.

The light is still green and I'm through, Madam Chairman. I want the record to reflect that.

Senator MURRAY. I am impressed.

Senator BENNETT. I would ask to put in for the record the name of the great, far-sighted CEO of the Salt Lake Olympics that implemented such a success, but I shall refrain from that because he's going to make an announcement within the next few days that might cause people to think this was a political advertisement.

RAIL SAFETY

Senator MURRAY. I thank you for refraining.

I have a few more questions for you, Madam Secretary, and then I'll turn it over to Senator Bond.

In drafting the joint funding resolution for 2007, our committee added $5 million above the freeze level for the Federal Railroad Administration's safety office, to get funding closer to the Bush administration request. Our goal really was to make sure that you can keep railroad inspectors and safety personnel on the job and enforce safety rules.

I see that your budget would cut this account by almost $3 million in comparison to the joint funding resolution, and in fact it would be a cut of about $4 million below the level that you requested for 2007. You announced that cut, in fact, on the day a train carrying hazardous materials was derailed in West Virginia, and less than 1 month ago another train carrying hazardous materials derailed in Kentucky, setting chemicals on fire and sending a lot of people to the hospital. Do you think this is the time to cut funding for your Department's rail safety activity?

Secretary PETERS. Senator Murray, I certainly share your concerns, and have talked with our Federal Railroad Administrator about rail safety on numerous occasions. Our fiscal year 2007 and 2008 budgets both assume the same staffing level of 449 inspectors, as well as adequate resources for these inspectors. We have applied cost savings to travel funding, not for the inspectors themselves but other travel funding. We have also targeted gap deficiencies within our inspector work force.

Senator MURRAY. Well, even according to your own budget documents, your request is going to force the FRA to delay filling some of their vacancies for 6 months and hire less qualified candidates for safety inspections. Doesn't that concern you?

Secretary PETERS. Madam Chairman, that certainly would concern me if that were the case. My understanding is that FRA has offered targeted buyouts to positions where we have specific gap deficiencies. But if I may, I will ask the Assistant Secretary to speak specifically to the budget items.

Senator MURRAY. Okay, but I will refer you to your own budget, where you say that the FRA proposes to not backfill vacancies for up to 6 months to achieve some of those cuts.

Ms. SCHEINBERG. I believe the vacancies that they would delay backfilling are less critical vacancies, not the inspectors.

Senator MURRAY. You assume that?

Ms. SCHEINBERG. Yes.

Secretary PETERS. Madam Chairman, if we may, I would like to get back to you on the record on that point, because I do believe you make a very valid point.

[The information follows:]

FRA has offered early retirement to approximately 30 employees in a variety of positions. Early retirements were not offered to any of our critical field safety positions, such as our inspector workforce. Six early retirements were offered to Headquarters safety specialists, who did not have the most effective skill sets FRA needs to face the challenges of the future. The FRA buyout plan was developed after performing a detailed workforce analysis that identified skill gaps in a variety of positions. Some positions to which early retirement offers were made include Supervisory Industry Economists, Program Analysts, Administrative Officers, Administrative Assistants, Railroad Safety Project Coordinators, Industrial Hygienists, and IT Specialists. Employees who accepted these offers will retire in fiscal year 2007, and be replaced in either fiscal year 2007 or fiscal year 2008, depending on their separation date. In many cases, FRA is proposing to replace these employees at a lower grade than the separating employee, which will result in cost savings.

The FRA is also proposing to not backfill selected non-critical safety positions for periods of up to six months during fiscal year 2008 in order to achieve cost savings.

This proposal will not postpone or delay hiring for our inspector workforce, or any other safety-critical positions.

Finally, the fiscal year 2008 budget proposes filling selected inspector positions at the GS–5 and GS–7 levels, consistent with our Inspector Trainee program approved by Congress in the fiscal year 2005 budget, which will allow us to continue to groom a diverse and robust inspector workforce. As explained in our fiscal year 2005 budget request, the "trainees" at this lower grade level represent fewer than 5 percent of our inspector workforce at any given time. Additionally, "trainees" are partnered with senior level inspectors to assure that inexperienced inspectors are not assigned to work independently until they possess the knowledge and skills necessary to fulfill their safety role independently.

FUTURE FUNDING OF THE HIGHWAY TRUST FUND

Senator MURRAY. I would appreciate that very much. That is very disconcerting.

Let me end by asking you about the Highway Trust Fund, a critical issue. Although your budget request pretty much follows the levels authorized, you have deviated from SAFETEA–LU by requesting about $630 million less than the full amount that's authorized. Even at those levels, it appears that your proposal will spend down the entire balance in the highway account of the Highway Trust Fund by the end of 2009.

I am one of those who is very interested in making sure we have highway and highway safety programs. They are very critical. But I am also very worried about putting the trust fund into bankruptcy, and I wanted to ask you what concrete proposals there are in your budget to refinance the Highway Trust Fund so we keep it out of bankruptcy.

Secretary PETERS. Madam Chairman, as I indicated, we took several steps to protect the solvency of the Highway Trust Fund through fiscal year 2009. I absolutely agree with you that we need to begin to discuss how we prevent the highway account from going into deficit, and I look forward to working with you to bring forward proposals toward that end. Also, as I mentioned, the commission is working very hard on those issues, and—

Senator MURRAY. When do we expect to see them?

Secretary PETERS. The commission's report, ma'am, will be available at the end of December of this year. I'm assuming that the technical corrections bill goes through. But I hope to bring proposals to you even sooner than that.

Senator MURRAY. Well, I would hope so, because this is a looming crisis and we cannot delay a decision on this. The President's budget wasn't bashful in providing us with concrete proposals about extending that budget cut, so I would assume they should not be bashful about proposing how we handle major crises that are facing us like this, as well. So I hope that we can see something sooner than that.

Secretary PETERS. I understand, Senator.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. At this point I see no other Senators present. Madam Secretary, I thank you for your testimony today. I look forward to working with you.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

AMTRAK

Question. Madam Secretary, you are a Member of Amtrak's Board of Directors. Your budget is requesting $900 million for AMTRAK—the same amount you requested in 2007. That amount is 30 percent less than the level the railroad received in 2006.

When you look into the details of your request, you're proposing to use $100 million of this $900 million for new matching grants to States to improve passenger rail infrastructure. So in terms of dollars that are immediately available to AMTRAK, your budget represents a cut of almost $500 million or 38 percent. By anyone's account, whether it be AMTRAK's management or the DOT Inspector General, a cut of that size would surely put AMTRAK into bankruptcy.

What is the point in requesting $100 million in matching grants to States for improved passenger rail service if the national provider of passenger rail service is bankrupt?

Answer. Over the last 30 years, the real growth in intercity passenger rail service has been in those corridors where States, such as Washington, have taken the lead in planning, designing and funding the service. This has happened despite the lack of the traditional Federal/State funding partnership for intercity passenger rail. The administration seeks to create that partnership in part because of the administration's belief that the States, and not Amtrak based in Washington, DC are most knowledgeable of their own mobility needs.

Question. Your budget explains that the $100 million you have requested for these State grants is supposed to help the States to enter into partnerships to improve and expand intercity passenger rail service.

Who are the States supposed to partner with to improve passenger rail service if AMTRAK is allowed to go under?

Answer. Commuter rail operations across the country have demonstrated that there is a robust competitive market place for passenger rail operators—both passenger specific operators and, in some cases, established freight railroads. The administration would like to see the States receive similar benefits from a competitive marketplace for operators of intercity passenger rail service, a marketplace that would include an efficient and competitive Amtrak.

CONGESTION RELIEF

Question. Madam Secretary, as you know, the 2007 Joint Funding Resolution includes no earmarks for the discretionary accounts within DOT. That means that, unlike in recent years, you will be awarding some $2.7 billion in highway and transit funds through a nationally competitive process.

Given your agency's new focus on alleviating congestion, which I commend, will you be using the funds that have been provided in 2007 to target dollars on applications that alleviate congestion?

Answer. In March 2007, shortly after the enactment of the fiscal year 2007 Continuing Appropriations Resolution (Public Law 110–5), the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) published Notices of Funding Availability in the Federal Register, where FHWA invited States to apply for grants to fund projects that address statutory goals and provide significant highway safety and congestion relief benefits, and FTA, through its "Congestion Bus Notice," invited applications for funding under the section 5309 Bus Program for projects that support the objectives of the National Strategy to Reduce Congestion on America's Transportation Network ("Congestion Initiative").

In line with the Department's goals to save lives and reduce traffic delays on highways, FHWA is making available a total of $329 million in grant funds in an effort to target resources strategically across eight discretionary programs to improve safety and relieve congestion: Ferry Boat; Innovative Bridge Research and Deployment; Interstate Maintenance; Public Lands Highway; Highways for Life; Transportation Community and System Preservation; Truck Parking Facilities; and Delta Region Transportation Development Program. An electronic copy of the March 22 Notice is available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2007__register&docid=fr22mr07-117.pdf.

FTA will reserve a significant portion of the funds not "earmarked" by law and otherwise available in fiscal year 2007 under the section 5309 Bus Program for projects selected in accordance with the Congestion Bus Notice of March 23rd. By separate notice published in the Federal Register, FTA solicited proposals for use of those funds not distributed pursuant to the Congestion Bus Notice and not earmarked by law to support other critical investment needs in both rural and urban areas.

Question. Will such applications be getting additional points or priority consideration as you award these funds for the current fiscal year?

Answer. FHWA has solicited applications and published Notices to assure competition for the discretionary grants and to enhance transparent and merit-based determinations to achieve program objectives, consistent with the purpose of the statute and administration policy. FHWA will award funding in accordance with the statutory criteria for each of the discretionary programs and will weigh the safety and congestion reduction benefits associated with individual applications. As indicated in the FHWA Federal Register Notice, those projects that meet the statutory requirements and make significant impacts to safety and to reducing congestion will be given priority consideration. Applications for fiscal year 2007 funding should describe how the project, activity, or improvement relieves congestion in an urban area or along a major transportation corridor, employs operational and/or addresses major freight bottlenecks.

On the transit side, to be eligible for funding pursuant to the Congestion Bus Notice, an applicant (a) must be located within a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the U.S. Census Bureau, which has (1) a travel-time index of 1.25 or greater, as reported by the Texas Transportation Institute ("TTI") in its 2005 Annual Urban Mobility Report; or (2) an annual congestion cost per traveler of $600 or greater, as reported by TTI in its 2005 Urban Mobility Report; or (3) a number of hours of congestion per day of 7 hours or greater, as reported by TTI in its 2005 Urban Mobility Report; and (b) the applicant proposes to use the funds applied for to improve existing transit service or to provide new transit service in a corridor or area that is part of a congestion reduction demonstration. Priority for funding will be given to those applicants that have also been selected as Preliminary Urban Partners through the Department's Congestion Initiative. FTA is currently reviewing all the applications and expects to award a significant portion of the available discretionary funding to targeted bus projects in support of the urban partnership initiative while still funding many meritorious projects that address bus replacement, fleet expansion, and facility needs in other areas.

MOTORCYCLE SAFETY

Question. Madam Secretary, as you know, there was a 13 percent increase in motorcycle fatalities in 2005, representing the eighth consecutive year that there has been a rise in motorcycle fatalities. Moreover, motorcycle fatalities have increased an alarming 115 percent since 1997. Simply put, the current approach to reducing the number of motorcycle fatalities isn't working.

The Department's budget for fiscal year 2008 does propose an increase in funding for motorcycle safety activities, and in your statement you indicate that the Department is targeting this problem area.

But what specific new approaches is the Department going to take in order to start moving those numbers in the right direction, so that we see fewer motorcyclists die on our Nation's highways?

Answer. The rise of motorcycle fatalities continues to be a great concern to me and the Department. I am an avid rider, and I know the problem is multi-faceted and there is not one single silver bullet to solve the problem. The Department is looking at a comprehensive approach to motorcycle fatalities, which will include reducing the number of alcohol-impaired riders, decreasing the number of unlicensed riders and encouraging all riders to wear DOT-approved helmets.

To address the problem of alcohol-impaired riders, the Department will initiate a demonstration project implementing heightened law enforcement and communication programs to test their effectiveness in reducing alcohol-related motorcycle crashes. Impaired riding messages will also be incorporated into the impaired driving crackdown over the Labor Day holiday.

We will continue to work with State licensing agencies to implement programs that identify motorcycle owners that are not legally licensed to operate the vehicle, notify them of the licensing requirement, and assist them in obtaining the proper license. The Department will also continue to hold quarterly meetings with representatives of national motorcycle safety organizations to coordinate efforts to improve motorcycle safety.

In addition, we continue to encourage all riders to use DOT-certified helmets. Our efforts to promote helmet use include print and web-based consumer information materials, public service announcements, and articles in magazines and other publications. I recently challenged motorcycle manufacturers to help address rising motorcycle fatalities by providing free or discounted DOT-certified helmets with all new motorcycles purchased and ensure rider training is available for all their customers.

The Department will continue to implement the motorcycle safety programs specified in SAFETEA–LU. The Motorcyclists Safety Grant program will award $6 million in fiscal year 2008 to States to use to support rider training and motorists' awareness programs. The Federal Highway Administration will continue to host meetings of the Motorcyclists Advisory Council to improve motorcycle safety through infrastructure design and maintenance and sponsor the motorcycle crash causation research study.

QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

AMTRAK

Question. Secretary Peters, I appreciate your offer to come to North Dakota and ride the Empire Builder. The Empire Builder is one of Amtrak's most successful long distance trains, recently reporting an increase in ridership in 2006 of 4.3 percent. And I appreciate the comments that you made during your confirmation hearing before the Senate Commerce Committee when you said that you agreed that we need a national passenger rail system.

However, the administration continually shows its lack of commitment to the success of Amtrak, and in fact ignores Congress' stated will to keep Amtrak going. Each year the President seeks insufficient funding for Amtrak, and the Congress has to act to restore the funding.

Can you explain to me why we must have this routine year after year?

Answer. Amtrak is based upon a flawed business model that works against achieving the administration's goal that the limited amount of discretionary funds available for transportation be expended in a cost-effective manner that meets important mobility needs of this country. As an example, the administration sees no compelling public purpose in funding subsidies of food, beverage and first class service. In each of the last two Congresses, the administration submitted legislation, the Passenger Rail Investment Reform Act, which would address the fundamental problems with how this Nation provides intercity passenger rail service. If that bill or something similar were to be enacted, we would break the annual routine that you mention.

Question. It is clear that Amtrak cannot survive on the $800 million requested by the administration. What is the sense in asking for a budget that is so insufficient?

Answer. It is true that Amtrak as presently configured and operated cannot operate on $800 million. That is the point. There are embedded inefficiencies in Amtrak's operation and items subsidized by the Federal Government that serve no compelling public purpose, such as its food and beverage service that consumed over 10 percent of Amtrak's total Federal subsidy in fiscal year 2006. The administration is unwilling to pay for inefficiency and activities not essential to basic transportation. The funding request puts management on notice that it must address these issues.

AVIATION

Question. Recently the Senate Commerce Committee held a hearing on airline mergers, and one topic that arose was whether some additional Government intervention was necessary for maintaining or improving air service to rural communities.

Do you believe the current system is working to sufficiently maintain service to rural communities?

Answer. The Essential Air Service (EAS) program was designed when airline rates, routes, and services were regulated as means of providing temporary support to some communities during the transition of the industry to a deregulated structure. Although the program was eventually made permanent, it has remained fundamentally unchanged since its inception. That is one reason the administration has proposed reforms over the last several years. We believe that the program needs to be targeted to serve the needs of the most truly isolated communities across the country, and the administration's plan offers specific proposals to accomplish that objective.

Question. With the administration's budget requests consistently cutting the Essential Air Services Program, is there another solution that you believe is preferable to achieve rural air service?

Answer. It is clear that the EAS program must be reformed or the costs will continue to escalate. As more and more regional carriers upsize their fleets to larger turboprops or even regional jets, it will leave more and more communities reliant upon subsidized EAS. In addition, as the spread of low-fare carriers continues, more local communities will be unable to support their local airport's service as travelers will drive to nearby, low-fare jet service. EAS service of two or three round trips a day cannot compete with low-fare jet service, and more and more communities are falling into this situation. The administration's budget request is wholly consistent with the notion that the most isolated communities should continue to receive subsidized EAS in order to keep them connected to the national air transportation system.

NATIONWIDE DIFFERENTIAL GLOBAL POSITIONING SYSTEM

Question. Madame Secretary, in your testimony you spoke about the Department's goal of reducing traffic fatalities and congestion. These are important goals and I support the Department in its efforts. One of the tools to help address these problems is the Nationwide Differential Global Positioning System (NDGPS). This nationwide system provides accurate positioning and location information to travelers, emergency response units, and other customers. North Dakota invested $300,000 to convert a former Air Force Ground Wave Emergency Network (GWEN) station at Medora, ND into a NDGPS site. Another conversion is planned for a former GWEN site in Edinburg. In North Dakota, the system is used for land surveying, precision farming, utility locations, archeology locations, and emergency operations. In one example, a single North Dakota Department of Transportation official completed land surveying work for a highway project in 4 days using NDGPS that would have taken four officials 2 weeks to complete without the system.

Some of the most exciting NDGPS uses deal with traffic congestion and accident prevention. Applications are being developed to provide drivers with information they can use to more safety navigate roads. In my State, NDDOT officials are researching the use of NDGPS on snowplows to prevent future accidents. New investment is needed to expand the system and to improve the stations from single to dual coverage. The administration moved the funding responsibility of NDGPS from the Federal Railroad Administration to DOT's Research and Innovative Technology Administration (RITA). The fiscal year 2008 budget proposes $5 million to "operate and maintain" NDGPS.

Question. What role does NDGPS play in DOT's goal of reducing traffic fatalities and congestion, especially in your Intelligent Transportation Systems initiative?

Answer. NDGPS is one of several enabling positioning, navigation and timing (PNT) services that may play a significant role in providing 21st Century solutions for 21st Century transportation problems. We hope that advanced PNT services will enable us to develop and deploy technologies that will increase safety and reduce systemic congestion across all modes of transportation.

NDGPS is one potential PNT infrastructure solution for Intelligent Transportation Systems (ITS) projects. ITS research has identified some future safety and mobility enhancing applications that would require PNT performance capabilities that NDGPS currently offers. Other, more advanced ITS applications may require additional infrastructure and performance upgrades to the current NDGPS system. However, ITS research is still on-going to determine how to best achieve the required PNT performance capabilities for ITS applications.

Question. Is DOT committed to expanding and improving the system? If so, is DOT planning budget increases for the system?

Answer. The Department decided to manage fiscal year 2008 inland NDGPS operations and maintenance expenses at a low level to preserve the Government investment in the system, while RITA completes a systems analysis and assessment of current and potential future NDGPS requirements for transportation and other applications. NDGPS user needs will be evaluated in conjunction with the National PNT Architecture effort to determine to what extent the NDGPS infrastructure can meet user needs as part of a national PNT architecture, before any decision on the future maintenance, operation or enhancement of NDGPS is made.

The assessment is identifying other Federal and non-Federal users of inland NDGPS that could fund its completion and operation. The assessment may also point to another funding source for future maintenance, operation or enhancement of NDGPS, or to shared sponsorship. The Department has stated that if no transportation or other Federal user requirements are identified as a result of the needs assessment, DOT would plan to end support for NDGPS. If the assessment determines there are non-Federal users, DOT would work to develop a transition plan for non-Federal sponsors.

The fiscal year 2008 budget request for NDGPS allows for continued operations and maintenance of the partially-deployed inland NDGPS segment, with no system build-out or enhancements. This request provides funding for DOT to continue protecting the Government assets, and to initiate action on the future course of inland NDGPS. The planned fiscal year 2008 decision could result in: continuing inland NDGPS system operations and maintenance; transferring sponsorship of inland NDGPS to another sponsor or set of sponsors; or other options that may be determined following the completion of the assessment.

Question. When will dual NDGPS coverage be completed in the United States?

Answer. Completion of dual NDGPS coverage depends upon the results of the needs assessment, and on funding decisions made by all NDGPS partners as a result of the assessment. At this time, approximately 92 percent of the area of the lower 48 States (CONUS) has single coverage, and 65 percent has dual NDGPS coverage.

Question. What are your plans for adding the Edinburg site into the system?

Answer. The Department recognizes the strong interest that North Dakota has had in NDGPS, providing funding for the Medora site, and the State's strong desire to add the Edinburg site to complete dual NDGPS coverage in North Dakota. However, we do not wish to add any additional NDGPS sites until the needs assessment is complete, and the long-term future of NDGPS funding and sponsorship are resolved.

CAPTIVE SHIPPERS

Question. During your confirmation hearing, you heard about the concerns that many rail customers have about problems with a lack of rail competition. Many of the rail customers in my State are served by a single railroad. They pay exorbitant rates and receive inferior service. A report by the Government Accountability Office has verified those concerns, concluding that: (1) captive shippers pay rates that are three, four or even fives times as high as those of shippers with competitive choices, (2) the STB's rate relief processes are largely inaccessible and rarely used, and (3) the STB does not fully use its existing statutory authority to address competition issues or ensure reliable deliveries.

Do you agree that the STB has existing authority to create a more robust and effective rate relief process? And if you agree, what steps do you intend to take to prompt the STB to use that authority?

Answer. The Department agrees that the Surface Transportation Board (STB) has authority to adopt an effective rate relief process. In an ongoing rulemaking proceeding, the STB has proposed simplified, less costly procedures for assessing rate reasonableness in cases brought before it, and sought comments from stakeholders on those procedures. The Department has recognized this effort and submitted its views on the new procedures proposed.

Question. The GAO has reported that it would be helpful for a Federal agency to evaluate where areas of inadequate rail competition exist, and where an inappropriate exercise of a railroad's market power might force shippers to pay inappropriately high rates. Do you agree? Will the Department undertake such an investigation?

Answer. Such a study would have limited usefulness, because the absence of substantial rail-on-rail competition in an area is not, in itself, a good indication that rail competition should be introduced. The structure of the rail system has developed in response to varying levels of demand across areas and the particular economies of density that characterize the rail industry. As a result, some areas of low traffic density cannot support more than a single railroad. We do recognize, however, that the potential for exercise of market power in certain areas can lead to rate levels for which rate regulation may be appropriate.

Question. According to the GAO, each rate case filed with the STB takes an average of 3.5 years to complete, and costs approximately $3 million. Do you think this is an appropriate amount of time and money for a shipper to spend on a rate case?

Answer. The Department has called for simplified, less costly procedures for adjudicating rate cases, particularly for small shippers. However, as the record going back to the mid-1990s of attempts by STB to simplify the process for small shippers has shown, it is not an easy determination. For example, there are trade-offs between simplifying the process and accurately assessing an appropriate rate level that is fair to both the shipper and the railroad. We believe progress is being made on this task, as noted above, with the STB's current rulemaking proceeding to simplify the process and reduce the cost.

Question. Has the Department conducted any analysis on the ability or limitations of the rail system to deliver either feedstock or refined ethanol to market, or the impact of unreasonable rail rates on the cost of these critical domestic fuel supplies? If not, will you conduct such an analysis?

Answer. We are monitoring developments in the booming ethanol industry closely and have discussed the issue of alternative energy distribution broadly with the Department of Energy, Department of Agriculture and the Federal Energy Regulatory Commission. We would like to explore the potential implications of the specialized transport and distribution requirements of ethanol further. Two critical needs are the development of a pipeline infrastructure capable of carrying alternative energy products and the development of unloading terminals in destination markets, particularly to handle ethanol unit trains. Another is the availability of rail tank cars to serve the industry. If ethanol production continues on its present growth trend, and if rail continues to be the dominant mode to move it, there could be a demand for as many as 480,000 tank car loadings by 2010. Some reports put the backlog at almost 4 years for delivery of new cars.

Regarding rail rates for ethanol, we have no indication they are unreasonable. Ethanol is a hazardous material, and we would expect rates would be set high enough to cover the railroads' liability in the event of an accident and ethanol spill. Additionally, as with any commodity, rates must offer enough return to justify continued investment. The regulatory processes of the STB are available if a shipper decides to challenge an individual rate.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

AMTRAK

Question. President Bush appointed you to the Board of Directors of Amtrak, America's National Passenger Railroad. The company's last projection for fiscal year 2008 calls for almost $1.7 billion in Federal funding. So why has the President only requested less than half of that—$800 million—for Amtrak?

Answer. There are embedded inefficiencies in Amtrak's operation and items subsidized by the Federal Government that serve no compelling public purpose such as its food and beverage service that consumed over 10 percent of Amtrak's total Federal subsidy in fiscal year 2006. The administration is unwilling to pay for inefficiency and activities not essential to basic transportation. The funding request puts management on notice that it must address these issues.

Question. As a Member of the Board of Directors of Amtrak, you must be aware of the debt payments and liabilities of the corporation—likely to amount to $285 million next year. You suggest funding to pay for Amtrak's debt ought to be paid for out of non-Federal sources, such as revenues. But all revenues are used to pay for operating and capital needs of the corporation. Where do you propose cuts to service or capital be made?

Answer. It is the administration's position that Amtrak's management has the responsibility for managing the Corporation in such a way as to live within the resources available to it.

Question. Does the administration feel Amtrak's debts should be paid at all?

Answer. The Department believes that Amtrak should meet its debt service obligations and makes that a condition of the grant agreements between the Federal Railroad Administration and Amtrak. To be clear, however, Amtrak's debts are the obligation of the Corporation and not of the Federal Government.

FUNDING FOR TRANSIT PROJECTS

Question. Less than 3 weeks after President Bush's "State of the Union" address, he proposes cutting funding for transit projects by over $300 million from congressionally authorized levels. In light of the President's environment and energy goals set forth in his speech, how can you justify these cuts for transit?

Answer. The Federal Transit Administration's (FTA) budget requests $1,399.82 million in fiscal year 2008 for New Starts projects, of which $100 million is for Small Starts. The President's budget request sets priorities and keeps commitments by fully funding all existing construction projects, as well as funding four new, highly qualified projects.

FTA's budget fully funds existing and new multi-year construction projects under the New Starts program. Eleven projects with existing full funding grant agreements (FFGAs) are recommended for funding in fiscal year 2008. In addition, two projects with pending FFGAs carried over from fiscal year 2007 are proposed in the budget. Two new projects are proposed for funding in the budget: New York, NY—Second Avenue Subway, Phase I and Seattle, WA—University Link LRT Extension, both of which are rated "High" in overall project rating. It is expected that these projects will receive an FFGA in fiscal year 2008. The table below reflects projected ridership for the two projects with pending FFGAs and the two projects proposed to receive FFGAs in fiscal year 2008.

RIDERSHIP FORECAST FOR SELECT PROJECTS ANTICIPATED TO RECEIVE FFGAs IN FISCAL YEAR 2008

City	Project	Ridership Forecast	
		Ridership	Forecast Year
Pending FFGA:			
Denver, CO	West Corridor LRT	28,300	2030
Portland, OR	South Corridor I–205/Portland Mall LRT	46,500	2025
Proposed FFGA:			
New York, NY	Second Avenue Subway Phase I	213,000	2030
Seatle, WA	University Link LRT Extension	40,200	2030

During the November–December 2006 time frame, New Starts ratings and the President's fiscal year 2008 budget decisions were finalized. At that time, six projects were forwarded in the "Other" category that might be ready for funding or an FFGA prior to the end of the fiscal year (September 30, 2008). Forwarding these projects in the "Other" category of the budget demonstrates the administration's interest in funding them if progress toward completion of preliminary requirements is sufficient to support a recommendation for an FFGA under the New Starts evaluation and rating framework. During late spring and summer 2007, FTA will provide periodic updates on the "Other" category projects to appropriators to support sound appropriation decisions. Past experience has shown that not all of the projects in the "Other" category will be ready for funding or an FFGA during fiscal year 2008. FTA is confident that the amount requested for New Starts in total meets the demand for funding expected during fiscal year 2008.

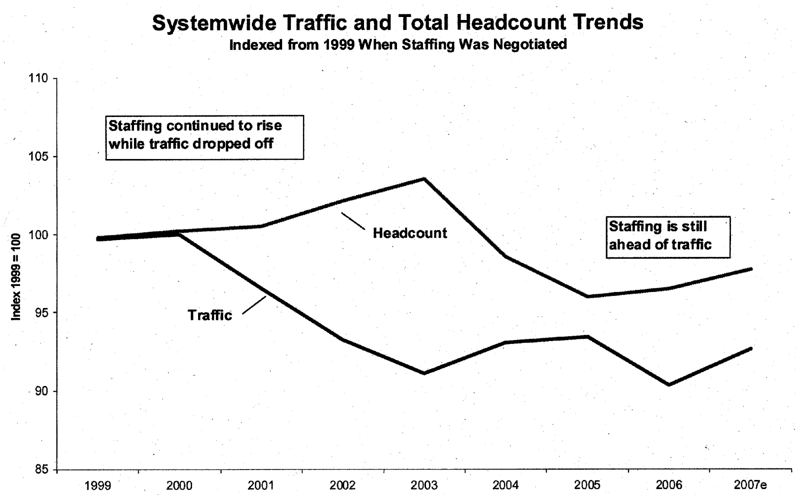
FTA requested $100 million for Small Starts in fiscal year 2008 because there were no Small Starts projects ready in fiscal year 2007, and only four Small Starts projects were ready for funding when work was completed on the fiscal year 2008 budget. In total, those projects only need $52 million in fiscal year 2008 and two of those four will now be funded in fiscal year 2007. Thus, the Small Starts request is realistic and sufficient, both for these projects and for any other Small Start that becomes ready for funding in fiscal year 2008.

FEWER AIR TRAFFIC CONTROLLERS

Question. There are still almost a thousand less air traffic controllers than 3 years ago, and the strain on the system is obvious, with delays throughout the system and a growing workload for each controller. How do you know that the 1,420 controllers you plan to hire will be enough, given that FAA has underestimated the number of retirements?

Answer. At the end of September 2003, there were 15,691 controllers on board compared with 14,469 as of March 31, 2007, for a difference of 1,222 controllers. This only tells part of the story, however, as the Federal Aviation Administration's (FAA) previous contract required the agency to increase staffing, even as the number of FAA-handled operations plummeted following the September 11, 2001, terrorist attacks. While the agency continued to hire, the FAA's customers in the aviation industry were laying off tens of thousands of employees and drastically scaling back operations.

From the chart below, you can see that today headcount is still ahead of traffic. You can also see that through 2006, total operations per controller on average remain more than 6 percent below pre-September 11, 2001 levels.



FAA now staffs its facilities based on traffic, with workload driven by the number of positions that need to be staffed due to forecasted traffic demands. Additional information can be found in the March 2007 Report, A Plan for the Future: The FAA's 10-Year Strategy for the Air Traffic Control Workforce. This concept of staffing to traffic requires the FAA to incorporate many individual facility characteristics. They include facility-specific traffic volumes based on FAA forecasts and hours of operation, as well as individualized forecasts of controller retirements and other attrition losses.

—In fiscal year 2006 the FAA hired 1,116 air traffic controllers.

—In fiscal year 2007 the FAA plans to hire more than 1,300 new air traffic controllers.

Should adjustments become necessary due to changes in traffic volumes, retirements or other losses, the FAA will take action at the facility level.

REPORTS TO CONGRESS

Question. When does the administration intend to submit the following reports, as required by law:

—Public Law 109–115: "*Provided further,* That not later than December 31, 2015, the owner or operator of an airport certificated under 49 U.S.C. 44706 shall improve the airport's runway safety areas to comply with the Federal Aviation Administration design standards required by 14 CFR part 139: *Provided further,* That the Federal Aviation Administration shall report annually to the Congress on the agency's progress toward improving the runway safety areas at 49 U.S.C. 44706 airports."

—Public Law 109–59:

SEC. 2003. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAMS.

(f) REFUSAL OF INTOXICATION TESTING.—

(1) STUDY.—The Secretary shall carry out under section 403 of title 23, United States Code, a study of the frequency with which persons arrested for the offense of operating a motor vehicle while under the influence of alcohol and persons arrested for the offense of operating a motor vehicle while intoxicated refuse to take a test to determine blood alcohol concentration levels and the effect such refusals have on the ability of States to prosecute such persons for those offenses.

(2) CONSULTATION.—In carrying out the study under this subsection, the Secretary shall consult with the Governors of the States, the States' Attorneys General, and the United States Sentencing Commission.

(3) REPORT.—

(A) REQUIREMENT FOR REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(B) CONTENT.—The report shall include any recommendation for legislation, including any recommended model State legislation, and any other recommendations that the Secretary considers appropriate for implementing a program designed to decrease the occurrence of refusals by arrested persons to submit to a test to determine blood alcohol concentration levels.

Answer. The Runway Safety Report has been completed and the Federal Aviation Administrator transmitted the report to Congress on May 25th.

In December 2005, the Department met with House and Senate staff to discuss the timing of the alcohol testing report. We were very pleased when the Committees agreed to allow the deadline for this report to be moved until June 10, 2008. The issue of breath test refusals and its impact on the ability of States to prosecute impaired driving offenses is complex, which necessitated our request to delay the report. NHTSA awarded a contract in fiscal year 2006 to update an existing report on breath test refusals (using data from 2000) and added the requirement to study its impact on impaired driving prosecutions. The Department fully expects to meet the new deadline.

QUESTION SUBMITTED BY SENATOR TED STEVENS

INDIAN RESERVATION ROADS

Question. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) directs the Secretary of Transportation, in cooperation with the Secretary of Interior, to complete a comprehensive national inventory of transportation facilities eligible under the Indian Reservation Roads (IRR) program. This inventory is to be completed within 2 years of SAFETEA–LU's enactment. I have been contacted by tribes from across the country concerned their roads are not being included in the national inventory based on vague guidance from the Bureau of Indian Affairs (BIA) that varies from region to region as to what requirements must be met for a road to be accepted. Roads must be included in the inventory in order to receive funds through the IRR program

Given that the IRR program is jointly administered by the Federal Highway Administration (FHWA) and the Bureau of Indian Affairs (BIA), what is FHWA doing to ensure clear and uniform guidance to Tribes so their inventories may be accepted?

Answer. The Indian Reservation Roads (IRR) Program is jointly administered by the Bureau of Indian Affairs (BIA) and Federal Highway Administration (FHWA) and we are jointly working on the development of a comprehensive inventory of all facilities eligible for inclusion in the Program. Numerous changes to the IRR Program have taken place over the past few years, the most significant being the publication of the IRR Program Final Rule (25 CFR 170). This rule provides all of the regulations on how the IRR Program is to be carried out and was developed as a result of the negotiated rulemaking process between the Indian tribes and the Federal Government that was required in the Transportation Equity Act for the 21st Century (TEA–21).

During the first year under these new regulations (2005), it became evident that the requirements to have a road or facility included in the IRR Program inventory needed to be clarified. The IRR Coordinating Committee (which also was formed as a result of the Final Rule) recognized this fact and worked closely with BIA and FHWA representatives to develop a new comprehensive list of the requirements needed for IRR Program Inventory submittals. This updated list was presented to the Department of the Interior's Assistant Secretary Cason for his approval and a new policy letter was published with his signature on June 15, 2006.

The policy was provided to all of the BIA Regions and their respective tribes. Additional information and training was provided to the various Tribal Technical Assistance Program (TTAP) Centers throughout the country so that they too could provide training on this subject to the Tribes. As a result, the number of inventory sections that were submitted yet returned to the Tribes as incomplete substantially decreased last fiscal year and has continued to decrease this past year. With the ability to make the inventory system available to tribes directly through the Internet, we anticipate this reduction to continue.

Over the past few years, the number of miles included in the IRR Program inventory has increased from approximately 64,000 in fiscal year 2003 to over 85,000 this past year. One BIA Region that has witnessed a substantial increase in their IRR

Program inventory has been the Alaska Region where the number of miles in the approved IRR Program inventory has increased over 1,800 percent in the last 10 years.

Improvements to the IRR inventory process is an ongoing process in which the IRR Coordinating Committee, FHWA, and BIA are all jointly working together to develop and implement. It is well understood that it is in the best interest of everyone that the system be as simple as possible yet be carried out in a manner that is fair for all tribes. This is often difficult yet it is one that all of us involved are striving to accomplish.

SUBCOMMITTEE RECESS

Senator MURRAY. This subcommittee stands in recess until Thursday, March 1.

[Whereupon, at 11:12 a.m., Thursday, February 8, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

WEDNESDAY, FEBRUARY 28, 2007

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

The subcommittee met at 10:33 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

Present: Senators Murray, Lautenberg, Bond, Specter, and Allard.

AMTRAK

STATEMENT OF ALEXANDER KUMMANT, PRESIDENT AND CHIEF EXECUTIVE OFFICER

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. This subcommittee will come to order. This morning, the subcommittee is going to hear testimony on the Nation's intercity passenger railroad Amtrak. This past year, like the year before it, Amtrak posted a new record ridership, 24.3 million passengers. The reasons behind Amtrak's recent success go right to the heart of the debate over whether we need a national intercity railroad.

People boarded Amtrak in record numbers because gas prices were too high, because highways were too congested, because runways were too congested, because weather eliminated other travel options, and because airlines abandoned air service to rural communities. Amtrak certainly isn't the perfect solution to all these problems, but it certainly is part of the solution.

Many of my congressional colleagues have sited Amtrak's service problems and subsidy needs and have called for dramatic reforms. I agree that there are opportunities for reform at Amtrak, but we would all do well to remember some things about Amtrak's history before we launch into wholesale reforms with unknown outcomes.

Amtrak was created several years ago by combining the money-losing passenger operations of several different railroads. The Government didn't have the luxury of designing a national passenger railroad from scratch. To the contrary, with several railroads heading rapidly into bankruptcy, Amtrak was created to take over these financial liabilities and link together all these money-losing passenger lines. Today, Amtrak as we know it is still a hodgepodge. Amtrak owns its track in one region of the country, but not in other regions. Some States, like mine, pay for both the operating costs and some capital costs of their trains. Some States pay just a portion of the operating costs, and still other States pay absolutely nothing for their Amtrak service. Some Amtrak services run with equipment that is just a few years old. Some services run with equipment that is several decades old. Even today some of Amtrak's equipment dates back from before the railroad was founded. Some of it even dates back to before World War II.

When you are dealing with a hodgepodge system, you need to be very suspicious of reforms where one size is expected to fit all. I believe that reforms are needed at Amtrak, but I also believe these reforms should not just be about cutting employees, cutting wages, and cutting communities off the national rail map.

When it comes to cutting employees, Amtrak has already dropped its employee head count by almost 6,250. That is a cut of more than 25 percent in the last 6 years. When it comes to wages, most Amtrak employees haven't seen a real wage increase in almost 8 years. Last year, in the name of reform, Amtrak's Board of Directors proposed to send some Amtrak jobs overseas. That's right, a company that receives over $1 billion in taxpayer money each year would be using those tax dollars to send jobs overseas. Senator Byrd and I included an amendment on last year's appropriations bill to prohibit that. As a result, the Amtrak board abandoned its plan. But my point here is not everything that is proposed in the name of reform makes sense for the American people, or the taxpayers, or for Amtrak's passengers.

I can think of a number of reforms at Amtrak that do make sense and are long overdue. They include reforming the way the Nation's freight railroads dispatch Amtrak trains so that the passengers have a fighting chance to arrive on time. Reforming the way Amtrak compensates its employees so they can attract and retain the skilled personnel they need. Reforming the way the Bush administration budgets for Amtrak's needs so that the administration and Congress can focus together on truly modernizing the railroad rather than battling annually over whether the railroad will be allowed to limp into next year.

When you look at the recent record, Amtrak has been able to increase riders and revenue, not just on the Northeast Corridor, but on its State-supported and long-distance trains as well. That fact is all the more impressive when you look at the abysmal on-time performance on some of these trains outside the Northeast Corridor. Outside the corridor, Amtrak travels over track that is owned, maintained, and dispatched by freight railroads. But as a matter of Federal law, those freight railroads are required to give Amtrak trains preference over freight traffic when dispatching traffic over their rails. When you look at the on-time performance of many of these Amtrak trains you have to question whether the law is being ignored.

There is no question we need our freight railroads to move cargo. Freight mobility is an essential part of our economy, especially in an agricultural and trade State like mine. It is simply not realistic to expect our freight railroads to put every coal and container train on a siding so passenger trains can breeze through. But right now, more than half of Amtrak's long-distance trains arrive late—many of them extremely late. When you review the data as to why these trains are late, there's one factor that outweighs all the others: interference with freight trains.

More than 76 percent of the delay time that these trains endure is associated with problems at the host freight railroad. It is either interference with freight traffic, slow orders due to deferred maintenance, signal delays, or other problems. When you look at some of the Amtrak trains that are supported by State subsidies, the record is not much better.

Let me just talk about two examples of States that get a lot of attention by this subcommittee, Washington State and Missouri.

My home State does not only finance the operating losses of the Cascade Trains, it has even purchased some of the railcars for that service. But last year these trains still arrived late almost half the time. In Missouri, the State puts up millions of dollars to operate twice daily trains between Kansas City and Saint Louis, but last year those trains were allowed to arrive on time less than one-third of the time. The on-time performance of these trains in December was no better. It is a deplorable record. Given that record, it is amazing, indeed, that Amtrak can sell any tickets on this train. Yet here too, ridership has increased because people want to use the service.

When you look at the Bush administration's budget for Amtrak and the separate budget request submitted by Amtrak's Board of Directors, there is one notable area where they are in agreement. Both budgets want this subcommittee to set aside $100 million in matching funds, for the States to launch new passenger corridors. When both Amtrak and the Bush administration agree on a budget proposal, you have to take notice.

But given the problem with the on-time performance of these State-supported trains, I am left here asking, "What is the point in providing additional funds for new State-supported rail services if those trains are just going to suffer the same congestion and dispatching problems that befall Amtrak's current trains?" If we're going to put Federal tax dollars into capital improvements over privately-owned freight track, shouldn't we be focusing those on improving the current services, before we start paying for new services? Why should States like mine—States that already make substantial cash contributions for Amtrak service—have to put up even more State dollars just so that their existing trains don't arrive consistently late?

That was his bell for being late.

So, one Amtrak reform this subcommittee must look at, is how we can better ensure that Amtrak trains have a fighting chance of arriving on time. No one should expect Amtrak to dramatically improve their ridership and financial performance of the Northeast Corridor when it is more likely than not that those trains won't arrive on time.

Another Amtrak reform we should look at is seeing to it that Amtrak has the resources that it needs to recruit and retain the employees they need. Amtrak and its labor unions have not been able to reach agreements on a new contract for 7 years. It's time for that impasse to end. Many crafts have not experienced a meaningful pay increase in all of that time. The result has not just depressed employee morale. Amtrak is now facing serious shortages in a number of skill areas, because trained and experienced employees are taking better paying jobs with commuter railroads, freight railroads, or outside the railroad industry. Amtrak will not be able to improve its efficiency, safety, and service quality if it's lowest paying—if it is the lowest-paying competitor in the industry.

Finally, it is my hope that we can start having a meaningful, fact-based dialogue with the Bush administration about Amtrak's real financial needs. President Bush's Federal Railroad Administrator will testify to us today that if we cut overall funding for Amtrak by almost 40 percent, Amtrak can stay out of bankruptcy next year. I'm not sure that any other witness here is going to agree with that observation.

The DOT Inspector General has performed a valuable service for this subcommittee, by being an impartial monitor of Amtrak's financial condition. Today's witness from the Inspector General's office will testify that what Amtrak really needs is to be reauthorized. I totally agree that Amtrak desperately needs comprehensive legislation that addresses each of the challenges I have cited and many others. I sincerely hope this legislation is signed into law this year. This subcommittee's practice of providing incremental reforms through appropriations legislation each year is not the ideal way to do business. But absent the enactment of a comprehensive Amtrak reform bill, we will continue to do what needs to be done to address these areas and keep Amtrak alive for the steadily growing number of citizens that demand the service.

Senator MURRAY. Senator Bond.

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you, Madame Chair. And I join with you in welcoming our witnesses today, and look forward to hearing the differing views on each of you on the current needs of Amtrak and how best to meet the growing challenges that face intercity passenger rail. I have many concerns about Amtrak and look forward to an opportunity to discuss these.

I might say, for the record, that I was for Amtrak when it was first cool. About a third of a century ago as Governor of Missouri, I recommended and signed into law the appropriations to provide roughly $1 million a day for Amtrak. And I enjoyed the service, but I have a lot of questions about the economic feasibility.

Now, the good news is that my Representatives and Senators and Governor of Missouri have been putting about, I believe, $6 million a year into subsidizing it. So, they see the need. But the question is, "How do we make this viable for the long term?" Our highways continue to become more and more congested, and our airports are full of passengers—snowstorms, they stay there in the airports and I've done that—and people look for alternative modes of transport.

On the Northeast Corridor, I would love to be able to hop on the train to head to New York for the weekend versus trying to fight the traffic. But as I understand that while the highway traffic has increased markedly on 95, the ridership on Amtrak has been relatively stable. And obviously one of the reasons is because of the capacity constraints. So, I think that needs to be addressed for the Northeast Corridor.

But again, we need also to look at the economics of east coast to west coast service, and how that's going to be paid for. We are caught in a spiral where the costs are increasing significantly, while overall ridership on Amtrak has gone up. In other areas it does not—it is not coming close to paying for the service.

I, too, look forward to comprehensive legislation, but the measures that I've seen require significant infusions of additional Federal money. Given the budget constraints under which this committee operates, I don't see that money being available. So I look in the comprehensive legislation for what is proposed to pay for the additional costs that this legislation would incur.

Now, to talk about the specific budget, while I have questions, I do believe that the budget provided by the administration did not provide the funding needed to meet Amtrak's anticipated expenses for fiscal year 2008. As we know, for this coming fiscal year, the administration recommended $900 million for Amtrak, $800 million directly, and $100 million dedicated to issuing capital matching grants to States for intercity passenger rail projects.

Of the $800 million provided directly to Amtrak, $300 million is required for Amtrak's new management team to make the necessary decisions to act on its mandate and reshape the company. I expect Mr. Kummant, with Amtrak, to explain where we are today, where we're going, and how much it's going to cost.

Amtrak must be able to account for its expenditures with long-term plans for individual capital improvement similar to State TIPs or Transportation Improvement Plans. If the detailed Transportation Improvement Plans were provided by Amtrak, we'd be better able to understand what unmet needs are out there. And we could then decide whether or not we agree with providing additional funding for passenger rail service.

Currently, labor costs require 82 percent of the revenue generated for Amtrak, and Amtrak estimates that healthcare costs will total $238 million for this 2007 calendar year, approximately 22 percent of the total payroll. No business is sustainable at this level of operations, regardless of the amount of money put in to the efficiency incentive grant program.

Amtrak estimates that the savings they could achieve with labor changes is between $82 million and $100 million annually. But, unless all options are on the table to achieve savings—as highlighted by Amtrak's board—we're going to be unable to preserve Amtrak and passenger rail service for the long term. As you know, Amtrak spends $2 for every $1 of revenue collected on food and beverage service. If you factor out the cost for food and beverage, every dollar of revenue equals the labor cost to deliver it. We have yet to see results of how Amtrak is dealing with this.

I'm concerned that the budget submission we received for Amtrak does not include any funds for debt service payments. These payments are necessary, and will be paid whether they are a line item for debt service added by this subcommittee, or from the $500 million provided for capital costs. We can not ignore the fact that debt is there, and that there is an immediate and legal obligation to repay it.

To be blunt, we need a dynamic plan and commitment that will transform Amtrak into a viable transportation option. We can not afford to tread water year after year where all funding basically supports the status quo, while labor costs and infrastructure needs continue to explode faster than the ridership.

Thank you, Madame Chair.

Senator MURRAY. Thank you Senator Bond.

Senator Lautenberg, you have an opening statement?

STATEMENT OF SENATOR FRANK R. LAUTENBERG

Senator LAUTENBERG. Thanks very much, Madame Chairman, for holding this hearing. I had the opportunity yesterday in the committee—subcommittee in commerce—we had a chance to hear from Mr. Kummant and Mr. Boardman, and we're pleased to have a chance to talk to them as well as the other witnesses today.

In New Jersey we have enormous traffic problems, but we're not unique. Traffic problems across—all we have to do is look into Washington, DC and see how long it takes to cover routes that used to be 10 minute rides, like to my house—or 12 minutes—are now a half an hour, if you're lucky. And that's the way it is throughout the country. It's very hard to get into any area that has any development associated with it, where the traffic doesn't overwhelm the efficiency.

So, in New Jersey, for example, the average New Jerseyan spends 300 hours commuting by car each year, and 15 percent of that time is wasted in traffic. And, it's not simply the late arrivals. When you look at the problem with importing oil that's required to maintain those engines as they idle along, and the pollution that's created. Last year was the worst year for flight delays since 2000. One in four planes was late, and we expect nearly 5,000 new light jets to go into service over the next 10 years. The sky, we learn now, is finite, it just, you don't have room to put everything up there that you'd like to.

With this in mind, Amtrak requested what it needed to keep trains running safely and reliably. And then President Bush went ahead and requested half as much. And yesterday, when I chaired that subcommittee, we discussed the bipartisan bill being done by Senator Lott and myself, to fully fund Amtrak and expand its service into more cities, because it's critical in the traffic movement that is required in this country.

Last year the Senate approved our plan by a vote of 93 to 6, because America's travelers need another choice. Now, I look forward to getting the same kind of response and support this year. In the meantime, we can not continue to let Amtrak deteriorate, which is what the President's budget would do.

Now, when we look at what is spent in other countries to achieve first-class rail service, it dwarfs everything we do. Germany spent more in a year than we spend in a half a dozen years to get their service going. It's excellent. And you've got to pay for what you want. And we can not do it on skinny budgets that—many of which were designed to bankrupt Amtrak. And so I'm working with the Budget Committee to ensure that Amtrak gets the Federal resources it needs to provide services and options to our citizens.

And in my new assignment, in this committee, I'm happy to work with the Chair and the ranking member to ensure that Amtrak is a priority.

I heard, Madame Chairman, as you were making your statement, some of the equipment was as old as World War II. I think some of things that, during World War II, still have the viability as we go along, and I'm of that vintage. Thank you very much.

Senator MURRAY. Thank you, Senator Lautenberg.

Senator Allard.

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Madame Chairman, thank you for holding this hearing. I followed Amtrak carefully, on the authorizing side for a number of years, so I appreciate the opportunity to be more involved on the budget side.

While passenger rail has a role in efficient modern transportation infrastructure, I'm concerned about how Amtrak has performed in providing that service. As my colleagues may know, I'm a strong proponent of results and outcomes. Amtrak and other Government-funded entities should not be judged based upon how much they receive in Federal funding, but by the results that can be demonstrated by those taxpayer dollars.

In the case of Amtrak, I'm afraid those results are not very impressive. In the administration's PART Assessment—that's their tool for evaluating the effectiveness of programs—Amtrak was rated as ineffective. I'm afraid that Amtrak's history before this Congress is plagued with unfulfilled promises over the years, stories of inefficiencies and a waste of taxpayer dollars. In fact, it was the only program in the entire Department of Transportation to receive an ineffective rating.

I want to be clear on what this really means. From the administration's description, ineffective means "programs receiving this rating are not using taxpayer dollars effectively." That seems pretty clear to me, and I'm pleased to see that the budget contains a proposal to incentivize more State participation.

Nearly every other area of transportation, including highways, mass transit, and aviation, is a partnership between the Federal and State or local governments. Passenger rail should follow the same model. It should not be considered the sole jurisdiction or responsibility of the Federal Government.

States and localities are also in a position to better understand the transportation needs of their citizens. Not only does the budget ask them to prioritize their needs, it does so in a meaningful way by asking them to share joint funding responsibilities. This will help ensure that the highest needs are met, rather than producing a wish list of wants.

I am concerned however, that this change may not be enough. I'm unconvinced that Amtrak has completely turned the corner and is solidly on the path of financial soundness. I look forward to the opportunity to hear from the witnesses about this budget request and how it fits into Amtrak's future. Their testimony will be helpful as we move forward with the appropriation process.

Thank you Madame Chairman.

Senator MURRAY. Thank you, Senator Allard.

We have five witnesses before our committee today. Mr. Kummant, President and CEO of Amtrak, Mr. Boardman, Administrator of the Federal Railroad Administration, Mr. Tornquist who's the Assistant Inspector General for Competition and Economic Analysis, Mr. Wytkind, President of Transportation Trades Department, and Mr. Serlin, President of Railroad Infrastructure Management.

You each will be allocated 5 minutes and I ask you to keep your remarks within those 5 minutes, so we can get to committee member questions.

And Mr. Kummant, we will begin with you.

STATEMENT OF ALEXANDER KUMMANT

Mr. KUMMANT. Madame Chairwoman, and members of the subcommittee, thank you for the opportunity to testify before you today.

While my testimony will primarily focus on the fiscal year 2008 budget request, I'd like to take a few minutes to update you on how the company is doing. With that, I'll reiterate a number of the points you made in the opening comment as well.

AMTRAK STATUS UPDATE

As you know, we finished the fiscal year 2006 by establishing new ridership and revenue records. Through January, we're continuing to outpace the previous with ridership and revenue ahead by 4 percent and 10 percent, respectively. The ridership increases are reflected across all services, and outside the Northeast Corridor ridership is up about 5 percent nationwide, though some corridors have seen double-digit growth.

Overall, the big driver right now is, of course, the Northeast Corridor, and particularly the Acela service, where ridership is up about 19 percent over the same period last year. This is the result of a number of improvements to the onboard experience, better reliability and much better on-time performance. We've consistently been hovering around 90 percent on-time for Acela, and that's the result of having significantly reduced the backlog of state of good repair work, leaving the Northeast Corridor in the best shape it's been in for years.

Our safety numbers—another key indicator—are also lower than last year's final numbers, and we finished this January at a 40 percent run-rate improvement over last year. Finally, we continue to pay down our debt, and have not assumed any new debt for 4 years in a row.

Within the next few months, we expect to send to Congress an update of our multi-year strategic plan, which will underscore, again, the need for a fiscal year 2008 funding request and provide a vision of where we hope the company will be within the next few years.

In summary, our vision for Amtrak is one of growth, particularly in corridor services, product excellence as we're demonstrating with Acela, and overall sound management. Looking forward, much of the success of passenger rail service will lie in the establishment of clear multi-year Federal policy, including a Federal-State matching program to fund corridor development. The other major initiative we'll have to undertake soon is procurement of new equipment as was also alluded to earlier. We have an aging fleet with little excess equipment, and as corridor service grows, it will be exhausted.

FISCAL YEAR 2008 FUNDING REQUEST

Let me turn to the fiscal year 2008 request. On February 15, we submitted to Congress our Grant and Legislative Request, which I would ask be enclosed for the record. This document contains both the specific request and details to explain the need for this funding. In short, Amtrak is requesting $1.53 billion, which is less than last year's request of $1.598 billion and an increase over the fiscal year 2007 enacted amount of $1.3 billion. The budget request breaks down as follows: for operating support, $485 million; capital, $760 million; and mandatory debt service, $285 million.

We've also suggested that Congress fund $100 million for a State corridor match program and an additional $50 million for ADA Station accessibility needs. It is worth noting that the administration's fiscal year 2008 budget request for Amtrak also recommended $100 million for State corridor match program, as was referenced earlier.

With regard to our operating request, the $485 million continues a downward slope of operating needs over the last 10 years. For comparison sake, in fiscal year 1996, operating support represented 23 percent of our total budget request. In fiscal year 2008, the amount now represents about 19 percent.

This reduced operating need is accomplished in the face of rising costs, particularly in the areas of health and benefits, insurance, and fuel. Keep in mind, the absence of new labor agreements has certainly helped to keep the operating costs relatively constant.

For our capital needs, Amtrak has requested $760 million, which would be used to continue state of good repair initiatives, including modernization of our fleet. As I said earlier, Amtrak has completed a substantial investment of the Northeast Corridor infrastructure, which we own and maintain. The on-time performance numbers for all users of the corridor reflect the benefit of these investments. For instance, on-time performance for New Jersey Transit, a major user of the Northeast Corridor, was 94 percent in fiscal year 2006.

Finally, we continue to invest in our fleet, and expect by the end of fiscal year 2009 to bring the entire fleet to state of good repair. During the short time that I've been with Amtrak, I have been struck by the enthusiasm and support that exists for passenger rail services, particularly at the State and local levels. And parenthetically, too, I must say the energy and drive of our frontline folks, as you alluded to—in the face of a long time without labor settlements—is also impressive. I believe that we're on the verge of significant growth and development of our Nation's rail infrastructure, and the steps we're taking today are essential to meet the need for the eventual expansion of passenger rail service.

PREPARED STATEMENT

Thank you again for the opportunity to testify today, and I look forward to working with you—with each of you in the coming months. I'd be happy to answer any question. Thank you.

[The statement follows:]

PREPARED STATEMENT OF ALEXANDER KUMMANT

Madame Chairwoman and members of the subcommittee, thank you for the opportunity to testify before the subcommittee today. While my testimony will primarily focus on the fiscal year 2008 budget request, I would like to take a few minutes to update you on how the company is doing.

As you know, we finished fiscal year 2006 by establishing new ridership and revenue records. Through January we are continuing to outpace the previous year with ridership and revenue ahead by 4 percent and 10 percent respectively. The ridership increases are reflected across all services, and outside the Northeast, corridor ridership is up about 5 percent nationwide though some corridors have seen double digit growth. Overall, the big driver right now is the Northeast Corridor (NEC) and particularly the Acela service where ridership is up about 19 percent over the same period last year. This is the result of a number of improvements both to the onboard experience, better reliability and much better on time performance (OTP). We have been consistently hovering around 90 percent OTP for Acela, and that is the result of having significantly reduced the backlog of state-of-good repair work, leaving the NEC in the best shape it has been for years. Our safety numbers, another key indicator, are also lower than last year's final numbers and we finished this January at a 40 percent run rate improvement over last year. Finally, we continue to pay down our debt and have not assumed any new debt for 4 years in a row.

Within the next few months we expect to send to Congress an update of our multi-year strategic plan which will underscore again the need for our fiscal year 2008 funding request and provide a vision of where we hope the company will be within the next few years. But, in summary, our vision for Amtrak is one of growth (particularly in corridor services), product excellence (as we are demonstrating with Acela), and sound management overall. Looking forward, much of the success of passenger rail service will lie in the establishment of clear multi-year Federal policy, including a Federal-State matching program to fund corridor development. The other major initiative we will have to undertake soon is procurement of new equipment. We have an aging fleet with little excess equipment, and as corridor service grows, it will be exhausted.

Let me turn to fiscal year 2008 request. On February 15 we submitted to Congress our fiscal year 2008 Grant and Legislative request which I would ask to be enclosed for the record. This document contains both the specific request and details to explain the need for this funding. In short, Amtrak has requested $1.53 billion which is less than last year's request of $1.598 billion, and a slight increase over the fiscal year 2007 enacted amount of $1.3 billion.

The budget request breaks down as follows:

—Operating, $485 million;

—Capital, $760 million; and,

—Mandatory debt service, $285 million.

We have also suggested that Congress fund $100 million for a State corridor match program and an additional $50 million for ADA station accessibility needs. It is worth noting that the administration's fiscal year 2008 budget request for Amtrak also recommended $100 million for a State corridor match program.

With regard to our operating request, the $485 million continues a downward slope of operating needs over the past 10 years. For comparison sake, in fiscal year 1996, operating support represented 23 percent of our total budget request. The fiscal year 2008 amount now represents about 19 percent. This reduced operating need is accomplished in the face of rising costs particularly in the areas of health and benefits, insurance and fuel. Keep in mind, the absence of new labor agreements has helped to keep operating costs relatively constant.

For our capital needs, Amtrak has requested $760 million which would be used to continue state of good repair initiatives including modernization of our fleet. As I said earlier, Amtrak has completed a substantial investment of the NEC infrastructure which we own and maintain. The on time performance numbers for all users of the corridor reflect the benefit of these investments to the NEC plant and structures. For instance, on time performance for New Jersey Transit, a major user of the Northeast Corridor, was 94 percent for fiscal year 2006. Finally, we continue to invest in our fleet and expect by the end of fiscal year 2009 to bring the entire fleet to a state-of-good-repair.

During the short time that I have been with Amtrak I have been struck by the enthusiasm and support that exists for passenger rail service, particularly at the State and local levels. I believe that we are on the verge of significant growth and development of our Nation's rail infrastructure and the steps we are taking today are essential to meet the need for the eventual expansion of passenger rail service. Thank you again for the opportunity to testify before the subcommittee today and

I look forward to working with each of you in the coming months. I would be happy to answer your questions.

Senator MURRAY. Thank you.
Mr. Boardman.

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

STATEMENT OF HON. JOSEPH H. BOARDMAN, ADMINISTRATOR

Mr. BOARDMAN. Chairwoman Murray, ranking member Bond, Senators Lautenberg and Allard, thank you for having me here today. I'm here on behalf of Secretary Peters and the Bush administration to talk about the budget proposal for 2008.

ADMINISTRATION FISCAL YEAR 2008 BUDGET PROPOSAL

As you've already noted, the administration requests $800 million in direct subsidies to Amtrak, and $100 million to fund a program of matching grants to the State under the capital investment projects for passenger rail services that the State believes are important.

The request includes that $500 million in direct Federal subsidies for Amtrak's capital costs, and in addition—I'll discuss in a moment—the $100 million, 50 percent Federal match program with the States. With this amount, Amtrak and its State partners could carry out a capital improvement program that, when combined with other collections from Amtrak, can address the most pressing investment needs, and given the system today, is an amount that they can reasonably manage in 2008. The administration also requests $300 million for transitional operating costs. The Government Accountability Office, the DOT IG, the Amtrak IG, and others have recently presented options for achieving the savings necessary for that number.

STATE MATCHING PROPOSAL

Most publicly-supported transportation in the United States is undertaken through a partnership between the Federal Government and the United States—and the States, excuse me. This model—which has worked well for generations for highway, transit, and airports—places the States—and in certain cases their subdivisions—in the forefront of planning and decisionmaking.

States are uniquely qualified to understand their mobility needs and connectivity requirements through state wide and metropolitan area inter-modal and multi-modal transportation planning, funded in part by the U.S. DOT. While intercity passenger rail has historically been an exception to this application of the model, in recent years some States have taken an active role in their rail transportation services. Several States have chosen to invest in intercity passenger rail provided by Amtrak as part of strategies to meet their passenger mobility needs. And over the past 10 years, ridership on intercity passenger rail routes that benefit from State support has grown by 73 percent—over that same period, ridership on Amtrak routes not supported by States, only by 7 percent.

State involvement and planning and decisionmaking for intercity passenger rail identifies where mobility needs justify public investment. An excellent example, you've already identified this morning—in Washington State, which has invested in intercity passenger rail from Portland, Oregon through Seattle, to Vancouver to make this service a viable alternative to highway travel on the congested I–5 Corridor.

Illinois provides another example where its recent investments have doubled the number of intrastate trains operated by Amtrak. Additionally, State involvement in planning and decision making helps ensure that the infrastructure such as stations and connectivity to other forms of transportation, support inter-modalism within the State. There's no better example for that than North Carolina.

State involvement in funding intercity passenger rail service also provides an added discipline on Amtrak to continually seek ways to provide the highest quality of service. An example of that can be found in Vermont where the State—when presented with prospects of higher State operating subsidies for its current service—is working with Amtrak to restructure this service, which will not only drive down operating costs, but will also increase the frequency of service.

Amtrak's own strategic reform initiative seeks to build on Amtrak's experience with the States. Amtrak is seeking to create a stronger role with the States in designing and supporting the services the States believe are important. The administration supports this aspect of Amtrak's internal reform.

In discussions with interested States, the U.S. DOT has found that the single greatest impediment to implementing this initiative is the lack of Federal-State partnership, similar to that which exists for highways and transit. For investing in the capital needs of intercity passenger rail, such a partnership is one of the five principles of intercity passenger rail reform laid out by former Secretary Mineta in 2002, and was a central element of the administration's Passenger Rail Reinvestment Reform legislative proposal.

PREPARED STATEMENT

Therefore, the administration is proposing a capital grant program that will encourage State participation in its passenger rail service. Under the new program, a State, or States, would apply to FRA for a grant up to 50 percent of the cost of investment. Priority would be given to infrastructure improvements, and projects that improve the safety, reliability, and schedule of intercity passenger trains, reduce congestion on the host freight railroads where the freight railroads commit to an enforceable on-time performance of passenger trains of 80 percent or greater. Additionally, the specific project would have to be on the State Transportation Improvement Program at the time of the application.

Thank you for the opportunity to speak.

[The statement follows:]

PREPARED STATEMENT OF HON. JOSEPH H. BOARDMAN

Chairman Murray, Ranking Member Bond, I appreciate the opportunity to appear before you today on behalf of Secretary of Transportation Mary Peters and the Bush administration to discuss the President's budget proposal for fiscal year 2008 as it relates to the Federal Railroad Administration and Amtrak.

The administration remains committed to improving the manner by which intercity passenger rail services are provided. This, of necessity, also includes improvements to how Amtrak provides this service and laying the groundwork for the States to have a stronger role in determining the important characteristics of services that States support financially and for the participation of other entities in the provision of intercity passenger rail service under contract to the States and/or Amtrak.

Since 2002, the administration has drawn a distinction between intercity passenger rail service, a form of transportation, and Amtrak, the company that provides the service. The administration supports the form of transportation as a component of our national transportation system but recognizes there are shortcomings with the service provider. The administration's advocacy for change is beginning to see results as Amtrak, through its Board of Directors, has acknowledged the urgent need for reform and issued a Strategic Reform Initiative plan that mirrors major elements of the administration's plan, such as introducing competition; empowering States to participate in infrastructure decisions; reducing operating subsidies; and enabling management to separate Amtrak's train operations from its infrastructure management. There is also a new management team being put in place with a mandate to overhaul the company. Congress similarly has taken steps to encourage cost efficiency and accountability. Nevertheless, much more is required to resolve Amtrak's well-documented problems.

For fiscal year 2008, the administration requests $800 million in direct subsidies to Amtrak and $100 million to fund a program of matching grants to the States to undertake capital investment projects for passenger rail services that the States believe important. This amount would support continued intercity passenger rail service and would enable Amtrak's new management team to act on its mandate to reshape the company. However, it would also require that Amtrak undertake meaningful reforms and control spending. The fiscal year 2008 budget request marks part of a multiyear effort to reduce, and eventually eliminate, operating subsidies for Amtrak. Overall, this level of subsidy is appropriate because it will provide Amtrak continuing incentive to grapple with costs, rationalize its services, and pursue innovations. It would also expand State support for intercity passenger rail, thus putting more of the decisions on what should be operated with public subsidies in the hands of those who know best what intercity passenger needs exist and how best to meet those needs.

Consistent with fiscal year 2006 appropriations account restructuring, the fiscal year 2008 budget seeks Amtrak funds through the Capital Grants and Efficiency Incentive Grant accounts. The administration agrees that using distinct budget accounts for Amtrak makes Federal spending more transparent. The budget also contains many of the stipulations included in the fiscal year 2006 appropriations language.

CAPITAL GRANTS

The request includes $500 million in direct Federal subsidies for Amtrak capital costs. In addition, the budget, as discussed below, includes $100 million to fund a program of grants to States, requiring a 50 percent match, to fund capital costs associated with intercity passenger rail services that the States deem important. With this amount, Amtrak and its State partners could carry out a capital improvement program that, when combined with other collections from Amtrak partners, can address the most pressing investment needs on the Northeast Corridor infrastructure as well as essential equipment investments. The request represents close to the maximum capital budget that Amtrak could reasonably manage in fiscal year 2008, given that it can complete only a certain amount of work annually.

AMTRAK OPERATING EFFICIENCY GRANTS

The administration requests $300 million for transitional operating costs. The request for operating subsidies is sufficient to avoid a bankruptcy, provided Amtrak acts to cut its costs by focusing on core services. To ensure this occurs, the administration proposes DOT be able to target funding based on Amtrak's progress in implementing cost-cutting measures. For example, the Secretary of Transportation could review and approve grant requests for individual train routes, or require Secretarial approval for the use of funds for specific operating expenses, such as subsidies of food and beverage service which, in fiscal year 2006, accounted for more than 10 percent of the total Federal subsidy of Amtrak. Amtrak must also improve its operating performance through revenue gains, debt service reductions, or other means. Ultimately, the $300 million request should lead to a more efficiently run railroad by causing Amtrak's management to explore opportunities for savings and for revenue gains. The Government Accountability Office, DOT Inspector General (IG), Amtrak IG, and others have all recently presented options for achieving savings.

INTERCITY PASSENGER RAIL GRANT PROGRAM

Most publicly supported transportation in the United States is undertaken through a partnership between the Federal Government and the States. This model, which has worked well for generations for highways, transit and airports places the States, and in certain cases their subdivisions, at the forefront of planning and decisionmaking. States are uniquely qualified to understand their mobility needs and connectivity requirements through Statewide and metropolitan area intermodal and multimodal transportation planning funded, in part, by the U.S. Department of Transportation.

While intercity passenger rail has historically been an exception to the application of this successful model, in recent years some States have taken an active role in their rail transportation services. Several States have chosen to invest in intercity passenger rail service provided by Amtrak as part of strategies to meet their passenger mobility needs. Over the past 10 years, ridership on intercity passenger rail routes that benefit from State support has grown by 73 percent. Over that same time period, ridership on Amtrak routes not supported by States has increased by only 7 percent.

State involvement in planning and decisionmaking for intercity passenger rail service identifies where mobility needs justify public investment. An excellent example can be found in Washington State, which has invested in intercity passenger rail from Portland, Oregon through Seattle to Vancouver, British Columbia, to make this service a viable alternative to highway travel on the congested I–5 corridor. Illinois provides another example, where its recent investments have doubled the number of intrastate trains operated by Amtrak.

Additionally, State involvement in planning and decisionmaking helps assure that the infrastructure, such as stations, and connectivity to other forms of transportation support intermodalism within the State. No better example of this exists than in North Carolina where the State has undertaken the redevelopment of its intercity passenger rail stations and transformed them into multimodal transportation centers serving the mobility needs of the communities in which they are located.

State involvement in funding intercity passenger rail service also provides an added discipline on Amtrak to continually seek ways to provide the highest quality of service. An example can be found in Vermont where the State, when presented with the prospects of higher State operating subsidies for its current service, is working with Amtrak to restructure the service that will not only drive down operating costs, but will increase the frequency of service.

Amtrak's own strategic reform initiative seeks to build on Amtrak's recent experience with the States. Amtrak is seeking to create a stronger role for the States in designing and supporting the services the States believe important. The administration supports this aspect of Amtrak's internal reform. In discussions with interested States, the U.S. Department of Transportation has found that the greatest single impediment to implementing this initiative is the lack of a Federal/State partnership, similar to that which exists for highways and transit, for investing in the capital needs of intercity passenger rail. Such a partnership is one of the five principles of intercity passenger rail reform laid out by former Secretary Mineta in 2002 and was a central element of the administration's passenger rail investment reform legislative proposal.

Therefore, the administration is proposing a Capital Grant Program that will encourage State participation in its passenger rail service. Under this new program, a State or States would apply to FRA for grants of up to 50 percent of the cost of capital investments necessary to support improved intercity passenger rail service that either requires no operating subsidy or for which the State or States agree to provide any needed operating subsidy. Priority would be given to infrastructure improvement projects that improve the safety, reliability and schedule of intercity passenger trains; reduce congestion on the host freight railroads where the freight railroads commit to an enforceable on-time performance of passenger trains of 80 percent or greater; commit States to contribute other additional financial resources to improve the safety of highway/rail grade crossings over which the passenger service operates; and protect and enhance the environment, promote energy conservation, and improve quality of life. To qualify for funding, States would have to include intercity passenger rail service as an integral part of Statewide transportation planning as required under 23 U.S.C. 135. Additionally, the specific project would have to be on the Statewide Transportation Improvement Plan at the time of application.

I appreciate your attention and would be happy to answer questions that you might have.

Senator MURRAY. Thank you, Mr. Boardman.

Mr. Tornquist.

OFFICE OF THE INSPECTOR GENERAL

STATEMENT OF DAVID TORNQUIST, ASSISTANT INSPECTOR GENERAL FOR COMPETITION AND ECONOMIC ANALYSIS

Mr. TORNQUIST. Thank you, Chairman Murray and members of the subcommittee. I appreciate the opportunity to present our views on Amtrak's fiscal year 2008 financial needs.

DOT IG FISCAL YEAR 2008 AMTRAK BUDGET PROPOSAL

Let me begin by providing some context for our 2008 funding recommendation for Amtrak. The fact that Amtrak set records in both ridership and ticket revenue in fiscal year 2006, ended the year with over $200 million in the bank, and achieved $61 million in savings from operational reforms might lead one to think that Amtrak has turned the corner. However, to the contrary, we believe that Amtrak remains in a precarious financial condition.

Amtrak deserves credit for the recent progress it has made in providing improved service and achieving cost savings. However, systemwide on-time performance declined again last year, operating losses remained unsustainably high, the infrastructure still shows a toll of years of underinvestment, and debt service continues to significantly cut into available funds. While much has been done to improve Amtrak, much more work remains.

Given this context, we believe Amtrak would need in fiscal year 2008, $465 million for cash operating losses, $600 million for capital spending, and $285 million for debt service to operate a nationwide system, while maintaining modest progress towards achieving a state of good repair.

Not all of this $1.35 billion needs to come from direct appropriations. Some could come from Amtrak's cash balances, depending on its projected year-end cash position later in the year. The $465 million operating subsidy would enable Amtrak to provide nationwide passenger rail service, while focusing its attention on needed reform and operational improvements. We also recommend that Amtrak's operating subsidy be appropriated separately from capital and debt service, just as Congress did in fiscal year 2006. This would prevent the deferral of capital projects, in order to avoid the more difficult work of improving Amtrak's operating efficiency. The capital amount would allow modest progress for a state of good repair, and the debt service amount we're recommending is Amtrak's estimate of its fixed cost for principal and interest.

In addition, we support—with caveats—the State capital matching grant program, as included in the President's fiscal year 2008 budget, and in S. 294, the Passenger Rail Investment and Improvement Act, as a means to stimulate rail corridor development. Rail corridors hold the greatest potential for future ridership growth, and steps need to be taken to begin to address the expected demand for these routes.

OIG CONCERNS WITH STATE MATCHING PROPOSAL

Our concerns with the proposed program are as follows. First, we believe it must be designed to ensure the Federal investment leverages new State investments, and does not simply supplant investments the States otherwise would have made.

Second, Amtrak must finalize and gain acceptance for its route restructuring, cost recovery for State services, and labor reforms to improve the efficiencies of its core operations, before turning its attention to expanding those operations. Put simply, Amtrak needs to get its own house in order before investing in another property down the street.

And third, we recommend an 80/20 match rate similar to that for the Federal Highway Program—rather than the 50/50 match rate proposed by the administration—to put State investment in rail on equal footing with other transportation modes.

AMTRAK REFORM EFFORTS

Increased investment in intercity passenger rail must go hand to hand with improved operating efficiencies. Mr. Kummant and his senior management team have come onboard at a critical time. In the ongoing efforts to instill fiscal discipline at Amtrak. The board and current management seem committed to reform. However, the real test of that commitment will come soon as Amtrak moves from implementing relatively easier reforms, to implementing the more challenging ones. As Amtrak stated just 1 year ago, "The test of its reform efforts will be its ability to implement substantial sustainable change that will deliver not only ongoing financial improvement, but a new environment for passenger rail that moves us beyond the stalemate of the last 35 years."

Amtrak's initial set of operating reforms saved $61 million last year. Amtrak reduced the cost of its food and beverage service, improved the productivity of its train operations, reduced corporate overhead, and increased revenues through variable fares in the Northeast Corridor, and enhanced services on the Empire Builder. This is a commendable start. Amtrak has committed to saving an additional $61 million in fiscal year 2007 and $82 million in fiscal year 2008.

We do have some concerns regarding Amtrak's reform efforts. These include a concern that Amtrak may miss its reform target in fiscal year 2007, because some planned reforms are on hold while their potential to generate actual savings is being reevaluated. We're concerned that Amtrak has limited details on its planned 2008 reforms, it has only high-level long-term implementation plans for its planned reforms—where it has any long-term plans at all—and that it may be overemphasizing revenue enhancements instead of cost reductions.

Over the long term, reauthorization holds the key to Amtrak's future. As we testified previously, our long-term proposal for financing intercity passenger rail would focus on three key goals: continuing improvement in cost effectiveness of services provided; devolution of power to determine those services to States, and adequate and stable sources of Federal and State funding. Absent a fundamental restructuring of the company through reauthorization, it will again fall to the Appropriations Committee to maintain fiscal discipline at Amtrak, specifically by limiting the funds available to subsidize operating losses, fencing those funds to prevent the shifting from capital to operating expenses, and then making Federal support conditional upon further operating restructuring.

PREPARED STATEMENT

Madame Chairman, that concludes my statement. I'd be happy to answer any questions you might have.

[The statement follows:]

PREPARED STATEMENT OF DAVID TORNQUIST

Chairman Murray, Ranking Member Bond and members of the subcommittee, I appreciate the opportunity to present the views of the Office of Inspector General on Amtrak's fiscal year 2008 financial needs, its recent efforts to improve its financial condition, and alternatives for financing intercity passenger rail. My statement today will draw upon the Quarterly Reports on Amtrak's Savings from Operational Reforms your committee and your House counterparts have requested of our office, as well as other work we have undertaken on Amtrak's financial and operating performance.

Amtrak's Condition Remains Precarious.—Amtrak set records in both ridership and ticket revenue in fiscal year 2006, ended the year with over $200 million in the bank, and achieved $61 million in savings from operational reforms. Does this mean Amtrak has turned the corner operationally and financially? No, unfortunately, it doesn't. While improvements have been made, we believe Amtrak's condition remains precarious.

Amtrak deserves credit for the recent progress it has made in providing improved service and achieving cost savings. The result of this progress is evident in Amtrak's improved ridership and revenue. Nevertheless, Amtrak has a long way to go before it can reach, let alone turn, the proverbial corner. Systemwide, on-time performance declined for the fifth consecutive year, operating losses remain unsustainably high, the infrastructure still shows the toll of years of underinvestment, and debt service continues to significantly cut into available funds. Much has been done to improve Amtrak, but much more work remains.

Amtrak Requires More in Capital and Less in Operating Subsidy in Fiscal Year 2008.—Based on the information available today, Amtrak would need $465 million available to it in fiscal year 2008 for cash operating losses, $600 million for capital spending, and $285 million for debt service to operate a nationwide system while maintaining modest progress towards achieving a state of good repair. As Amtrak revises its revenue and expense estimates during the year, our estimate also may change. Not all these funds need come from direct appropriations, some could come from Amtrak's cash balances, depending on its projected year-end cash position later in the year.

A $465 million operating subsidy in fiscal year 2008 would enable Amtrak to provide nationwide passenger rail service, while focusing its attention on needed reform and operational improvements. As Congress did in fiscal year 2006, appropriating the operating subsidy separately from the capital and debt service would prevent the deferral of capital projects in order to avoid the more difficult work of improving Amtrak's operating efficiency. The capital amount will allow modest progress toward a state-of-good repair and the debt service amount is Amtrak's estimate of its fixed cost for principal and interest.

We have testified previously that we support a State capital matching grant program as a means to stimulate corridor development. With caveats, we support the $100 million capital matching grant program included in the President's fiscal year 2008 budget and in S. 294, the Passenger Rail Investment and Improvement Act. We believe this program must be designed to ensure the Federal investment leverages new State investments and does not simply supplant investments that States otherwise would have made. Further, Amtrak must finalize and gain acceptance for its route restructuring, cost recovery for State services, and labor reforms to improve the efficiency of its core operations before turning its attention to expanding those operations. Finally, we would support an 80/20 match rate, similar to that for highways, rather than the 50/50 match rate proposed by the administration, to put State investment in rail on an equal footing as other transportation modes.

Increased Investment in Intercity Passenger Rail Must Go Hand in Hand With Improved Operating Efficiencies.—Amtrak's new CEO and his senior management came aboard at a critical time in the ongoing efforts to instill fiscal discipline at the corporation through operational reforms. Since the development of the current Strategic Reform Initiatives, Amtrak is on its second CEO and its Board has three new members. The Board and current management seem committed to reform. However, the real test of that commitment will come shortly as Amtrak moves from implementing relatively easy reforms to more challenging ones.

In fiscal year 2006 Amtrak realized $61.3 million in savings from operating reforms by reducing the cost of its food and beverage service, improving the productivity of its train operations, reducing corporate overhead, and increasing revenues through variable fares on the Northeast Corridor (NEC) and enhanced service on the Empire Builder. Amtrak has committed to saving an additional $61 million in fiscal year 2007 and $82 million in fiscal year 2008 from reforms.

Regarding Amtrak's continuing efforts to improve its financial condition, we are concerned that Amtrak: (1) may miss its reform savings target in fiscal year 2007 because some planned reforms are on hold while their potential to generate actual savings is being reevaluated; (2) has limited detail on its planned fiscal year 2008 reforms; (3) has only high-level long-term implementation plans for its planned reforms, where it has any long-term plans at all; and (4) may be overemphasizing revenue enhancements instead of cost reductions. Management's goal of "instilling a culture of continuous improvement throughout the organization" is the right one. Achieving it should be a necessary precondition for significant new State or Federal investment in intercity passenger rail service.

More work needs to be done to eliminate the losses on food and beverage and, in particular, first class sleeper service. Any subsidy of first-class passengers remains unacceptable. In July 2005, we reported that Amtrak could save between $75 million and $158 million in annual operating costs by eliminating sleeper car service, outsourcing food and beverage service, and eliminating other amenities on long distance trains. In fiscal year 2006, the operating loss on long-distance trains was almost $600 million with a per passenger operating subsidy of over $200 on three of the routes. A significant amount of work needs to be done to finalize and implement Amtrak's proposed route restructuring, state services, and labor reform initiatives, all three of which are critical components of Amtrak's long-term financial plan.

Reauthorization Holds the Key to Amtrak's Long-Term Outlook.—As we testified previously, our proposal for financing intercity passenger rail service would focus on three key goals: (1) continuous improvements in the cost-effectiveness of services provided, (2) devolution of the power to determine those services to the States, and (3) adequate and stable sources of Federal and State funding. Our proposal requires a reauthorization for Amtrak.

These goals can be achieved through six programmatic changes: formula grants to States for capital and operating costs of intercity passenger services, restoration of the forward-going system to a state-of-good repair, capital matching grants to States for corridor development, establishment of adequate Federal and State funding, resolution of the legacy debt issues, and resolution of NEC ownership and control.

Other alternatives for financing intercity passenger rail service include: (1) permitting States to issue tax exempt bonds for rail infrastructure development and (2) turning the NEC over to private investors with the support of a Federal loan. Permitting States to issue tax exempt bonds for rail infrastructure would address a goal we support of providing States with greater access to capital funds. Regarding whether tax exempt bonds is the preferred way to make these capital funds available, I would note that the Congressional Budget Office has concluded that when tax credit bonds are used in lieu of Federal appropriations, the cost to the Federal Government is greater than it would be through conventional financing through the Department of the Treasury. However, carefully designed tax credit bonds could cost the Federal Government less per dollar of assistance provided to State and local governments than the Federal tax exemption accorded "municipal" bonds issued by those governments.

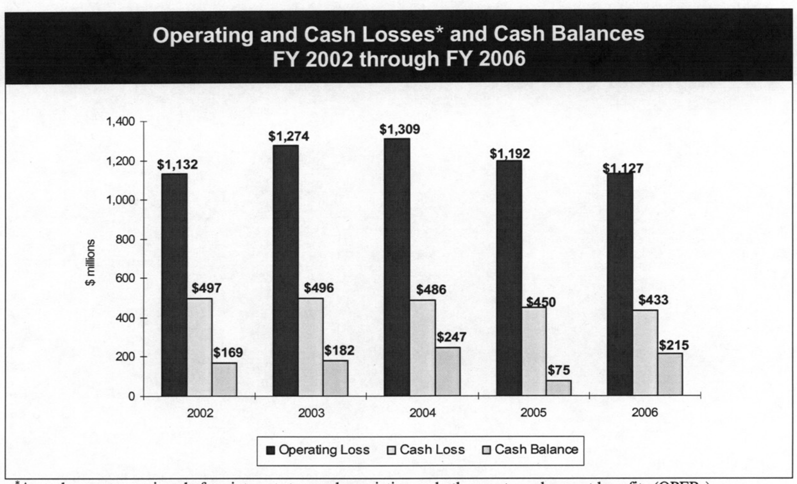
Turning the NEC over to private investors has some attractive features, particularly adding private investment through rail-dependent development and proposed service improvements. However, we raised in the past concerns regarding proposals to separate the NEC infrastructure management and operations into two independent companies. In addition, we would have to see a more detailed financing proposal to determine its soundness.

Absent a fundamental restructuring of the company through reauthorization, it will again fall to the Appropriations committees to maintain fiscal discipline at Amtrak, specifically by limiting the funds made available to subsidize operating losses and by making Federal support conditional upon further operational restructuring. I will now discuss these issues in greater detail.

DESPITE IMPROVEMENTS, AMTRAK'S FINANCIAL CONDITION REMAINS PRECARIOUS

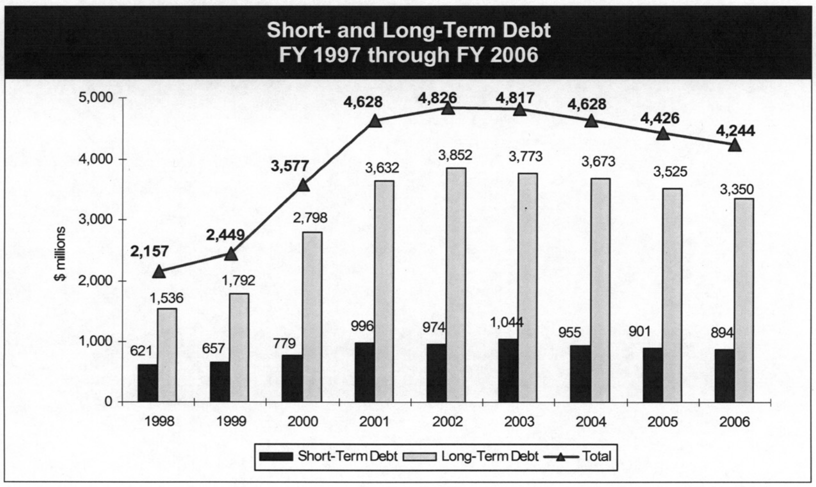
The current model for providing intercity passenger service continues to produce financial instability and poor service quality. We have seen some improvement in Amtrak's financial and operating performance recently, but there are limits as to how much can be done within the current framework.

Operating Losses.—Amtrak continues to incur substantial operating losses. It ended fiscal year 2006 with a net operating loss of $1.1 billion. On the positive side, Amtrak's net operating loss was $65 million less than last year and its cash operating loss, excluding interest and depreciation, was $17 million less than the same period last year. Operating losses on long-distance trains, excluding interest and depreciation, were $440 million in fiscal year 2006. Over the last 5 years, annual cash losses, excluding interest and depreciation, have fallen only modestly—a little more than 3 percent a year.

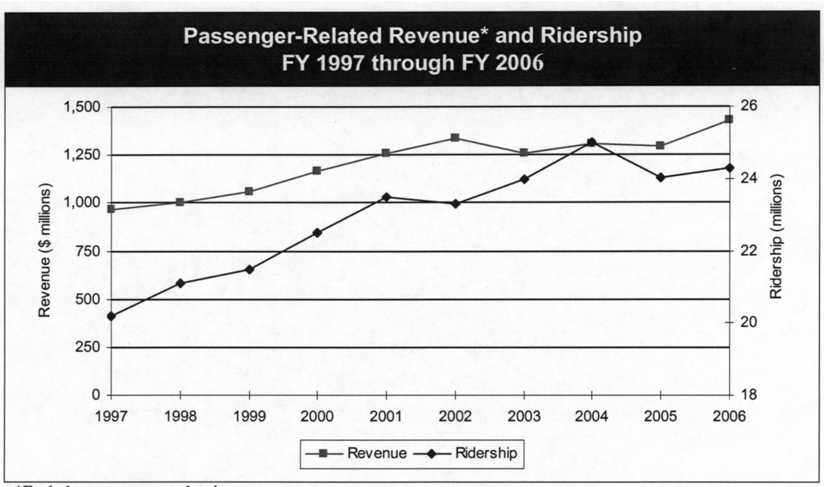


*Amtrak reports earnings before interest, taxes, depreciation and other post employment benefits (OPEBs).

Debt Burden.—Amtrak continues to carry a large debt burden. Its total debt peaked at $4.8 billion in fiscal year 2002 and has declined to $4.2 billion in fiscal year 2006. For the foreseeable future, Amtrak's annual debt service will approach $300 million, eating into the amount of funds potentially available for critical capital investments.

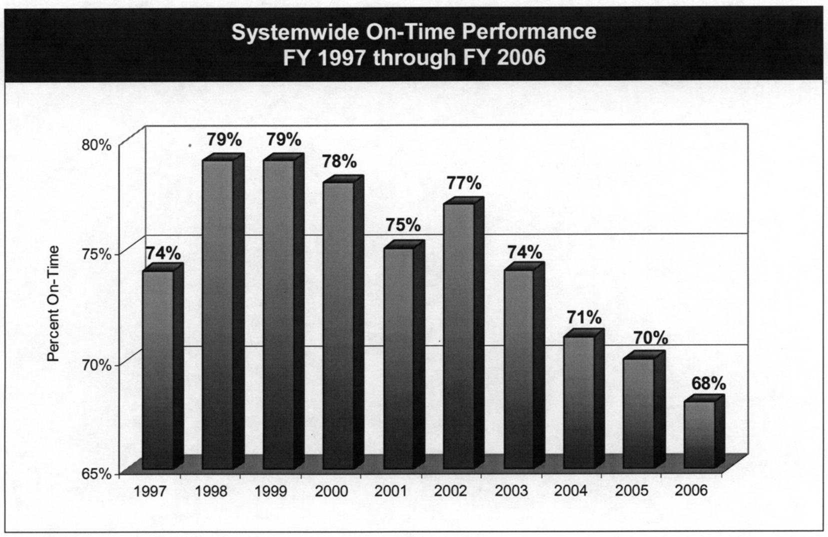


Revenue and Ridership.—Passenger revenues increased to a peak level of $1.426 billion in fiscal year 2006, primarily as a result of Amtrak's systemwide general fare increases and revenue management of the NEC Regional and Acela Express services (Amtrak's premier service). Despite the fare increases, ridership increased to 24.3 million in fiscal year 2006. For the first 3 months of fiscal year 2007, passenger revenues were $36 million higher than the same period in fiscal year 2006, mainly due to fare increases. Ridership growth during this period rose 3.9 percent.



*Excludes state supported train revenues.

On-Time Performance.—Systemwide, on-time performance has been declining steadily since fiscal year 2002, from 77 percent to 68 percent in fiscal year 2006. While Amtrak's Acela Express service achieved on-time performance of nearly 85 percent, long-distance trains averaged 30 percent last year. The poorest performing train, the Coast Starlight had an on-time performance of only 3.9 percent. Systemwide, on-time performance in the first quarter of fiscal year 2007 increased to 69.1 percent, compared to 65.3 percent for the first quarter of fiscal year 2006.



THE APPROPRIATIONS PROCESS CAN PROVIDE NEEDED FISCAL DISCIPLINE OVER AMTRAK'S OPERATING LOSSES WHILE AMTRAK CONTINUES TO ADDRESS CRITICAL CAPITAL NEEDS

The delivery of intercity passenger rail service needs to be fundamentally restructured through a reauthorization. However, as we have seen in the past year, meaningful, but incremental, operational reforms are still possible in the absence of a reauthorization. The process established by the Appropriations Committee in fiscal year 2006, which specifically directed Amtrak to achieve savings through operating efficiencies, achieved $61 million in savings in the first year. This process is not a substitute for reauthorization, but it is of considerable value nonetheless, and we strongly encourage Congress to continue it in fiscal year 2008. As we stated in our March 16, 2006 testimony, a critical component is funding Amtrak at a level that maintains the impetus for reform. This would require that the operating subsidy be appropriated separately from the capital and debt service appropriations.

Our recommendation of an operating grant of $465 million in fiscal year 2008 reflects the need to keep the process of continual improvement at Amtrak moving forward. It also takes into consideration Amtrak's better-than-expected fiscal year 2006 headcount, lower fiscal year 2006 expenses, and our concerns regarding the methodology Amtrak uses in developing its budget estimates, which we previously reported on. These factors led us to conclude in our January 2007 Quarterly Report on Amtrak's Savings from Operational Reforms that Amtrak needed a fiscal year 2007 operating subsidy of $470 million. (This recommended fiscal year 2007 operating subsidy was an increase of $37 million above Amtrak's actual cash operating loss in fiscal year 2006 of $433 million.) Our lower starting point for fiscal year 2007, recent increases in revenue, and lower personnel costs lead us to our recommendation of a $465 million fiscal year 2008 operating subsidy.

A significant unknown at this point is whether there will be labor settlements this year and, if they occur, what the associated costs and possible work rule changes may be. Agreement labor costs, including benefits, account for more than half of Amtrak's current cost structure. The net effect of a final settlement would need to be reflected in our recommended fiscal year 2008 operating subsidy recommendation.

Amtrak estimates a backlog of approximately $5 billion in capital projects. Our recommendation to provide an increase in fiscal year 2008 for capital to $600 million reflects a need to address this backlog to continue progress towards achieving a state-of-good repair balanced with practical considerations regarding how many additional capital projects Amtrak can take on in 1 year.

INCREASED INVESTMENT IN INTERCITY PASSENGER RAIL MUST GO HAND-IN-HAND WITH IMPROVED OPERATING EFFICIENCIES

Amtrak achieved $61.3 million in savings from operational reforms in fiscal year 2006, exceeding its original savings estimate by $37.7 million or more than 60 percent. Well over half these savings came from reforms that increased revenues, not reduced costs. Amtrak saved $14 million from food and beverage service reforms, $7.6 million from improved train operations, $5.6 million from reduced corporate overhead, $5.2 million from enhanced revenue generated on long-distance trains, and $28.9 million from revenue enhancements and operating efficiencies on the NEC. This is a good start, but, in part, reflects reforms that were easier to implement.

Amtrak has also taken steps to improve its oversight and management of reform initiatives. This includes developing a standardized project management approach in an effort to provide a more reliable measurement of cost savings, better internal oversight, and enhanced tracking and reporting capabilities. In addition, Amtrak is working to develop the appropriate links between its planning and financial systems for more reliable estimating and reporting of cost savings and better integration of these savings into the budget process.

In fiscal year 2007 and beyond, Amtrak plans to implement operational reforms in eight areas: (1) improving service quality on long-distance trains and reducing the cost of providing food and beverage service; (2) improving the efficiency of Amtrak's major ticket sales, distribution channels, and related pricing enhancements; (3) improving the reliability and efficiency of Amtrak's Mechanical Department and materials management; (4) increasing business efficiencies through the development of improved Management Information Systems and the reduction of overhead costs; (5) improving the cost-effectiveness of train operations; (6) network restructuring, corridor development, and improved fleet and infrastructure utilization; (7) improved cost recovery from States for corridor services and from commuters on the NEC; and (8) reducing unit costs and increasing job flexibility by negotiating new labor agreements that will eliminate certain work rule and outsourcing restrictions.

Amtrak estimates that these initiatives will save at least $320 million in fiscal year 2012. Almost three-quarters of these savings are expected to come from three initiatives: food and beverage reform and service quality improvements, mechanical service efficiencies, and network restructuring and asset utilization improvement.

There is considerable uncertainty as to whether these savings will be achieved. First, the savings estimates that do exist are preliminary and the proposals lack detailed annual program plans. Projected fiscal year 2012 savings have not yet been developed for the State payments and labor reform initiatives.

Second, the lack of detail makes it impossible for us to assess the accuracy of these cost estimates. As we have seen recently with the sleeper car initiative, once substance is added to the proposal, the savings can evaporate. This proposal was originally targeted to save almost $20 million in fiscal year 2007. However, it is currently on hold as Amtrak reevaluates whether the costs saved by removing some sleeper cars outweighs the associated foregone revenue. It is unlikely that any savings will be derived from this reform in fiscal year 2007, if any savings are derived from it at all.

Third, reliance on revenue enhancements to achieve savings raises concerns regarding their reliability over the long run. Several initiatives are aimed to increase ridership and ticket revenues, including service quality improvement, on-time performance, enhanced long-distance service, and market-based pricing initiatives. While we believe Amtrak should pursue initiatives to increase revenues, the long-term sustainability is subject to factors beyond their control, such as changing market demand, the relative cost of different travel modes, and competition from new air service. As such, it is more difficult for Amtrak to count on these savings in the long run.

Amtrak needs to define the reform initiatives it plans to implement in fiscal year 2008 to achieve its stated goal of $82 million in savings. In addition, it needs to settle on which initiatives it is willing to commit to over the long run, develop detailed implementation plans for those initiatives, and incorporate them into its upcoming multi-year strategic plan.

CRITICAL DECISIONS ARE NEEDED BEFORE IMPLEMENTING A STATE CAPITAL GRANT PROGRAM

Amtrak's vision for the future is based on passenger rail growth through State-led corridor service development, supported by a Federal program of State capital matching grants. We have long believed that corridor service, that is, routes of between 100 and 500 miles, represent the greatest potential for ridership growth. An obstacle to realizing this potential has been the significant capital investment needed to improve the freight-owned infrastructure to accommodate this expanded service. The administration's proposed $100 million State capital matching grant program would be an important start to new corridor development. A robust program that would support a reasonable level of new service in the long run could ultimately require this program to be funded at annual levels of $1.3 billion to $1.6 billion.

Several critical issues need to be addressed before this program is implemented. First, the purpose of this new Federal investment must be to leverage an increase in total investment in rail service and infrastructure. There is little point to this new program if it simply results in supplanting existing State investments.

Second, this program is premised on States assuming funding responsibility for any new service that does not cover its costs. If a significant Federal capital investment is going to be made to initiate a new service, consideration must be given to a State's commitment and capacity to support the operation of this service over the long run.

Third, we believe an 80/20 matching rate, instead of the administration's proposed 50/50 matching rate, would provide an incentive for a State to take an "ownership" role in developing rail corridors on a more comparable basis with other transportation modes (historically, highways have used an 80/20 match). A higher match rate for rail infrastructure would require a State to invest more of its own money to obtain the same amount of Federal funds in return. As such, this may cause States to favor highways over rail to maximize the "return" on their State investments.

REAUTHORIZATION IS A BETTER COURSE FOR REFORMING INTERCITY PASSENGER RAIL SERVICE

Incremental operating savings over the next 5 or 6 years will not be sufficient to fund the significant increases in capital investment required to return the system to a state-of-good-repair and promote corridor development. This mismatch of funding sources and needs requires a long-term solution that can be achieved only by changing the model for intercity passenger rail.

To create a new model for intercity passenger rail, a comprehensive reauthorization that provides new direction and adequate funding is needed. The problem with the current model extends beyond funding—there are inadequate incentives for Amtrak to provide cost-effective service; state-of-good-repair needs are not being adequately addressed; and States have insufficient leverage in determining service delivery options, in part because Amtrak receives Federal rail funds, not the States.

Reauthorization should establish meaningful reforms that ensure greater cost-effectiveness, responsiveness, and reliability in the delivery of passenger rail transportation. Three central themes will drive successful reform:

—*Improvements in Cost-Effectiveness*.—Amtrak, as the sole provider of intercity passenger rail service has few incentives, other than the threat of budget cuts or elimination, for cost control or delivery of services in a cost-effective way. Amtrak has not achieved significant costs savings since its last reauthorization.

—*States Need a Larger Voice in Determining Service Requirements*.—The current model for providing intercity passenger service does not put States in a position to decide upon the best mix of service for their needs—what cities are served, schedules and frequency of service, and what amenities should be provided. Those decisions are made by Amtrak, and the choices Amtrak makes are not always the same as the ones the States would make. Intercity passenger rail would be better served with State-led initiatives as to where and how intercity passenger rail service is developed. States are best able to determine the level of passenger rail service required to meet their strategic transportation needs and State sponsorship will become increasingly important as they will be asked to provide increased operating and investment support. Capital funding decisions, as with mass transit, should ultimately reside with the Department of Transportation, based on congressional direction and in partnership with the States.

—*Adequate and Stable Federal Funding is Essential*.—None of the corridors around the country, including the NEC, can provide the type of mobility needed without significant capital investment. In the NEC, this means bringing the existing facilities to a state-of-good-repair with no match requirement. In other corridors around the country, it means creating the infrastructure for high-frequency services in partnership with freight railroads and commuter authorities. A robust Federal program of capital matching grants will be essential if these corridors are to be developed. In addition, long-distance services that provide connections between corridors require recapitalization if they are to be run efficiently and are to provide the high quality services their passengers deserve. None of this, however, implies giving more money directly to Amtrak, especially under the current model.

In our view, a framework for reauthorization requires the incorporation of six core elements:

—*Capital Matching Grants to States for Development of Corridor Services*.—This program would give States the ability to improve and expand routes and service on their supported corridor routes through a Federal capital funding program with a reasonable state match requirement.

—*Formula Grants to States for Capital and Operating Costs*.—This program would address the needs of areas served by long-distance routes that have little corridor development potential, while simultaneously creating incentives for States to encourage operating efficiencies from the service operator. Formula funds can be used for operating expenses, capital maintenance, and/or capital improvements at the discretion of the States and have no match requirement.

—*Restoration of the Forward-Going System to a State-of-Good-Repair*.—This program would provide Federal funds, with no match required, to address the accumulated backlog of deferred investment and maintenance on the NEC and in fleet and facilities outside the NEC. After a state-of-good-repair has been achieved, capital funds with a reasonable State match would be available for capital maintenance.

—*Setting Federal and State Funding of These Programs at Adequate Levels*.—Federal funding levels, along with State contributions have not been sufficient to subsidize operations, address deferred capital needs, and significantly improve service along the existing rail network.

—*Resolution of the Legacy Debt Issue*.—This element would give the Secretary the authority to evaluate Amtrak's debt and to take action in the best interest of intercity passenger rail that is economically advantageous to the United States Government.

—*Resolution of Northeast Corridor Ownership*.—The NEC is of considerable interest in reauthorization. Unlike the rest of the passenger rail system, Amtrak owns the infrastructure between Boston and Washington, DC. The Federal Government may decide to take on the responsibility of restoring the NEC to a state-of-good-repair, and its debt—if it is determined to be in the public's interest to do so. Once the NEC is returned to a state-of-good-repair, the States can take a larger responsibility in directing and managing ongoing operations and maintenance. In return for fully funding the corridor, the Federal Government may decide to take title to Amtrak's assets. Although Amtrak may very likely remain the operator for the NEC, we will be in a better position to decide what is the best use and ownership structure of the NEC assets by the end of the reauthorization period.

This framework would require cost efficiencies as Federal funds available to cover operating losses would decline over the 5-year reauthorization period. Specifically, it would give States greater responsibility for passenger rail investments with oversight of capital investment vested in the department. Additionally, it would focus Federal funding on stable and robust capital investment programs that would bring the system to a state-of-good-repair, maintain it in that condition, and provide for the development of corridors throughout the country.

Madame Chairman, this concludes my statement. I would be happy to answer any questions at this time.

Senator MURRAY. Thank you, Mr. Tornquist. We're going to turn to Senator Spector for a short quick statement. He has to return to another committee.

STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Thank you, Madame Chairperson.

I wanted to comment, very briefly, about my support for a much larger allocation than the appropriation than the administration has requested. I think we will work it through in the Congress, as we have in prior years.

I regret that I can not stay for the hearing. The Judiciary Committee, where I'm ranking, is conducting hearings on immigration, and I have to be there. But, my staff will be present and we'll examine the transcript, and submit some questions to you gentlemen, but you have my support for a very substantial increase above what the administration is asking for.

Thank you very much for permitting the interjection.

Senator MURRAY. Thank you, Senator Specter.

Senator MURRAY. Mr. Wytkind.

NONDEPARTMENTAL WITNESSES

STATEMENT OF EDWARD WYTKIND, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO

Mr. WYTKIND. Madame Chair, thank you for inviting Transportation and Labor, on behalf of our 32 member unions, to participate in today's hearing.

I think a lot has been said this morning about Amtrak and its financial needs, but obviously the 20,000 workers—that we represent a substantial majority of—have a vested interest in the outcome of this debate. Amtrak workers know, better than anyone, how difficult it is to operate and maintain the national Amtrak network without sufficient resources. These workers have seen and felt the effects of neglect and underfunding for too many years. They've been forced to do more with less, due to the Federal Government's lack of attention to the severe financial needs of Amtrak, and the needs of the cities and the States, who—under the administration's proposal—would be really forced to fend for themselves.

Amtrak workers constantly read about Amtrak teetering on the edge of financial insolvency. Not because Americans do not want passenger rail service and Amtrak service, but because of an administration that has refused to support funding for a first-class national passenger railroad.

Fortunately, in the absence of administration leadership the Congress and especially key members of this subcommittee has stepped in to provide funding that has averted a financial collapse, year in and year out. A collapse, I might add, that would have occurred had the administration—over the last few years—had its way during debates over appropriations.

It is extremely disappointing to appear before you, and again have to comment on a Bush proposal, Bush administration proposal that frankly we view as a shut-down budget for 2008. A budget that leaves States, again, to fend for themselves, and a budget that leaves an already teetering system on the edge of probably insolvency, leaving 20,000 workers potentially out of work.

It is also disturbing that the administration has recycled old ideas that may sound different from past renditions, but in the end, amount to the privatization and breakup as Amtrak as we know it. It seems to us that the administration's learned nothing from the British rail privatization debacle, that we all read so much about in the late 1990s.

The fact is that our national approach to Amtrak must change. Forcing Amtrak to limp from one financial crisis to the next, with no long-term funding plan, is a recipe for failure. Deferred maintenance, unmet security needs since 9/11, outdated cars and equipment, poor training, and unfairly treated and unfairly compensated workers, whose morale has reached an all time low, are now the norm. And we must break this cycle.

Amtrak is a part of a vast network of publicly supported transportation services. No mode of transport in America can succeed without some form of public subsidy. This is the standard worldwide. As economic powers and emerging nations—as Senator Lautenberg alluded to, including Germany—spent literally billions to rebuild and expand their passenger rail systems. And yet, there are those who believe Amtrak should be a profitable enterprise.

This is pure fantasy, no matter Wall Street financiers and lawyers will tell you. Some believe Amtrak is better off if we sever it into pieces, and possibly spin off the Northeast Corridor into a separate entity controlled by private interests. Interestingly, the advocates of this approach want the Federal Government to back a $17.5 billion loan, permit payback of the loan, interest-free over 50 years.

Now, I can't speak for Amtrak's CEO, or anyone of that company, but maybe we should ask Amtrak if it could use such favorable financing tools to build and rebuild its system and infrastructure, before we venture into any sort of breakup Amtrak plans.

Finally, it is no secret that labor/management relations at Amtrak have eroded significantly. Most Amtrak workers are now in their eighth year without a general wage increase. I believe this is simply outrageous. Working people in this country can not live and make the ends meet under an 8-year wage freeze, which is what they've faced over the past decade. Amtrak's negotiators have used one delay tactic after another, have used the appropriations battles on Capital Hill, have used every possible excuse to deny workers what the new CEO of Amtrak—which we're pleased to hear—has referred to as a need for reasonable wage increases.

The result is that Amtrak workers are rated the lowest-paid in the industry, continue to fall further behind freight and commuter rail workers who earn up to 20 percent more in similar jobs. It is obviously unfair for Amtrak to continue to solve its financial shortfalls on the backs of its employees. Ultimately, should this trend continue, it will lead to more and more experienced Amtrak workers leaving their jobs for better paying, more stable opportunities with the freights and commuters.

We are heartened by the comments of Mr. Kummant, who has formally declared settlement of these long overdue contracts one of the company's seven objectives. Obviously, Mr. Kummant has inherited badly ruptured labor management relations that didn't occur on his watch. A product of poor management decisions by the Amtrak Board and poor decisions by previous managements. And while Mr. Kummant's public position is a welcome departure from past Amtrak leaders, it is time to move beyond the rhetoric and finally resolve a bargaining stalemate that is making it impossible for labor and management to work together to solve problems at Amtrak, to rebuild the system and to make it the finest transportation system in the world.

PREPARED STATEMENT

In closing, it is time for Amtrak to receive the resources it needs, not merely enough to survive. The political games that have repeatedly put Amtrak on the brink of collapse must end. And the much needed long-term investment must recognize that the cost of doing business as our national passenger railroad includes treating, and compensating, the employees fairly.

I appreciate the opportunity to testify and thank you for letting us participate in today's hearing.

[The statement follows:]

PREPARED STATEMENT OF EDWARD WYTKIND

On behalf of the 32 member unions of the Transportation Trades Department, AFL–CIO (TTD) and specifically the 10 unions that make-up our Rail Labor Division (RLD), thank you for inviting us to testify this morning on Amtrak's financial needs for fiscal year 2008.[1] I must point out that we would not be talking today about Amtrak's financial needs for 2008 without this subcommittee—we wouldn't be talking about it because without your work Madame Chair, and the work and support of the other members of this subcommittee, Amtrak would be on the brink of collapse.

While its proposals have taken various forms, year after year the administration has sought to shut down Amtrak or subject the company to reckless privatization initiatives. By offering a zero budget for Amtrak in fiscal year 2006, the White House demonstrated its gross lack of understanding of Amtrak's importance to our transportation system and our economy. By attempting to dismantle Amtrak as a national system and downsize or eliminate its long distance service, the administration demonstrated it does not understand the importance of Amtrak to the cities and States that are clamoring for more, not less, transportation choices for its citizens. And by shortchanging Amtrak every fiscal year, the administration has forced the company to defer much needed security and safety upgrades because it simply does not have the resources.

Fortunately, Congress—and specifically this subcommittee—has rejected the administration's various plans and for this Americans owe you a debt of gratitude. This subcommittee, without the benefit of an authorization since 2002, has come forward and funded our national passenger railroad each and every year at levels adequate to avoid the catastrophe of bankruptcy and done so under extremely tight budget conditions. So on behalf of the men and women we represent, and the millions of passengers that use this vital service, I want to again thank you for your leadership and acknowledge the hard work that you have done on behalf of Amtrak.

For fiscal year 2008, the administration has once again submitted a budget request, at $800 million, that is nothing more than a shut down number. As members of this committee have already observed, this is asking the carrier to do the impossible and should be rejected. Furthermore, the administration has again attached destructive and disingenuous conditions to this meager request. For example, the budget request states that "within 30 days of the enactment of this Act, the Corporation shall produce a comprehensive corporate-wide competition plan that will identify multiple opportunities for public and private entities to perform core Corporation functions, including the operation of trains." Let's be clear—the administration would expect Amtrak to find others, including private entities, to provide the service that Amtrak is currently charged with providing. This isn't a funding plan—it's a path to privatization and ultimately destruction of Amtrak as we know it.

The fact is we need to change the way we look at and fund Amtrak. Forcing the carrier to limp from one financial crisis to the next with no long-term funding plan is simply a recipe for failure that can no longer be tolerated. Deferred maintenance, unmet security needs, outdated cars and equipment and unfairly treated and compensated employees whose morale has reached an all-time low are now the norm. First-class rail service that needs to be customer-sensitive cannot succeed in this environment. And we would submit that a portion of Amtrak's security needs should be borne by the Department of Homeland Security. Americans expect leaders of government responsible for our homeland security to ensure that our passenger rail system receives the Federal resources it needs to address security threats and vulnerabilities. A cash-starved Amtrak cannot meet these important homeland security objectives without adequate Federal assistance.

Labor-management relations at Amtrak have eroded significantly. Most of Amtrak's employees are now entering their eighth year without a general wage increase and have seen their employer, especially its Board of Directors, turn on them re-

[1] Attached is a list of TTD member unions.

peatedly. Meanwhile, because of the processes under the Railway Labor Act (RLA), collective bargaining agreements do not expire but become amendable at a certain date. In other words, if no new agreement is entered into by labor and management, the current contract remains in place interminably. That is exactly what has happened at Amtrak and, frankly, the company's negotiators have stonewalled and refused to engage in any meaningful negotiations. The result is that Amtrak workers, already the lowest paid in the industry, continue to fall further behind their counterparts in the freight and commuter railroads who make up to 20 percent more in comparable jobs.[2] Members of the committee, I am concerned that if this trend continues we will see more and more Amtrak employees leave their positions for more attractive jobs with the freight and commuter carriers.

I am heartened by the public comments of the new Amtrak President and CEO who has formally declared (in Amtrak's budget submission to Congress) that the settlement of collective bargaining agreements is one of his seven priorities for the coming year. Hopefully, Mr. Kummant will repair the badly ruptured labor-management relations he inherited last year when he accepted the CEO position. While Mr. Kummant's public position is a welcome departure from past Amtrak management teams, it is time to move beyond the rhetoric and finally resolve the bargaining stalemate that is making it nearly impossible for labor and management to work together towards making Amtrak the world's finest passenger rail system. We hope this committee will insist that new contracts get settled and that Amtrak stop this cycle of securing Federal funding but refusing to provide its workforce with—as Mr. Kummant wrote—"reasonable wage increases."

There have also been attempts over the years to contract-out jobs at Amtrak to the lowest-bidder with little regard for the impact such a move would have on delivery of vital services. There are also safety and security questions raised when onboard positions and maintenance posts are targeted by the drive to outsource. And history is replete with examples of badly botched contracting out plans that paint a sad picture of incompetence, mismanagement and shabby service. In last year's committee passed bill, Senators Murray and Byrd inserted language that would have prevented Amtrak from using Federal money to outsource work overseas. We supported this language but more broadly would urge the committee to monitor closely any attempts by Amtrak to pursue reckless outsourcing initiatives that jeopardize service, security, safety and jobs.

Of course, there are those that still believe Amtrak should somehow "turn a profit" or only offer service that is "commercially responsible." Others believe private companies should be permitted to cherry-pick the most lucrative parts of Amtrak's national system such as its Northeast Corridor, jettison the rest and leave the States to fend for themselves. Great Britain tried this approach and failed miserably. We reject these propositions and fortunately, so do a substantial majority in Congress.

As public transportation privatization scholar Elliot Sclar wrote:

Proposals to privatize Amtrak rest on hopes that its deficits can be eliminated. But privatization will not cut the operating deficit unless it shrinks passenger rail service. And far from yielding more efficient operation, privatization will make Amtrak more cumbersome. That is the primary lesson of Great Britain's recent experience with privatization and reorganization.[3]

Amtrak is part of our vast network of publicly supported transportation services. No mode of transport in America can succeed without some form of public subsidy. This is the standard worldwide. Economic powers and emerging nations around the globe spend billions on passenger rail because they know that a strong economy is dependent on a strong transportation system and infrastructure. There is no substitute for a transportation system that can move our people and goods safely and efficiently.

Amtrak should be efficient, it should recover as much as possible from the farebox (which it does), and it should offer the best service at the most reasonable price. But in the end, Amtrak will always need substantial public support—as does our aviation and air traffic control system, our mass transit and commuter rail systems, our ports and our highways, and America's entire public infrastructure.

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[2] In 2003, the rail unions released a study on Amtrak wage data prepared by expert labor economist Thomas Roth. It definitively showed that labor costs at Amtrak, including wages and benefits, have remained constant over 21 years and have actually declined in real dollars; wages have also been well below the prevailing rates of those working in the freight and commuter rail industry.

[3] Amtrak Privatization: The Route to Failure. Elliot D. Sclar. 2003. Economic Policy Institute.

It is time for Amtrak to receive the resources it needs to succeed. And that investment must recognize that the cost of doing business as America's national passenger railroad includes paying fair wages to Amtrak's 20,000 workers.

Thank you for the opportunity to testify this morning. TTD and our members unions look forward to working with you throughout the fiscal year 2008 appropriations process. I would be happy to answer any questions the committee may have.

ATTACHMENT—TTD MEMBER UNIONS

The following labor organizations are members of and represented by the TTD:

Air Line Pilots Association (ALPA); Amalgamated Transit Union (ATU); American Federation of State, County and Municipal Employees (AFSCME); American Federation of Teachers (AFT); Association of Flight Attendants-CWA (AFA–CWA); American Train Dispatchers Association (ATDA); Brotherhood of Railroad Signalmen (BRS); Communications Workers of America (CWA); International Association of Fire Fighters (IAFF); International Association of Machinists and Aerospace Workers (IAM); International Brotherhood of Boilermakers, Blacksmiths, Forgers and Helpers (IBB); International Brotherhood of Electrical Workers (IBEW); International Federation of Professional and Technical Engineers (IFPTE); International Longshoremen's Association (ILA); International Longshore and Warehouse Union (ILWU); International Organization of Masters, Mates & Pilots, ILA (MM&P); International Union of Operating Engineers (IUOE); Laborers' International Union of North America (LIUNA); Marine Engineers' Beneficial Association (MEBA); National Air Traffic Controllers Association (NATCA); National Association of Letter Carriers (NALC); National Conference of Firemen and Oilers, SEIU (NCFO, SEIU); National Federation of Public and Private Employees (NFOPAPE); Office and Professional Employees International Union (OPEIU); Professional Airways Systems Specialists (PASS); Sailors' Union of the Pacific (SUP); Sheet Metal Workers International Association (SMWIA); Transportation-Communications International Union (TCU); Transport Workers Union of America (TWU); United Mine Workers of America (UMWA); United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW); United Transportation Union (UTU).

Senator MURRAY. Thank you.

Mr. Serlin.

STATEMENT OF ROBERT SERLIN, PRESIDENT, RAIL INFRASTRUCTURE MANAGEMENT, LLC

Mr. SERLIN. Thank you.

Madame Chairman, Ranking Member Bond, distinguished committee members. Thank you for inviting me to testify.

Recently the IMO plan, the Infrastructure Management Organization Plan, received a wonderful criticism. I was told the plan sounds too good to be true. I'm here today to tell you the plan is good, and that it is true. I'm also here to free up for you, and your committee, more than $1 billion, this year, and for each of the next 50 years.

Instead of Amtrak requiring appropriations for its own infrastructure, the private sector is willing to fund it. Bridges and tunnels will be constructed, tracks will be laid, 14 new stations and parking will be built.

Under the IMO Plan, Amtrak's owned infrastructures will be spun off into a federally owned company. The right to manage that company for a 50-year period will be granted to a private entity through an open, transparent, public solicitation, run by the Surface Transportation Board.

The IMO Plan is a win, win, win solution. The Federal Government, taxpayers, Amtrak, the States, labor, and—most importantly—the traveling public, will all come out ahead. Your subcommittee and the taxpayers will come out ahead, being relieved of the obligations to fund Amtrak's own infrastructure. And Amtrak's required ongoing subsidy should only be around $500 million.

Amtrak comes out ahead. Amtrak is a minority user of its own corridor, yet it is funding all of the corridor's infrastructure costs. This allows other users to pay only the avoidable costs. Under the IMO Plan, Amtrak would have no infrastructure cost and would simply pay, as it already does on 98 percent of its route miles, a track usage fee. By implementing the IMO Plan, Amtrak can focus on providing rail passengers transportation services.

The Northeast Corridor States come out ahead. For the first time ever, infrastructure investment is guaranteed at a minimum level of $600 million per year, or more than 2.5 times what is currently being invested. And this entire amount from the $17.5 billion RRIF loan—the repayment of which is fully secured—therefore, to the Federal Government, it's a risk-free undertaking.

The Northeast Corridor commuter carriers are protected, because all preexisting contracts and agreements are transferred to—and must be honored by—the IMO. Additionally, as in the Lautenberg-Lott bill, the Northeast Corridor States will gain a stronger voice and role through the reconstituted Northeast Corridor Coordination Board and Northeast Corridor Safety Committee.

The non-Northeast Corridor States come out ahead, because Amtrak's Northeast Corridor infrastructure costs will no longer show up in the financial accounts of trains going through their States. This makes the operating costs of the Empire Builder—serving Senator Murray's Washington or Kansas City Mule going through Senator Bond's Missouri—more transparent, because it will no longer reflect the Northeast Corridor-infrastructure incurred costs.

Labor comes out ahead. Under the IMO Plan, the IMO is required to offer employment to all Amtrak employees performing infrastructure work. The IMO is also required to honor existing collective bargaining agreements and rights, and it is obligated to fund the back pay requirement for all Amtrak employees. If RIM, my company, is awarded the right to be the IMO, we intend to immediately negotiate higher rates of pay for those employees agreeing to work with us.

As Senator Murray said, we can not pay significantly less than the regional and commuter carriers, and still retain the quality workforce we require. We will also offer employees signing bonuses and back pay effective to the year 2000. This translates into a payment ranging from $10,000 to $25,000 per employee. In addition, RIM will contribute sufficient monies to a trust fund to settle Amtrak's full back pay obligation to those employees remaining with Amtrak. RIM believes that in the long run, paying more will cost less.

And finally, the traveling public comes out ahead. Under the IMO plan, train riders will enjoy more frequent service, increased travel options, new city pairs, and very likely lower prices, which is exactly the vision Senator Lautenberg expressed yesterday at his hearing.

Reliability and security redundancy will be increased, while trip times will be reduced, as the IMO addresses deferred maintenance, and makes major new capital investments. Washington-New York trip times will be reduced from roughly 3 hours to roughly 2 hours as Acela trains finally achieve their 150-mile-per-hour top speeds.

Senator MURRAY. Mr. Serlin, if you can summarize quickly that would be great.

PREPARED STATEMENT

Mr. SERLIN. Sure.

Ultimately, the IMO Plan is about growth. This means providing an infrastructure base that allows more reliable service at higher speeds and lower prices. We are convinced this plan will work. We're willing to bet our own money on it. The business model is simple. The more riders, equal more trains, equal success for the IMO, and this is what attracts investors, and what will attract Wall Street.

[The statement follows:]

PREPARED STATEMENT OF ROBERT SERLIN

Madame Chairman, Ranking Member Bond, and distinguished committee members, my name is Robert Serlin. I have, for over 20 years, developed business solutions to revitalize capital-intensive transportation and basic commodity companies. I am President of RIM Services, LLC.

Thank you for inviting me to comment on Amtrak's financial condition, efforts Amtrak has made to improve its financial condition, and Amtrak funding options. I will limit my comments to—

—exploring a new Amtrak funding option that can revitalize Amtrak's owned rail properties in the Northeast and Midwest;

—eliminating much of Amtrak's private-sector debt; and

—giving this subcommittee a means to reallocate limited transportation budget dollars to other priorities, including enhanced rail passenger service.

In 1997, JP Morgan—currently the third largest bank in the United States—invited me to assemble a group of experienced rail industry professionals and companies to develop a plan to address Amtrak's recurrent funding problem. Ultimately, using techniques from existing legislation and Federal programs, a method to inject significant non-appropriated funds into Amtrak and its owned infrastructure was identified. The solution was embodied in the Infrastructure Management Organization ("IMO") Plan.

The IMO Plan, developed as a direct result of numerous meetings with stakeholders interested in better intercity rail service—

—preserves Amtrak as our country's single national passenger rail carrier;

—keeps all of Amtrak's assets under Federal ownership and oversight;

—frees monies to this subcommittee to appropriate as the Federal share under Lautenberg-Lott; and, most importantly,

—provides a platform to grow train services and rail industry employment.

BACKGROUND

Amtrak is active in two different businesses: furnishing rail transportation services, and owning and operating rail infrastructure.

—The rail transportation services business is a variable cost business. New train services can be added and existing train services dropped or modified on short notice with few drastic or unforeseeable financial consequences.

—The rail infrastructure business, in contrast, is a fixed cost business. Infrastructure projects take years, sometimes decades, to implement. During the implementation period, there is very little to show other than large front-loaded outlays. Furthermore, once completed, those formerly new infrastructures must be repaired, maintained and upgraded—invisible tasks, for which the public has little appreciation, and consequently, for which it has proven not possible to appropriate funds.

Amtrak's owned rail infrastructure is the overwhelming problem. Though it has been recognized for decades as the part of Amtrak that singularly requires the most funds, this is a truth no one dares to speak. Amtrak cannot live without using its owned infrastructure, but it also cannot afford to keep it.

While Amtrak operates passenger trains over roughly 23,000 route-miles, it owns and is responsible for only about 2 percent or 600 route-miles (about 500 route-miles in the Northeast and about 100 route-miles primarily in Michigan).

Former Amtrak President David Gunn stated in a Railway Age article that it is a myth that Amtrak's long-distance trains are the primary source of Amtrak's losses. "Out of our current year Federal subsidy of $1.05 billion, only $300 million will go to covering the operating loss of long-distance trains."[1] Kenneth Mead, former Inspector General, U.S. Department of Transportation, found that eliminating long distance trains would only reduce operating losses by $300 million.[2] In 2003, Amtrak lost approximately $1.3 billion.[3] Consequently, losses of about $1 billion must be attributable primarily to Amtrak's owned infrastructure.

A previous Amtrak President, W. Graham Claytor, Jr., once said Amtrak would be unfundable were the country to recognize that the great majority of Amtrak's annual appropriations went into Amtrak-owned rail infrastructure in just a few Northeastern States. On a route-mile basis, two States alone account for over 50 percent of Amtrak's owned Northeast Corridor infrastructure.

Even without political considerations, it is inherently harder to secure public support for infrastructure projects than for transportation services. Infrastructure investment benefits are not immediately, publicly apparent and can easily be delayed with few immediately visible consequences. Yet, infrastructures must be funded. Without continuous funding, infrastructure will deteriorate to the point of being unusable.

Since 1997, the Department of Transportation's Inspector General, the Government Accountability Office and, most recently, numerous members of Congress have reached the conclusion: the status quo is not sustainable and change is necessary.

Ken Mead, the former Department of Transportation Inspector General put it most succinctly on September 21, 2005 when, before the House Committee on Transportation and Infrastructure, Railroads Subcommittee he stated: "We have testified numerous times since Amtrak's authorization expired in 2002 that the current model is broken. Amtrak continues to incur unsustainably large operating losses, provide poor on-time performance, and bear increasing levels of deferred infrastructure and fleet investment on its system."[4] Infrastructure degradation reduces service reliability, and jeopardizes all of Amtrak and its national rail system.

The IMO Plan offers a solution both to Amtrak's short-term funding requirements and the two-pronged challenge of Amtrak's infrastructure needs—injecting new current maintenance funds annually into Amtrak's owned Midwest and Northeast infrastructures, and addressing Amtrak's looming $9 billion deferred maintenance liability.

Under the IMO Plan, the IMO—

—makes a one-time payment of about $2.0 billion to Amtrak;

—assumes from Amtrak almost $750 million in infrastructure-secured debt;

—funds the back pay for Amtrak employees (estimated by Amtrak to be about $200 million); and

—invests not less than $600 million annually in Amtrak's owned Midwest and Northeast infrastructures.

THE IMO PLAN

The IMO Plan separates Amtrak into two federally-owned entities.

The first Federal entity, Amtrak, continues its primary responsibility as a transportation service provider. It retains the reservations system, locomotives, passenger cars, maintenance of equipment workshops, and operating rights on the Nation's rail network. It continues to operate all of its current intercity, Northeast Corridor and contract commuter trains.

By separating Amtrak's train operating functions from its owned infrastructure, William Crosbie, Amtrak's Senior Vice President of Operations estimated that the current 46-State network can be sustained on an annual appropriation of under

[1] David Gunn, Separating Fact from Fiction, Railway Age (May 2003).

[2] Hearing Before the Subcomm. on Railroads, Transp., H. Comm. on Trans. And Infrastructure, 109th Cong., 1st Sess., Dep't of Transp. Doc. No. CC–2005–070, at 8 (2005) (statement of Kenneth M. Mead, Inspector General, Department of Transportation) [hereinafter IG Testimony].

[3] See Nat'l R.R. Passenger Corp., 2003 Consolidated Financial Statement, Consolidated Statement Of Operations (2004).

[4] IG Testimony at 1.

$500 million[5]—significantly less than the $1.5 billion that Amtrak is requesting for fiscal year 2008.

The second Federal entity owns the 600 route-miles of Amtrak infrastructure, passenger stations on that infrastructure, and overhead wires that power the trains. The Surface Transportation Board (STB), in a process similar to its existing "directed service" authority, would conduct a public solicitation and select a private sector IMO from among the qualified applicants.

The IMO, for a period of 50 years, is responsible for managing and funding all rail infrastructure operations and improvements. This time period is necessary due to the very high level of front-end loaded investments—it is projected that the IMO will require about 15 years to generate enough revenue to break even. Each improvement becomes the property of the Federal Government as it is made. At the end of the 50 years, the Federal Government can either re-bid the management concession or operate the infrastructure itself. At any time during the concession, the designation of the IMO is revocable for cause.

FUNDING STRUCTURE

The IMO is financed using the existing Railroad Rehabilitation Infrastructure Financing ("RRIF") loan program. Under the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA–LU), RRIF program authorization was increased to $35 billion.

The IMO would be allowed to borrow up to $17.5 billion under the RRIF program, after having given the United States Treasury a repayment guarantee issued by an investment-grade third party in the amount of the full $17.5 billion.

As interest on the loan, the IMO is required to invest a minimum average of $600 million annually in the Federal Government's owned infrastructure. This "payment-in-kind" has been successfully used in other Federal Government initiatives in defense and power generation. On average, this statutory minimum investment exceeds by more than 200 percent the amount Amtrak currently spends annually on its owned infrastructure.[6] If my company—RIM—is designated the IMO by the STB, we foresee laying out in excess of $1 billion annually.

The IMO Plan does more than just shift the financial burden of Amtrak's owned infrastructure from Congress to the private sector; it provides natural incentives to increase capacity, services, reliability and safety. It is the IMO's responding to these incentives that translate into an increase in the number of passengers carried by all transportation service providers and, in turn, into new revenues for the IMO. Revenue increases come from new train services that pay track-mileage fees to the IMO and from which the IMO pays for infrastructure improvements.

STAKEHOLDER BENEFITS

The IMO Plan creates a platform upon which new and exciting rail services can be launched by Amtrak, existing commuter operators, or new transportation service providers, while the IMO, which is prohibited from operating trains, focuses on infrastructure management and improvements. The result will be more service options with greater access to both the Northeastern and Midwestern rail networks, allowing more passengers to enjoy the efficiencies and benefits of rail travel.

The Plan forces the IMO to innovate by developing new opportunities for transportation service providers. To meet these goals, the IMO must be a truly neutral party. This is achieved by not permitting the IMO to operate its own trains. The IMO may not compete with its customers—the users of the infrastructure it manages. The only way the IMO should succeed is if its customers succeed.

This vision of rail passenger service can be reached. The IMO Plan is the route:

—High-speed train trip-times between New York and Washington will be reduced from close to 3 hours to roughly 2 hours through capital expenditures that eliminate choke points and provide infrastructure redundancy.

—Commuter carriers will be able to integrate their services by operating new run-through trains, as the IMO adds infrastructure capacity, instead of being confined to historic geographic areas. For example, New Jersey Transit and SEPTA will each be able to save millions of dollars and be able to offer faster and more attractive travel options by instituting a pooled New York-Philadelphia service, instead of forcing all passengers to change trains at Trenton, NJ.

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[5] William Crosbie, Senior Vice President of Operations, National Rail Passenger Corporation, Remarks at Railway Age Conference (October 17, 2006).

[6] Right-of-way and Other Properties and Leasehold Improvements increased just $254.4 million in 2005. See Nat'L R.R. Passenger Corp., 2004–2005 Consolidated Financial Statements, Consolidated Balance Sheets (2006).

—New city pair combinations will be encouraged to permit rail passenger traffic to expand meaningfully. For example, Princeton Junction, NJ has sufficient population and business activity to support multiple direct trains daily to Baltimore and Washington. New riders will be attracted by convenient and faster direct trains offering expanded travel options.
—Building 14 new stations in the first 20 years at rail/highway intersections will attract more travelers though more convenient access.
—Dedicated airport express train services will help speed travelers to airline check-in while reducing airport overcrowding.
—Redundancy of infrastructure will provide more security and reliability.
—More employment will be created to build and maintain the enhanced infrastructure.
—Further employment will be created to staff and operate added train services.
—Carbon emissions will be reduced by seamlessly shifting travelers from automobiles to electrically powered trains.

STAKEHOLDER PROTECTIONS

Addressing the needs of principal stakeholders is a key element of the IMO Plan's win-win solution.

Federal Government

The RRIF loan principal is never at risk because it is fully secured by an investment-grade third-party guarantee in the full amount of the RRIF loan.

The Inspector General of the Department of Transportation is vested with the authority to certify compliance with the terms of the legislation. The IMO is also required to file with the Secretary of Transportation and Congress annual reports both of its audited financial results and its operations, thus ensuring accountability to the public and to Congress.

To align the long-term interests of the owners of the IMO to those of the Federal Government, ownership of the IMO is non-transferable for the full 50-year management concession term.

Under the IMO Plan, Congress continues to maintain oversight over both Amtrak and Amtrak's owned infrastructure, yet is relieved of the burden of funding Amtrak's owned infrastructure since the IMO, using non-appropriate funds, is now responsible. It frees Congress to focus more on transportation services that constituents demand, and that States and other governmental entities desire.

States

The States will gain a stronger voice and role in infrastructure investment through the reconstituted Northeast Corridor Coordination Board and the Northeast Corridor Safety Committee.

Multi-State compacts are not required and States are not obligated to fund the maintenance of or capital expenditures in the Government's owned infrastructure. Under the IMO Plan, State-requested projects may be expedited either by the IMO advancing funds to a State or the Department of Transportation providing funds to a State under a grant program.

Amtrak

The IMO Plan improves Amtrak's financial statements by—
—transferring $2 billion to Amtrak;
—assuming from Amtrak up to $750 million in infrastructure-secured debt; and
—relieving Amtrak of its responsibility for the roughly $1 billion in annual losses attributable to Amtrak's owned infrastructure, most of which are incurred in just 5 Northeastern States.

Commuter Carriers and Freight Railroads

Vested commuter carriers and freight railroads with operating rights must also be protected. All pre-existing contracts and agreements are transferred to and honored by the IMO, including the commuter carriers' "avoidable cost" access fee structure codified in Title 49, United States Code.[7]

This furnishes Amtrak the means and allows it the time to address the needs of its entire 46-State system, including the need to acquire new passenger cars and locomotives.

[7] See 49 U.S.C. § 10904.

Labor

The existing Amtrak employees are a great and irreplaceable resource. Labor must be treated fairly and equitably in order to assure the success of the IMO. Wages must be increased to be competitive in the region.

Under the IMO Plan, the IMO is required to offer employment in seniority order to all Amtrak employees performing infrastructure work to be performed by the IMO. The IMO is also required to honor existing collective bargaining agreements. If RIM is awarded the right to be the IMO, it intends to negotiate Northeast-competitive rates of pay and working conditions for those employees to whom it offers employment.

Many of Amtrak's employees have been working for over 7 years without contract base rate increases. As a result, there is pressure on many of these highly qualified workers to join commuter carriers or retire early. This potential loss of experience would be highly detrimental to the development of improved passenger services.

To assure the future integrity of both Amtrak and its owned infrastructure, I personally believe that a fair wage settlement, including full back pay for the IMO's employees must be implemented quickly. To encourage Amtrak employees to accept employment with RIM, RIM will also offer signing bonuses. This translates into payments (signing bonuses and back pay) in amounts ranging from $10,000 to $25,000 per employee. In addition, RIM is prepared to contribute sufficient monies to a trust fund to settle Amtrak's full back pay obligation to those employees remaining with Amtrak.

If RIM is awarded the right to be the IMO, with regard to the IMO's employees, it intends to—

—resolve outstanding proposed contract changes by offering rate increases to make wages competitive with the commuter carriers in the area and by paying full back wages from January 1, 2000;

—withdraw Amtrak's proposed concessionary contract changes, including Amtrak's proposal that employees pay a portion of their health and welfare premiums; and

—negotiate for working conditions that provide quality of life improvements without adversely effecting productivity.

In a more general vein, the IMO Plan—

—furnishes incentives to resolve the outstanding section 6 contract notices;

—preserves collective bargaining agreements and rights, including labor representation for IMO employees;

—makes the IMO subject to the Railway Labor Act, the Railroad Retirement and Unemployment Insurance Acts, FELA, and all rail safety legislation and FRA regulations; and

—protects employees affected by the transfer.

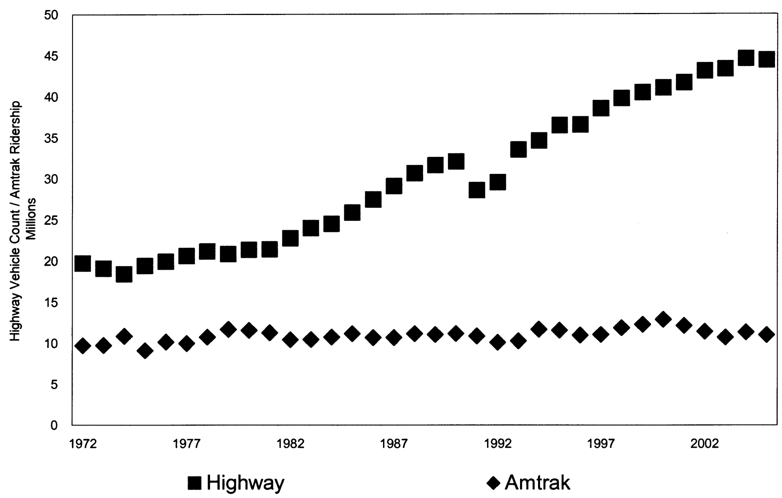
The Traveling Public

For the traveling public, reliability and security redundancy will increase, while trip-times will be reduced by the IMO's addressing deferred maintenance through aggressive engineering and construction, and major new capital investments. Train riders will also enjoy more frequent service, increased travel options, new city pairs, and—very likely—lower prices.

The traveling public is looking for transportation options. RIM believes that rail can offer such options, but it requires a new vision. In 1974, at the high of the first energy crisis, Amtrak reported carrying approximately 10.9 million Northeast Corridor riders, compared to approximately 11 million riders in 2005. Despite the fact that the number of I–95 automobile trips more than doubled over the same period of time,[8] Amtrak's ridership remained flat. The following graph shows this long-term divergence.

[8] Amtrak—1972: ICC freight railroad filings; 1973: Nat'l R.R. Passenger Corp., 1973 Consolidated Financial Statement (1974) extrapolated; 1974, 1976–1978, 1980–1986: former Amtrak personnel; 1975, 1979, 1986–2000: Nat'l R.R. Passenger Corp., 1975, 1979, 1986–2000 Consolidated Financial Statements (1976, 1980, 1987–2001); 2001, 2002: extrapolated; 2003–2005: 2003–2005 Consolidated Financial Statements (2004–2006). Highway—Maryland Department of Transportation, State Highway Administration.

Northeast Corridor Mode Trends



RIM believes that Amtrak, unburdened by infrastructure ownership, can fulfill the new vision.

THE STATUS QUO HAS FAILED—AMTRAK'S HIDDEN LIABILITY

Amtrak's owned infrastructure, particularly its Northeast Corridor, suffers from many years of deferred maintenance and depreciated assets. Major infrastructure components, renewed in the early 1980's, are now approaching the end of their useful and reliable lives, and will soon have to be replaced.

According to Kenneth Mead, former Inspector General, U.S. Department of Transportation, "Amtrak [had in 2002] an estimated $5 billion backlog of state-of-good-repair investments, and underinvestment is becoming increasingly visible in its effects on service quality and reliability."[9] Due to the continued inability of Amtrak to maintain its infrastructure and construction project inflation over the last 5 years, RIM estimates this liability today to be around $9 billion.

If Amtrak's deferred maintenance is not addressed in a timely manner, the integrity of the Federal Government's owned infrastructure will be in jeopardy. Trip-times will be increased. Service will be degraded. Safety could be compromised.

The General Accounting Office (now Government Accountability Office) defines "state-of-good-repair" to be a condition requiring only cyclical maintenance. The last time the Northeast Corridor was in a state of good repair, was in 1981 at the conclusion of the Northeast Corridor Improvement Project.[10]

If all we do today is desire to bring the corridor up to a state-of-good-repair, we are aspiring to return it to its state in 1981. Is that our goal in 2007, to return the corridor to its condition in 1981?

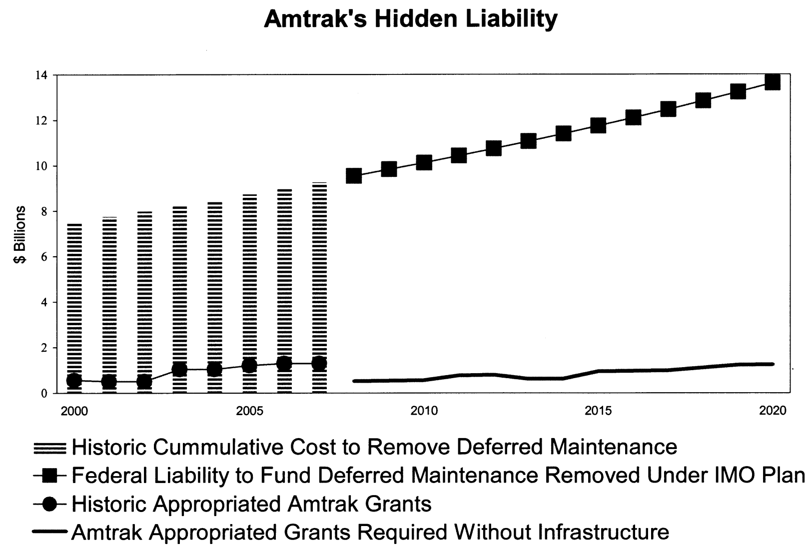
RIM's answer is: No! RIM believes that the Northeast Corridor should move into the 21st century and is prepared to make the investments to bring it there.

Through enactment of the IMO Plan, the repair, operations, and improvement of Amtrak's owned infrastructure is fully funded using non-appropriated funds.

The following graph shows the positive effects of transferring the Federal Government's infrastructure liability to the private sector and of reducing—by about two-thirds—Amtrak's required annual appropriations.

[9] IG Testimony at 7.

[10] Briefing Report to the Chairman, Subcomm. on Surface Transp. and Merchant Marine of the S. Comm. on Commerce, Science and Transp., 104th Cong. 1st Sess., Gen. Accounting Office Doc. No. RCED–95–151BR, at 47 (1995).



APPROPRIATION CHALLENGES

The Federal Government is able to fund Amtrak's annual operating budget. Amtrak's transportation services-related commitments (whether capitalized or expensed) tend to be completed in less than 1 year—a time period that corresponds to an appropriation cycle. Those outlays are expended throughout the 46 States through which Amtrak operates.

The Federal Government has been unsuccessful at funding all of Amtrak's capital improvements and infrastructure investments. Infrastructure undertakings tend to be multi-year in nature and, to be implemented efficiently and cost-effectively, require multi-year funding commitments. They, by their very nature, do not conform to the appropriations process. This has resulted in the massive and increasing deferred maintenance liability shown above.

On January 16, 2007, Senators Lautenberg and Lott, joined by other members of this subcommittee, introduced S. 294—the Passenger Rail Investment and Improvement Act of 2007 (PRIIA). The IMO Plan is highly complementary with PRIIA.

SOLUTION AT HAND

By increasing the RRIF loan authority in 2005, Congress expanded a loan program that enables the private sector to fund our Nation's rail infrastructure multi-year investments. The vehicle to achieve this is the IMO Plan—a Plan that benefits labor, the Federal Government, States, the commuter carriers, and Amtrak.

By passing the IMO Plan, Amtrak's infrastructure improvements and debt repayment appropriation-requirements will be reduced by over $1 billion annually. And, that $1 billion will be available to this subcommittee to allow Federal funds to focus on providing enhanced passenger rail service to the United States.

The IMO Plan is a win-win opportunity for the Nation's rail passenger stakeholders—labor, the States, rail passengers, transportation service providers, Amtrak. It provides a solid base upon which to build the modern rail passenger network that government leaders and travel advocates have championed for the past 30 years.

Thank you for providing me the opportunity to testify, and I welcome questions you might have.

BENEFITS OF THE IMO PLAN

The IMO Plan:

- **Reduces Amtrak's annual appropriation requirement by over $1 billion**
- **Removes all infrastructure ownership costs from Amtrak and can eliminate Federal infrastructure appropriations**
- **Retains full Federal Government ownership of all Amtrak infrastructure assets**
- **Keeps Amtrak as the single national rail passenger carrier**
- **Assures Amtrak's infrastructure employees their positions, preserves their collective bargaining agreements and rights, and funds their backpay requirements**
- **Invests over 200% more annually in Amtrak's owned infrastructure than now**
- **Permits Amtrak to match passenger revenues with train costs to increase accounting transparency to public agencies**
- **Allows Amtrak to run entire current National System for appropriations under $500 million annually**
- **Results in improved intercity passenger service throughout the nation**

SUPPLEMENTAL STATEMENT

Under the Infrastructure Management Organization ("IMO") Plan, the Federal Government continues to own all of Amtrak and all of the real property Amtrak owns today, including all of Amtrak's owned rail infrastructure ("AOI"). The IMO, an entity selected by the Surface Transportation Board from a pool of competing applicants, will upgrade and maintain AOI on behalf of the Federal Government for a period of 50 years. During this period, neither the States nor the Federal Government is obligated to fund the maintenance of or capital expenditures on Amtrak's owned infrastructure. If selected, my company—RIM—anticipates spending more than $1 billion annually on AOI for each of the 50 years that it will be the IMO.

The IMO Plan provides a zero scoring funding mechanism to maintain and expand Amtrak's owned infrastructure, while providing Amtrak with a one-time payment of $2 billion of non-appropriated funds and relieving it of almost $750 million in infrastructure-secured debt.

Under the IMO Plan, labor is protected: the mechanism is established to settle all section 6 notices; back pay to all Amtrak employees, including those who remain with Amtrak, is paid in full from funds furnished by the IMO; and the IMO offers employment—in seniority order, under existing contracts and representation—to all current Amtrak infrastructure employees. The IMO will be subject to the Railway Labor Act, FELA, the Railroad Unemployment Insurance Act and Railroad Retirement. The enabling legislation will also provide for expedited claim settlements for infrastructure employees.

The IMO Plan allows Amtrak to improve its balance sheet, so that it can operate its entire existing 46 State national passenger rail system on a subsidy of about $500 million annually. Amtrak receives more money, more quickly than any other plan being discussed.

Senator MURRAY. Thank you very much.

AMTRAK'S OPERATING COSTS

Mr. Boardman, the Bush administration's budget that you sent us is, again, proposing a drastic funding cut to Amtrak. And once you set aside that $100 million that you're proposing for State grants for our new passenger corridors, your budget request cuts direct support for Amtrak by almost 40 percent.

In your written testimony you said, "The request for operating subsidies is sufficient to avoid a bankruptcy provided Amtrak acts to cut costs by focusing on core services." So, Mr. Kummant, I wanted to ask you, can your railroad avoid bankruptcy if we accept the administration's proposal to cut funding by 40 percent, and limit your operating support to $300 million?

Mr. KUMMANT. Well, we would have to go through and drastically reduce services overall. We certainly haven't run scenarios on that. There are also a lot of payments that go to employees if the work is terminated. So, in other words, legacy costs continue for some time if, in the extreme case, for example, if you would shut down today, in total there'd be a whole stream of costs associated with existing contracts, as well as honoring labor commitments. So it would be very, very difficult.

Let me say this though, I guess I take the administration's statement as, in a sense, a philosophical challenge or statement for us to continue work on reduction, on continuous improvement, and really change the culture of the organization to be far more motivated in that direction. I take that as a philosophical challenge, and I think that's what our newly constituted management team is about.

The specific number is obviously very difficult to achieve, but again on a philosophical point, I would say that we embrace the challenge.

Senator MURRAY. So it's a nice talking point, but you expect us to provide the dollars—otherwise, bankruptcy.

Mr. KUMMANT. Perhaps your words not mine, but I think it would be very, very difficult to function under that specific financial scenario.

Senator MURRAY. Mr. Tornquist, let me ask you. The Inspector General's office has consistently advocated efforts by Amtrak to reduce its operating costs. Do you see a way that Amtrak could avoid bankruptcy if we enacted the President's proposed budget?

Mr. TORNQUIST. No, we don't believe that Amtrak would remain viable at the President's request level. We have recommended ways that they could save money, but it seems a bit aggressive to assume they're going to save all that money in 1 year.

Senator MURRAY. So, you don't see any way they can cut their budget that dramatically?

Mr. TORNQUIST. I don't see how they could cut their staff and their budget quickly enough to live within the President's request.

Senator MURRAY. Mr. Boardman, I think if I heard you correctly, you said the GAO and IG have endorsed your proposal to cut Amtrak operating figures to $300 million—maybe I should ask Mr. Tornquist—have you endorsed that proposal?

Mr. TORNQUIST. We haven't endorsed it, if I remember Mr. Boardman's statement, he said that we had suggested ways that Amtrak could save money and GAO might have suggested similar ways, and we have suggested ways, but not in the amounts in the time frame that the administration is talking.

Senator MURRAY. Mr. Boardman, did I hear you?

Mr. BOARDMAN. No, I didn't say they endorsed, Madame Chairman. What I said was that the Government Accountability Office, the IGA, and others have recently presented options for achieving savings.

Senator MURRAY. Okay, I thought I heard you say endorsed and I wanted to find out where the GAO had endorsed that, as well. So, you're telling me that's not what you said.

Mr. BOARDMAN. If I used the word, it was inappropriate, I didn't mean it.

Senator MURRAY. Okay, Mr. Wytkind, there is a footnote in your testimony that states that wages at Amtrak are now well below the prevailing rates and the freight and commuter railroads. Mr. Kummant, do you agree with that observation?

Mr. KUMMANT. Yes, we have big gaps that certainly have opened up, and many of the proposals we have on the table have closed those gaps, but the way the current status is, that is true.

Senator MURRAY. What impact do those wage differences have on your ability to retain skilled craft people?

Mr. KUMMANT. Oh, it's certainly a problem, particularly in the high skilled areas. We're very challenged with electricians, for example, who can command good wages elsewhere, and a number of skilled positions. So it's certainly a core issue for us.

Senator MURRAY. Mr. Wytkind do you want to comment on that?

Mr. WYTKIND. Yes, it's really quite astounding that we're in the position we're in, having employees have to wait 8 years—and potentially more—to have general wage increases, ends up creating this mass exodus environment. I can't give you specific data today, but it's very clear that, you know, American workers are smart. If they see better opportunities in other employment venues, they will pursue them. So this shortage that Mr. Kummant refers to, I believe, becomes exacerbated over the next several months and years if we don't resolve these issues. We have workers that are making as much as 20 percent less than their counterparts in the commuters and the freights. And in the event the freight collective bargaining agreements get achieved in the coming weeks or months, that will again further bump those workers even further ahead of Amtrak workers. So, it's a real problem that needs to be resolved.

Senator MURRAY. You talked in your testimony about getting a contract nailed down affecting morale and other things. Do you see any other ways in which Amtrak's Board of Directors or, and the labor force might work together more cooperatively?

Mr. WYTKIND. Well, I think it's very clear that the employees of this company during these very difficult years have really been at the front line of keeping this company operating. Mr. Kummant has, you know, in various ways basically said that, without these employees this company would have a very difficult time succeeding. And, yeah, we could cooperate more. We could work up here on Capitol Hill to find real sound reforms, and maybe we could work together to adopt many of the reform planks that you've articulated today in your opening comments, which I wholeheartedly embrace.

I think there is a way to work on it, but we will not get to that point if Amtrak continues to ignore the needs of its employees. Because our employees morale is as low as it's ever been, and more importantly, they're not going to continue to support and work with a company that continues to turn on them.

Senator MURRAY. Mr. Kummant, you want to make a comment?

Mr. KUMMANT. I don't have that much issue really with Mr. Wytkind's words. In fact, we spent a lot of time together, and are on the phone a lot. I have probably, personally, along with my VP of Labor Relations, done more personal outreach in the last 6 months than my predecessors have in the last several years. It's a thorny issue, it's a tough issue. One of the first objectives is to build trust, and to build an environment where dialogue is possible.

I do think going forward if the freight railroads do settle here shortly that will, in a sense, clear out some of the underbrush. It will likely set a pattern of sorts in a number of the areas that I think may give us another basis for going forward.

Senator MURRAY. Okay, thank you very much.

And Senator Bond I will turn to you.

MULTI-YEAR CAPITAL INVESTMENT PLAN AND THE NORTHEAST CORRIDOR

Senator BOND. Thank you, Madame Chair.

I have asked year after year for a detailed multi-year capital investment plan from Amtrak, and to my knowledge we've not seen it in Congress. I note on page 2 of your testimony and your statement that you will send to Congress a multi-year strategic plan on which we can base our decisions. When do you expect to send that to us?

Mr. KUMMANT. First, let me say I think we could give you very specific numbers on the Northeast Corridor over—in terms of capital needs over the coming years—we could deliver that to you in short order. We expect to have a broader strategic plan relative to expenditures across the country, probably in the April timeframe.

Senator BOND. Speaking of the Northeast Corridor, I have a chart here that shows State payments to Amtrak for train operations. It says that it's incomplete, but I note that Washington contributes $11.2 million, Missouri contributes $6.6 million for our humble little operations, but when I look down the list I see New York contributing $3.8 million, but I don't see any numbers for Maryland, New Jersey, Connecticut, Massachusetts—what are their contributions?

Mr. KUMMANT. Yes, I was just handed a chart. First, let me make the general point that we are really working through a process, top to bottom, to address all those issues. There are system trains where States don't pay. There are variable payment structures in terms of the history of the services. And as we rotate the whole organization to face the States and build that organization that's fundamentally an issue we need to clarify and, in fact, create an equity across. We need to have a very clear funding structure, almost a menu approach on services.

So, I don't have the numbers at my fingertips to respond to the specific question, other than that equity and clarity of those structures is one of the key goals of one of the executives, in fact, we recently brought in.

Senator BOND. Mr. Tornquist, have you looked into that?

Mr. TORNQUIST. We haven't specifically looked at it, but Mr. Kummant is right, that there is an equity issue across States. Some of the States don't pay for their service, some States do, some pay operating costs, some pay capital, some pay a combination. One of their reforms is to have a new State pricing policy. One of the issues that we've raised is the need to move ahead, some definition on that policy and get an implementation plan that is accepted by the stakeholders.

Senator BOND. We look forward to seeing it. Mr. Kummant, your discussion about the pay—and the inadequacy of pay—are there work rule changes which could enable Amtrak to operate safely and more efficiently, and be able to pay your skilled employees more?

Mr. KUMMANT. Sure, let me be very direct. Clearly, moving forward, the two fundamental issues on the table will be some sort of upfront bonus payment or back pay in Mr. Wytkind's terms, as well as workplace flexibility. We do need, in Amtrak's view, a more flexible workforce to build the groundwork for a 21st century operation.

I still believe that that's possible for us to jointly work on. I think we can get there, but it's thorny, it's tough, it clearly runs into the craft tradition, which is the cornerstone of the union structure. But yes, we do need to reform workplace flexibility issues, some of which date back many, many years.

Senator BOND. Mr. Wytkind, you probably have a comment on that.

Mr. WYTKIND. Well, I would say, I'm not going to comment specifically on each craft in the railroad industry because I'm certainly not the chief negotiator for each union. But, I've always viewed this workplace reform issue in the context of the Washington debate on what we do with Amtrak and its future funding needs as a bit of a red herring. The reality is that the employees of Amtrak over the years have gone through numerous renditions of a reform. Many of the reforms that the company insisted on in the 1980s and 1990s, they then came back to the bargaining table and said, "Oops, those didn't work very well, we want to retrieve those." And I could give you all kinds of good examples that have been submitted to the authorizing committee, which I could send you copies of, that explain some of the various reforms that have been tried, say on on-board service employees.

The history is filled with attempts to deal with "reforms," and at the end of the day reforming the workplace is not going to save this company from getting 40, 50 percent less than it needs from year in and year out, other than the fact that this committee has saved Amtrak from those funding crisis.

What's going to solve it is, labor and management working together and trying to find a way to cooperate on issues that modernize this company in a way that makes it effective and successful. But to just deal with these workplace issues as if they're going to solve Amtrak's problems, I think, is really frankly not going to work and is going to be disingenuous in terms of getting into this debate.

Senator BOND. Mr. Wytkind, I am disappointed in that because we are going to provide more money for Amtrak, we are demanding from Amtrak a comprehensive plan for the future. We have heard in many instances—Mr. Kummant said that there must be flexibility which would enable paying the workers more, and I would hope in—your negotiating posture, I understand—but we expect to see results because there are many areas in which we need not only to provide more money for Amtrak, but see reforms and see a clear vision for how it's going to work in the future.

Thank you, Madame Chairman.

Senator MURRAY. Senator Lautenberg.

Senator LAUTENBERG. I listen with great attention to the testimony of the witnesses, and I thank each one of you for your participation. I don't understand, I must tell you, why it is that we don't lay out the urgency of doing something about this, instead of lame reviews of what didn't take place in the past.

And I ask you, Mr. Boardman, and I quote from your statement yesterday in front of my other committee. "Amtrak is an outdated monopoly that is on a flawed business model,"—I take it Mr. Serlin would like to become the monopoly, you didn't say that, I said it—"it does not provide an acceptable level of service, nor has it been able to control the finances."

How long have you been on the board of the company?

Mr. BOARDMAN. Three months now, sir.

Senator LAUTENBERG. Three months. But you've represented, you're representing the interests and the views of the administration, are you not?

Mr. BOARDMAN. Yes, sir.

Senator LAUTENBERG. Did you fight back when they offered this budgetary plan for 2008?

Mr. BOARDMAN. We had discussions, they were lively discussions——

Senator LAUTENBERG. No, no, no.

Mr. BOARDMAN [continuing]. About what it is.

Senator LAUTENBERG. But the lively discussions, I had those. I used to run a very large company. The company has 46,000 employees today; a company I started called ADP with two other guys. So I know something about the corporate world. Lively discussions had to have a termination point, just like the railroad has. Are you satisfied with what you've presented here today?

Mr. BOARDMAN. We believe that it continues to provide the incentive for Amtrak to improve, and to reduce its costs. We believe that—when combined with the $2 billion that Amtrak has now in terms of revenue—the probably $200 million of cash reserves at the end of last year, that it continues to provide some difficult decisions that would have to be made to operate Amtrak next year.

Senator LAUTENBERG. I'm glad I'm not the patient and you're my doctor telling me what my condition is, Mr. Boardman.

What amazes me is that the Secretary of Transportation never went to a board meeting. Do you know whether Mr. Sosa has yet taken a ride on an Amtrak train?

Mr. BOARDMAN. You would have to ask Mr. Sosa that. I do not know, sir.

Senator LAUTENBERG. Has he?

Mr. KUMMANT. Yes.

Senator LAUTENBERG. You know when, and how often?

Mr. KUMMANT. I can't give you the details, but he certainly——

Senator LAUTENBERG. Because when he was being promoted for membership he had never been on an Amtrak train, and I think it's a worthwhile experience. And I submit to my friend from Missouri that New Jersey put $1.6 billion over the last decade in Amtrak for capital improvements. And a bill that Senator Lott and I have proposed, would require all Northeast Corridor States and Amtrak to revise the funding formula for those States just as the non-Northeast Corridor States are doing. So we're paying pretty much as we go. I'm sorry?

Senator BOND. I asked a question about how much the other States were providing?

Senator LAUTENBERG. How much are we providing? We're providing—the question is opening, we're talking about a formula, developing a formula for these States. So that, we know that we have to make contributions. As a matter of fact, we do make significant contributions, because the value of the travel that comes to the Northeast Corridor is manifested in every part of the county, every State of the country, to the world's financial center, and we provide the skills and the persons to do this. And they typically use Amtrak tracks to get from New Jersey to New York, and it's a very high level of use that is required.

And when we look back at the experience that we had not too many years ago, 9/11, a building in which I had an office and saw 50,000 people come to work everyday like one city, and Amtrak was the only thing that was able to transport people. Aviation was shut down, the highways were jammed and I don't understand, honestly, why it is that we argue about whether or not this cow that has never been fed properly doesn't give enough milk.

It just doesn't work, Mr. Boardman. And the request, I am shocked to hear what you say about this, about the condition of things, without acknowledging that there was total lack of interest by the President, and the administration, in having that board functioning in a way—because they were the ones on the job during this period of terrible performance that you talk about. Where was the Board of Directors as this failure, that you call it, was taking place? I don't get it.

So you voted to approve the funding that's presented here, in the President's budget?

Mr. BOARDMAN. In the President's budget we—I support the decision that was made.

Senator LAUTENBERG. So you don't believe this, these things about the inevitability of bankruptcy at this funding level?

Mr. BOARDMAN. I did not believe in bankruptcy when David Gunn said it. I think there are decisions that have to be made—difficult ones. And you have to make them early not to have a bankruptcy.

But I do understand your point. And if I could just add, for your benefit and the effort that went on, on the access fees last year, Senator Bond, that we determined at that time—and I was in the middle of that—that the States on the Northeast Corridor were contributing, and in fact, were contributing more than what was necessary.

Where Mr. Gunn again, I guess—and again I was in New York State—said that some States had a free ride. The State he was talking about at the time was New York State. New York State has the system trains that Mr. Kummant's talking about. New York should be paying between $20 and $30 million a year for those system trains. And I think that's the frustration and difficulty that comes from—whether it's Washington or Missouri and others. But in the middle of that we were negotiating with an Amtrak that could not complete our Turbo Program and we did not agree to the kind of things they needed.

And I think that's important for this debate, that we are, in fact, and have received the kinds of investments in the Northeast Corridor from the States in the Northeast Corridor that I think you're relating to.

And I thank you for that opportunity.

Senator LAUTENBERG. Thank you.

SEPARATION PROPOSAL

And Madame Chairman, forgive me for just a couple of seconds more, maybe a minute or so, if it's all right.

I listen with interest to Mr. Serlin's proposal, and I'm determined to be here when that loan is paid off that you want, that $17 billion. It means I have to run 6.5 more times.

We've seen the results of what happened in the United Kingdom, which is held out as an example of what you're proposing. Separating the infrastructure from the operating structure is quite a deal, because if you have the infrastructure available, you can build buildings, sell papers, do all kinds of things with those installations and take money in, but that doesn't mean that the railroad operates any more efficiently. You are going to call on rail professionals to run it, but it's quite a revelation when we see that this—Secretary Grayling said we think that—he's British Conservative Party—admits flawed rail privatization. "We think the separation has helped push up the cost of running the railroad, hence fares, have slowed decisions about capacity improvement. Too many people in organizations are now involved in getting things done so nothing happens."

Mr. Serlin, it's, I'm not sure that your proposal adds much to the debate here, because it ain't going to happen. That's the way it's going to be. This railroad is like all other railroads in other countries. It needs subsidy. It operates, it makes money during 2, 3 hours a day and the rest of the day you can't get by. So maybe we can send the workers home and have them come back for a couple of hours every day, Mr. Serlin. Thank you. Otherwise that doesn't bother me.

Senator MURRAY. Senator Lautenberg, thank you so much for you passion on this issue. We all appreciate it.

AMTRAK'S ON-TIME PERFORMANCE

As I talked about in my opening statement the on-time performance of many of Amtrak's trains really is disappointing. And sometimes the fault lies with Amtrak itself, but most of the time it really relates to the congestion with the freight traffic.

And Mr. Boardman, I wanted to ask you what measures have you taken, as the administration's top railroad official, to try and improve Amtrak's on-time performance over freight on track?

Mr. BOARDMAN. Thank you, Senator. I think on-time performance is probably my—one of my top priorities outside of safety itself, which I think Alex has figured out in the board meetings that I have attended. And, one of the things I understood as you gave your opening statement is that there wasn't necessarily an understanding at this point in time, that the capital program that we would propose wouldn't benefit existing corridors. Rather than putting in an entirely new corridor online, what we're really looking for is for States to start planning all of their transportation—whether it's highways, or rail, or whether it's aviation, or whatever it is—as a transportation plan in their States. And part of that would be to improve that corridor, the I–5 corridor.

And the way that you would do that—and one of the things I began to understand is—that a lot of times you get caught behind a freight train because the freights never intended to pass each other, they intended to be able to get by each other when they meet, rather than to have the ability to pass. So some of the improvements that could be made for the future using that capital program, could be passing sidings to allow an Amtrak train to get by instead of caught behind it.

I meet with every major class I railroad every year to talk about safety, but one of the things on the agenda is the importance for on-time performance that I expect them to have.

Senator MURRAY. Well, let me ask you, do you think the freight railroads are uniformly complying with both the letter and spirit of the law, in granting Amtrak trains preference?

Mr. BOARDMAN. I don't think there's uniformity in terms of the importance of this among the class 1 railroads. I think there has been difficulty explaining the importance of how we see that work for the future.

And I took a particular case example of the Southeast Corridor where there are the Silver Services, the Palmetto, the AutoTrain, and I know that Amtrak has as well. And even if you look on our website today, you'll find a linkage to the Southeast Corridor, where we're really trying to make a change in how we would manage that particular service. And the reason is—and I don't want to take up too much time—but the reason is because CSX operates on that corridor. Their main interest is their juice train and their UPS train. They don't have coal on that corridor, like so many of the difficulties we have across the country.

I think there's a new model that we can work out. I guess my point is, that we're trying to apply both the grant pressure, we're trying to—I'm trying to work with Amtrak itself, and with the freight railroads, to improve on-time performance.

Senator MURRAY. Under the law, freight railroads can apply to DOT for an exception from the requirement to provide preference to Amtrak trains. Has this administration ever received any applications from freight railroads for an exception?

Mr. BOARDMAN. I don't have an answer to that, I'll get you an answer to that. They haven't spoken to me since I've been here.

Senator MURRAY. Okay, I'd like to know that.

[The information follows:]

No, FRA has not received any applications under 49 U.S.C. 24308(c) from freight railroads seeking a Secretarial determination that the passenger preference should not be granted at a specific location.

STATE MATCHING GRANTS

Senator MURRAY. You talked a minute ago about the $100 million for State matching grants for the development of new passenger corridors and let me go into that a little bit more. Before we grant new money to leverage more State contributions I do think we have to look at the service the States are getting for their current contributions. You heard several times up here my State gets $11 million and Senator Bond's State gets about $6.5 million.

I'd like to ask, Mr. Boardman and Mr. Kummant, if you believe new money is part of the solution to easing freight congestion, shouldn't we focus some of our new dollars on improving current services before we try to launch new services? Maybe Mr. Kummant, if I could start with you.

Mr. KUMMANT. I don't disagree with that. I mean these problems are very thorny, and they are really grinding things out day by day. And as Mr. Boardman suggested, even looking at small projects; a siding, a signaling change, a crossover, to really opening things up. I do think we need to tie those expenditures to very specific gains to be made, and in some cases on existing services.

I would like to see some of those dollars, if possible, float toward equipment, as well, because I think that could have a fairly dramatic effect on the overall service, and perception of the service. But, again, the whole on-time question is as much about investment. I do think there are gains to be made in dispatching, and again it's a gut feel number, but perhaps 5 to 10 points of on-time performance, but not 30 or 40. And so it really in the end is about capital.

And—if I may say—it's almost a personal mission of mine to really build a different relationship between Amtrak and the freight railroads. And I've just completed a cycle of meeting all the U.S. CEOs, I'll meet the Canadians. And I think part of it is really just sitting down and getting everybody to agree that we are living in a different world than we did 10 years ago, and it has to be some commitment on their part at just a very personal level.

Senator MURRAY. Mr. Boardman.

Mr. BOARDMAN. I think I agree with you. I think we need to improve the existing corridors first. I think we would be looking at that from terms of, a priority as they would come to the FRA. When they had to put their projects on the STIP in the States I think they would have to evaluate that.

I think a more difficult problem, you almost related to it, is a lot of the States such as yourself that have made major investments, could be somewhat frustrated by the fact that, "Hey, we've gone ahead and made these investments and now we're being asked to put money on the table to make future investments." And I wondered about that myself.

If you look back at the interstate system, one of the things that New York always felt bad about was that they made this major investment in the New York State thruway and then, along comes the interstate highway system, which was providing the money necessary for the future. And my thought was that one of the ways that that got treated at the time was that there were credits given for the thruway that you could use as part of the matching requirement.

So, I don't think we've gone in far enough to understand that, how we would do that for the future, but certainly we're open to discussing that kind of thing.

Senator MURRAY. Okay. Well let me ask you one other question. Your proposed State-matching grant program only funds projects when the host freight railroad commits itself to 80 percent on-time performance for new train service. It makes sense to have a minimum on-time performance for new Amtrak services. Why hasn't the administration pushed for minimum on-time for current State-subsidized Amtrak services?

Mr. BOARDMAN. I don't have an off-the-top answer for that, but I'll get you one. I think we've tried to use different methodology and this just kind of tightens it up tighter.

[The information follows:]

This is a complex issue that the administration has been trying to tackle for some time. As the chairman noted in her opening remarks, the solution to this problem lies not only with Amtrak, but also with the host freight railroads whose track Amtrak operates over. The administration, through the FRA, has been trying for some time to influence the debate and push for safer and more reliable service for all railroads. In many instances, however, extensive capital investment is required in order to make the infrastructure improvements required to expand capacity, increase reliability and ensure safer operations. Host freight railroads have not always been willing or able to make those improvements. The $100 million grant program included in the administration's fiscal year 2008 Budget Proposal would help facilitate those infrastructure improvements.

VOLUME: AMTRAK VS. FREIGHT RAILROADS

Senator MURRAY. Okay, well when you look at Amtrak's on-time performance report, you see some extraordinary differences in the way different freight railroads treat Amtrak trains. We have two major freight railroads serving the western United States. We've got UP and BNSF. Somehow looking at this, Amtrak trains running over the Union Pacific are encountering twice the volume of delays for the same amount of train miles that are encountered by BNSF. What do you think explains that differing treatment?

Mr. BOARDMAN. I think there are probably various reasons. Certainly the Coast Starlighter, I don't have all the reasons to that. The most recent ones, though, were some rebuilding of track, and perhaps Alex can supplement what I'm about to say here, I don't have as good an understanding of that.

I know that it's extremely difficult to run trains through the coal chute—which I call the coal chute—through Nebraska and out on the California Zephyr has been a real difficulty. That's a UP. And when you see the Empire Builder, which is at about 74 percent, and Southwest Chief, I think, which is also run by the BNSF, you have much better numbers. I don't know Alex whether you might add to that for me.

Senator MURRAY. I think you used to work for UP.

Mr. KUMMANT. Yes, I guess I have to not sound not like an apologist in that sense, but let me make a couple of comments. BNSF does do a very nice job. Take, for example, when they run on their major Transcon route. There's some mix, but a very large amount of that traffic is inter-modal traffic that itself moves at 60 or 70 miles an hour. So it is easier for us to mix into that than in other traffic. Senator Bond and I chatted a little before the hearing—I used to actually run the River Sub, which is between Kansas City and Missouri and a tremendous amount of UP coal traffic goes across there and it's just a brutal thing to run. Some of it's single tracked, ice storms in the winter, mud slides in the spring, floods in the summer, and the operational performance there is just incredibly difficult.

So, in the end you have to go back and look at what commitment did we really make, but it's really a hand-over-hand climb on taking slow orders off, on undercutting, on adding those sidings. UP also has a very, very difficult time, obviously on the Sunset route, which is not fully double-tracked yet. And on the north-south Coast Starlight, a tremendous amount of slow orders. That being said, they have a huge capital program going forward, and we expect, for example, that we may be—in a sense from a marketing point of view—relaunching the Coast Starlight at the end of this summer when they're through with that work.

On the long distance trains there is some good news, although the absolute numbers are still low, we are actually up, year-over-year in 13 of the 15 long distance trains. Where we really need to focus, though, is on the State corridors, because on those shorter routes the on-time performance is all the more critical. So we're up only in 9 out of 15 and we're down in 6 out of 15. So there are no easy answers, except for grinding it out and UP still has tremendous amount of slow orders out there, and catch-up maintenance work that they're doing this year.

Senator MURRAY. Okay.

AMTRAK SERVICE TERMINATIONS

There are no other members present. I have a couple more questions, and appreciate all of your patience. Mr. Kummant, I wanted to ask you. Your formal grant request for the coming year for you long distance services, you say you may be implementing selected route adjustments? I wanted to ask you if those selected route adjustments are another name for service terminations?

Mr. KUMMANT. No, I think what we'll look at, there may be one long-distance route that we look at converting into a series of State corridors and have a multi-year plan to do that. We have absolutely no plans for wholesale service terminations, but the strategy that we're developing—and we'll be speaking about in April/May timeframe—will be looking at long term. Where do the State corridors really grow, and where are they dominant, and particularly where they overlay long distance routes. We ask ourselves, does it make sense perhaps to find some ways to focus on those segments and to grow those segments and perhaps then adjust the service into a series of State corridors, rather than a long distance piece?

Senator MURRAY. Do you anticipating any communities in this, in the rail service?

Mr. KUMMANT. Any communities?

Senator MURRAY. Are you going to eliminate any communities from your rail service?

Mr. KUMMANT. It could be. We may have to face some of that. We do know, for example, that we haven't run the eastern portion of the Sunset since Katrina. It is an example of what we're working through. It was not a great service to start with. It hit a number of communities late at night only three times a week. However, we'd like to look at some State corridor alternatives in that area. That decision hasn't been made, but that's an example. So selectively, yes, if those decisions are made there may be some communities affected.

Senator MURRAY. Mr. Tornquist, would you like to comment on Amtrak's need to implement route cuts?

Mr. TORNQUIST. Sure.

There is little secret that there are several routes in Amtrak's system that lose substantial amounts of money both in total and on a per person, per rider basis. There's only a limited amount that Amtrak can do to make those operations more efficient. They have a long-term goal, which we would agree to, of running an efficient system. Amtrak needs to look at its routes in light of the issues Mr. Kummant mentioned. This is something the Board has been looking at for the last year. Specifically, where does the service make sense, both in terms of the transportation standpoint and an economic standpoint? Amtrak then should determine where they can augment the service cost effectively through corridor route development and where they can make a net savings to the company by altering the service.

They have gone through a very deliberative process. We've met with their consultants who have done some modeling for them. We don't have any problems with the methodology they're looking at, and we're eager to see what they come up with. Right now we're waiting for Amtrak to figure out what their final proposal is going to be and what criteria they are going to apply to each route.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. Well, thank you very much.

And I appreciate all of your testimony. Obviously, our committee will be waiting to get our allocation and once again looking at the administration's request and trying to figure out how we can balance the incredible needs to make sure we keep this service running.

[The following questions were not asked at the hearing, but were submitted to the agencies subsequent to the hearing:]

QUESTIONS SUBMITTED TO ALEXANDER KUMMANT

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

Question. Can Amtrak really grow ridership over congested corridors?

Mr. Kummant, you have stated that, through the initiation of a Federal-State capital grant program, Amtrak will be able to double its ridership in the next 15–20 years.

Realistically, will you be able to achieve that goal if the Government and freight railroads don't take a more aggressive posture on delivering Amtrak trains on time?

Answer. Ideally, capital investment and more aggressive on-time performance (OTP) measures should go hand-in-hand, in order to improve reliability for current and future services. Host railroads are responsible for most delays to Amtrak trains—75 percent of minutes-of-delay in fiscal 2006, compared to 18.7 percent from Amtrak-related causes (mechanical issues, connections, etc.) and 6.3 percent from other causes (weather, trespassers, etc.).

Traffic congestion accounts for just over half of all host-railroad delays, i.e., 38.6 percent of all delays to Amtrak trains. While some of that could be improved by better dispatching practices, we believe most of it arises from too much traffic using too little rail capacity. According to the Association of American Railroads, from the time that the freight rail industry was deregulated in 1980 through 2005, track-miles among the Class I (major) freight railroads decreased 39 percent, but traffic (ton-miles) increased by 85 percent and is expected to keep growing. In other words, compared to years past, there now is significantly more traffic competing for space on fewer miles of track. Another 16.9 percent of all delays to Amtrak trains results from track-related speed restrictions on host railroads. Targeted infrastructure investment will go a long way toward reducing delays due to host railroad congestion and track condition.

While we want to retain and improve the quality of today's long-distance train network, the greatest potential for ridership growth lies in corridor development. Already, corridors make up a large majority of Amtrak's ridership. In fiscal 2006, the Northeast Corridor spine accounted for 38.8 percent of the total ridership of 24.3 million; other short-distance services accounted for 45.8 percent of the total, and long-distance services accounted for 15.4 percent.

Generally, OTP is a greater issue for long-distance trains than it is for corridors. In fiscal 2006, where systemwide OTP was 67.8 percent, it was just 30.0 percent on long-distance trains, with a couple, individual services below 10.0 percent. Aside from Northeast Corridor services, where OTP was in the 78–86 percent range, OTP on short-distance services averaged 67.3 percent. However, there was a wide range of results for those services, from 17.0 percent for the Carolinian (a 704-mile "short-distance" route with a long run on a congested CSX line) to 89.7 percent for the Hiawathas (at 86 miles from Chicago to Milwaukee, the shortest route).

As we have said, corridor development will depend on a Federal-State partnership for infrastructure. This partnership will lead to investment aimed at rolling stock acquisition, station improvements or development, signal improvements, track improvements, and track capacity expansion, where needed to meet the development objectives of each individual corridor. Of those items, the ones involving signals and track should be designed and implemented in such a way as to not only allow for higher speeds and frequencies, but also to minimize conflict with anticipated freight traffic levels. The freight railroads will have to be part of this process, so that infrastructure improvements meet the needs of all parties involved. If this is done successfully, the resulting service should be reliable and attract ridership with the aim of doubling our systemwide ridership in the next 15–20 years.

Question. Mr. Tornquist included in his testimony a chart indicating that Amtrak carried over a cash balance of $215 million into 2007. That level was well above its cash balance of $75 million carried over into 2006, but well below the $247 million it carried into 2005. Some people have argued that Amtrak can endure a cut in its subsidy because of this $250 million cash balance.

Mr. Kummant, does this cash balance represent excess funds that the corporation does not need? What is the rational for maintaining this cash balance?

Answer. We suggest that a company of the size of Amtrak, with over $3 billion per year of cash outlays, and with extraordinary funding uncertainties, prudently requires cash working capital of at least $200 million, the approximate amount in place at the end of fiscal year 2006. Unlike other companies, Amtrak cannot obtain a short term line of credit on which to draw in the event that its operating cash balance is insufficient to continue operations. Amtrak's only alternatives are to rely on its cash working capital, obtain emergency Federal funding, or become insolvent.

Amtrak's Federal funding requirement has been averaging slightly more than $100 million per month. But Amtrak's actual cash usage varies widely because of structural reasons like seasonality in revenue, capital expenditures, and debt service payments. For example, this past January, Amtrak used $177 million of its cash balance because of seasonally low revenue and high principal and interest payments. Therefore, with a cash balance of $200 million, the Company should be able to meet its cash requirements for at least a month; at $100 million, the Company has 2 to 4 weeks of cash remaining; and lesser amounts become critical.

The risk to Amtrak's cash is increased further by the uncertainties in amount and timing of Continuing Resolutions and appropriations as well as an unexpected service interruption, economic event, or security issue affecting ridership and revenue. These factors are among the few events affecting cash flow management that we cannot predict in our annual financial planning cycle, though delays to the appropriations process are most likely to affect us in the early months of a given fiscal year.

QUESTION SUBMITTED BY SENATOR ARLEN SPECTER

Question. Amtrak and the Commonwealth of Pennsylvania recently made $145 million worth of improvements to the Keystone Corridor from Harrisburg to Philadelphia. Has this investment translated into service and revenue improvements?

If so, in what other corridors might similar investments also benefit the corporation?

Answer. The heart of our Keystone Corridor is the Harrisburg-Lancaster-Philadelphia segment. Some Keystone trains also extend beyond Philadelphia to New York. At Philadelphia, Keystone passengers also may connect to other north-south Amtrak services and to SEPTA and New Jersey Transit commuter services.

Investments in the line that were made jointly by Amtrak and the Commonwealth from 2004 through 2006 included conversion of 57 miles of track from wood to concrete ties, renewal of 75 miles of track with new wood ties, installation of 28 new wayside concrete turnout switches, installation of 5 miles of new signal cable, installation of 43 instrument houses, installation of 26 new breakers, brush and tree cutting along 90 miles of track, and improved drainage. Some track work has continued into 2007.

The Keystone Corridor schedules that took effect with our general timetable change of October 30, 2006, reflect the improvements that were made possible by the joint investment. At that time, Amtrak increased weekday train service west of Philadelphia from 11 to 14 trains each way. We reduced express train travel times from Philadelphia to Harrisburg from 120 to 95 minutes. We restored all-electric operation of these trains, where we had been running diesel service west of Philadelphia for a number of years. Top speeds west of Philadelphia were increased from 90 to 110 mph.

Even with shorter schedules, on-time performance (OTP) has improved. For all of fiscal 2006, 83.1 percent of Keystone trains were on-time (within 10 minutes). While we had initial delay challenges after the new schedule took effect, with Keystone OTP dropping to 65.2 percent in November 2006, it has since recovered, increasing to 87.2 percent in April 2007 and 92.3 percent in May 2007.

Keystone ridership in the first 7 months of fiscal 2007 (October 2006 through April 2007) was 552,674, an increase of 17.1 percent over the same period in fiscal 2006. Ridership in all of fiscal 2006 was 823,097, but in the current year, at the current rate of growth, could surpass 950,000. Revenues so far in fiscal 2007 are $11.5 million, an increase of 23.4 percent over the same period in fiscal 2006.

Comparisons of the Keystone Corridor to others that await development can be only approximate due to the unique history of this route. Because of infrastructure investments made by the Pennsylvania Railroad through the 1930's, the Keystone Corridor was second only to the Northeast Corridor in terms of track capacity, electric propulsion, top speeds, and other factors. That gave Amtrak and the Commonwealth a good base for the improvements that were made after 2002.

That said, other corridor partnerships under discussion include Raleigh-Charlotte ($189 million to double frequencies and cut travel time by 15 percent); Chicago-Milwaukee-Madison ($351 million to increase Chicago-Milwaukee service and start Milwaukee-Madison service); Chicago-St. Louis ($164 million to cut travel time by 15 percent); Eugene-Portland ($60 million to increase frequencies by 50 percent); Seattle-Portland ($552 million to increase frequencies by 67 percent and cut travel time by 5 percent); San Diego-Los Angeles-San Luis Obispo ($756 million to reduce travel times by 21 percent); San Jose-Oakland-Sacramento ($89 million to reduce travel times by 8 percent); and Bakersfield-Oakland/Sacramento ($203 million to reduce travel times by 11 percent). (Figures from appendix A–21 of Amtrak Strategic Plan Fiscal Year 2005–09.)

QUESTION SUBMITTED BY SENATOR PETE V. DOMENICI

Question. Passenger rail service is important to New Mexico, especially to the communities along the Southwest Chief and the Sunset Limited lines that depend on its services. For example, the Philmont Boy Scout Ranch hosts over 20,000 scouts per year and many arrive via Amtrak's Raton stop. Like many other policy makers, I am concerned about the continued service to New Mexico and other regions of the country. It is my understanding that Amtrak has cut its expenses and trimmed its workforce, while achieving increased rider numbers.

How do we keep Amtrak viable and still have Amtrak provide service to rural areas like New Mexico?

Answer. Though we believe that the greatest potential for growth and for Federal-State partnerships lies in expanded corridor services, we are committed to retaining a network of long-distance train services that connect the corridors and regions of the country. We believe that there are opportunities to make further efficiencies and improvements to the long-distance services, and at the direction of our Board of Directors, we are in the process of evaluating the entire long-distance network to look for such opportunities. We will keep all stakeholders, including Members of Congress, informed of our findings. However, though the make-up of the long-distance network may change somewhat as a result of this work, in the end there still will be a long-distance network.

That said, our goal of maintaining a nationwide system of trains rests on our ability to provide our services and make various strategic changes within the scope of the revenues we earn and the funding we are provided. Our funding request for fiscal 2008 will allow us to move forward in these areas. We look forward to working both with appropriators and authorizers on issues of funding and overall policy.

QUESTIONS SUBMITTED TO HON. JOSEPH H. BOARDMAN

QUESTION SUBMITTED BY SENATOR PATTY MURRAY

Question. Can Amtrak Really Grow Ridership Over Congested Corridors?

Mr. Kummant has stated that, through the initiation of a Federal-State capital grant program, Amtrak will be able to double its ridership in the next 15–20 years. I am concerned that Amtrak will not be able to achieve that goal if the Government and the freight railroads don't take a more aggressive posture on delivering Amtrak trains on time.

Mr. Boardman, do you have view on that question?

Answer. Ridership growth is possible. It is all about providing a high quality and reliable service that meets the traveler's needs and expectations. A high level of on-time performance is an important part of that equation. That is why the administration's proposed grant program would permit States to fund the elimination of bottlenecks on freight railroads that create on-time performance problems for passenger trains and capacity constraints for freight trains if the freight railroad commits to an enforceable passenger train on-time performance of 80 percent or higher.

QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

Question. What level of funding remains necessary to bring the Northeast Corridor to a state of good repair, and when can this be accomplished?

Answer. There are multiple estimates of the cost of returning the Northeast Corridor to a state of good repair. That is why I directed Amtrak, as a condition of its fiscal year 2006 grant, to undertake a comprehensive assessment of NEC capital investment needs in cooperation with the States and other users of the rail line. While that effort has not moved as quickly as I would have liked, I hope that more reliable estimates will be available within the next 12 months.

Question. Can the development of passenger rail service contribute to reducing our Nation's dependency on foreign oil, a goal that was emphasized in the President's State of the Union address?

Answer. Some Amtrak services certainly can contribute to reducing our Nation's dependency on foreign oil. The Northeast Corridor, which has high load factors and is powered by electricity, is the best example. However, this is not true of all of Amtrak's routes. Indeed services that involve two locomotives and six cars but have an average patronage of 100 passengers or fewer do not represent a particularly effective use of petroleum based fuel.

Question. Similarly, can increased rail service significantly reduce highway congestion and automobile emissions?

Answer. Well-patronized passenger services in relatively short intercity rail corridors can contribute to lessening highway congestion, but the impact of long distance trains on highway congestion and automobile emissions is negligible.

QUESTIONS SUBMITTED TO DAVID TORNQUIST

QUESTION SUBMITTED BY SENATOR PATTY MURRAY

Question. What is the appropriate working capital level Amtrak should have?

Mr. Tornquist, in your testimony you included a chart indicating that Amtrak carried over a cash balance of $215 million into 2007. That level was well above its cash balance of $75 million carried over into 2006, but well below the $247 million it carried into 2005. Some people have argued that Amtrak can endure a cut in its subsidy because of this $250 million cash balance.

Mr. Tornquist, what do you think is the appropriate level of cash that the company should have on hand at any given time?

Answer. We believe that Amtrak's fiscal year 2008 appropriation could be reduced to create a start of year cash balance of $75 million. Amtrak has previously argued that it required a cash balance or working capital fund of $250 million. However, Amtrak was willing to increase its spending and live with in an end-of-year cash balance of $103.9 million, an amount not materially different than $75 million. We take Amtrak's actions to spend down its cash balance as a better indicator than its rhetoric of what constitutes an acceptable cash balance. The risk associated with this lower cash balance is minimized by the approximately $60 million in unspent Efficiency Grants which can provide a further cushion against unforeseen cash flow problems. However, in deciding whether to offset Amtrak's subsidy with a portion of its cash balance, Congress should consider the likelihood of a labor settlement in the near-term and how the associated increased costs should be funded.

QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

Question. Can food and beverage service on Amtrak play a role in attracting passengers, thereby offsetting its costs?

Answer. We believe that intercity rail passengers expect access to food service, particularly on long-distance trips. Ridership and revenues would undoubtedly drop dramatically if passengers were expected to spend 10–12 hours on a train without food. In that context, it could be argued that Amtrak's food and beverage service would likely attract enough passenger revenue to offset its costs. The same argument could be made for other basic services, such as restrooms and running water. Few people would ride intercity trains without them, therefore, it could be argued that the same passenger revenues are attributable to these basic services.

We are unaware of any proposals to run long distance service without providing access to some level of food service. Therefore, the comparison of trains with food service to those with no food service does not appear to be relevant or meaningful at this time.

A more relevant, but more difficult question, is whether the cost of providing an enhanced food service above a basic level generates sufficient revenues from sales and additional ticket revenue to offset its fully-allocated costs. Determining whether this was the case would require very complex modeling attempt to isolate the revenues derived from food and beverage service. We have seen studies that purport to address this issue, but have not seen any such studies supported by the analysis that would be required to properly answer the question.

Rather than trying to isolate the revenues related to food service, we have recommended previously that Amtrak pilot different levels of amenities on its trains, including different food service options, to determine which option maximizes net revenues for the train as a whole. At the same time, the net revenues from food sales is a reasonable measure for Amtrak managers to use to measure the day-to-day performance of Amtrak's food and beverage service. It would be impractical to try to use models of marginal revenue changes to manage food service on a day-to-day basis.

Question. By granting more decisionmaking authority to States with regard to rail service, do we run the risk of developing a patchwork system of routes that do not promote connectivity across state borders and transportation corridors?

Answer. The risk of developing a patchwork system of routes that do not promote connectivity across State borders and transportation corridors by granting more decisionmaking authority to States with regard to rail service is minimal. If given the authority to do so, States could conceivably choose different operators or service levels on segments of multi-State routes, thereby curtailing connectivity. However, this presumes a State would actively decide to inconvenience its own citizens, which we believe is not likely to happen. States already have experience working together through the Federal-aid highway program on multi-State surface transportation issues. In the near term, Congress is considering proposals that would provide States capital grants for corridor development, i.e., routes of up to 500 miles. These grants would be awarded by the Secretary of Transportation based on applications from one State or a group of States. We would expect the Secretary to take connectivity into consideration when awarding these grants.

QUESTION SUBMITTED TO EDWARD WYTKIND

QUESTION SUBMITTED BY SENATOR ARLEN SPECTOR

Question. What are your unions seeking in their contract negotiations with Amtrak?

Answer. The Transportation Trades Department, AFL–CIO (TTD) represents 10 of the 14 unions at Amtrak and a majority of Amtrak's nearly 20,000 employees. However, let me clarify that TTD is not the collective bargaining representative for these unions nor is it directly involved in contract negotiations. Amtrak and its workgroups have 24 separate collective bargaining agreements. Some unions represent more than one bargaining unit and some unions bargain jointly. As you are aware, the collective bargaining process at Amtrak is governed by the Railway Labor Act under which contracts do not expire, but rather become amendable. A large number of Amtrak's employees are working under contracts that have not been updated in nearly 8 years.

With a few exceptions, most bargaining units have been at impasse for years. In short, the process for all practical purposes has stopped. Employee representatives have been frustrated that Amtrak, when it does come to the table, is simply unwilling to negotiate. For one union, the Brotherhood of Railroad Signalmen, for example, Amtrak has placed the same proposal on the table since negotiations started in 2000. The company's negotiators have made no meaningful effort to engage in good faith bargaining. As a result, the vast majority of Amtrak's employees have gone more than 7 years without a general wage increase. Meanwhile, Amtrak has found the resources to institute, effective June 4, 2007, a 10 percent Premium Pay Plan for managers in certain geographic areas and in "hard-to-fill" positions. This program represents a slap in the face to the rank-and-file employees whose needs are being ignored as management employees prosper.

Other unions have been in mediation for years with no prospects for either resolution or release by the National Mediation Board. In summary, negotiations are hopelessly deadlocked due mostly to Amtrak management's refusal to enter into serious negotiations and its tactical decision to use the uncertainty of Federal funding as a strategic ploy to evade its obligations to the employees. And meanwhile, there is no serious mediation taking place as the NMB majority has refused to carry out its duties responsibly.

As you know, Amtrak employees have played a major role in keeping Amtrak running despite anemic Federal investment and continuous attempts by this administration to grossly under-fund Amtrak. Amtrak CEO Alexander Kummant has conceded that Amtrak workers are paid significantly less than their counterparts in the freight and commuter industries and that this reality is making it difficult for Amtrak to remain competitive in retaining its workforce. In sum, Amtrak workers are expecting equity for the years they have put in supporting our national passenger railroad without being compensated fairly. Employees also are opposed to changes in benefits to the health and welfare system. Amtrak's workers intimately understand the budgetary constraints under which Amtrak operates and, indeed, it is the driving force behind rail labor's collective efforts in favor of Amtrak funding year after year. However, Amtrak workers are having a difficult time making ends meet. Amtrak workers are highly-skilled and dedicated employees who are responsible for the safe transportation of millions of Americans nationwide. It is unconscionable that Amtrak refuses to negotiate collective bargaining agreements with these workers.

If you have specific questions about the status of bargaining by individual union, please don't hesitate to contact me and I will be pleased to put you in contact with the appropriate union officer or representative. We greatly appreciate your interest in this area and are thankful for your forceful voice in support of Amtrak employees.

QUESTIONS SUBMITTED TO ROBERT SERLIN

QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

Question. Can you explain the accountability measures that would be put in place for the Infrastructure Management Organization under your proposal?

Answer. Under the IMO Plan numerous accountability measures would be put in place.

Safety is first and foremost. The IMO would be a statutory railroad subject to all present and future Federal safety laws and regulations. The IMO would be subject to enforcement by the Federal Railroad Administration.

The IMO would be required to report annually its financial and operating performance to Congress and the Executive Branch in the same manner and timeframe as is statutorily required of Amtrak. The IMO's and Amtrak's parallel reporting would permit the Government to review concurrently and overlay the performance of Amtrak and the IMO. The IMO's financial reports would be required to be GAAP compliant and audited by an independent certified public accountant.

To assure Congress and the administration that the IMO is fulfilling its annual investment in AOI requirement, the Department of Transportation's Inspector General would be designated to oversee and certify lease compliance by the IMO. The DOT IG would also have the authority to review the IMO's use of Federal funds and compliance with Federal laws and regulations.

The Secretary of Transportation would be required to review and approve the IMO's disposal of AOI fixed assets above $500,000 as well as approve IMO related-party transactions.

The IMO's investment plan would be reviewed by the reconstituted Northeast Corridor Coordination Board—a body composed of AOI States and rail carrier user representatives. The IMO would be obligated to publish annually a rolling five-year capital plan that incorporated not only the IMO's planned capital expenditures, but also those requested by AOI States and users. The Northeast Corridor Coordination Board would review and determine that capital expenditure projects are integrated and consistent with the balanced transportation needs of the region.

The IMO Plan is fully accountable to labor—both infrastructure and non-infrastructure labor.

Under the IMO plan, the IMO would be required to offer employment in seniority order to all Amtrak employees performing infrastructure work to be performed by the IMO. The IMO would also be required to honor existing collective bargaining agreements for the Amtrak employees it hires. Were RIM awarded the right to be the IMO, it would resolve infrastructure employees pending section 6 notices by withdrawing both Amtrak's health and welfare contribution demand and its concessionary rule-change demands, and by negotiating Northeast-competitive wage rates and working conditions for those employees to whom it offers employment.

RIM would pay full back pay and signing bonuses (between $10,000 and $25,000 per employee).

Non-infrastructure labor's pending section 6 notices would be partially resolved through mandated arbitration of back pay disputes were such disputes not resolved within 6 months of the IMO becoming the IMO. Non-infrastructure back pay payments would be funded by the IMO escrowing the funds from which Amtrak would meet its back pay obligations.

The IMO Plan would do much to help Amtrak's non-infrastructure employees by strengthening Amtrak as the sole national passenger rail carrier. Employment at Amtrak would be more secure since Amtrak would be more fundable, having been relieved of AOI operating losses. Expanded employment opportunities on the IMO and on Amtrak would generate more operating, clerical and shop craft employment as transportation demand over AOI grew. New jobs would be filled very quickly from union training facilities and union operated hiring halls. Finally, the IMO Plan is a corridor development model, which can increase rail employment throughout country.

The IMO would also be held fully accountable to repay any Government funds made available to it. Prior to the IMO being eligible to draw upon a Government loan ("RRIF loan"), the IMO would have to furnish an investment grade, third-party, irrevocable full principal repayment guarantee that would also function as a risk premium payment. The private sector owners of the IMO would be obligated to guarantee jointly and severally payment of the RRIF loan interest. The IMO's owners would also be required to consolidate fully the financial results of the IMO into their public disclosures. Publicly traded owners of the IMO would be subject to oversight by the Securities and Exchange Commission. Full accountability is ultimately derived from the estimated $2 billion in equity the owners of the IMO would be required to invest in the IMO and the non-transferability of IMO ownership for the full 50-year concession-term. The IMO's investors and owners will have to believe in the long-term competitiveness of the rail mode.

The IMO, as a railroad, would be subject to Surface Transportation Board jurisdiction and be required to deal fairly with the carriers operating over AOI. In the event of an operating or compensation dispute, the IMO would be subject to orders issued by the Board.

Question. Would service under your proposal be consistent with the level of service we see today?

Answer. The IMO Plan leaves the transportation service provider ("TSP") component of Amtrak untouched and, as a result of the transfer of $2 billion to it and assumption of up to $750 million in debt from it, significantly better capitalized than today. Amtrak's train service levels would remain as they were prior to the adoption of the IMO Plan. Amtrak would continue to operate its Northeast Corridor and national network of intercity trains, subject only to existing agreements and contracts.

TSPs operating over AOI when the IMO Plan takes effect would be granted "vested carrier" status. This would entitle each of them to current service pattern protections on AOI. Amtrak and commuter carriers would be encouraged to improve service levels by offering more "one-seat" rides. Commuter carriers could do this by combining operations and operating outside their historic service areas. An example of this would be SEPTA and New Jersey Transit pooling their equipment and operating New York/Philadelphia without requiring passengers to change trains at Trenton.

Amtrak's operating rights over the freight carrier network are not altered, and are subject to existing and future contracts that Amtrak may negotiate.

Key to the success of the IMO Plan is improving the Northeast Corridor ("NEC") and increasing its capacity through investments of, were RIM to be selected the IMO, more than $1 billion annually. These investments would enable Amtrak, the commuter carriers and new intercity TSPs to expand transportation offerings and increase service levels. This can only be achieved by an independent infrastructure manager actively promoting new options. With an upgraded infrastructure and reduced travel times, the railroad mode will be able to increase its market share as new services are created, which are time-competitive with highway and aviation.

The NEC is the most densely populated, most affluent corridor in the world—bar none. RIM believes that the only way that the NEC can be made to prosper is by increasing the level of service.

SUBCOMMITTEE RECESS

Senator MURRAY. So, thank you to all of you. This subcommittee will stand in recess until Thursday, March 8, when we will take in testimony on the administration's recent announced plans for cross-border trucking with Mexico.

[Whereupon, at 12:05 p.m., Wednesday, February 28, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

THURSDAY, MARCH 15, 2007

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

The subcommittee met at 9:30 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

Present: Senators Murray and Bond.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FEDERAL HOUSING ADMINISTRATION

STATEMENT OF HON. BRIAN D. MONTGOMERY, ASSISTANT SECRETARY FOR HOUSING AND FEDERAL HOUSING COMMISSIONER

ACCOMPANIED BY:

HON. KENNETH M. DONOHUE, INSPECTOR GENERAL, OFFICE OF INSPECTOR GENERAL

WILLIAM B. SHEAR, DIRECTOR, FINANCIAL MARKETS AND COMMUNITY INVESTMENT, GOVERNMENT ACCOUNTABILITY OFFICE

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. This subcommittee will come to order. This morning, this subcommittee will hear testimony on the Federal Housing Administration. We will discuss the overall solvency of its mortgage lending program as well as the administration's proposal for reforming the FHA.

I am pleased that our Federal Housing Commissioner, Brian Montgomery, is here. He is joined by HUD Inspector General Kenneth Donahue and witnesses from the GAO, Mortgage Bankers Association and the National Association of Realtors.

Over the last 73 years of its existence, the FHA has served as a powerful engine to expand home ownership across the country. It has played a critical and essential role in providing access to capital for low-and-moderate income families. Most recently, however, the FHA has come to look more and more like an anachronism. Critics have said that they are out of touch with the marketplace, their mortgage products are outdated, they are a technological dinosaur and they are hard to do business with.

In recent years, the FHA has captured a smaller and smaller percentage of the overall mortgage market and its decline has been a rapid one. In my State, we have the Washington State Housing

Finance Commission, whose mission, like the FHA's, is to serve low-and-moderate income homebuyers. The Commission's Executive Director recently told me that in my State, the FHA's role in his efforts have been turned upside down in just the last 10 years. A decade ago, FHA covered 80 percent of the loan activity in his agency. Today, it only covers 20 percent.

When you look at all mortgage lending, FHA now represents roughly 3 percent of total mortgage volume nationwide. Now, some observers like to argue that whenever the private sector can replace the government in providing essential services, it's a good thing. In this case, I'm not so sure.

The FHA's loan products have fallen out of favor in part because private lenders have aggressively marketed subprime loans to high-risk borrowers. Some of these lenders have used temporary rate discounts or teaser rates, to push low-income borrowers into exotic loans with high fees and penalties that they can barely understand, much less afford. Some of these lenders have been boosting loan volume by taking credit standards to new lows and demanding almost no proof of income or credit worthiness.

As a result, we are now seeing rapidly rising foreclosures and some of the most aggressive subprime lenders are shuttering their operations. Just 2 days ago, the Mortgage Bankers Association released their updated survey on mortgage delinquencies. It revealed that foreclosures of subprime mortgages had reached a record high. The share of subprime borrowers making late payments rose to more than 13.3 percent.

That same day, the second largest subprime mortgage lender, New Century Financial, was de-listed from the New York Stock Exchange and announced that it had received criminal inquiries from both the Securities and Exchange Commission and State regulators. Those announcements sent the stock market into a tailspin. By the end of the day, the Dow Jones Industrial Average had dropped nearly 250 points or almost 2 percent. Financial stocks dropped even faster, falling almost 3.3 percent for the day.

The collapse of the subprime mortgage market has elicited warnings from Federal Reserve Board Chairman. Some economists have even predicted that the ripple effects of this collapse could eventually trigger a recession. These dire predictions should worry us all but should surprise no one.

It is estimated that one in five new mortgages written in recent years fell into the subprime category—one in five. This year alone, some $1.2 trillion in mortgages will have their interest rate reset upward. Some borrowers took out these adjustable rate loans banking on the fact that they would have an opportunity to either refinance their loan or if necessary, sell their home. Now the prepayment penalty is built into many of these loans as well as the overall downturn in home prices, means these opportunities have disappeared.

Many economists have said that our mortgage markets are in for a very rough road ahead. There is concern that this market upheaval could trigger a market over-reaction, where the availability of mortgage loan capital for working families tightens dramatically or just evaporates. If the mortgage market overreacts and working families need help, they may have to rely on the FHA. That means we need to make sure the FHA is strong and effective.

Today, the FHA's overall financial picture is weak. Absent the enactment of reform legislation this year, we are told that for the first time in its history, the FHA could require a direct appropriation to subsidize loan operations. This subcommittee could be required to appropriate $143 million in 2008, just to keep FHA's loan activities in the black. That is $143 million we won't be able to put toward section 8 recipients, homeless programs and other HUD programs serving needy citizens.

Currently, a growing percentage of the FHA's loan volume is not for traditional home mortgages for new homeowners. Rather, an increasingly popular FHA product appears to be reverse mortgages for elderly homeowners. This is a worthwhile program that keeps elderly families with fixed incomes in their homes. But getting younger Americans into their first home has always been central to FHA's historical mission. And in these tumultuous times, I think we need to work to make sure that the FHA can once again be relevant in that market.

This subcommittee continues to receive reports from the Government Accountability Office and the Inspector General indicating continuing problems with the currency of FHA's data, the sufficiency of its underwriting and the agency's technological obsolescence. The Bush administration put forward a reform proposal for the FHA in the last Congress. We expect it to be resubmitted in this Congress. Enactment of this FHA reform, we are told, should eliminate the need for any appropriated subsidy and make the FHA more competitive with the private market.

But this subcommittee and the rest of Congress need to look at these proposals very carefully. We need to make sure that we are not encouraging FHA to engage in some of the same high-risk, high-cost lending practices that are now upsetting the markets and putting relatively new homeowners out of their homes. The FHA is the taxpayers' mortgage lender. As such, it has an obligation to protect consumers. The FHA has specific statutory mandates to employ measures to keep families in their homes. These are requirements and obligations that private lenders do not have.

If the recent upheaval in mortgage lending means that private loan capital dries up for our working class families, we must make sure that the FHA is poised to keep the dream of home ownership alive. But the FHA must re-establish itself as America's mortgage lender, not by imitating the marketing and underwriting practices of New Century Financial. Rather, they must work to ensure that working families are getting into homes with loans that they can fully understand and afford.

With that, I would like to recognize my ranking member, Senator Bond.

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you very much, Madam Chair and a warm welcome to our witnesses for this important hearing on the FHA. We are focused primarily today on the single-family insured programs under the Mutual Mortgage Insurance Fund.

Madam Chair, you've done a very good job of outlining all of the challenges and the problems but since this is the Senate, it's not enough that you have said it. I'm going to say it, too. So if you'll bear with me.

As I said, we have a wide cross-section of witnesses who I expect can give us their views and positions, which should help provide a foundation for meaningful and comprehensive FHA reform. FHA has been enormously successful in assisting millions of Americans realize the dream of home ownership and I credit FHA's professional workforce and its leadership for these accomplishments.

However, FHA's history is also marked by longstanding challenges in balancing risk against expanding home ownership, especially for low income and first time homebuyers. Not too long ago, FHA was operating at record profit levels for the Federal Government. Now, FHA is at a serious crossroads and the question today is, how do we move forward in the best interests of the American taxpayer and those who wish to pursue home ownership?

In fairness, the Appropriations Committee should follow the lead of the Banking Committee in addressing FHA. Nevertheless, our committee has a substantial interest in the financial stability and solvency of FHA, since potential cost savings from FHA reform legislation could be used to support funding the needs of a number of popular housing programs.

In fact, the committee has been instrumental in some of the most recent significant FHA legislative changes, from raising the loan limits in 1988, which this committee did, when I was chair and working with Senator Mikulski on the VA/HUD Subcommittee, to increasing access to the reverse mortgage program and we've been able to reinvest those cost savings from the reforms to address other critical housing needs.

On the other side, if FHA needs an appropriation, that will take away from some of our ability to fund other needed housing assistance programs. Regardless of the outcome, we have to find a way to make these programs work and fund them adequately.

There are also a number of philosophical and practical issues surrounding FHA reform. We must consider to what extent FHA is still relevant or needed in the home ownership marketplace. If needed and relevant, Congress must consider how to ensure it can become and continue to be a viable player in the marketplace.

In addition to its loan products, we should examine changes to FHA's structure so it has the tools to operate competitively and efficiently as any other large financial institution. For example, I'm interested in converting FHA into a quasi-governmental entity so that it can hire and retain highly skilled people and it can keep pace with technological advances.

Finally, we must examine whether FHA can properly balance the risks and benefits of home ownership so that the interest of the borrower and the American taxpayer are adequately protected. It's clear that something must be done, since FHA seems to be cracking. In recent years, FHA has been plagued by rising default rates, higher than expected program costs and a sharp decline in program participation. In fact, the Mortgage Bankers Association's most recent survey reported record delinquency rates for FHA loans.

More disturbing is MBA's finding that FHA delinquency rates were similar, if not higher, than subprime loans. Further, FHA's share of the single-family market dropped by 40 percent in fiscal year 2005, with it's overall market share dropping from 12 percent in fiscal year 2002 to less than 4 percent in 2006 and this decline occurred during a period when overall home sales were increasing.

To be blunt, in every HUD budget hearing over the last few years, I have raised concerns about the viability and future of FHA. Nevertheless, it has been business as usual and Congress was advised that the FHA's future was bright. But the facts obviously indicate otherwise. The situation is now so dire that without any significant changes and reforms, FHA's MMI fund is projected to operate at a net loss in 2008, requiring a positive credit subsidy—a direct appropriation from this committee, for the first time in history.

This would be tragic, since other HUD programs are already being severely squeezed by budget constraints. The budget request, however, does not propose any appropriation to cover the positive credit subsidy and instead, the FHA Commissioner will raise premiums to ensure FHA's solvency. HUD's hope for improving FHA's long-term health is tied to the proposed reform legislation, which is assumed in the administration's 2008 budget request. It's always a risky matter to assume that Congress will get something done. That's our problem, not yours. But it is a problem for all of us.

HUD expects the legislation will grow FHA's receipts by increasing its mortgage loan limits as well as by implementing a new risk-based pricing and flexible down payment system. HUD's optimism depends on its ability to implement quickly and effectively the legislation. As we know, HUD does nothing quickly, since most proposals get caught up in an inflexible and multi-layered bureaucracy that can take years to act and that, again, is demonstrated by past experience.

To me, the most troubling provision is the zero down payment program. This could pose substantial risk to the MMI fund because these homebuyers have no financial stakes in their homes and have little financial ability to pay for any big ticket repair item, such as a failed furnace or a leaky roof. Historically, FHA suffered substantial losses in the late 1980's due to defaults by families with high loan-to-value or LTV ratios. Not only did the practice of high LTV loans damage the credit-worthiness of families who defaulted on their mortgages but equally troubling, as again our former committee colleague, Senator Mikulski pointed out, the defaults drove down the value of other housing in the neighborhood and transformed the neighborhoods into severely distressed and blighted areas. Sadly, some of these neighborhoods still suffer from those past mistakes.

Many in Congress support the administration's proposal but I question the practical impact of these proposals since they do not appear to address adequately the financial solvency of FHA or its underlying operational problems. Providing FHA with new loan products will have questionable impact since FHA continues to struggle in managing risk and ensuring accountability for its existing programs.

But don't just take that from me. Take this from Congress's official budget scorekeeper, the Congressional Budget Office. CBO last year estimated FHA's legislative reform package would result in a cost savings of about $2.3 billion over 5 years. However, about $2.2 billion or 95 percent of those savings were attributed to what is basically an accounting maneuver. Moving the successful FHA program, the home equity conversion mortgage or reverse mortgage program, from the GI/SRI fund account to the MMI fund account. Now, back when I used to play sports, we were always on the lookout for some guy who would change the score on the scorebooks when it wasn't that way in the field. We used to call that pencil-whipping and I am not a golfer but I understand that sometimes occurs in golf. Well, to me, this is the equivalent of pencil-whipping in government accounting and I have a minimum amount of high enthusiasm for that. That does not meet the "show me" test for Missouri.

The key elements of the administration's reform package, increasing loan limits and implementing a new risk based pricing system, will not significantly increase FHA's business and will not result in significant cost savings, according to CBO. Preliminary estimates of CBO's updated analysis will show almost no cost savings from these provisions. Frankly, we're facing a positive credit subsidy mainly due to FHA's self-inflicted wounds.

The GAO's testimony indicates that a large factor in the FHA recent financial problems is due to high claim and loss rates for seller financed down payment assistance loans, many of which were financed by nonprofit organizations. Thankfully, the Internal Revenue Service issued a ruling last May that may stem this practice. IRS is examining 185 of these organizations on their 501(c)3 status but I strongly urge FHA to take its own actions in addressing this matter.

I also remind you that this down payment practice is similar and is identical in practical impact to the zero down payment proposal where the homeowner has no real stake in his or her new home. There is a history lesson to be learned here and I surely hope we've learned from our mistakes.

I trust this hearing is just the beginning of a real debate on FHA reform. If we do reform and revitalize FHA, we must fully understand the financial risks of any legislation as well as understand what steps HUD has taken and plans to take to reduce the risk of fraud and abuse in its FHA mortgage programs.

I thank you for your tolerance in letting me get it off my chest and I return to the chair.

[The statement follows:]

PREPARED STATEMENT OF SENATOR CHRISTOPHER S. BOND

Good morning and thank you, Madame Chair, for calling this important hearing on the Department of Housing and Urban Development's (HUD) Federal Housing Administration (FHA). Today, we primarily are focused on FHA's single-family programs insured under the Mutual Mortgage Insurance (MMI) Fund. This is a timely hearing given the declining state of FHA and the recent woes in the mortgage market driven by the crash of the subprime market.

We are fortunate to have a broad range of witnesses before us today. I expect to hear a wide variety of views and positions, which should help provide a foundation for meaningful and comprehensive FHA reform.

FHA has been enormously successful in assisting millions of Americans realize the dream of homeownership and I credit FHA's professional workforce and its leadership for these accomplishments. However, FHA's history also is marked by long-standing challenges in balancing risk against expanding homeownership, especially for low-income and first-time homebuyers. Not too long ago, FHA was operating at record profit levels for the Federal Government. Now, FHA is at a serious crossroads and the question today is how do we move forward in the best interests of the American Taxpayer and those who still wish to pursue homeownership?

In fairness, the Appropriations Committee should follow the lead of the Banking Committee in addressing FHA. Nevertheless, our committee has substantial interest in the financial stability and solvency of FHA since potential cost savings derived from FHA reform legislation could be used to support the funding needs of a number of popular housing programs. In fact, this committee has been instrumental in some of the most recent significant FHA legislative changes—from raising the loan limits in 1998, which I did as chair of the VA–HUD Subcommittee, to increasing access to the reverse mortgage program—and we have reinvested the cost savings from those reforms to address other critical housing needs. Regardless of the outcome of FHA reform legislation, we must find a way to fund adequately these programs.

There also are a number of philosophical and practical issues surrounding FHA reform. We must consider to what extent FHA is still relevant or needed in the homeownership marketplace. If needed and relevant, Congress should consider how to ensure it can become and continue to be a viable player in the marketplace. In addition to its loan products, we should examine changes to FHA's structure so that it has the tools to operate competitively and efficiently as any other large financial institution. For example, I am interested in converting FHA into a quasi-governmental entity so that it can hire and retain highly-skilled people and it can keep pace with technological advances. Finally, we must examine whether FHA can properly balance the risks and benefits of homeownership so that the interests of the borrower and the American Taxpayer are adequately protected.

It is clear that something must be done since the FHA seems to be cracking. In recent years, FHA has been plagued by rising default rates, higher than expected program costs, and a sharp decline in program participation. In fact, the Mortgage Bankers Association's most recent survey reported record delinquency rates for FHA loans. More disturbing is MBA's finding that FHA delinquency rates were similar if not higher than subprime loans! Further, FHA's share of the single family market dropped by 40 percent in fiscal year 2005 with its overall market share dropping from 12 percent in fiscal year 2002 to less than 4 percent in fiscal year 2006. And this decline occurred during a period when overall home sales were increasing.

To be blunt, in every HUD budget hearing over the last few years, I have raised concerns about the viability and future of FHA. Nevertheless, it has been business as usual and the Congress was advised that FHA's future was bright. But the facts obviously indicate otherwise. The situation is now so dire that without any significant changes and reforms, FHA's MMI Fund is projected to operate at a net loss in fiscal year 2008, requiring a positive credit subsidy—meaning a direct appropriation—for the first time in history. This would be tragic since other HUD programs are already being severely squeezed by budget constraints. The budget request, however, does not propose any appropriation to cover the positive credit subsidy and instead, the Commissioner will raise premiums to ensure FHA's solvency.

HUD's hope for improving FHA's long-term health is tied to proposed reform legislation, which is assumed in the administration's fiscal year 2008 budget request. HUD expects this legislation will grow FHA receipts by increasing its mortgage loan limits as well as by implementing a new risk-based pricing and flexible down-payment system. HUD's optimism depends on its ability to implement quickly and effectively the legislation. As we know, HUD does nothing quickly since most proposals get caught up in an inflexible and multi-layered bureaucracy that can take years to act.

The most troubling provision is a new zero-down-payment program. This could pose substantial risks to the MMI Fund because these homebuyers have no financial stake in their homes and have little financial ability to pay for any big ticket repair item such as a failed furnace or a leaky roof. Historically, FHA suffered substantial losses in the late 1980s due to defaults by families with high loan-to-value (LTV) ratios. Not only did the practice of high LTV loans damage the creditworthiness of families who defaulted on their mortgages but, equally troubling, the defaults drove down the value of other housing in the neighborhood and transformed the neighborhoods into severely distressed and blighted areas. Sadly, some of these neighborhoods still suffer from those past mistakes.

Many in Congress support the administration's proposals but I question the practical impact of these proposals since they do not appear to address adequately the financial solvency of FHA or its underlying operational problems. Providing FHA with new loan products will have questionable impact since FHA continues to struggle in managing risk and ensuring accountability for its existing programs. But don't just take this from me. Take this from Congress's official budget scorekeeper, the Congressional Budget Office (CBO). Last year, the CBO estimated FHA's legislative reform package would result in a cost savings of about $2.3 billion over 5 years. However, about $2.2 billion or 95 percent of the savings were attributed to what is basically an accounting maneuver—moving the most successful FHA program, the Home Equity Conversion Mortgage or "reverse" mortgage program from the GI/SRI Funds account to the MMI Fund account.

The key elements of the administration's reform package—increasing loan limits and implementing a new risk-based pricing system—will NOT significantly increase FHA's business and will NOT result in significant cost savings according to CBO. Preliminary estimates of CBO's updated analysis will show almost NO cost savings from these provisions.

Frankly, we are facing a positive credit subsidy mainly due to FHA's self-inflicted wounds. The GAO's testimony indicates that a large factor in FHA's recent financial problems is due to high claim and loss rates for seller-financed down-payment assistance loans—many of which were financed by non-profit organizations. Thankfully, the Internal Revenue Service (IRS) issued a ruling last May that may stem this practice. IRS is examining 185 of these organizations on their 501(c)(3) status but I strongly urge FHA to take its own actions in addressing this matter. I also remind you that this downpayment practice is similar to the zero down-payment proposal where the homeowner has no real stake in his new home. There is a history lesson to be learned here and I strongly hope we will have learned from our mistakes.

I trust this hearing is just the beginning of a real debate on FHA reform. If we do reform and revitalize the FHA, we must fully understand the financial risks of any legislation as well as understand what steps HUD has taken and plans to take to reduce the risk of fraud and abuse in its FHA mortgage programs.

Thank you, Senator Murray.

Senator MURRAY. Thank you very much, Senator Bond.

I want to turn to our witnesses. Welcome all of you today. Thank you so much for coming and giving us your input today. We have in front of us, Brian Montgomery, who is the Assistant Secretary for Housing; Kenneth Donohue, the Inspector General from the Department of Housing and Urban Development; William Shear, who is Director of Financial Markets and Community Investment with GAO; JoAnne Poole, with the National Association of Realtors; and John Robbins with the Mortgage Bankers Association. Welcome, all of you. We would ask that each one of you limit your remarks to 5 minutes. I will let you know when the time is up. All of your testimony will be submitted for the record. We all have it and we will make sure all of our committee members have it as well. So we will be limiting you to 5 minutes so that we can get to our questions and answers today.

Mr. Montgomery, we will begin with you.

STATEMENT OF HON. BRIAN D. MONTGOMERY

Mr. MONTGOMERY. Thank you, Chairwoman Murray and ranking member Bond for inviting me here today. Our hard work on FHA reform during the 109th Congress paid off to the tune of 107 cosponsors, nearly evenly split from both sides of the aisle, I might add in a resounding 415 to 7 vote on the floor of the House as well as a separate 412 to 4 vote on the manufactured housing reforms.

Keeping that in mind, I would like to emphasize that our priorities for FHA legislation have not significantly changed from last year. As was our goal 1 year ago, we are striving to provide lower income families safe, secure home ownership opportunities. The simplicity lies with our mission, to provide underserved Americans a safe housing product at a fair price. As this committee is well aware, many first-time and minority homebuyers face significant challenges when trying to purchase a home. In recent years, such difficulties have resulted in many of these individuals assuming risky, adjustable rate, subprime loans.

The impact on African American and Latino borrowers has been especially profound. For instance, according to the 2004 HUMDA data, 40 percent of African Americans and 23 percent of Latinos pay an interest rate 3 percentage points higher than the market rate. When these homebuyers signed off on their loans, the built-in resets and rate increases seemed like a lifetime away. Today, however, many of these borrowers face a different reality.

According to mortgage strategists, some $2 trillion of U.S. mortgage debt or about a quarter of all mortgage loans are due for interest resets in 2007 and 2008. While some borrowers will make the higher payments, many will struggle.

The second component to our approach is that it is comprehensive. In light of recent housing market shifts and the departure of a strong subprime presence, due in large part to the resets I just mentioned, many lending institutions are simply turning their backs on lower income borrowers.

And just as the national housing market is tightening, so too are borrower requirements. In order to offset this tightening of credit, there needs to be a mortgage alternative, which will provide a wide slough of borrowers and simultaneously provide them with the loan options they require and that is a new and invigorated FHA.

As I've already mentioned, the changes we are proposing are not new. For one, we're proposing to eliminate our complicated down payment formula, our 3 percent minimum cash investment and before the rest of the market began offering low down payment loans, we were the best option for first time homebuyers because we required only a minimal down payment. But as many of you are aware, the market passed FHA by and as reported by the National Association of Realtors, last year 43 percent of first time homebuyers purchased their homes with no down payment. Of those who did put money down, the majority put down 2 percent or less.

The down payment is the biggest barrier to home ownership in this country, especially for lower income families. But we have no way to address that barrier without changes to our statute. The FHA Modernization Act would permit borrowers to choose how much to invest, from almost no money down to 1 or 2 or even 10 percent. The bill also provides FHA the flexibility to set the insurance premiums commensurate with the risk of a loan. We would charge lower credit risk borrowers a lower premium than they would get today and higher credit risk borrowers, many of whom we are unable to reach today, would be charged a slightly higher premium. In so doing, we could reach deeper into the pool of prospective borrowers while protecting the financial soundness of the MMI fund.

A slightly higher premium would increase a borrower's monthly payment only minimally. For example, the average FHA loan in 2006 is only $128,000. On a monthly basis, this loan would cost the borrower $7.96 at 1 percent, $16 at 2 percent and only $24 at 3 percent. Clearly, this high premium is still affordable.

Now, compare this modest premium to the average subprime loan made on a $225,000 home purchase and the numbers become far more meaningful. On average, subprime borrowers pay an interest rate three points higher than conventional borrowers and this rate hike translates into an additional $300 per month, which is $137,000 over the life of a loan.

Another piece of the legislation I'd like to mention is the proposed increase to our loan limits. By increasing the loan limit to 65 percent and 100 percent of the conforming loan limit, we would once again be a player in high cost states, regions that have previously been out of play, such as the entire State of California and most of the Northeast.

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What's more, raising the floor to 65 percent of the conforming loan limit has the added benefit of again giving families better access to newly constructed housing, which is on average, more costly.

I look forward to answering your questions. Thank you.

[The statement follows:]

PREPARED STATEMENT OF HON. BRIAN D. MONTGOMERY

Thank you Chairwoman Murray and Ranking Member Bond for inviting me to testify on the administration's proposed FHA Modernization. We plan to submit legislation soon that would implement the proposals included in the 2008 budget.

We all worked hard in the 109th Congress with many of you here today, and our message was well received. I hope our collaborative efforts on behalf of low- and moderate-income families can be a model for the 110th Congress.

As you are all aware, the Federal Housing Administration was created in 1934 to serve as an innovator in the mortgage market, to meet the needs of citizens otherwise underserved by the private sector, to stabilize local and regional housing markets, and to support the national economy. This mission is still very relevant, perhaps now more so than ever.

Moreover, the FHA model represents the very best of what a government working with the private sector can and should do. Since its inception, FHA has helped more than 34 million Americans become homeowners. By operating through a private sector distribution network, FHA efficiently reaches families in need of safe and affordable home financing. Simply put, FHA insurance protects lenders against loss, enabling these private sector partners to offer market-rate mortgages to homebuyers who would otherwise remain unserved or underserved.

FHA also protects the homebuyer. FHA offers foreclosure prevention alternatives that are unparalleled in the industry. In fiscal year 2006 more than 75,000 FHA insured borrowers facing serious default were able to retain homeownership through FHA's toolbox of foreclosure prevention options. In an environment of increasing defaults, FHA's foreclosure rate actually decreased last year. This protection against foreclosure is good for families and good for communities. It also resulted in $2 billion in loss avoidance for the Insurance Fund, which illustrates our commitment to sound financial management.

We believe that FHA should continue to play a key role in the national mortgage market and I'm here today to make the case for changes to the National Housing Act that will permit us to continue to fulfill our critical mission.

Allow me to explain. In recent years, FHA's outdated statutory authority has left the agency out of synch with the rest of the lending industry. Over the last decade, the mortgage industry transformed itself, offering innovative new products, risk-based pricing, and faster processing with automated systems. Meanwhile, FHA continued to offer the same types of products with the same kinds of pricing, becoming less attractive to lenders and borrowers alike.

As a result, FHA's volume has dropped precipitously in housing markets all across the Nation. For example, in Chairwoman's Murray's home State of Washington, FHA's volume has dropped from 16,806 loans in 2000 to 6,477 loans in 2006 (a decline of 61 percent or almost $1.2 billion). For Ranking Member Bond, during that same time period, FHA's volume in Missouri dropped from 15,172 to 8,979 loans (a decline of 41 percent or $262 million).

But the most troublesome statistic of all comes from Senator Feinstein's home State of California. There, FHA saw its volume drop from 109,074 in 2000 to just 2,599 in 2006—an astonishing decline of 98 percent in just 6 years.

These statistics suggest that tens of thousands of low- and moderate-income families who would have chosen FHA turned to alternative methods of mortgage finance. While many of them were well-served, some were not and turned to expensive and sometimes risky exotic loans. We see today the unfortunate outcomes such families across the Nation are experiencing.

To offer a better and more attractive mortgage product, over the last 18 months we have made significant administrative changes to FHA, streamlining and realigning operating procedures. While these changes are good and were long overdue, they are not enough, a point our industry partners have clearly conveyed to us and to you. That is why last year FHA requested that Congress amend the National Housing Act to give it the flexibility it needs to fulfill its original mission in today's ever changing marketplace.

As the dynamic mortgage market passed FHA by, many homebuyers, especially those living in higher cost States such as California, New York, and Massachusetts, to name a few, purchased mortgage products with conditions and terms they would not be able to meet.

Some homebuyers turned to high-cost financing and nontraditional loan products to afford their first homes. While low initial monthly payments may have seemed like a good thing at the time, the reset rates on some interest-only loans are substantial and many families have been and will continue to be unable to keep pace when the payments increase. In addition, prepayment penalties often times make refinancing cost-prohibitive. According to Mortgage Strategist, more than $2 trillion of U.S. mortgage debt, or about a quarter of all mortgage loans outstanding, is due for interest rate resets in 2007 and 2008. While some borrowers will make the higher payments and many others will refinance, some will struggle and some will be forced to sell or lose their homes to foreclosure. I'm sure it comes as no surprise to the people in this room that the foreclosure rate for subprime loans is higher than that of FHA loans. And I think we can all agree that foreclosures are bad for families, bad for neighborhoods, and bad for the economy as a whole.

In the context of this economic environment, we see FHA Modernization as part of the solution. FHA reform is designed to restore a choice to homebuyers who can't qualify for prime financing and more options for all potential FHA borrowers.

Moreover, the FHA bill proposes changes that will strengthen FHA's financial position, improving FHA's ability to mitigate and compensate for risk. The proposed changes would permit FHA to operate like every other insurance company in the Nation, pricing its products commensurate with the risk, as opposed to having some clients pay too much and some too little. Imagine if a car insurance company charged all clients the same premium—the 17-year-old teenager and a 40-year-old adult would pay the same rate. Is that fair? With a blended rate, those who know they're paying too much switch to another insurance company. That leads to a portfolio that is increasingly lopsided: too many riskier borrowers, too few safer borrowers, and collectively poses greater risk to an insurance fund. This scenario, known as adverse selection is exactly what happened to FHA over the last decade. Those who were lower credit risks went elsewhere. The premium changes proposed in the administration's proposal will restore balance to the FHA funds, providing appropriate levels of revenue to operate in a more fiscally sound manner.

While we are on the topic of the soundness of the insurance fund, I am proud to report that the OIG found no material weaknesses in its fiscal year 2006 audit of the FHA, and that in January 2007, the GAO removed FHA's single family mortgage insurance programs from its high risk list. Both of these developments reflected improvements that HUD has made in recent years in its management of property disposition contractors, its oversight of lenders, its implementation of a mortgage scorecard, and its ability to predict claims and estimate credit subsidy costs.

I know my introduction was lengthy, but I want you to understand how important FHA reform really is—for FHA, for the homebuyers we serve, and for the industry as a whole. FHA's private sector partners—the lenders, the realtors, the brokers, the home builders—want to tell their clients about the FHA alternative. They want low- to moderate-income homebuyers to have a safer, more affordable financing option. They want FHA to be a viable player again.

Now let me explain a little bit about the simple changes we're proposing. For one, we're proposing to eliminate FHA's complicated downpayment calculation and 3 percent cash investment requirement. Before the rest of the market began offering low downpayment loans, FHA was often the best option for first-time homebuyers because it required only a minimal downpayment. But, as I said before, the market passed FHA by. According to the National Association of Realtors, last year, 43 percent of first-time homebuyers purchased their homes with no downpayment. Of those who did put money down, the majority put down 2 percent or less.

The downpayment is the biggest barrier to homeownership in this country, but FHA has no way to address the barrier without changes to its statute. FHA Modernization would permit borrowers to choose how much to invest, from no money down to 1 or 2 or even 10 percent and to be charged appropriate premiums for the size of the downpayment they make.

The proposal also provides FHA the flexibility to set the FHA insurance premiums commensurate with the risk of the loans. For example, no downpayment loans would be priced slightly higher, yet appropriately, to give homebuyers a fairly-priced option and to ensure that FHA's insurance fund is compensated for taking on the additional risk. FHA would also consider the borrower's credit profile when setting the insurance premium. FHA would charge lower-credit risk borrowers a lower insurance premium than it does today, and higher-credit risk borrowers would be charged a slightly higher premium. In so doing, FHA could reach deeper into the pool of prospective borrowers, while protecting the financial soundness of the FHA Fund and creating incentives for borrowers to achieve good credit ratings and save for downpayments.

A slightly higher premium would increase a borrower's monthly payment only minimally. For example, on a $225,000 loan, a 1 percent upfront premium financed into the loan would cost the borrower $13.97 per month; a 2 percent premium would cost $27.94 and a 3 percent premium, $41.90. Clearly, this higher premium is still affordable. Moreover, it's a smart investment, because the borrower is paying for the FHA insurance to obtain a market rate loan.

Some say that with a risk-based pricing approach FHA will target people who shouldn't be homebuyers and charge them more than they should pay. I want to address these concerns directly. Our goal is to reach families who are capable of becoming homeowners and to offer them a safe and fairly-priced loan option.

With a risk-based premium structure, FHA can reach hard-working, credit-worthy borrowers—store clerks, bus drivers, librarians, social workers—who, for a variety of reasons, do not qualify for prime financing. Some have poor credit scores due to circumstances beyond their control, but have put their lives back together and need a second chance. For some, the rapid appreciation in housing prices has simply outpaced their incomes. Many renters find it difficult to save for a downpayment, but have adequate incomes to make monthly mortgage payments and do not pose a significant credit risk. They simply need an affordable financing vehicle to get them in the door. FHA can and should be there for these families.

If granted, FHA's new legislative authorities would save homeowners a lot of money, because FHA's loan product would carry a lower interest rate than a nonprime loan product. The higher premiums that FHA will charge some types of borrowers are still substantially lower than they would pay for subprime financing. For example, if FHA charged a 3 percent upfront insurance premium for a $225,000 loan to a credit-impaired borrower versus that same borrower obtaining a subprime loan with an interest rate 3 percent above par, the borrower would pay over $300 more in monthly mortgage payments with the subprime loan and over $137,000 more over the life of the loan. In addition, FHA borrowers do not have to be concerned about teaser rates, unmanageable interest rate increases or prepayment penalties.

Moreover, FHA intends to lower the insurance premium for many borrowers. FHA will charge lower-risk borrowers a substantially lower premium than these types of borrowers pay today. For example, homebuyers with higher credit scores who choose to invest at least 3 percent in a downpayment may pay as little as .075 of a percent upfront premium.

So while FHA may charge riskier borrowers more (and safer borrowers less) than it does today, the benefit is four-fold. First, FHA will be able to reach additional borrowers the agency can't serve today. Second, many borrowers will pay less with FHA than with a subprime loan. Third, the FHA Fund will be managed in a financially sound manner, with adequate premium income to cover any expected losses. Finally, borrowers will be rewarded for maintaining good household financial practices that lead to good credit ratings and higher savings for a downpayment.

Another change proposed in FHA Modernization is to increase FHA's loan limits. Members of Congress from high-cost states have repeatedly asked FHA to do something about our antiquated loan limits. This proposal answers those concerns. FHA's loan limit in high-cost areas would rise from 87 to 100 percent of the GSE conforming loan limit; in lower-cost areas, the limit would rise from 48 to 65 percent of the conforming loan limit. In between high- and lower-cost areas, FHA's loan limit will increase from 95 to 100 percent of the local median home price. This change is extremely important and crucial in today's housing market. In many areas of the country, the existing FHA limits are lower than the cost of new construction. Buyers of new homes can't choose FHA financing in these markets. In other areas, most notably California, FHA has simply been priced out of the market.

Finally, FHA Modernization offers some changes to the Home Equity Conversion Mortgage (HECM) program, which enables senior homeowners, aged 62 years or older, to tap into their home equity to live comfortably in their golden years. The proposal eliminates the cap on the number of loans FHA can insure; it sets a single, national loan limit; and it creates a new HECM for Home Purchase product to permit seniors to move from the family home to more suitable senior housing and convert the purchase loan into a HECM in a single transaction. Today, seniors who want to move, but need additional cash flow to pay their living expenses, must purchase a new home and take out a HECM in two distinct transactions, resulting in two sets of loan fees and charges.

Let me repeat a point I made earlier in the testimony. I want to assure you that the changes we are proposing will not impose any additional budgetary cost. We are proposing to manage the Fund in a financially prudent way, beginning with the change in FHA pricing to match premiums with risk. This will avoid FHA being exposed to excessive risk, as it is today, because some borrowers who use FHA are under-charged for their risk to the Fund while those who are overcharged are fleeing from the program. Of course, we will continue to monitor the performance of our borrowers very closely, and make adjustments to underwriting policies and/or premiums as needed.

I know I've talked a lot here today, but I want to convey to you how passionate I am about the proposed changes. I believe we have an opportunity to make a difference in the lives of millions of low- and moderate-income Americans. We have a chance to bring FHA back into business, to restore the FHA product to its traditional market position. To all those families who can buy a home with prime conventional financing, I say, "Go for it!" They're fortunate and they should take full advantage of that product. But for those who can't, FHA needs to be a viable option. And when people ask me why we are proposing these changes, I tell them these exact words: "Families need a safe deal, at a fair price. Families need a way to take part in the American Dream without putting themselves at risk. Families need FHA."

I want to thank you again for providing me the opportunity to testify here today on modernizing the Federal Housing Administration. I look forward to working with all of you to make these necessary reforms a reality.

Senator MURRAY. Thank you very much. Mr. Donohue.

STATEMENT OF HON. KENNETH M. DONOHUE

Mr. DONOHUE. Chairman Murray, ranking member Bond and the members of the subcommittee, thank you for inviting me here to testify today. In January, the GAO announced the results of its high-risk series review. I want to commend the Department and FHA for the removal of its rental housing assistance and the single-family mortgage insurance program from the high-risk list, which they had been on since 1994.

This resolution, in part, is a result of ongoing dialogue between FHA and the OIG and is an excellent example of good government and positive change.

I come to you today with a note of warning for the FHA. There have been a lot of articles lately comparing the fall of the subprime lending market to that of the failed savings and loan institutions of the 1980's. I spent 7 years of the Resolution Trust Corporation uncovering the fraud and abuse among directors of failed savings and loans. I have seen first hand the damaging results of an unregulated and solely profit driven industry, results that ultimately cost the American taxpayer billions of dollars.

Whether we are just starting to see the tip of the iceberg today or actually seeing the iceberg in the subprime lending market remains to be seen. But unlike the savings and loan crisis, it will have a social impact as many honest, hardworking individuals may lose their homes. The mortgage industry has said they have increased home ownership, however, at what cost to the American people?

Relaxed underwriting practices instituted by unscrupulous subprime lenders, the usage of riskier products, like adjustable rate and interest only loans, coupled with appraisal fraud and lack of understandable disclosure of loan terms have made it easier for those who do not quality for prime loans to purchase homes but not retain them. In addition, while it might have been a splendid idea to help the troubled borrowers with low mitigation programs, it is worth remembering that the rollover non-performing loans added to the savings and loan mess of the 1990's.

With the current trend of interest rates in flux, the resulting payment shock and low home appreciation, due in part, to over building, we have seen States such as Colorado and we will probably continue to see increased delinquencies and foreclosure rates. Further, a number of these borrowers fell subject to additional hardship as predatory lenders applied aggressive sales tactics and outright fraud to finance the subprime loans. I am concerned as to whether FHA is headed in the same direction as the subprime market with a seemingly continued deregulation and introduction of riskier products as part of its proposed reform.

A chart produced by the Mortgage Bankers Association survey shows how closely the FHA delinquency rate follows that of the subprime market. We have an industry that is generally profit driven. However, with that should come responsibility. Unlike the mortgage industry, the FHA is mission driven. The FHA Single Family lending has experienced a market drop in insurance volume as subprime lending spiked and mortgage interest rates increased.

The numbers are disconcerting. In fiscal year 2006, insurance endorse was down 8 percent; new endorsements were off 17 percent and delinquent and default rates inched upward. History will actually reflect that FHA was spared the impact of the subprime prices because it did not contain these in its portfolio.

The FHA 2008 budget submission suggests that costs will exceed receipts. FHA may really be left with only two choices—to request a credit subsidy by means of appropriations or to increase the premiums to avoid a shortfall. Reform packets, which include risk based premiums, zero down payment loans and higher mortgage limits seems to be partly directed at high income housing markets to the possible detriment of first time homebuyers and minority customers.

PREPARED STATEMENT

I also want to stress, the proposed reform bill is silent on strengthening controls and enforcement action in preventing future fraud. As to our record, over the past 3 years, HUD/OIG has issued 190 auto reports to the area of FHA. These are reports that identified $1.1 billion in questionable costs and funds that could be put to a better use. During the same time period, the HUD/OIG had over 1,350 indictments and $1.3 billion in court-ordered restitutions. I cannot say the reform legislation is the answer and I recognize that some change is necessary. There are great challenges confronting the FHA programs; nevertheless, aggressive oversight and enforcement is crucial to prevent a reoccurrence of what we are witnessing in the subprime market today and the savings and loan industry in the past year. Clearly, there are lessons to learn from the repeat of history. Thank you.

[The statement follows:]

PREPARED STATEMENT OF HON. KENNETH M. DONOHUE

Chairman Murray, Ranking Member Bond, and members of the subcommittee, thank you for inviting me to testify today.

BACKGROUND

The U.S. Department of Housing and Urban Development (HUD) Inspector General is one of the original 12 Inspectors General authorized under the Inspector General Act of 1978. The Office of Inspector General (OIG) has forged a strong alliance with HUD personnel in recommending ways to improve departmental operations and in prosecuting program abuses. OIG strives to make a difference in HUD's performance and accountability. OIG is committed to its statutory mission of detecting and preventing fraud, waste, and abuse and promoting the effectiveness and efficiency of government operations. While organizationally located within the Department, OIG operates independently with separate budget authority. This independence allows for clear and objective reporting to the Secretary and the Congress.

The Department's primary challenge is to find ways to improve housing and to expand opportunities for families seeking to improve their quality of life. HUD does this through a variety of housing and community development programs aimed at helping Americans nationwide obtain affordable housing. These programs, which include Federal Housing Administration (FHA) mortgage insurance for Single Family and Multifamily properties, are funded through a $30+ billion annual budget and, in the case of FHA, through mortgage insurance premiums. At the end of fiscal year 2006, FHA's outstanding mortgage insurance portfolio was about $396 billion.

Each year in accordance with the Reports Consolidated Act of 2000, HUD OIG is required to submit a statement to the Secretary with a summary assessment of the most serious challenges facing the Department. OIG submitted its latest assessment on October 19, 2006. The Department has notably and laudably made progress in its efforts to correct its serious challenges. However, continued progression in the integration of FHA's financial management systems, and strengthening of lender accountability and enforcement against program abusers is still needed.

FHA is the largest mortgage insurer in the world, providing coverage to over 34 million home mortgages and 47,205 multifamily projects since 1934. FHA insurance protects HUD-approved lenders against losses should a homeowner or project owner default on their mortgage loans. FHA insures a wide spectrum of loans. Its single family programs include insuring mortgage loans to purchase new or existing homes, condominiums, manufactured housing, houses needing rehabilitation, as well as reverse equity mortgages to elderly homeowners. Its multifamily programs provide mortgage insurance to facilitate the construction, substantial rehabilitation, purchase and refinancing of multifamily housing projects and healthcare facilities.

On January 31, 2007, the Government Accountability Office (GAO) announced the results of its biennial "high-risk" series review. We commend the Department for the removal of its rental housing assistance and the single family mortgage insurance programs, which have been on GAO's risk list since 1994.

THE CHALLENGE

Chairman, ranking member, and members of the subcommittee, you have probably read or seen a number of articles of late comparing the fall of the subprime lending market to that of the failed savings and loan institutions of the 1980's. I spent 7 years at the Resolution Trust Corporation as Assistant Director for Investigations, uncovering the fraud and abuse among directors of the failed savings and loan institutions. I have seen first hand the damaging results of a solely profit-driven industry, which ultimately cost the American taxpayer billions of dollars.

Whether we are just starting to see the "tip of the iceberg" today or are actually seeing the iceberg in the subprime lending market remains to be seen, but like the savings and loan crisis, it will not only have a financial impact but a social impact as many honest, hard working individuals may lose their homes. The mortgage industry has said they have increased homeownership; however, at what cost to the American people?

The Senate Committee on Banking, Housing and Urban Affairs recently held a hearing on subprime lending. The testimony included estimates that as many as 2.2 million families may lose their homes to foreclosure—foreclosures that were often predictable or avoidable through responsible lending. We see this today in the State of Colorado, where it is estimated that two out of every five home loans is a subprime loan. Colorado has not only ranked among the top States for mortgage fraud during the last 2 years, but has held the highest foreclosure rate in the Nation for most of 2006.

Relaxed underwriting practices instituted by unscrupulous subprime lenders, the usage of "riskier" products (e.g., adjustable-rate and interest-only loans)—coupled with appraisal fraud—and lack of understandable disclosure of loan terms have made it easier for those who do not qualify for prime loans to purchase homes but not retain them. With the current trend of rising interest rates and the resulting payment shock, and low home appreciation—due in part to overbuilding that we have seen in States, such as Colorado—we will probably continue to see increasing delinquency and foreclosure rates. Further, a number of these borrowers may fall subject to additional hardship as their subprime loans are refinanced by predatory lenders who apply aggressive sales tactics and outright fraud.

I am concerned as to whether FHA is headed in the same direction as the subprime market with its seemingly continued de-regulation and introduction of "riskier" products as part of its proposed reform. A chart produced by the Mortgage Bankers Association National Delinquency Survey shows how closely the FHA delinquency rate—as a loan type—follows that of the subprime market. To further illustrate in the third quarter of 2006, delinquencies for subprime past due loans were at 12.56 percent (up 7 percent from the second quarter of 2006 and up 17 percent from the third quarter in 2005), while total delinquencies for all past due loans were at 4.67 percent. Ninety-day delinquencies for subprime loans stood at 2.96 percent, while all other loans were at 0.94 percent. Foreclosure starts for subprime loans was at 1.82 percent, while for all other loans only 0.46 percent began foreclosure in the third quarter of 2006.

We have an industry that is generally profit-driven, and primarily concerned with the bottom line; however, with that should come responsibility. Unlike the mortgage industry that is primarily profit driven, the FHA is mission driven.

FHA RISK

FHA single family lending has experienced a marked drop in insurance volume, as subprime lending spiked and mortgage interest rates increased. The numbers are disconcerting: in fiscal year 2006 insurance in force (active mortgages) was down 8 percent, new endorsements were off 17 percent, and delinquency and default rates inched upward. Does this scenario mean FHA faces a financial crisis? Not based on the recent actuarial findings that estimate a capital ratio of 6.82 percent for the Mutual Mortgage Insurance (MMI) fund that well exceeds the 2 percent capital ratio mandated by the 1990 Cranston-Gonzalez National Affordable Housing Act. FHA actuaries found the MMI fund to be adequately capitalized to defray expected claims cost over the next decade including losses from the hard hit Gulf coast region, which is estimated at $613 million. Revenue shortfalls from insurance premiums were predicted, but they were offset by expected interest income from Treasury investments.

FHA's fiscal year 2008 budget submission casts a somewhat different light as it concerns the risk of the MMI fund. It states: "Because of adverse loan performance and improved estimation techniques, the base line credit subsidy rate for FHA's single family program—assuming no programmatic changes—is positive, meaning that total costs exceed receipts on a present value basis, and therefore would require appropriations of credit subsidy budget authority to continue operation. The 2008 baseline includes no budget authority to cover these costs and assumes FHA would use its existing authorities to increase premiums to avoid the need for credit subsidy appropriations. Under the Budget's proposals, FHA will be able to set premiums that are based on risk and are sufficient to avoid the need for credit subsidy appropriations." (emphasis added)

Simply, FHA may be really left with only two choices, to request a credit subsidy by means of appropriations or increase its premiums to avoid an estimated shortfall of $143 million in fiscal year 2008. One FHA response to this impending predicament is through the passage of "The Expanding American Homeownership Act." In his June 20, 2006 testimony, the FHA Commissioner stated, ". . . the FHA bill proposes changes that will strengthen FHA's financial position, improving FHA's ability to mitigate and compensate risk. The proposed changes would permit FHA to operate like every other insurance company in the Nation, pricing its products commensurate with the risk, as opposed to having some clients pay too much and some too little.” Regardless of whether the FHA reforms are enacted, as FHA takes on more risk—as has been the trend in recent years—we believe premiums will also need to increase or Congress may have to subsidize the program.

Moreover, I remain somewhat concerned over the proposed modernization of FHA and whether the reforms will provide a panacea to its “loss of market” woes and ensure the future solvency of the MMI fund. The reform package—which includes risk-based premiums, zero-downpayment loans, and higher mortgage limits—seems to be partially directed at expanding FHA’s reach to the higher income housing market to the possible impact on its traditional first-time homebuyer and minority customers. These reform package proposals merit further discussions, including the following:

Risk-Based Premiums

Moving to a mixed price premium structure: (1) could by its very complexity require increased budget authority to make FHA system modifications and impose new administrative/cost burdens on originating and servicing lenders; and (2) potentially expose the FHA Single Family insurance program to fair housing questions and accusations of “red-lining” unless the decision matrix for pricing is unquestionable.

FHA customers traditionally have been first-time homebuyers and minorities, some with incomplete or flawed credit histories and marginal reserves to avoid default when facing financial stress. FHA reform will require these higher risk borrowers to pay higher premiums. Risk-based pricing, therefore, may increase the mortgage carrying costs of FHA borrowers that are the least able to afford them.

Zero Down Payment

As the actuaries have pointed out, FHA is currently experiencing higher default and claim rates on seller-funded nonprofit down payment assisted loans, which are effectively zero down payment loans (100 percent loan-to-value). GAO reported in 2005 the probability of such loans resulting in an insurance claim was 76 percent higher than comparable loans without such assistance. It is reasonable to conclude that zero down payment loans would represent a comparable insurance risk. Additionally, in light of current congressional and GSE (Freddie Mac and Fannie Mae) concerns over the growth of subprime lending and growing default rates, FHA should be wary of inviting future claim risks by insuring 100 percent and greater (after financing closing costs and insurance premiums) loan-to-value loans.

Higher Mortgage Limits

FHA should determine mortgage loan limits consistent with its mission to serve underserved borrowers and communities, particularly first-time homebuyers and minorities. Raising the loan limits to GSE conforming maximums may serve to attract borrowers who have access to conventional financing, and do not need a government program to acquire homeownership.

Raising FHA area loan limits, especially the high-cost area ones, will not necessarily help low- and moderate-income families become homeowners. In some markets, raising the base limit would mean that FHA would insure homes well above the median house price statewide, further distancing FHA from its mission, and potentially exposing the MMI fund to increased risk from regional economic downturns. If the limits for 2–4 unit properties are also included, FHA will be assuming even greater financial risk on what are essentially investment properties.

Unless there is evidence to show otherwise—the reforms may actually increase the mortgage burden of the qualified, but less creditworthy borrowers and reward those with greater financial stability. And one could argue that FHA appears to be strategizing to capture some share of the prime market and borrowers already served by conventional lending.

Moreover, the proposed reform is silent on strengthening controls and enforcement actions and preventing future fraud. As we have seen over the last 2 years, FHA has made changes to its operations, which in some instances has included deregulation—without seemingly proper risk analysis—out of concern over retaining market share. However, there has been some change; most notably the Deputy Secretary recently supported our recommendation that Housing (FHA) rescind the issuance of Mortgagee Letter 2005–23, which removed the “. . . six-month payment history requirement for loans submitted late for endorsement.” Our audit found that loans with an unacceptable payment history—within the prior 6 months to submission—were at least 3.5 times higher risk of claims to the MMI fund.

The OIG recognizes that there is an important call for action to avoid the need for the Congress to subsidize the program; however, the introduction of “riskier” products through reform must be balanced with more effective program fraud controls to mitigate future insurance losses and ensure oversight of lenders that violate established requirements. For example, our recent audit of the single family mortgage insurance claim process determined that, prior to paying billions of dollars in single family insurance claims, FHA did not independently ascertain whether loans insured under the MMI fund met program requirements. Housing disagreed with our recommendations which included FHA establishing a risk-based post claim review process and seeking recovery or adequate support for final HUD costs for 44 unsupported claims identified in our sample totaling over $1.3 million in losses.

The private sector has pointed to one remedy to reduce fraud in mortgage loan programs. Mortgage bankers are beginning to use predictive models that screen loan applications for fraud at pre-funding. FHA needs to move beyond post endorsement monitoring and embrace this new technology through policy and programmatic changes, as part of FHA reform.

Lastly, the actuaries did not evaluate MMI fund solvency, assuming the proposed FHA reform became law. It would seem prudent for FHA to have its actuaries prepare another study to reflect likely performance scenarios before introducing the reforms to the mortgage market.

In spite of these differences, we are encouraged to work collectively with FHA. In 2006, the Mortgage Bankers hosted a fraud symposium, which we attended and were an active participant. We hope such collaboration can serve as a model for all our future cooperative efforts including those with the FHA.

CONTINUING OIG AREAS OF CONCERN

Even though the Department has notably made progress in its efforts to correct its serious challenges—supported by recent removal from GAO's high-risk list—as GAO cautions, HUD needs to manage new risks and accurately estimate the costs of program changes. The following are continuing areas of concern that we have identified through our audit and investigative efforts over the FHA single family and multifamily insurance programs.

Down Payment Assistance

Until recently, HUD has not been responsive to the universal concern that seller-funded nonprofit down payment assistance providers inflate real estate prices and increase the risk of default. OIG's concerns with down payment assistance from seller-funded nonprofits have been long-standing and are consistent with concerns raised by others. The FHA was not responsive to our concerns and that of the GAO until the Internal Revenue Service issued a revenue ruling making it clear that seller funded down payment assistance providers are not charities as they do not meet the requirements of 26 U.S.C. § 501(c)(3). This ruling enabled us to convince the Department to compel FHA to issue a rule that will establish specific standards regarding borrower investments in a mortgage property when a gift is provided by a nonprofit organization.

The Department has committed to a schedule that will result in a final rule being issued next summer. However, it is important to note that until this rule is issued, the status quo remains the same and nonprofit down payment assisted loans will continue to have a negative impact on the economic value of the MMI fund.

Loan Case Binder Access

FHA has adopted an ill-advised policy that permits those with the potential to perpetrate fraud upon the insurance fund to maintain the original records/certifications associated with their fraud. Through the issuance of Mortgage Letter 2005–36, the Lender Insurance (LI) Program enables certain FHA-approved Direct Endorsement lenders to endorse FHA loans without a pre-endorsement review and generally relieves LI lenders from the responsibility of submitting loan originations case binders to FHA.

We expressed our concerns over the various LI Program provisions that may adversely impact the ability to investigate and prosecute fraud perpetrated upon FHA. Also, we obtained a letter of opposition from the FBI, alerted OMB to the issuance of the mortgagee letter, apprised Senate and House oversight staff, and gained support of the Office of General Counsel (OGC). In spite of the best efforts of many, FHA implemented the program; with assurances to the OGC and us that it would collaborate with interested parties to make technical corrections once the program was implemented. More than 1 year later, FHA has yet to schedule the first meeting to discuss needed technical corrections.

Single Family Fraud

In my experience, over 99 percent of people are honest, while less than 1 percent is intent on defrauding others. Their impact can be, however, quite detrimental. Organized groups or individuals driven by the bottom line are defrauding consumers and FHA, at the same time that FHA is seemingly pursuing a policy of de-regulation. We continue to compile evidence through our audit and investigative activities of organized groups and individuals who conspire to take advantage of first-time homebuyers and minority customers. These groups and individuals conspire, with or without the borrowers' knowledge, to provide materially false applications, documents and statements to obscure information that would otherwise demonstrate that borrowers do not qualify for the loans they seek or that the property in question does not meet FHA insurance guidelines.

OIG is also seeing a trend with organized groups in some parts of the country recruiting illegal aliens to purchase FHA-insured homes. Illegal aliens are not qualified to purchase FHA-insured homes due to their immigration status. As a result, this group is often preyed upon by unscrupulous mortgage professionals who assist illegal aliens in obtaining fraudulent and stolen social security numbers, tax documents, and employment documents. All too frequently these borrowers soon realize that they are unable to bear the periodic costs associated with homeownership and default on their loan. In turn, these ever increasing defaults degrade entire communities where the organized groups target their efforts. As a result of FHA's continued pattern of de-regulation or inconsistent enforcement of established regulations, single family loans remain vulnerable to fraud.

Multifamily Fraud

FHA does not have adequate controls to prohibit equity skimming in nursing homes. In consideration for endorsement for insurance by FHA, prospective nursing home mortgagor/owners are required to execute a regulatory agreement. The regulatory agreement is FHA's chief vehicle to protect its financial and programmatic interests in the mortgaged property. Typically, the mortgagor/owner does not "operate" the nursing home and leases the property to a lessee/operator that executes a separate and less comprehensive regulatory agreement. Numerous OIG audits have determined that FHA does not have adequate controls in place to ensure program objectives are accomplished.

Among the significant control weaknesses identified by the OIG is that the regulatory agreement used for the lessee/operator-managed nursing homes lacks certain requirements contained in the regulatory agreement applicable to mortgagor/owner-managed nursing homes. The regulatory agreement used for lessee/operator-managed nursing homes does not preclude the lessee/operator from diverting all or any portion of the income generated by the property to non-property purposes to the detriment of the elderly tenants, and HUD who is subject to the payment of an insurance claim to the lender due to the mortgagor/owner's default on the FHA-insured loan.

Gulf Coast

Congress estimates that damage to residential structures will range from $17 to $33 billion. In the Presidentially Declared Disaster Areas, HUD's FHA single family insurance fund insured more than 328,000 mortgages having an unpaid principal balance of $23 billion. FHA's multifamily program in the Presidentially Declared Disaster Areas insured 528 projects with an amortized principal balance of $3 billion. Of these, 112 or 21 percent sustained more than minor damage, resulting in significant potential losses. Further, the actuaries have estimated the expected claim losses caused by the hurricanes to be $613 million.

The devastation caused by Hurricanes Katrina and Rita, and more importantly the unprecedented volume of Federal assistance provided in reaction to the hurricanes, has created an environment ripe for fraud. OIG will continue to focus, to the greatest extent possible, on the ultimate disposition and accountability of these funds.

THE RECORD

Pursuant to goal number 1 of HUD–OIG's Strategic Plan, to help HUD resolve its major management challenges by being a relevant and problem-solving advisor to the Department, we continue to focus our audit and investigative efforts on FHA to include both single family and multifamily insurance programs. Over the past 3 years, HUD OIG has issued 190 audit reports in the area of FHA. These FHA-related audit reports identified over $1.1 billion in questioned costs and funds that could be put to better use. During the same time period, the HUD OIG had 1,078 cases opened. The following are examples of our audit and investigative activities.

Office of Audit

Single Family

We audited a San Antonio, Texas financial firm because of an unusually high ratio of defaults. We found that 47 percent of its defaults involved one seller, who owned 50 percent of the lender. OIG reviewed 51 of the defaulted loans that involved the seller. The lender approved mortgages on overvalued properties because the lender allowed an identity-of-interest seller to add ineligible and unsupported construction costs and inadequately reviewed the appraisals. Also, the lender did not adequately document analyses of borrowers' credit. Further, the lender's processing had technical difficulties. Consequently, HUD and the borrowers unnecessarily incurred increased risks through higher insurance exposure and higher mortgage payments as evidenced by the borrowers defaulting on their mortgages.

HUD OIG audited a Miamisburg, Ohio lender approved to originate, underwrite, and submit insurance endorsement requests under HUD's single family direct endorsement program. We selected it for audit because of its high late endorsement rate. This lender submitted 2,071 late requests for endorsement out of 68,730 loans tested. The loans were either delinquent or otherwise did not meet HUD's requirement of six consecutive timely payments after delinquency but before submission to HUD. It also incorrectly certified that both the mortgage and escrow accounts for 133 loans and the escrow account for taxes, hazard insurance premiums, and mortgage insurance premiums for 497 loans were current.

HUD OIG audited a Phoenix, Arizona mortgage company's insured loan originations due to high default and claim rates. It did not originate the 19 loans reviewed in compliance with HUD requirements or prudent lending practices. All 19 loans involved origination deficiencies that should have precluded their approval, including false employment data, overstated income, understated liabilities, unacceptable credit histories, improper treatment of downpayment gifts and/or interest rate buydowns resulting in over insured mortgages, inaccurate or excessive qualifying ratios without compensating factors, and borrower overcharges for unsupported or unallowed fees. As a result, it placed HUD's single family insurance fund at risk for 19 unacceptable loans with original mortgages totaling more than $2.5 million, and borrowers were overcharged $9,400. HUD remains at risk and/or has incurred losses totaling more than $1.2 million related to 15 of the 19 loans.

Multifamily

HUD OIG audited six housing projects in Los Angeles, California, to assess HUD's concerns over inappropriate disbursements and determine whether the projects were administered in compliance with HUD requirements. The owner and identity-of-interest management agent used project funds to pay more than $2.6 million in ineligible and unsupported costs, including excessive and unreasonable charges by an identity-of-interest maintenance contractor, excessive charges for the management agent's president, unsupported rent charges and capital improvement expenses for the management agent's office, and ineligible ownership expenses. OIG anticipates similar additional questionable costs continued after the end of the audit period that could cost the projects another $457,000. OIG's building inspections identified more than 240 health or safety violations, which resulted in more than $561,000 in housing assistance payments for units and buildings that were not decent, safe, and sanitary. In addition, the owner and identity-of-interest management agent did not effectively manage the projects, to include not accurately calculating, reporting, and resolving more than $655,000 in project liabilities.

In Bethany, Oklahoma we audited a HUD-insured nursing home to determine whether it complied with the regulatory agreement and HUD requirements when disbursing project funds. We found its officials used $2.3 million for ineligible costs, such as loan repayments and late fees, and could not support $4.5 million in expenditures. Further, these officials did not provide documentation to support the use of revenue amounting to nearly $12 million. This ultimately resulted in mortgage default and closure of the nursing home.

We completed an audit of a rehabilitation center in Carmichael, California. We found that the owner incorporated the project in its petition for bankruptcy and then defaulted on the project's mortgage. In addition, the owner disbursed $3.7 million in project funds through ineligible cash distributions and expenses. These activities resulted in increased risk to HUD, the assignment of the mortgage note to HUD, and HUD's resulting loss of $323,000 on the sale of the note.

Office of Investigation

Single Family

Seven Charlotte, NC residents were indicted by a Federal grand jury on 66 counts alleging conspiracy, wire fraud, bank fraud, making false statements and entries, and money laundering. The Defendants owned and operated a mortgage brokerage corporation. The scheme entailed defrauding HUD and the Government National Mortgage Association (GNMA) whose mission is to support affordable home ownership in America by providing an efficient government secondary market vehicle to link the capital and Federal housing markets. A bundle of loans, usually totaling $1 million, is packaged by a lender and sold to investors as a pool for which it is required that an actual existing dwelling is constructed and that a homeowner is submitting monthly mortgage payments. GNMA is the final guarantor of the loan pools and mortgage-backed securities and will fully reimburse the investors should the need arise.

The Defendants are alleged to have devised and executed an elaborate mortgage fraud scheme to generate over 100 loans that were purported to be FHA-insured loans on nonexistent properties that were ultimately resold to investors in mortgage pools backed by GNMA, as well as the Federal National Mortgage Association (FNMA). GNMA was required to make the investors whole when the fraud was discovered. The defendants would recruit strawbuyers to secure fraudulent FHA-insured home loans through a builder and these loans, in most cases, were secured by properties that were vacant lots or for homes belonging to legitimate homeowners. The Defendants allegedly received the loan proceeds and used the money for their personal benefit and to advance the fraud scheme.

As a result of the fraud, the Defendants obtained more than $5 million from FNMA and more than $26 million from GNMA. The investigation was initiated based on GNMA having discovered irregularities during an audit of the builder. The GNMA losses are based on the cost to repurchase each fraudulent loan from GNMA investors. The defendants also fraudulently obtained a $5 million line of credit with a banking and trust company by submitting straw mortgages and false documents. This investigation has resulted in the seizure of assets worth $8 million.

OIG investigated a large mortgage company in Detroit, Michigan and confirmed that it submitted to FHA as many as 28,000 loans with underwriter's certifications purportedly signed by one of two FHA-approved underwriters. In actuality, however, these loans had been underwritten by other staff, who had not received FHA-approval and who merely signed the FHA-approved underwriters' names on the certifications. OIG referred the matter to the United States Attorney's Office for the Eastern District of Michigan, which entered into a civil settlement valued at in excess of $40 million. This figure covered FHA's experienced and forecast losses on the loans, and included a penalty.

Four defendants were charged in a scheme in Colorado for assisting unqualified and undocumented immigrants in obtaining more than 300 FHA-insured loans valued in excess of $61 million. As a result of foreclosures, HUD realized losses of $2.3 million.

Multifamily

The owner of a mortgage company and four HUD-insured nursing homes located in Rhode Island and the administrator of the nursing homes, and others, illegally diverted income or funds from the nursing homes to themselves or identity-of-interest companies authorizing payments for unwarranted services while the properties were in a non-surplus-cash position, a violation of their HUD regulatory agreement. As a result of their actions, HUD realized a loss of $14 million when the owner defaulted on the HUD-insured mortgages for 2 of the nursing homes. For the remaining 2 nursing homes, HUD continues litigation over the $13 million insurance payment of one nursing home and continues operations of the other—which is listed for sale—with a $9.7 million FHA-insured mortgage. In addition, the portfolio contains approximately 57 FHA-insured loans estimated at $314.3 million, all of which are considered at risk.

CONTINUED SUPPORT

We continue to support the Department and FHA's mission and will also continue to increase our efforts to ensure the administrative health and vitality of HUD's programs and activities. I know that with the hard work of staff, we will persist in a pattern of improved oversight and enforcement and I look forward to working with the Department to come up with common and workable solutions. I would like to mention the notable remarks made by the Secretary in recent testimony on March 1, 2007, that borrowers should be paying a portion of the downpayment when obtaining an FHA-insured loan. As we know, without a financial stake in a home, borrowers have less incentive to be responsible homeowners making it easier to default and walk away.

That is where HUD comes in, to ensure Americans are given the opportunity to obtain and retain affordable housing. However, this cannot be driven solely by the Federal Government, but must also be done through a collective effort that combines the expertise of the housing industry of both the public and private sector.

I cannot say that the reform legislation is the answer and I recognize that some change is necessary. There are great challenges confronting FHA programs. Nevertheless, aggressive oversight and enforcement is crucial to prevent a recurrence of what we are witnessing in the subprime market today and the savings and loan industry in years past. Clearly, there are lessons learned from repeats of history.

CONCLUSION

That concludes my testimony and I thank the subcommittee for holding this hearing and I look forward to answering questions that members may have.

Senator MURRAY. Mr. Shear.

STATEMENT OF WILLIAM B. SHEAR

Mr. SHEAR. Thank you. Madam Chairman, Senator Bond and members of the subcommittee, it is a pleasure to be here this morning to share information and perspectives as the committee examines issues concerning the financial performance of FHA.

Although the program currently operates with a negative subsidy, the risks FHA faces in today's mortgage market are growing. Because of the worsening performance of the mortgages it insures, FHA has estimated that the program would require a positive subsidy—that is, an appropriation of budget authority—in fiscal year 2008 if no program changes were made.

To help FHA adapt to market changes, HUD has proposed a number of changes to the National Housing Act that would provide FHA flexibilities. A major theme of our testimony today is that whether under its existing authority or using any additional flexibility that Congress may grant, FHA's ability to manage both risk and program changes will affect the financial performance of the insurance program.

Our testimony discusses four reports that we have issued since 2005, plus some related information from ongoing work we're conducting at the request of Senators Allard and Shelby.

In summary, our work identified a number of weaknesses in FHA's ability to estimate and manage risk that may affect the financial performance of the insurance program.

First, FHA has not developed sufficient standards and controls to manage risks associated with a substantial proportion of loans with down payment assistance, including assistance from nonprofit organizations funded by home sellers. According to FHA, high claim and loss rates for loans with such assistance were major reasons for the estimated positive subsidy cost for fiscal year 2008, absent any program changes.

Second, FHA has not consistently implemented practices, such as stricter underwriting or piloting used by other mortgage institutions to help manage the risks associated with new product offerings. Although FHA has indicated that it would impose stricter underwriting standards for a no-down-payment mortgage if the legislative changes were enacted, it does not plan to pilot the product.

Third, the way that FHA developed its mortgage scorecard, while generally reasonable, limits how effectively it assesses the default risk of borrowers. With increased competition from conventional mortgage providers, limitations in its scorecard could cause FHA to insure mortgages that are relatively more risky. Our ongoing work indicates that FHA plans to use the scorecard to help set insurance premiums if legislative changes are enacted. Accordingly, any limitations in the scorecard's ability to predict defaults could result in FHA mispricing its products.

Fourth, although FHA has improved its ability to estimate the subsidy costs for its single-family insurance program, it generally has underestimated these costs. Increases in the expected level of claims were a major cause of a particularly large re-estimate that FHA submitted as of the end of fiscal year 2003.

We have made several recommendations in our recent reports, including that FHA: (1) incorporate the risk posed by down payment assistance into its scorecard; (2) study and report on the impact of variables not in its loan performance models that have been found to influence credit risk; and (3) consider piloting new products.

PREPARED STATEMENT

FHA has taken actions in response to our recommendations, but continued focus on risk management will be necessary for FHA to operate in a financially sound manner in the face of market and program changes.

Madam Chairman, I would be happy to answer any questions at this time.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM B. SHEAR

Madam Chairman and members of the subcommittee, I am pleased to have the opportunity to share information and perspectives with the committee as it examines issues concerning the financial performance of the Department of Housing and Urban Development's (HUD) Federal Housing Administration (FHA). FHA provides insurance for single-family home mortgages made by private lenders. In fiscal year 2006, it insured about 426,000 mortgages, representing $55 billion in mortgage insurance. According to FHA's estimates, the insurance program currently operates with a negative subsidy, meaning that the present value of estimated cash inflows (such as borrower premiums) to FHA's Mutual Mortgage Insurance Fund (Fund) exceeds the present value of estimated cash outflows (such as claims).

But, the risks FHA faces in today's mortgage market are growing. For example, the agency has seen increased competition from conventional mortgage and insurance providers, many of which offer low- and no-down-payment products, and that may be better able than FHA to identify and approve relatively low-risk borrowers. Additionally, because of the worsening performance of the mortgages it insures, FHA has estimated that the program would require a positive subsidy—that is, an appropriation of budget authority—in fiscal year 2008 if no program changes were made.

To help FHA adapt to market changes, HUD has proposed a number of changes to the National Housing Act that, among other things, would give FHA flexibility to set insurance premiums based on the credit risk of borrowers and reduce down-payment requirements from the current 3 percent to potentially zero. Whether under its existing authority or using any additional flexibility that Congress may grant, FHA's ability to manage risks and program changes will affect the financial performance of the insurance program.

My testimony today discusses 4 reports that we have issued since 2005 on different aspects of FHA's risk management, as well as ongoing work we are conducting on FHA's proposed legislative changes and the tools and resources it would use to implement them, if passed. This body of work addresses a number of issues relevant to FHA's financial performance. Specifically, I will discuss: (1) weaknesses in how FHA has managed the risks of loans with down-payment assistance; (2) practices that could be instructive for FHA in managing the risks of new mortgage products; (3) FHA's development and use of a mortgage scorecard; and (4) FHA's estimation of subsidy costs for its single-family insurance program.

In conducting this work, we reviewed and analyzed information concerning the standards and controls FHA uses to manage the risks of loans with down-payment assistance; steps mortgage industry participants take to design and implement low- and no-down-payment mortgage products; FHA's approach to developing its mortgage scorecard and the scorecard's benefits and limitations; FHA's estimates of program costs and the factors underlying the agency's cost reestimates; and FHA's plans and resources for implementing its proposed legislative changes. We interviewed officials from FHA, the U.S. Department of Agriculture, and U.S. Department of Veterans Affairs; and staff at selected private mortgage providers and insurers, Fannie Mae, Freddie Mac, the Office of Federal Housing Enterprise Oversight, selected State housing finance agencies, and nonprofit down-payment assistance providers. We conducted this work from January 2004 to March 2007 in accordance with generally accepted government auditing standards.

In summary, our work identified a number of weaknesses in FHA's ability to estimate and manage risk that may affect the financial performance of the insurance program:

FHA has not developed sufficient standards and controls to manage risks associated with the substantial proportion of loans with down-payment assistance. Unlike other mortgage industry participants, FHA does not restrict homebuyers' use of down-payment assistance from nonprofit organizations that receive part of their funding from home sellers. However, our analysis of a national sample of FHA-insured loans found that the probability of loans with this type of down-payment assistance resulting in an insurance claim was 76 percent higher than comparable loans without such assistance. Additionally, the financial risks of these loans recently have been realized in effects on the credit subsidy estimates. According to FHA, high claim and loss rates for loans with this type of down-payment assistance were major reasons why the estimated credit subsidy rate—the expected cost—for the single-family insurance program would be positive, or less favorable, in fiscal year 2008 (absent any program changes).

Some of the practices of other mortgage institutions offer a framework that could help FHA manage the risks associated with new products such as no-down-payment mortgages. For example, mortgage institutions may limit the volume of new products issued—that is, pilot a product—and sometimes require stricter underwriting on these products. While FHA has utilized pilots or demonstrations when making changes to its single-family mortgage insurance, it generally has done so in response to a legislative requirement and not on its own initiative. Moreover, FHA officials have questioned the circumstances under which pilot programs were needed and also said that they lacked sufficient resources to appropriately manage a pilot. However, FHA officials have indicated that they would institute stricter underwriting standards for any no-down-payment mortgage authorized by their legislative proposal.

While generally reasonable, the way that FHA developed its mortgage scorecard—an automated tool that evaluates the default risk of borrowers—limits the scorecard's effectiveness. More specifically, FHA and its contractor used variables that reflected borrower and loan characteristics to create the scorecard and an accepted modeling process to test the variables' accuracy in predicting default. But, the data used to develop the scorecard were 12 years old by the time that FHA began using the scorecard in 2004, and the market has changed significantly since then. In addition, the scorecard does not include all the important variables that could help explain expected loan performance such as the source of the down payment. With competition from conventional providers, limitations in the scorecard could cause FHA to insure mortgages that are relatively more risky. Our ongoing work indicates that FHA plans to use the scorecard to help set insurance premiums if legislative changes are enacted. Accordingly, any limitations in the scorecard's ability to predict defaults could result in FHA mispricing its products.

Although FHA has improved its ability to estimate the subsidy costs for its single-family insurance program, it generally has underestimated these costs. To meet Federal requirements, FHA annually reestimates subsidy costs for each loan cohort.[1] The current reestimated subsidy costs for all except the fiscal year 1992 and 1993 cohorts are less favorable—that is, higher—than originally estimated. Increases in the expected level of insurance claims—potentially stemming from

[1] Essentially, a cohort includes the loans insured in a given year.

changes in underwriting guidelines, among other factors—were a major cause of a particularly large reestimate that FHA submitted as of the end of fiscal year 2003.

On the basis of our findings from the reports I have summarized, we made several recommendations designed to improve FHA's risk management. For example, to improve its assessment of borrowers' default risk, we recommended that FHA develop policies for updating the scorecard, incorporate the risks posed by down-payment assistance into the scorecard, and explore additional uses for this tool. To more reliably estimate program costs, we recommended that FHA study and report in the annual actuarial review of the Fund the impact of variables not in the agency's loan performance models (the results of which are used in estimating and reestimating program costs) that have been found in other studies to influence credit risk.[2]

FHA has taken actions in response to some of our findings and recommendations. For example, FHA has developed and begun putting in place policies for annually updating the scorecard and testing additional predictive variables. To more reliably assess program costs, an FHA contractor incorporated the source of down-payment assistance and borrower credit scores in recent actuarial reviews of the Fund.

While these actions represent improvements in FHA's risk management, sustained management attention to the issues that we have identified and continued congressional oversight of FHA will play an important role in ensuring that FHA is able to expand homeownership opportunities for low- and middle-income families while operating in a manner that is financially sound.

BACKGROUND

Congress established FHA in 1934 under the National Housing Act (Public Law 73–479) to broaden homeownership, protect lending institutions, and stimulate employment in the building industry. FHA's single-family programs insure private lenders against losses (up to almost 100 percent of the loan amount) from borrower defaults on mortgages that meet FHA criteria. In 2005, more than three-quarters of the loans that FHA insured went to first-time homebuyers, and about one-third of these loans went to minorities. From 2001 through 2005, FHA insured about 5 million mortgages with a total value of about $590 billion. However, FHA's loan volume fell sharply over that period, and in 2005 FHA-insured loans accounted for about 5 percent of single-family home purchase mortgages, compared with about 19 percent in 2001.[3] Additionally, default rates for FHA-insured mortgages have risen steeply over the past several years, a period during which home prices have generally appreciated rapidly.

FHA determines the expected cost of its insurance program, known as the credit subsidy cost, by estimating the program's future performance.[4] Similar to other agencies, FHA is required to reestimate credit subsidy costs annually to reflect actual loan performance and expected changes in estimates of future loan performance. FHA has estimated negative credit subsidies for the Fund from 1992, when Federal credit reform became effective, through 2007. However, FHA has estimated that, assuming no program changes, the loans it expects to insure in fiscal year 2008 would require a positive subsidy, meaning that the present value of estimated cash inflows would be less than the present value of estimated cash outflows. The economic value, or net worth, of the Fund that supports FHA's insurance depends on the relative size of cash outflows and inflows over time. Cash flows out of the Fund for payments associated with claims on defaulted loans and refunds of up-front premiums on prepaid mortgages. To cover these outflows, FHA receives cash inflows from borrowers' insurance premiums and net proceeds from recoveries on defaulted loans. An independent contractor's actuarial review of the Fund for fiscal year 2006 estimated that the Fund's capital ratio—the economic value divided by the insurance-in-force—is 6.82 percent, well above the mandated 2 percent minimum.[5] If the Fund were to be exhausted, the U.S. Treasury would have to cover lenders' claims directly.

[2] Since 1990, the National Housing Act has required an annual and independent actuarial analysis of the economic net worth and soundness of the Fund. 12 U.S.C. section 1711(g).

[3] These figures represent mortgages for owner-occupied homes only.

[4] Pursuant to the Federal Credit Reform Act of 1990, HUD must annually estimate the credit subsidy cost for its mortgage insurance programs. Credit subsidy costs are the net present value of estimated payments HUD makes less the estimated amounts it receives, excluding administrative costs.

[5] In fiscal year 2006, the Fund's estimated economic value was $22 billion and the unamortized insurance-in-force was $323 billion.

Two major trends in the conventional mortgage market have significantly affected FHA.[6] First, in recent years, members of the conventional mortgage market (such as private mortgage insurers, Fannie Mae, and Freddie Mac) increasingly have been active in supporting low- and even no-down-payment mortgages, increasing consumer choices for borrowers who may have previously chosen an FHA-insured loan. Second, to help assess the default risk of borrowers, particularly those with high loan-to-value ratios (loan amount divided by sales price or appraised value), the mortgage industry has increasingly used mortgage scoring and automated underwriting systems.[7] Mortgage scoring is a technology-based tool that relies on the statistical analysis of millions of previously originated mortgage loans to determine how key attributes such as the borrower's credit history, property characteristics, and terms of the mortgage affect future loan performance. As a result of such tools, the mortgage industry is able to process loan applications more quickly and consistently than in the past. In 2004, FHA implemented a mortgage scoring tool, called the FHA Technology Open to Approved Lenders (TOTAL) Scorecard, to be used in conjunction with existing automated underwriting systems.

Partly in response to changes in the mortgage market, HUD has proposed legislation intended to modernize FHA. Provisions in the proposal would authorize FHA to change the way it sets insurance premiums and reduce down-payment requirements. The proposed legislation would enable FHA to depart from its current, essentially flat, premium structure and charge a wider range of premiums based on individual borrowers' risk of default. Currently, FHA also requires homebuyers to make a 3 percent contribution toward the purchase of the property. HUD's proposal would eliminate this contribution requirement and enable FHA to offer some borrowers a no-down-payment product.

FHA HAS NOT IMPLEMENTED SUFFICIENT STANDARDS AND CONTROLS TO MANAGE FINANCIAL RISKS OF LOANS WITH DOWN-PAYMENT ASSISTANCE

In our November 2005 report examining FHA's actions to manage the new risks associated with the growing proportion of loans with down-payment assistance, we found that the agency did not implement sufficient standards and controls to manage the risks posed by these loans.[8] Unlike other mortgage industry participants, FHA does not restrict homebuyers' use of down-payment assistance from nonprofit organizations that receive part of their funding from home sellers. According to FHA, high claim and loss rates for loans with this type of down-payment assistance were major reasons for changing the estimated credit subsidy rate from negative to positive for fiscal year 2008 (in the absence of any program changes). Furthermore, incorporating the impact of such loans into the actuarial study of the Fund for fiscal year 2005 resulted in almost a $2 billion (7 percent) decrease in the Fund's estimated economic value.

Loans With Down-Payment Assistance Are a Substantial Portion of FHA's Portfolio and Pose Greater Financial Risks Than Similar Loans Without Assistance

Homebuyers who receive FHA-insured mortgages often have limited funds and, to meet the 3 percent borrower investment FHA currently requires, may obtain down-payment assistance from a third party, such as a relative or a charitable organization (nonprofit) that is funded by the property sellers. The proportion of FHA-insured loans that are financed in part by down-payment assistance from various sources has increased substantially in the last few years, while the overall number of loans that FHA insures has fallen dramatically. Money from nonprofits funded by seller contributions has accounted for a growing percentage of that assistance. From 2000 to 2004, the total proportion of FHA-insured purchase loans that had a loan-to-value ratio greater than 95 percent and that also involved down-payment assistance, from any source, grew from 35 percent to nearly 50 percent. Approximately 6 percent of FHA-insured purchase loans in 2000 received down-payment assistance from nonprofits (the large majority of which were funded by property sellers), but by 2004 nonprofit assistance grew to about 30 percent. The corresponding percentages for 2005 and 2006 were about the same.

We and others have found that loans with down-payment assistance do not perform as well as loans without down-payment assistance. We analyzed loan performance by source of down-payment assistance, using two samples of FHA-insured purchase loans from 2000, 2001, and 2002—a national sample and a sample from three

[6] Conventional mortgages do not carry government insurance or guarantees.

[7] Underwriting refers to a risk analysis that uses information collected during the origination process to decide whether to approve a loan.

[8] GAO, Mortgage Financing: Additional Action Needed to Manage Risks of FHA-Insured Loans with Down Payment Assistance, GAO–06–24 (Washington, DC: Nov. 9, 2005).

metropolitan statistical areas (MSA) with high rates of down-payment assistance.[9] Holding other variables constant, our analysis indicated that FHA-insured loans with down-payment assistance had higher delinquency and claim rates than similar loans without such assistance. For example, we found that the probability that loans with nonseller-funded sources of down-payment assistance (e.g., gifts from relatives) would result in insurance claims was 49 percent higher in the national sample and 45 percent higher in the MSA sample than it was for comparable loans without assistance. Similarly, the probability that loans with nonprofit seller-funded down-payment assistance would result in insurance claims was 76 percent higher in the national sample and 166 percent higher in the MSA sample than it was for comparable loans without assistance. This difference in performance may be explained, in part, by the higher sales prices of comparable homes bought with seller-funded down-payment assistance. Our analysis indicated that FHA-insured homes bought with seller-funded nonprofit assistance were appraised and sold for about 2 to 3 percent more than comparable homes bought without such assistance. The difference in performance also may be partially explained by the homebuyer having less equity in the transaction.

Stricter Standards and Additional Controls Could Help FHA Manage the Risks Posed by Loans With Down-Payment Assistance

FHA has implemented some standards and internal controls to manage the risks associated with loans with down-payment assistance, but stricter standards and additional controls could help FHA better manage the financial risks posed by these loans while meeting its mission of expanding homeownership opportunities. Like other mortgage industry participants, FHA generally applies the same underwriting standards to loans with down-payment assistance that it applies to loans without such assistance. One important exception is that FHA, unlike others, does not limit the use of down-payment assistance from seller-funded nonprofits. Some mortgage industry participants view assistance from seller-funded nonprofits as a seller inducement to the sale and, therefore, either restrict or prohibit its use. FHA has not treated such assistance as a seller inducement and, therefore, does not subject this assistance to the limits it otherwise places on contributions from sellers.

Concerns about loans with nonprofit seller-funded down-payment assistance have prompted FHA and IRS to initiate steps that could curb their use. For example, FHA has begun drafting a proposed rule that, as described by FHA, would appear to prohibit down-payment assistance from seller-funded nonprofits. FHA's legislative proposal could also eliminate the need for such assistance by allowing some FHA borrowers to make no down payments for an FHA-insured loan. Finally, in May 2006, IRS issued a ruling stating that organizations that provide seller-funded down-payment assistance to home buyers do not qualify as tax-exempt charities. FHA permitted these organizations to provide down-payment assistance because they qualified as charities. Accordingly, the ruling could significantly reduce the number of FHA-insured loans with seller-funded down payments. However, FHA officials told us that as of March 2007, they were not aware of IRS rescinding the charitable status of any of these organizations.

Our report made several recommendations designed to better manage the risks of loans with down-payment assistance generally, and more specifically from seller-funded nonprofits. Overall, we recommended that in considering the costs and benefits of its policy permitting down-payment assistance, FHA also consider risk-mitigation techniques such as including down-payment assistance as a factor when underwriting loans or more closely monitoring loans with such assistance. For down-payment assistance providers that receive funding from property sellers, we recommended that FHA take additional steps to mitigate the risks of these loans, such as treating such assistance as a seller contribution and, therefore, subject to existing limits on seller contributions. In response, FHA agreed to improve its oversight of down-payment assistance lending by: (1) modifying its information systems to document assistance from seller-funded nonprofits; and, (2) more routinely monitoring the performance of loans with down-payment assistance. Also, as previously noted, HUD has initiated steps to curb and provide alternatives to seller-funded down-payment assistance.

[9] The data (current as of June 30, 2005) consisted of purchase loans insured by FHA's 203(b) program, its main single-family program, and its 234(c), condominium program. The three MSAs were Atlanta, Indianapolis, and Salt Lake City.

PRACTICES THAT OTHER MORTGAGE INSTITUTIONS USE COULD HELP FHA MANAGE RISKS FROM LOW- OR NO-DOWN-PAYMENT PRODUCTS

If Congress authorized FHA to insure mortgages with smaller or no down payments, practices that other mortgage institutions use could help FHA to design and manage the financial risks of these new products. In a February 2005 report, we identified steps that mortgage institutions take when introducing new products.[10] Specifically, mortgage institutions often utilize special requirements when introducing new products, such as requiring additional credit enhancements (mechanisms for transferring risk from one party to another) or implementing stricter underwriting requirements, and limiting how widely they make available a new product. By adopting such practices, FHA could reduce the potential for higher claims on products whose risks may not be well understood.

Mortgage Institutions Require Additional Credit Enhancements, Stricter Underwriting, and Higher Premiums for Low- and No-Down-Payment Products

Some mortgage institutions require additional credit enhancements on low- and no-down payment products, which generally are riskier because they have higher loan-to-value ratios than loans with larger down payments. For example, Fannie Mae and Freddie Mac mitigate the risk of low- and no-down payment products by requiring additional credit enhancements such as higher mortgage insurance coverage. Although FHA is required to provide up to 100 percent coverage of the loans it insures, FHA may engage in co-insurance of its single-family loans. Under co-insurance, FHA could require lenders to share in the risks of insuring mortgages by assuming some percentage of the losses on the loans that they originated (lenders would generally use private mortgage insurance for risk sharing).

Mortgage institutions also can mitigate the risk of low- and no-down-payment products through stricter underwriting. Institutions can do this in a number of ways, including requiring a higher credit score threshold for certain products, requiring greater borrower reserves, or requiring more documentation of income or assets from the borrower. Although the changes FHA could make are limited by statutory standards, it could benefit from similar approaches. The HUD Secretary has latitude within statutory limitations to change underwriting requirements for new and existing products and has done so many times. For example, FHA expanded its definition of what could be included as borrower's effective income when calculating payment-to-income ratios. In commenting on our February 2005 report, FHA officials told us that they were unlikely to mandate a credit score threshold or borrower reserve requirements for a no-down-payment product because the product was intended to serve borrowers who were underserved by the conventional market, including those who lacked credit scores and had little wealth or personal savings. However, in the course of our ongoing work on FHA's legislative proposal, FHA officials indicated that they would likely set a credit score threshold for any no-down-payment product.

Finally, mortgage institutions can increase fees or charge higher premiums to help offset the potential costs of products that are believed to have greater risk. For example, Fannie Mae officials stated that they would charge higher guarantee fees on low- and no-down payment loans if they were not able to require higher insurance coverage.[11] Our ongoing work indicates that FHA, if authorized to implement risk-based pricing, would charge higher premiums for loans with higher loan-to-value ratios, all other things being equal.

We recommended that if FHA implemented a no-down-payment mortgage product or other new products about which the risks were not well understood, the agency should: (1) consider incorporating stricter underwriting criteria such as appropriate credit score thresholds or borrower reserve requirements; and, (2) utilize other techniques for mitigating risks, including the use of credit enhancements. In response, FHA said it agreed that these techniques should be evaluated when considering or proposing a new FHA product.

Before Fully Implementing New Products, Some Mortgage Institutions May Limit Availability

Some mortgage institutions initially may offer new products on a limited basis. For example, Fannie Mae and Freddie Mac sometimes use pilots, or limited offerings of new products, to build experience with a new product type. Fannie Mae and Freddie Mac also sometimes set volume limits for the percentage of their business

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[10] GAO, Mortgage Financing: Actions Needed to Help FHA Manage Risks from New Mortgage Loan Products, GAO–05–194 (Washington, DC: Feb. 11, 2005).

[11] Fannie Mae and Freddie Mac charge fees for guaranteeing timely payment on mortgage-backed securities they issue. The fees are based, in part, on the credit risk they face.

that could be low- and no-down-payment lending. FHA has utilized pilots or demonstrations when making changes to its single-family mortgage insurance but generally has done so in response to legislative requirement rather than on its own initiative. For example, FHA's Home Equity Conversion Mortgage insurance program started as a pilot that authorized FHA to insure 2,500 reverse mortgages.[12] Additionally, some mortgage institutions may limit the origination and servicing of new products to their better lenders and servicers. Fannie Mae and Freddie Mac both reported that these were important steps in introducing a new product.

We recommended that when FHA releases new products or makes significant changes to existing products, it consider similar steps to limit the initial availability of these products. FHA officials agreed that they could, under certain circumstances, envision piloting or limiting the ways in which a new product would be available, but pointed to the practical limitations of doing so. For example, FHA officials told us that administering the Home Equity Conversion Mortgage pilot program was difficult because of the challenges of equitably selecting a limited number of lenders and borrowers. FHA generally offers products on a national basis and, if they did not, specific regions of the county or lenders might question why they were not able to receive the same benefit. FHA officials told us they have conducted pilot programs when Congress has authorized them, but they questioned the circumstances under which pilot programs were needed, and also said that they lacked sufficient resources to appropriately manage a pilot. Consistent with these views, FHA officials told us more recently that they would not limit the initial availability of any products authorized by its legislative proposal. However, if FHA does not limit the availability of new or changed products, the agency runs the risk of facing higher claims from products whose risks may not be well understood.

THE WAY FHA DEVELOPED TOTAL LIMITS THE SCORECARD'S EFFECTIVENESS IN ASSESSING THE DEFAULT RISK OF BORROWERS

A primary tool that FHA uses to assess the default risk of borrowers who apply for FHA-insured mortgages is its TOTAL scorecard. TOTAL's capabilities are important, because to the extent that conventional mortgage lenders and insurers are better able than FHA to use mortgage scoring to identify and approve relatively low-risk borrowers and charge fees based on default risk, FHA may face adverse selection. That is, conventional providers may approve lower-risk borrowers in FHA's traditional market segment, leaving relatively high-risk borrowers for FHA. Accordingly, the greater the effectiveness of TOTAL, the greater the likelihood that FHA will be able to effectively manage the risks posed by borrowers and operate in a financially sound manner.

In reports we issued in November 2005 and April 2006, we noted that while FHA's process for developing TOTAL generally was reasonable, some of the choices FHA made in the development process could limit the scorecard's effectiveness.[13] FHA and its contractor used variables that reflected borrower and loan characteristics to create TOTAL, as well as an accepted modeling process to test the variables' accuracy in predicting default. However, we also found that:

The data used to develop TOTAL were 12 years old by the time FHA implemented the scorecard. Specifically, when FHA began developing TOTAL in 1998, the agency chose to use 1992 loan data, which would be old enough to provide a sufficient number of defaults that could be attributed to a borrower's poor creditworthiness. However, FHA did not implement TOTAL until 2004 and has not subsequently updated the data used in the scorecard. Best practices of private-sector organizations call for scorecards to be based on data that are representative of the current mortgage market—specifically, relevant data that are no more than several years old. In the past 12 years, significant changes—growth in the use of down-payment assistance, for example—have occurred in the mortgage market that have affected the characteristics of those applying for FHA-insured loans. As a result, the relationships between borrower and loan characteristics and the likelihood of default also may have changed.

TOTAL does not include certain key variables that could help explain expected loan performance. For example, TOTAL does not include a variable for the source of the down payment. However, FHA contractors, HUD's Inspector General, and our work have all identified the source of a down payment as an important indicator of risk, and the use of down-payment assistance in the FHA program has grown rapidly over the last 5 years. Further, TOTAL does not include other important

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[12] Under this program, homeowners borrow against equity in their home and receive payments from their lenders.

[13] GAO, Mortgage Financing: HUD Could Realize Additional Benefits from its Mortgage Scorecard, GAO–06–435 (Washington, DC: Apr. 13, 2006) and GAO–06–24.

variables—such as a variable for generally riskier adjustable rate loans—included in other scorecards used by private-sector entities.

Although FHA had a contract to update TOTAL, the agency did not develop a formal plan for updating TOTAL on a regular basis. Best practices in the private sector, also reflected in bank regulator guidance, call for having formal policies to ensure that scorecards are routinely updated. Without policies and procedures for routinely updating TOTAL, the scorecard may become less reliable and, therefore, less effective at predicting the likelihood of default.

To improve TOTAL's effectiveness, we recommended, among other things, that HUD develop policies and procedures for regularly updating TOTAL and more fully consider the risks posed by down-payment assistance when underwriting loans, such as including the presence and source of down-payment assistance as a loan variable in the scorecard. In response, FHA has developed and begun putting in place policies and procedures that call for annual: (1) monitoring of the scorecard's ability to predict loan default; (2) testing of additional predictive variables to include in the scorecard; and, (3) updating the scorecard with recent loan performance data.

We also recommended that HUD explore additional uses for TOTAL, including using it to implement risk-based pricing of mortgage insurance and to develop new products. These actions could enhance FHA's ability to effectively compete in the mortgage market and avoid adverse selection. Our ongoing work indicates that FHA plans to use borrowers' TOTAL scores to help set insurance premiums. Accordingly, any limitations in TOTAL's ability to predict defaults could result in FHA mispricing its products.

FHA'S CURRENT REESTIMATED SUBSIDY COSTS ARE GENERALLY LESS FAVORABLE THAN ITS ORIGINAL ESTIMATES

As previously noted, FHA, like other Federal agencies, is required to reestimate credit subsidy costs annually to reflect actual loan performance and expected changes in estimates of future loan performance. In doing so, FHA reestimates subsidy costs for each loan cohort.

As we reported in September 2005, FHA's subsidy reestimates generally have been less favorable (i.e., higher) than the original estimates since Federal credit reform became effective in 1992.[14] The current reestimated subsidy costs for all except the fiscal year 1992 and 1993 cohorts are higher than the original estimates. For example, the current reestimated cost for the fiscal year 2006 cohort is about $800 million less favorable than originally estimated.

With respect to reestimates across cohorts, our report examined factors contributing to an unusually large $7 billion reestimate (more than twice the size of other recent reestimates) that FHA submitted as of the end of fiscal year 2003 for the fiscal year 1992 through 2003 cohorts. These factors included increases in estimated claims and prepayments (the payment of a loan before its maturity date). Several policy changes and trends may have contributed to changes in the expected claims. For example:

Revised underwriting guidelines made it easier for borrowers who were more susceptible to changes in economic conditions—and therefore more likely to default on their mortgages—to obtain an FHA-insured loan.

Competition from conventional mortgage providers could have resulted in FHA insuring more risky borrowers.

FHA insured an increasing number of loans with down-payment assistance, which generally have a greater risk of default.

FHA's loan performance models did not include key variables that help estimate loan performance, such as credit scores, and as of September 2005, the source of down payment.

The major factors underlying the surge in prepayment activity were declining interest rates and rapid appreciation of housing prices. These trends created incentives and opportunities for borrowers to refinance using conventional loans.

To more reliably estimate program costs, we recommended that FHA study and report on how variables found to influence credit risk, such as payment-to-income ratios, credit scores, and down-payment assistance would affect the forecasting ability of its loan performance models. We also recommended that when changing the definitions of key variables, FHA report the impact of such changes on the models' forecasting ability. In response, HUD indicated that its contractor was considering the specific variables that we had recommended FHA include in its annual actuarial review of the Fund. The contractor subsequently incorporated the source of down-

[14] GAO, Mortgage Financing: FHA's $7 Billion Reestimate Reflects Higher Claims and Changing Loan Performance Estimates, GAO–05–875 (Washington, DC: Sep. 2, 2005).

payment assistance in the fiscal year 2005 actuarial review and borrower credit scores in the fiscal year 2006 review.

Madam Chairman, this concludes my prepared statement. I would be happy to answer any questions at this time.

Senator MURRAY. Thank you very much. Ms. Poole.

STATEMENT OF JOANNE POOLE, COMMITTEE LIAISON, NATIONAL ASSOCIATION OF REALTORS

Ms. POOLE. Good morning, Madam Chairman and Ranking Member Bond and members of the subcommittee. I am the broker/owner of Poole Realty, located in Glen Burnie, Maryland. I have been a realtor for 21—sorry.

I am the broker/owner of Poole Realty in Glen Burnie, Maryland and I have been a realtor for 21 years and I am currently part of the National Association of Realtors' Enlarged Leadership Team. I am here today to present the views of the National Association of Realtors' 1.3 million realtor members on the need to reform the FHA program.

The current increase in foreclosures is troubling to all of us. Predatory lending, exotic mortgages and a dramatic rise in subprime lending, coupled with the slowing of the home price appreciation, have all contributed to this crisis.

In 1934, the Federal Housing Administration was established to provide consumers an alternative during a similar lending crisis. At that time, short term, interest only and balloon loans were prevalent. As conventional and subprime lenders have expanded their repertoire of loan products, FHA has remained stagnant. As a result, a growing number of homebuyers have turned to subprime and nontraditional mortgages. While subprime loans have a very important role for certain borrowers, there are many consumers who have taken out subprime loans when they would have easily qualified for FHA at a lower overall cost.

More troubling are the families who have explored nontraditional mortgages such as interest-only and option ARMs. For some of these borrowers, monthly payments will become impossible as payments increase by as much as 50 percent or more when the introductory periods end or when their loan balances get larger and larger each month instead of smaller.

To enhance FHA's viability, the administration has proposed a number of important reforms to the FHA Single Family Insurance program that NAR believes will greatly benefit homebuyers by improving access to FHA's safe and affordable credit.

As an example, the National Association of Realtors projects that in Washington State, where less than 6,500 homeowners used FHA for financing in 2005, the reforms proposed could increase the number of FHA homebuyers by more than 62 percent, saving those borrowers $20.9 million over what they would have paid with a subprime loan. Also based on NAR's research, we believe that in Missouri, the FHA borrowers would have increased by 50 percent for a savings of $18.1 million.

Eliminating the statutory 3 percent minimum cash investment in down payment calculation will provide consumers a safe option away from the nontraditional products. Differing premiums based on the risk of the borrower, would allow FHA a balanced risk. Risk based pricing is accepted practice in the private market; it should be for FHA as well.

The administration also proposes combining all Single Family programs into the Mutual Mortgage Insurance fund. It simply makes good business sense to combine these programs. The administration also proposes increasing FHA's loan limits, not in just high cost areas but nationwide. Such increases are critical to FHA to assist homebuyers in places like California but also areas where home prices exceed the current maximum of $200,160 but are not defined as high cost areas, such as Washington, Pennsylvania and Colorado.

The universal and consistent availability of FHA loan products is the principle hallmark of the program that has made mortgage insurance available to individuals regardless of their racial, ethnic or social characteristics during periods of economic prosperity and economic depression. This will be especially important today.

By offering access to prime rate financing, FHA provides borrowers a means to achieve lower monthly payments without relying on interest only or optional payment schemes. FHA products are fairly priced without resorting to teaser rates or negative amortization but provides safe and appropriate underwriting and loss mitigation programs.

FHA's loss mitigation program authorizes lenders to assist borrowers in default. In the year 2004 alone, more than 78,000 borrowers were able to retain their home through FHA's loss mitigation program and 2 years later, nearly 90 percent of those borrowers are still in their homes.

By encouraging lenders to participate in loss mitigation efforts and penalizing those who don't, FHA has successfully helped homeowners keep their homes and reduce the level of losses to FHA fraud.

PREPARED STATEMENT

FHA is often criticized—yes. Without the reforms to the FHA program first time homebuyers, minorities and homebuyers with less than perfect credit will continue to see fewer and fewer safe, affordable mortgage options. The National Association of Realtors really believe that this is a program that needs to be revamped and have partnered with the Federal Housing Administration to produce a booklet, which I would ask be admitted into testimony, FHA Improvement Benefits to You and the Homeowner.

[The information follows:]

PREPARED STATEMENT OF JOANNE POOLE

Madam Chairman, Ranking Member Bond, thank you for this opportunity to testify before you. My name is JoAnne Poole and I am the broker/owner of Poole Realty in Glen Burnie, Maryland. I have been a realtor for 21 years, and am currently part of NAR's Enlarged Leadership Team, and serve as a 2007 Liaison.

I am here to testify on behalf of 1.3 million members of the National Association of REALTORS®. We thank you for the opportunity to present our view on the FHA program and the need for reform. NAR represents a wide variety of housing industry professionals committed to the development and preservation of the Nation's housing stock and making it available to the widest range of potential homebuyers. The Association has a long tradition of support for innovative and effective Federal housing programs and we have worked diligently with the Congress to fashion housing policies that ensure Federal housing programs meet their mission responsibly and efficiently.

NEED FOR FHA

The current increase in foreclosures is troubling to all of us. In 2006, 1.2 million families entered into foreclosure, 42 percent more than in 2005.[1] Predatory lending, exotic mortgages and a dramatic rise in sub-prime lending—coupled with slowing home price appreciation—have all contributed to this crisis.

In 1934 the Federal Housing Administration was established to provide consumers an alternative during a similar lending crisis. At that time, short-term, interest-only and balloon loans were prevalent. Since its inception, FHA has insured more than 34 million properties. However, because it hasn't evolved, FHA's market share has been dropping. In the 1990's FHA loans were about 12 percent of the market. Today, that rate is less than 3 percent. This statistic is unfortunate given that FHA is needed now as much as it was in 1934. At the same time, the sub-prime market has skyrocketed. In 2003, the sub-prime market share was 8.5 percent by 2005 it was at 20 percent. In 2006, FHA/VA market share dropped 37.8 percent; conventional loans dropped 9.8 percent; while sub-prime loans increased another 15.7 percent.

When formed, FHA was a pioneer of mortgage products. FHA was the first to offer 30-year fixed-rate financing in a time when loans were generally for less than 5 years. Unfortunately, FHA has not changed with the times. Where they were once the innovator, FHA has become the lender of last resort. As conventional and sub-prime lenders have expanded their repertoire of loan products, FHA has remained stagnant. As a result, a growing number of homebuyers are deciding to use one of several new types of non-traditional mortgages that let them "stretch" their income so they can qualify for a larger loan.

Non-traditional mortgages often begin with a low introductory interest rate and payment—a "teaser"—but the monthly mortgage payments are likely to increase significantly in the future. Some of these loans are "low documentation" mortgages that provide easier standards for qualifying, but also feature higher interest rates or higher fees. Mortgages such as interest-only and option ARMs can often be risky propositions for some borrowers. These products pose severe risk for consumers who may be unable to afford their mortgage payments when monthly payments increase by as much as 50 percent or more when the introductory periods end, or when their loan balances get larger each month instead of smaller. Mortgage experts estimate that approximately $1.5 trillion worth of adjustable mortgages will reset by the end of 2007.[2] While some borrowers may be able to make the new higher payments, many will find it difficult, if not impossible.

As the market has changed, FHA must also change to reflect consumer needs and demands. If FHA is enhanced to conform to today's mortgage environment, many borrowers would have available to them a safer alternative to the riskier products that are currently marketed to them.

FHA REFORM PROPOSALS

To enhance FHA's viability, the administration has proposed a number of important reforms to the FHA single-family insurance program that NAR believes will greatly benefit homebuyers by improving access to FHA's safe and affordable credit. By way of an example, NAR projects that in Washington State, where less than 6,500 homeowners used FHA for financing in 2005, the reforms proposed could increase the number of FHA homebuyers by more than 62 percent, saving those borrowers $20.9 million over what they would pay for a sub-prime loan.

FHA is proposing to eliminate the statutory 3 percent minimum cash investment and downpayment calculation, allow FHA flexibility to provide risk-based pricing, move the condo program into the 203(b) fund, and increase the loan limits. The National Association of REALTORS® strongly supports these reform provisions.

Down Payment Flexibility.—The ability to afford the downpayment and settlement costs associated with buying a home remains the most challenging hurdle for many homebuyers. Eliminating the statutory 3 percent minimum downpayment will provide FHA flexibility to offer varying downpayment terms to different borrowers. Although housing remains strong in our Nation's economy and has helped to increase our Nation's homeownership rate to a record 69 percent, many deserving American families continue to face obstacles in their quest for the American dream of owning

[1] A Flood of Foreclosures, But Should You Invest?, Market Watch, February 18, 2007.
[2] Homeowners Brace For ARMs' New Rates, The Seattle Times, February 17, 2007.

a home. Providing flexible downpayment products for FHA will go a long way to addressing this problem.

In 2005, 43 percent of first-time homebuyers financed 100 percent of their home. NAR research indicates that if FHA were allowed to offer this option, 1.6 million families could benefit. According to NAR's Profile of Homebuyers, 55 percent of homebuyers who financed with a zero-downpayment loan in 2005, had incomes less than $65,000; 24 percent of those who used a zero-downpayment product were minorities; and 52 percent of people who financed 100 percent of their home purchased homes priced at less than $150,000. It is important to note that FHA will require borrowers to have some cash investment in the home. This investment can be in the form of payment of the up-front premium or closing costs. No loan will be made for more than 103 percent the value of the home.

Loan Limits.—FHA mortgages are used most often by first-time homebuyers, minority buyers, and other buyers who cannot qualify for conventional mortgages because they are unable to meet the lender's stringent underwriting standards. Despite its successes as a homeownership tool, FHA is not a useful product in high cost areas of the country because its maximum mortgage limits have lagged far behind the median home price in many communities. As a result, working families such as teachers, police officers and firefighters are unable to buy a home in the communities where they work. Even in your home State of Washington, Madam Chairman, the median home price exceeds FHA's current limit of $200,160.

This is why NAR strongly supports proposals to change the FHA loan limits. Under the administration's plan, FHA's limits for single unit homes in high cost areas would increase from $362,790 to the 2006 conforming loan limit of $417,000. In non-high cost areas, the FHA limit (floor) would increase from $200,160 to $271,050 for single unit homes. This increase will enhance FHA's ability to assist homebuyers in areas not defined as high-cost, but where home prices still exceed the current maximum of $200,160. This includes States like Arizona, Colorado, Florida, Georgia, Illinois, Maine, Minnesota, Nevada, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Vermont, and Washington. While none of these States is generally considered "high cost", all have median home prices higher than the current FHA loan limit.

Risk-based Pricing.—Another key component of the administration's proposal is to provide FHA with the ability to charge borrowers different premiums based on differing credit scores and payment histories. Risk-based pricing of the interest rate, fees and/or mortgage insurance is used in the conventional and sub-prime markets to manage risk and appropriately price products based on an individual's financial circumstances. Currently, all FHA borrowers, regardless of risk, pay virtually the same premiums and receive the same interest rate.

The legislation will allow FHA to differentiate premiums based on the risk of the product (e.g. amount of cash investment) and the credit profile of the borrower. These changes will enable FHA to offer all borrowers choices in the type of premium charged (e.g. annual, upfront or a hybrid). In addition it will permit FHA to reach higher risk borrowers (by charging them a premium amount commensurate with risk), while continuing to attract the better credit risks, by charging them less. FHA financing, with risk-based premium pricing, will still be a much better deal for borrowers with higher risk characteristics than is currently available in the "near prime" or sub-prime markets. Risk-based pricing makes total sense to the private market, and should for FHA as well.

It is also important to note that, while FHA has had the authority to charge premiums up to 2.25 percent, they have not done so. FHA currently charges 1.5 percent. The FHA Fund is strong and has continued to have excess revenue, so there has not been a need to increase the premiums. However, due to its markedly decreased market share, FHA may have to increase premiums on borrowers in 2007 and in future years. Unless the program is reformed to make it more consumer-friendly, FHA will need to generate more revenue to cover its losses.

Giving FHA the flexibility to charge different borrowers different premiums based on risk will allow FHA to increase their pool of borrowers. If FHA is also given authority to provide lower downpayment mortgages, premium levels will need to reflect the added risk of such loans (as is done in the private market) to protect the FHA fund.

Changes to the Fund Structures.—The administration also proposes to combine all single-family programs into the Mutual Mortgage Insurance Fund. The FHA program has four funds with which it insures its mortgages. The Mutual Mortgage Insurance (MMI) Fund is the principal funding account that insures traditional section 203b single-family mortgages. The Fund receives upfront and annual premiums collected from borrowers as well as net proceeds from the sale of foreclosed homes. It is self-sufficient and has not required taxpayer bailouts.

The Cooperative Management Housing Insurance Fund (CMHI), which is linked to the MMI Fund, finances the Cooperative Housing Insurance program (section 213) which provides mortgage insurance for cooperative housing projects of more than 5 units that are occupied by members of a cooperative housing corporation.

FHA also operates Special Risk Insurance (SRI) and General Insurance (GI) Funds, insuring loans used for the development, construction, rehabilitation, purchase, and refinancing of multifamily housing and healthcare facilities as well as loans for disaster victims, cooperatives and seniors housing. Currently, the FHA condominium loan guarantee program and 203k purchase/rehabilitation loan guarantee program are operated under the GI/SRI Fund.

NAR strongly supports inclusion of the FHA condominium loan guarantee program and the 203k purchase/rehabilitation loan guarantee program in the MMIF. Both of these programs provide financing for single family units and have little in common with multifamily and health facilitates programs covered by the SRI and GI funds. In recent years programs operating under the GI/SRI funds have experienced disruptions and suspensions due to funding commitment limitations. Maintaining the single family condo and purchase/rehabilitation programs under the GI/SRI funds exposes these programs to possible future disruptions. Thus, from a conceptual an accounting standpoint, it makes sound business sense to place all single-family programs under the MMIF.

Program Enhancements.—As well as combining the 203(k) and condominium programs under the MMIF, NAR also recommends key enhancements to increase the programs' appeal and viability. Specifically, NAR recommends that HUD be directed to restore investor participation in the 203(k) program. In blighted areas, homeowners are often wary of the burdens associated with buying and rehabilitating a home themselves. However, investors are often better equipped and prepared to handle the responsibilities related to renovating and repairing homes. Investors can be very helpful in revitalizing areas where homeowners are nervous about taking on such a project.

We also recommend that HUD lift the current owner-occupied requirement of 51 percent before individual condominium units can qualify for FHA-insured mortgages. The policy is too restrictive because it limits sales and homeownership opportunities, particularly in market areas comprised of significant condominium developments and first-time homebuyers. In addition, the inspection requirements on condominiums are burdensome. HUD has indicated that it would provide more flexibility to the condo program under the MMIF. We strongly support loosening restrictions on FHA condo sales and 203k loans to provide more housing opportunities to homebuyers nationwide.

BORROWER BENEFITS OF FHA

The universal and consistent availability of FHA loan products is the principal hallmark of the program that has made mortgage insurance available to individuals regardless of their racial, ethnic, or social characteristics during periods of economic prosperity and economic depression.

The FHA program makes it possible for higher-risk, yet credit-worthy borrowers to get prime financing. According to a recent Federal Reserve Bank review,[3] the average credit score for sub-prime borrowers was 651. This is higher than FHA's median credit score borrower, which demonstrates that these borrowers are likely paying more than they need to pay. By offering access to prime rate financing, FHA provides borrowers a means to achieve lower monthly payments—without relying to interest-only or "optional" payment schemes. FHA products are safe, thanks to appropriate underwriting and loss-mitigation programs, and fairly priced without resorting to teaser rates or negative amortization.

When the housing market was in turmoil during the 1980s, FHA continued to insure loans when others left the market; following 9/11, FHA devised a special loan forbearance program for those who temporarily lost their jobs due to the attack; after Hurricanes Katrina and Rita, FHA provided a foreclosure moratorium for borrowers who were unable to pay their mortgages while recovering from the disaster. FHA's universal availability has helped to stabilize housing markets when private mortgage insurance has been nonexistent or regional economies have faltered. FHA is the only national mortgage insurance program that provides financing to all markets at all times. Simply put, FHA has been there for borrowers.

Now, more than ever, FHA needs to be strengthened to continue to be available to borrowers. In just the past few months, at least 25 sub-prime lenders have exited the business, declared bankruptcy, announced significant losses, or put themselves

[3] Federal Reserve Bank of St. Louis Review—January-February 2006.

up for sale.[4] After making record profits, these lenders are simply bailing as the bad loans they made begin to fail. FHA, who is more careful with its underwriting standards, can be a safe alternative for buyers who have been lured into unnecessary sub-prime loans.

FHA is a leader in preventing foreclosures. FHA's loss mitigation program authorizes lenders to assist borrowers in default. The program includes mortgage modification and partial claim options. Mortgage modification allows borrowers to change the terms of their mortgage so that they can afford to stay in the home. Changes can include extension of the length of the mortgage or changes in the interest rate. Under the partial claim program, FHA lends the borrower money to cure the loan default. This no-interest loan is not due until the property is sold or paid off. In the year 2004 alone, more than 78,000 borrowers were able to retain their home through FHA's loss mitigation program; and 2 years later, nearly 90 percent of these borrowers are still in their homes. By encouraging lenders to participate in these loss mitigation efforts and penalizing those who don't, FHA has successfully helped homeowners keep their homes and reduced the level of losses to the FHA fund.

SOLVENCY AND STRENGTH OF FHA

Critics of the reform proposals have argued that FHA isn't positioned to handle changes to the program. We respectfully disagree. Despite FHA's falling market share, the FHA fund is healthy and strong. Congress has mandated that FHA have a capitalization ratio of 2 percent to insure fiscal solvency. In 2006, the FHA cap ratio was far above that figure at 6.82 percent—despite being the lender of last resort in today's marketplace. FHA's current economic value is over $22 billion. In simple terms, this indicates that if the MMIF stopped operations today, the current portfolio would be expected to generate $22 billion dollars over the remaining life of the loans in the portfolio above what it would pay out in claims. Since its inception in 1934, FHA has never needed a Federal bailout, and has been completely self-sufficient. In fact, FHA has contributed a significant amount of money to the Federal Treasury each year. However, due to the dramatic loss in volume, FHA has estimated that it will need to increase premiums if reforms are not implemented that increase usage of FHA.

If FHA is allowed to adjust premiums based on risk, it will operate even more soundly than it does today. If FHA is to thrive and fully perform its intended function, a change to risk-based pricing is necessary. Average pricing in the portion of the credit spectrum where FHA operates is crucial if FHA is to sustain its operations in a financially solvent manner. Absent risk-based premiums, the risk profile FHA borrowers can decrease, causing either an increase in the average price or an ultimate shortfall in the insurance fund. This is why FHA has estimated that it will need to increase premiums if reforms are not implemented that increase usage of FHA.

FHA is often criticized for its default and foreclosure rate. That criticism is unwarranted, as FHA's mission is to serve people that aren't served by the conventional market, and therefore are more risky. However, FHA's foreclosure rate is substantially better than the sub-prime market, where many FHA-eligible borrowers currently have loans. A recent study by the Center for Responsible Lender reported that "FHA and sub-prime loans have quite different foreclosure rates. For example, sub-prime loans originated in 2000 in our sample had a 12.9 percent foreclosure rate within 5 years. In contrast, . . . FHA loans originated in 2000 had a 6.29 percent foreclosure rate by year-end 2005." [5]

When FHA has seen problems with their default rates, they have tried to remedy them. FHA noticed that loans which utilized a gift downpayment had a higher default rate. These gifts included seller-funded downpayment assistance. FHA attempted to eliminate this program and faced legal challenges. At that time Congress supported downpayment gift providers, and challenged HUD's attempt to shut them down. Studies done by the Government Accountability Office and others determined that this form of downpayment assistance in fact drove up the costs of homeownership, and generally made the loan a bigger risk. Although the IRS recently ruled that many seller-funded downpayment programs would lose their charitable tax status, they have yet to change the status of any organization. To avoid further delay, FHA announced plans to publish a notice prohibiting gift downpayment loans from FHA eligibility. Such a prohibition should greatly improve FHA's default rate. It has

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[4] The Mortgage Mess Spreads, BusinessWeek.com, March 7, 2007.

[5] Losing Ground:Foreclosures in the Subprime Market and Their Cost to Homeowners, Center for Responsible Lending, December 2006, page 26.

been estimated that 29 percent of FHA borrowers in 2005 used seller-funded downpayment assistance.

Instead, by providing FHA the ability to offer flexible down payments, homeowners won't bear the increased home price costs and the loans will be safer. Allowing FHA to price low downpayment loans according to risk, they would be more in line with the conventional market. This will greatly increase FHA's default rate.

Furthermore, FHA's operations have improved dramatically in the last several years. In 1994, HUD was designated as "high risk" by the Government Accountability Office, a longtime critic of the Department. Last month, that designation was removed. GAO said that "HUD had improved its oversight of lenders and appraisers and issues or proposed regulations to strengthen lender accountability and combat predatory lending practices."[6] HUD has also demonstrated their ability to estimate program costs and oversight for mortgage underwriting.

CONCLUSION

Thank you again for the opportunity to testify on this important issue. Now is the time when the country needs FHA. As sub-prime loans reset and real estate markets are no longer experiencing double digit appreciation; a reformed FHA would be perfectly positioned to offer borrowers a safer mortgage alternative and bring stability to local markets and local economies. The National Association of REALTORS® stands ready to work with the Congress on passage of FHA reform.

ATTACHMENT 1.—FHA BROCHURE

SHOPPING FOR A MORTGAGE? FHA IMPROVEMENTS BENEFIT YOU

FHA Insured Mortgages

Realtors® and FHA: Partners in Homeownership

REALTORS® AND FHA—WORKING TOGETHER TO HELP PEOPLE FULFILL THE AMERICAN DREAM

REALTORS® and the Federal Housing Administration (FHA), which is part of the U.S. Department of Housing and Urban Development (HUD), have been partners in creating homeownership opportunities for more than 70 years. Since FHA was created in 1934, it has helped more than 34 million families become homeowners, many by working with their REALTORS® to achieve their dream of homeownership.

This brochure illustrates improvements in FHA programs that will benefit you. Many aspects of the FHA mortgage application process have been streamlined to make the process more user-friendly and efficient. Upon reading this brochure, you will see that FHA programs are a valuable asset to REALTORS®, other real estate professionals, and most importantly, those seeking to own a home.

Backed by the full faith and credit of the Federal government, FHA-insured mortgages are one of the safest and most affordable types of mortgages available to homebuyers. Working together, REALTORS® and FHA help millions of families come home.

WHAT IS FHA MORTGAGE INSURANCE?

The Federal Housing Administration (FHA) insures mortgages offered by banks, savings associations, and other financial institutions. An FHA-insured mortgage is backed by the full faith and credit of the United States government. While FHA does not make loans, it benefits the homebuyer by providing mortgage insurance which encourages financial institutions to make affordable financing available.

WHAT ARE THE BENEFITS OF AN FHA MORTGAGE?

FHA offers low down payment options, eligibility with less than perfect credit, a loan at a reasonable cost, and help if there is ever trouble making the mortgage payment. Because an FHA mortgage insures the lender against loss, an FHA mortgage typically has an interest rate that is competitive with the best in your market and lower than the rates charged for subprime and other non-prime mortgages.

FHA not only helps people buy a home, but helps them keep it as well. In return for protecting lenders against loss, FHA requires financial institutions to offer assistance to borrowers experiencing difficulty making mortgage payments.

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[6] GAO, High Risk Series: An Update, GAO–07–310 (Washington, DC.: January, 2007)

WHAT ABOUT ELIGIBILITY?

In order to be eligible for an FHA-insured mortgage, a borrower must:

- —Occupy the property as the principal residence;
- —Possess a valid Social Security Number;
- —Have a two-year employment history;
  - —School and military service count towards this two-year requirement.
- —Not be delinquent on any Federal debt such as a student loan or other FHA-insured mortgage; and
- —Meet flexible credit requirements.

THERE ARE SEVERAL OTHER FEATURES WORTH KNOWING ABOUT AN FHA-INSURED MORTGAGE:

- —FHA adopted the industry appraisal standards permitting the use of the Fannie Mae appraisal forms with no additional specialized documentation, no Valuation Conditions form or Homebuyer Summary.
- —FHA has eliminated unnecessary requirements to make minor repairs.
- —The homebuyer and the seller, individually or jointly, can pay closing costs as agreed to in the sales contract. FHA no longer limits what closing costs the homebuyer is permitted to pay.
- —Caps on payment and debt-to-income ratios are more generous than most standard conforming mortgage products. The payment-to-income ratio may not exceed 31 percent and the debt-to-income ratio may not exceed 43 percent.
- —A minimum credit score is not required. In fact, one may not be turned down for an FHA mortgage solely for lack of credit history.
- —The buyer's entire cash investment—as little as three percent—can be a gift from a family member, employer, charitable organization or local government entity.
- —The seller can contribute up to 6 percent of the home's price toward closing costs through a seller's concession.
- —There are no prepayment penalties on FHA-insured mortgages.
- —U.S. citizenship is not required but, for those who are not citizens, they must be lawful permanent or non-permanent resident aliens with a valid Social Security Number.

HOW ELSE CAN FHA ASSIST IN ACHIEVING HOMEOWNERSHIP?

In addition to its standard Section 203(b) Mortgage Insurance Program, FHA has a number of other valuable programs designed to facilitate homeownership.

FHA Adjustable Rate Mortgage (ARM) Products

- —FHA offers a standard 1-year adjustable rate mortgage (ARM) as well as 3, 5, 7, and 10-year ARM options.
- —ARM products may be good options for those who plan to own the home for only a few years, expect an increase in future earnings, or expect a decrease in interest rates.

FHA's Limited Repair Program

- —FHA's Section 203(k) Limited Repair Program is an excellent financing option for you whether buying or selling homes—especially when repairs are identified during a home inspection or appraisal—because it gives buyers the ability to make repairs after closing.
- —Buyers can finance up to an additional $35,000 into their mortgage to pay for minor remodeling such as replacing flooring, installing new appliances, and painting the interior and/or exterior of the home.

IN ADDITION TO FHA, THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) OFFERS THESE RESOURCES:

HUD Homes

The Department has single-family homes in hundreds of communities available for sale to the public. How do you benefit from purchasing a HUD Home?

- —Many HUD homes are available with FHA financing, making it easier to purchase a home.
- —The Department pays the real estate commission, if it is included in the contract.
- —Only a real estate professional licensed by the state and registered with HUD can sell HUD homes.

For more information on available HUD homes, please visit: www.homesales.gov.

For more information on selling HUD homes, please visit: www.hud.gov/groups/brokers.cfm.

HUD-Approved Housing Counseling Agencies

Homebuyers often have a lot of questions about getting an FHA-insured mortgage and about the home buying process in general. HUD-approved Housing Counseling Agencies provide buyers the opportunity to get the answers they need by meeting with a housing counselor at a HUD-approved agency in their community. These agencies offer homeownership counseling and financial literacy training at little or no cost. To find a counselor in your neighborhood, call 1–800–569–4287 or visit http://www.hud.gov/buying/index.cfm and click on "find a housing counselor" on the right under "counseling and education."

To learn more about these products or to find out if there are homeownership programs sponsored by your state or local governments and other community organizations, please visit FHA's website at www.fha.gov or call 1.800 CALL FHA.

For more information about the National Association of REALTORS® and how we work with you, visit our website at www.REALTOR.org.

The National Association of REALTORS®, "The Voice for Real Estate," is America's largest trade association, representing more than 1.3 million members involved in all aspects of the residential and commercial real estate industries. For more information, please visit www.REALTOR.org.

The Federal Housing Administration (FHA)—which is part of the U.S. Department of Housing and Urban Development—has been helping people become homeowners since 1934. FHA insures the loan, so lenders can offer you a better deal. FHA offers loans with low down payments that are easier to qualify for, and can cost less than conventional loans. For more information, please visit www.fha.gov.

October 2006, Item# 126–128. National Association of REALTORS®, 500 New Jersey Avenue, NW, Washington, DC, 20001. Federal Housing Administration, U.S. Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC, 20410.

Senator MURRAY. Thank you very much. Mr. Robbins.

STATEMENT OF JOHN M. ROBBINS, CHAIRMAN, MORTGAGE BANKERS ASSOCIATION

Mr. ROBBINS. Good morning, Chairwoman Murray and Ranking Member Bond. Thank you for holding this hearing and inviting me to share MBA's views on reforming the FHA.

I have spent over 36 years working with FHA and I have made billions of dollars in loan originations to families who have achieved the dream of home ownership through FHA's programs. When I started in the mortgage business, FHA programs helped us serve many borrowers who otherwise would not get a loan.

Today, the story is very different. In 2003, FHA made up approximately 16 percent of my company's overall production. Last year, only a little more than 1 percent of our business went to FHA.

While the mortgage market has grown significantly, our use of the FHA program has dropped precipitously. Lenders have progressed, reacting to quickly changing and efficient technology. Unfortunately, FHA has not. While the needs of low-and-moderate income homebuyers, first time homebuyers and of senior homeowners have changed, FHA has not followed its historic path of adopting to meet borrowers' changing needs.

MBA strongly supports FHA and believes it still plays a critical role in today's marketplace. Most of FHA's business is directed toward low-and-moderate income and minority borrowers, the very strata that is most challenged to be part of the American dream. At the same time, we have watched with growing concern as FHA has steadily lost market share over the past decade, potentially threatening its long-term ability to help underserved borrowers.

As the market continues to evolve around FHA, the great fear is that many aspiring homeowners will either be left behind or forced into higher cost alternatives.

MBA notes with great concern that the administration's fiscal year 2008 budget proposal estimates the FHA Mortgage Insurance Fund will go into the red next year unless changes to the existing program are made or additional appropriations are provided. MBA agrees with the administration that FHA's Mutual Mortgage Insurance Fund would run in the black with little or no premium increase necessary if FHA reform proposals were passed this year.

In fact, in casual calculation—back of the envelope—not at this point supported by MBA institutional research, I suggest if FHA were to regain its market share back to its 1990 level of 10 percent, the U.S. Treasury would receive an additional $3 billion a year in revenue from expanded use of this program. We believe Congress should empower FHA to allow it to meet today's needs and anticipate tomorrow's.

MBA believes changes should be made in three areas. FHA needs more flexibility to introduce innovative new products, invest in new technology and manage their human resources. MBA supports changes to FHA's loan limits. FHA's down payment requirements, including the elimination of the complicated down payment formula and down payment flexibility. The down payment is one of the primary obstacles for first-time minority and low-income borrowers.

Finally, MBA also supports changes to the Home Equity Conversion Mortgage Program. MBA's surveys show that FHA's hack' em-up product comprises 95 percent of all reverse mortgages and is thus, tremendously important for our senior homeowners.

In conclusion, FHA has an important role to play in the market, in the expanding, affordable home ownership opportunities for the underserved and addressing the home ownership gap. For low-and-moderate income families, FHA should be the financing considered first because it has the lowest rate and provides borrowers the best opportunity to become a successful homeowner.

PREPARED STATEMENT

However, the current loss of market presence means we are losing FHA's impact. The result is that some families are either turning to more expensive financing or giving up. I urge Congress to enact legislation to reform FHA, to increase its availability to homebuyers, promote consumer choice and ensure its ability to continue serving American families. MBA stands ready to work with you on this important issue.

[The statement follows:]

PREPARED STATEMENT OF JOHN M. ROBBINS

Thank you for holding this hearing and inviting the Mortgage Bankers Association (MBA)[1] to share its views with the subcommittee on the solvency and reform

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 500,000 people in virtually every community in the country. Headquartered in Washington, DC, the association works to ensure the continued strength of the Nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its member-

proposals for the Federal Housing Administration (FHA). My name is John Robbins and I am Co-Head and Special Counsel of American Mortgage Network, and Chairman of the Mortgage Bankers Association (MBA). Formerly, I was Chief Executive Officer of American Mortgage Network (AmNet), a wholesale mortgage bank I co-founded which is based in San Diego. AmNet was bought by Wachovia Bank in 2005. I am here today because MBA believes Congress must act to make important legislative changes to the National Housing Act if the Federal Housing Administration (FHA) is to continue to be a financially sound tool for lenders to use in serving the housing needs of American families who are unserved or underserved by conventional markets.

When I started in the mortgage business, the programs of FHA were invaluable in enabling us to serve families who otherwise would have no other affordable alternative for financing their home. I spent over 36 years working with FHA and have made millions of dollars in loan originations to families who have become homeowners as a result of FHA's programs. We worked hard to be a good partner with FHA in administering its programs and, together, FHA and AmNet enabled thousands of families to purchase their first home.

Today, though, the story is very different. While AmNet has grown significantly, our ability to use the FHA program has declined precipitously. In 2003, FHA made up approximately 16 percent of our overall production. Last year, however, only a little more than 1 percent of our business went to FHA.

While AmNet has been able to adapt to changes in the mortgage markets, FHA has been prevented from doing so. The needs of low- and moderate-income homebuyers, of first-time homebuyers, of minority homebuyers, and of senior homeowners have changed. FHA's programs though, have not followed their historic path of adaptation to meet these borrowers' changing needs.

The numbers are troublesome. In 1990, 13 percent of total originations in the United States were FHA-insured mortgages. Currently, that number has dropped to under 3 percent.[2] More importantly, in 1990, 28 percent of new home sales (which are typically a large first-time homebuyer market) were financed through programs at FHA or the Department of Veterans Affairs (VA); today that number has dropped to under 12 percent.

MBA cites these numbers not because we believe that there is a certain market share that FHA should retain, but rather because these numbers are consistent with many lenders' views that FHA has not kept up with changes in the market. These numbers point to a decline, not just in market share, but in FHA's potential to positively impact homeownership. This loss of impact does not stem from the fact that FHA is no longer relevant, but rather that statutory constraints prohibit FHA from adapting its relevance to consumer needs today.

A recent anecdote illustrates this point very well. A story ran in RealtyTimes® almost 2 years ago, on June 21, 2005, in which a Baltimore, MD real estate agent unabashedly advises homebuyers to avoid FHA financing. The agent states: "Approved FHA loan recipients, same notice to you, don't bother bringing it to the table during a sellers market. More times than not, your offer will be rejected. We know that VA and FHA loans allow you the means of purchasing more home for the mortgage, but it only works if you are the only game in town." His advice was based on the often true notion that FHA-insured financing is slower and more laborious than conventional financing, which means FHA's valuable programs are not reaching the people they should.

FHA BACKGROUND

FHA was created as an independent entity by the National Housing Act on June 27, 1934, to encourage improvement in housing standards and conditions, to provide an adequate home financing system by insurance of housing mortgages and credit and to exert a stabilizing influence on the mortgage market. FHA was incorporated into the newly formed U.S. Department of Housing and Urban Development (HUD) in 1965. Over the years, FHA has facilitated the availability of capital for the Nation's multifamily and single-family housing market by providing government-insured financing on a loan-by-loan basis.

FHA offers multifamily and single-family insurance programs that work through private lenders to extend financing for homes. FHA has historically been an innovator. Over the past several decades, the mission of FHA's single-family programs

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ship of over 3,000 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

[2] Source: Inside Mortgage Finance, March 2, 2007.

have increasingly focused on expanding homeownership for those families who would otherwise either be unable to obtain financing or obtain financing with affordable terms. FHA's multifamily programs have allowed projects to be developed in areas that otherwise would be difficult to finance and provides needed rental housing to families that might otherwise be priced out of a community.

Additionally, the FHA program has been a stabilizing influence on the Nation's housing markets due to the fact that it is consistently available under the same terms at all times and in all places. FHA does not withdraw from markets.

THE NEED FOR FHA TODAY AND TOMORROW

The FHA single-family programs are vital to many homebuyers who desire to own a home but cannot find affordable financing to realize this dream. While the FHA has had a number of roles throughout its history, its most important role today is to give first-time homebuyers the ability to climb onto the first rung of the homeownership ladder and to act as a vehicle for closing the homeownership gap for minorities and low- and moderate-income families.

Despite this country's recent record high levels of homeownership, not all families share in this dream equally. As of the first quarter of 2006, the national homeownership rate stood at 68.5 percent, but only 51 percent of minorities owned their own home. Only 48 percent of African-Americans and 49.4 percent of Latinos owned their own homes. This compares with 75.5 percent of non-Hispanic white households.

By the end of 2005, 84.3 percent of families earning more than the median income owned their own home, while only 53.1 percent of families below the median income owned their own home.

These discrepancies are tragic because homeownership remains the most effective wealth-building tool available to the average American family.

FHA'S RECORD

More than any other nationally available program, during the 1990s, FHA's impact focused on the needs of first-time, minority, and/or low- and moderate-income borrowers.

In 1990, 64 percent of FHA borrowers using FHA to purchase a home were first-time homebuyers. Today, that rate has climbed to about 80 percent. In 1992, about 1-in-5 FHA-insured purchase loans went to minority homebuyers. That number in recent years has grown to more than one-in-three. Minorities make up a greater percentage of FHA borrowers than they do conventional market borrowers.

FHA is particularly important to those minority populations experiencing the largest homeownership gaps. Home Mortgage Disclosure Act (HMDA) data reveal that in 2004, 14.2 percent of FHA borrowers were African-Americans, compared with 5.4 percent of conventional borrowers. Hispanic borrowers made up 15.3 percent of FHA loans, while they only were 8.9 percent of the conventional market. Combined, African-American and Hispanic borrowers constituted 29.5 percent of FHA loans, doubling the conventional market's rate of 14.3 percent. In fact, in 2004, FHA insured nearly as many purchase loans to African-American and Hispanic families as were purchased by Fannie Mae and Freddie Mac combined.

The same data demonstrates FHA's tremendous service to those American families earning near or below the national median income. Over 57 percent of FHA borrowers earned less than $50,000, which is more than double the rate of the conventional market, where fewer than 28 percent of borrowers earned less than $50,000.

Ironically, as the above numbers reveal, FHA's mission to serve underserved populations has become increasingly focused during the same period as the decline in FHA's presence in the market. FHA's impact is being lost at the very time when it is needed most. The result is that American families are either turning to more expensive financing or giving up.

It is crucial that FHA keep pace with changes in the U.S. mortgage markets. While FHA programs can be the best and most cost-effective way of expanding lending to underserved communities, we have yet to unleash the full potential of these programs to help this country achieve important societal goals.

To be effective in the 21st century, FHA should be empowered to allow it to develop products and programs to meet the needs of today's homebuyers and anticipate the needs of tomorrow's mortgage markets, while at the same time being fully accountable for the results it achieves and the impact of its programs.

Under the strong leadership of its current Commissioner, Brian Montgomery, FHA has undertaken significant changes to its regulations and operations in a very short time. In just a little more than 1 year, FHA has streamlined the insurance endorsement process, improved appraisal requirements and removed some unnecessary regulations. By doing so, Commissioner Montgomery has also instilled a spirit of change and a bias for action within FHA.

MBA compliments the Commissioner on his significant accomplishments to date, though we recognize that more work lies ahead. Lenders still report that FHA is difficult to work with and that oversight activities often focus on minor compliance deficiencies in a loan file rather than focusing on issues of true risk to FHA's insurance funds. FHA is designed to serve higher risk borrowers and MBA believes that those auditing FHA lenders must understand this and be able to differentiate this aspect of the program from intentional abuse.

MBA is confident in the Commissioner's ability to address these and other issues that are within his control. There is much though, that is beyond FHA's control and needs Congressional action.

Single-family FHA-insured mortgages are made by private lenders, such as mortgage companies, banks and thrifts. FHA insures single-family mortgages with more flexible underwriting requirements than might otherwise be available. Approved FHA mortgage lenders process, underwrite and close FHA-insured mortgages without prior FHA approval. As an incentive to reach into harder-to-serve populations, FHA insures 100 percent of the loan balance as long as the loan is properly underwritten.

FHA has a strong history of innovating mortgage products to serve an increasing number of homebuyers. FHA was the first nationwide mortgage program; the first to offer 20-year, 25-year, and finally 30-year amortizing mortgages; and the first to lower downpayment requirements from 20 percent to 10 percent to 5 percent to 3 percent. FHA has always performed a market stabilizing function by ensuring that mortgage lending continued after local economic collapses or regional natural disasters when many other lenders and mortgage insurers pulled out of these markets.

FHA's primary single-family program is funded through the Mutual Mortgage Insurance Fund (MMIF), which operates similar to a trust fund and has been completely self-sufficient. This allows FHA to accomplish its mission at little or no cost to the government. In fact, FHA's operations transfer funds to the U.S. Treasury each year, thereby reducing the Federal deficit. FHA has always accomplished its mission without cost to the taxpayer. At no time in FHA's history has the U.S. Treasury ever had to "bail out" the MMIF or the FHA.

THE FHA BUDGET FORECAST FOR 2008

The Federal assistance that FHA provides to low- and moderate-income households provides critical support for extending homeownership possibilities that the private market cannot fully address. MBA notes with great concern the administration's fiscal year 2008 budget proposal released last month which estimates that the FHA mortgage insurance fund will go into the red in fiscal year 2008 unless changes to the existing program are made or budget authority to provide additional credit subsidy is given to the Agency. Since no additional budget authority to cover these costs were included in the budget, the FHA would need to either raise premiums, curtail credit to some borrowers who today could get loans, or some combination.

To cover the expected increased costs associated with higher defaults and lower originations, the administration projects increases in the up-front mortgage insurance premium (MIP) from 150 basis points (1.5 percent) to 166 basis points will be needed. In addition, the annual MIP is assumed to increase from 50 basis points to 55 basis points. On a $200,000 loan, this is an extra $320 (from $3,000 to $3,321) due at the closing table and an additional $100 (from $1,000 to $1,100) the borrower must pay each year for the same loan. This may not seem like a lot of money, but for your typical FHA borrower—who is likely to be trying to get in their first home and may not have much in the way of a savings—this could be the difference between owning a home or continuing to sit on the sidelines of homeownership.

MBA agrees with the administration that the FHA's mutual mortgage insurance fund would run in the black, and little or no premium increases would be necessary, if FHA reform proposals were passed in Congress this year. MBA believes unlocking FHA's potential in the marketplace is the right solution in the face of the Agency's systemic inability to modernize itself, and now faces the prospect of raising fees to maintain its diminished presence in the marketplace. We urge Congress to consider solutions that will enable FHA to serve more potential homeowners.

UNLEASHING FHA'S POTENTIAL

In reviewing the status of FHA over the past decade, MBA has come to the conclusion that FHA faces severe challenges in managing its resources and programs in a quickly changing mortgage market. These challenges have already diminished

FHA's ability to serve its public purposes and have also made it susceptible to fraud, waste, and abuse. Unaddressed, these issues will cause FHA to become less relevant, and will leave families served by its programs with no alternative for homeownership or affordable rental housing.

In the fall of 2004, MBA formed a FHA Empowerment Task Force comprising of MBA member companies experienced in originating single-family and multifamily FHA loans. The Task Force discussed the long-term issues confronting FHA with the goal of developing legislative proposals that would empower it to manage its programs and policies more effectively.

The Task Force identified FHA's higher costs of originations, lessening prominence in the market, out-dated technology, adverse selection, and the inability to efficiently develop products as problems for FHA. Per the Task Force's recommendations, MBA proposed the following three steps to unleash FHA from overly burdensome statutory processes and restrictions, and to empower FHA to adopt important private sector efficiencies:

—FHA needs the ability to use a portion of the revenues generated by its operations to invest in the upgrade and maintenance of technology to adequately manage its portfolios and interface with lenders.

—FHA needs greater flexibility to recruit, manage and compensate employees if it is to keep pace with a changing financial landscape and ensure appropriate staffing to the task of managing $450+ billion insurance funds.

—FHA needs greater autonomy to make changes to their programs and to develop new products that will better serve those who are not being adequately served by others in the mortgage market.

Ability to Invest Revenues in Technology

Technology's impact on mortgage markets over the past 15 years cannot be overstated. Technology has allowed the mortgage industry to lower the cost of homeownership, streamline the origination process, and has allowed more borrowers to qualify for financing. The creation of automated underwriting systems, sophisticated credit score modeling, and business-to-business electronic commerce are but a few examples of technology's impact.

FHA has been detrimentally slow to move from a paper-based process, and it cannot electronically interface with its business customers in the same manner as the private sector. During 2004 and 2005, over 1.5 million paper loan files were mailed back and forth between FHA and its approved lenders and manually reviewed during the endorsement process. Despite the fact that FHA published regulations in 1997 authorizing electronic endorsement of loans, FHA was not able to implement this regulation until this past January, 8 years later. This delay occurred despite the fact that over the same 8 years, FHA's operations generated billions of dollars in excess of program costs that was transferred to the U.S. Treasury.

MBA believes FHA cannot create and implement technological improvements because it lacks sufficient authority to use the revenues it generates to invest in technology.

MBA proposes the creation of a separate fund specifically for FHA technology, funded by revenues generated by the operation of the MMIF. MBA suggests the establishment of a revenue and a capital ratio benchmark for FHA, wherein, if both are exceeded, FHA be authorized by Congress to use a portion of the excess revenue generated to invest in its technology. Such a mechanism would allow FHA to invest in technology upgrades, without requiring additional appropriations from Congress.

Improvements to FHA's technology will allow it to improve management of its portfolio, garner efficiencies and lower operational costs, which will allow it to reach farther down the risk spectrum to borrowers currently unable to achieve homeownership. MBA believes that such an investment would yield cost savings to FHA operations far in excess of the investment amount.

Greater Control in Managing Human Resources

FHA is restricted in its ability to effectively manage its human resources at a time when the sophistication of the mortgage markets demands market participants to be experienced, knowledgeable, flexible, and innovative. To fulfill its mission, FHA needs to be able to attract the best and brightest. Other Federal agencies, such as the Federal Deposit Insurance Corporation (FDIC), that interface with and oversee the financial services sector are given greater authority to manage and incentivize their human resources. MBA believes that FHA should have similar authority if it is to remain relevant in providing homeownership opportunities to those families underserved by the private markets. FHA should have more flexibility in its personnel structure than that which is provided under the regular Federal civil service rules. With greater freedom, FHA could operate more efficiently and effectively at a lower cost. Further, improvements to FHA's ability to manage its human capital will allow FHA to attract and manage the talent necessary to develop and implement the strategies that will provide opportunities for homeownership to underserved segments of the market.

Flexibility to Create Products and Make Program Changes

FHA programs are slow to adapt to changing needs within the mortgage markets. Whether it is small technical issues or larger program needs, it often takes many years and the expenditure of great resources to implement changes. This process overly burdens FHA from efficiently making changes that will serve homebuyers and renters better and protect FHA's insurance funds. Today's mortgage markets require agencies that are empowered to implement changes quickly and to roll-out or test new programs to address underserved segments of the market.

A prime example of this problem can be found in the recent experience of FHA in offering hybrid Adjustable Rate Mortgage (ARM) products. A hybrid ARM is a mortgage product which offers borrowers a fixed interest rate for a specified period of time, after which the rate adjusts periodically at a certain margin over an agreed upon index. Lenders are typically able to offer a lower initial interest rate on a 30-year hybrid ARM than on a 30-year fixed rate mortgage. During the late 1990's, hybrid ARMs grew in popularity in the conventional market due to the fact that they offer borrowers a compromise between the lower rates associated with ARM products and the benefits of a fixed rate period.

In order for FHA to offer this product to the homebuyers it serves, legislative approval was required. After several years of advocacy efforts, such approval was granted with the passage of Public Law 107–73 in November 2001. Unfortunately, this authority was not fully implemented until the Spring of 2005.

The problem began when Public Law 107–73 included an interest rate cap structure for the 5/1 hybrid ARMs that was not viable in the marketplace. The 5/1 hybrid ARM has been the most popular hybrid ARM in the conventional market. As FHA began the rulemaking process for implementing the new program, they had no choice but to issue a proposed rule for comment with a 5/1 cap structure as dictated in legislation. By the time MBA submitted its comment letter on the proposed rule to FHA, we had already supported efforts within Congress to have legislation introduced that would amend the statute to change the cap structure. MBA's comments urged that, if passed prior to final rulemaking, the 5/1 cap fix be included in the final rule.

On December 16, 2003, Public Law 108–186 was signed into law amending the hybrid ARM statutes to make the required technical fix to the interest rate cap structure affecting the 5/1 hybrid ARM product. At this point, FHA was ready to publish a final rule. Regardless of the passage of Public Law 108–186, FHA was forced to go through additional rulemaking in order to incorporate the fix into regulation. Thus, on March 10, 2004, FHA issued a Final Rule authorizing the hybrid ARM program, with a cap structure that made FHA's 5/1 hybrid ARM unworkable in the marketplace. It was not until March 29, 2005 that FHA was able to complete rulemaking on the amendment and implement the new cap structure for the 5/1 hybrid ARM product.

The hybrid ARM story demonstrates well the statutory straitjacket under which the FHA operates. A 4-to-6-year lag in introducing program changes is simply unacceptable in today's market. Every month that a new program is delayed or a rule is held up, means that families who could otherwise be served by the program are prevented from realizing the dream of homeownership or securing affordable rental housing.

MBA believes the above three changes will allow FHA to become an organization that can effectively manage risk and self-adapt to shifting mortgage market conditions while meeting the housing needs of those families who continue to be unserved or underserved today.

LEGISLATIVE ACTIVITY IN THE 109TH CONGRESS

MBA supported much of the legislation before the last Congress, and I would like to take a moment to offer our perspective on various provisions.

MBA supported the Expanding American Homeownership Act of 2006, H.R. 5121, a bipartisan bill which marked the first time FHA was looked at by Congress in a comprehensive way in over 10 years. In general, H.R. 5121 would have significantly streamlined and modernized the National Housing Act and unleashed FHA from a 74-year-old statutory regime that constricts its effectiveness.

Among other things, H.R. 5121 would have provided for flexible down payments, flexible risk-based premiums, an increase in mortgage limits, an extension of mortgage terms, reform of FHA's condominium program, and changes to the Home Equity Conversion Mortgage (HECM) program. MBA would like to review a number of provisions that were a part of that legislation.

Downpayment Requirements

MBA supports the elimination of the complicated formula for determining the downpayment that is currently detailed in statute. The calculation is outdated and unnecessarily complex. The calculation of the downpayment alone is often cited by loan officers as a reason for not offering the FHA product.

MBA supports improving FHA's products with downpayment flexibility. Independent studies have demonstrated two important facts: first, the downpayment is one of the primary obstacles for first-time homebuyers, minorities, and low- and moderate-income homebuyers. Second, the downpayment itself, in many cases, is not as important a factor in determining risk as are other factors. Many borrowers will be in a better financial position if they keep the funds they would have expended for a large downpayment as a cash reserve for unexpected homeownership costs or life events.

We believe that FHA should be empowered to establish policies that would allow borrowers to qualify for FHA insurance with flexible downpayment requirements and decide the amount of the cash investment they would like to make in purchasing a home.

Adjusting Mortgage Insurance Premiums for Loan Level Risk

MBA believes that FHA would be able to serve more borrowers, and do so with lower risk to the MMIF, if they are able to adjust premiums based on the risk of each mortgage they insure. A flexible premium structure could also give borrowers greater choice in how they utilize the FHA program.

It is a fact that some borrowers and loans will pose a greater risk to FHA than others. At some level, FHA should have the authority to adjust premiums based upon some borrower or loan factors that add risk. Such adjustment for risk need not be a complicated formula. MBA believes FHA could significantly mitigate the risk to the MMIF by selecting a small number of risk factors that would cause an adjustment from a base mortgage insurance premium (MIP).

A current example of this would be the fact that borrowers receiving a gift of the downpayment on a FHA-insured mortgage is charged the same premium as a borrower who puts down 3 percent of their own funds, despite the fact that the former represents a higher risk loan. FHA could better address such a risk in the MMIF by charging a higher MIP to offset some of the additional risk that such a borrower poses. In this manner, while a borrower receiving a gift of funds for the downpayment will still receive the benefits of FHA financing, they themselves would share some of the risk, rather than having the risk born solely by those making a 3 percent downpayment.

Creating a risk-based premium structure will only be beneficial to consumers, though, if FHA considers lowering current premiums to less risky loans. We would not support simply raising current premiums for higher risk borrowers.

Raising Maximum Mortgage Limits for High Cost Areas

MBA supports the proposal to raise FHA's maximum mortgage limits to 100 percent of an area's median home price (currently pegged at 95 percent) and to raise the ceiling to 100 percent of the GSEs' conforming loan limits (currently limited to 87 percent) and the floor to 65 percent (currently 48 percent). There is a strong need for FHA financing to be relevant in areas with high home prices. MBA believes raising the limits to the GSEs' conforming limits in these areas strikes a good balance between allowing FHA to serve a greater number of borrowers without taking on additional risk.

Additionally, in many low cost areas, FHA's loan limits are not sufficient to cover the costs of new construction. New construction targeted to first-time homebuyers has historically been a part of the market in which FHA has had a large presence. MBA believes raising the floor will improve the ability of first-time homebuyers to purchase modest newly constructed homes in low-cost areas since they will be able to use FHA-insured financing.

Lengthening Mortgage Term

MBA supports authorizing FHA to develop products with mortgage terms up to 40 years. Currently, FHA is generally limited to products with terms of no more than 30 years. Stretching out the term will lower the monthly mortgage payment and allow more borrowers to qualify for a loan while remaining in a product that continues to amortize. We believe FHA should have the ability to test products with these features, and then, based on performance and homebuyer needs, to improve or remove such a product.

Improvements to FHA Condominium Financing

MBA supports changes to FHA's condominium program that will streamline the process for obtaining project approval and allow for greater use of this program. It is unfortunate to note that FHA insurance on condominium units has dropped at a higher rate than the overall decline in FHA's originations. This decline contradicts the fact that in costly markets, condominium units are typically the primary type of housing for first-time homebuyers. FHA should have a much bigger presence in the condominium market.

Improvements to the Reverse Mortgage Program

MBA unequivocally supports all proposals to change the FHA's Home Equity Conversion Mortgage (HECM) program: the permanent removal of the current 250,000 loan cap, the authorization of HECMs for home purchase and on properties less than 1 year old, and the creation of a single, national loan limit for the HECM program.

The HECM program has proven itself to be an important financing product for this country's senior homeowners, allowing them to access the equity in their homes without having to worry about making mortgage payments until they move out. The program has allowed tens of thousands of senior homeowners to pay for items that have given them greater freedom, such as improvements to their homes that have allowed them to age in place, or to meet monthly living expenses without having to move out of the family home.

MBA believes it is time to remove the program's cap because the cap threatens to limit the HECM program at a time when more and more seniors are turning to reverse mortgages as a means to provide necessary funds for their daily lives. MBA further believes that the HECM program has earned the right to be on par with other FHA programs that are subject only to FHA's overall insurance fund caps. Additionally, removing the program cap will serve to lower costs as more lenders will be encouraged to enter the reverse mortgage market.

Additionally, authorizing the HECM program for home purchase will improve housing options for seniors. In a HECM for purchase transaction, a senior homeowner might sell a property they own to move to be near family. The proceeds of the sale could be combined with a reverse mortgage, originated at closing and paid in a lump sum, to allow a senior to purchase the home without the future responsibility of monthly mortgage payments. Alternatively, a senior homeowner may wish to take out a reverse mortgage on a property that is less than 1 year old, defined as "new construction" by FHA.

Finally, the HECM program should have a single, national loan limit equal to the conforming loan limit. Currently, the HECM program is subject to the same county-by-county loan limits as FHA's forward programs. HECM borrowers are disadvantaged under this system because they are not able to access the full value of the equity they have built up over the years by making their mortgage payments. A senior homeowner living in a high-cost area will be able to access more equity than a senior living in a lower cost area, despite the fact that their homes may be worth the same and they have the same amount of equity built up. Reverse mortgages are different than forward mortgages and the reasons for loan limits are different, too. FHA needs the flexibility to implement different policies, especially concerning loan limits.

MBA also supported a bill Senator Hillary Clinton (D-NY) introduced in the 109th Congress, the "21st Century Housing Act." The bill contained the following positive provisions:

Investment in FHA Infrastructure—Human Resources

MBA supported authorizing the Secretary of HUD to appoint and fix the compensation of FHA employees and officers. The bill would have called on the Secretary to consult with, and maintain comparability with, the compensation of officers and employees of the Federal Deposit Insurance Corporation. This provision can be carried out by excess revenue derived from the operation of FHA's insurance funds, beyond that which was estimated in the Federal budget for any given year. While MBA had some questions as to the funding mechanism detailed in the bill for this provision, we firmly believe that giving FHA greater flexibility in investing in its human capital is critical if it is to attract and retain the talent it needs to become a stronger and more effective program serving the needs of our Nation's homeowners and renters.

Investment in FHA Infrastructure—Information Technology

MBA strongly supported this provision which would have funded investment in FHA's information technology. This provision contemplated that excess funding derived from the operation of FHA's insurance funds, beyond that which was estimated in the Federal budget for any given year, would be used to carry out this provision. While MBA had some questions as to the funding mechanism detailed in the bill for this provision, MBA believes that upgrading FHA's technology is critical to improving FHA's management of its portfolio and lowering its operational costs. MBA also believes that such an investment will allow FHA to reach farther down the risk spectrum to borrowers currently unable to achieve homeownership.

OTHER FHA ISSUE—TREATMENT OF FHA NON-CONVEYABLE PROPERTIES

The Federal Housing Administration (FHA) provides credit insurance against the risk of foreclosure losses associated with loans originated according to FHA standards. FHA generally pays an insurance claim when it takes title (conveyance) to a property as a result of foreclosure. To convey a property and receive insurance benefits, however, FHA requires that the property be in "conveyance condition" (i.e., repaired and saleable condition). Properties that have sustained damage attributable to fire, flood, earthquake, tornado, hurricane, boiler explosion (for condominiums), or the lender's failure to preserve and protect the property are not eligible for insurance benefits unless they are repaired prior to conveyance of the property to the FHA. While HUD has in the past accepted properties in "as is" (damaged) condition on a case-by-case basis, this is rarely done. Moreover, HUD will deduct from the "as is" claim the estimated cost of repair. HUD should accept conveyance of damaged properties and not adjust the claim for the cost of repair when there was no failure on the part of the servicer to obtain hazard or flood insurance pursuant to Federal law. In addition, to the extent that a property is not conveyable or has other problems (i.e., condemned, demolished by local, State, or Federal Government or there is concern about environmental issues that preclude a private servicer from taking title to the property), HUD should be permitted to pay the full claim without the servicer taking conveyance of the property or HUD taking conveyance of the property. At this time, MBA does not believe HUD has the statutory authority to manage claims in this manner.

FHA MULTIFAMILY PROGRAMS

While this hearing is to focus attention on FHA's single-family programs, it is important to underscore the critical role of FHA's multifamily programs in providing decent, affordable rental housing to many Americans. Approximately 30 percent of families and elderly citizens either prefer to rent or cannot afford to own their own homes. FHA's insurance of multifamily mortgages provides a cost-effective means of generating new construction or rehabilitation of rental housing across the Nation. As well, FHA is one of the primary generators of capital for healthcare facilities, particularly nursing homes.

While the FHA has implemented a number of significant improvements to its single-family program over the last year, the same focus needs to be applied to improving the multifamily programs. MBA hopes that process improvements on the multifamily side of FHA will soon be discussed and implemented.

Additionally, I must voice MBA's strong opposition to the proposal in the administration's 2008 budget proposal to increase the insurance premiums on multifamily projects far above that necessary to operate a financially sound program. The net effect of this proposal will be to cause many affordable rental properties not to be built or rehabilitated and to raise rents on those families and elderly households on the projects that still go through.

There is no rationale for this fee increase except to generate additional revenue for the Federal Government as these programs are already priced to cover their costs in accordance with the Federal Credit Reform Act of 1990. We urge the committee to prohibit FHA from implementing this fee increase.

CONCLUSION

FHA's presence in the single-family marketplace is smaller than it has been in the past and its impact is diminishing. Many MBA members, who have been traditionally strong FHA lenders, have seen their production of FHA loans drop significantly. This belies the fact that FHA's purposes are still relevant and its potential to help borrowers is still necessary.

I would like to conclude my testimony by highlighting two issues which make passing FHA legislation particularly urgent this year. First, hurricane season will again be soon upon us. The disasters of Hurricanes Katrina and Rita point to the need for a financially solvent FHA that is not restricted by onerous processes and procedures. The FHA program must be ready to assist homeowners and renters who lost everything amid the destruction of the hurricanes. It must have the necessary wherewithal to step in and help work out the existing mortgages in disaster areas. FHA must have the programs necessary to meaningfully assist in the rebuilding effort. Giving FHA the mechanisms to fund adequate technology improvements, flexibilities in managing human resources, and greater authority to introduce products will ensure FHA can step in to help communities when disasters occur.

Secondly, without congressional action this year, many families face a serious risk of being unable to access FHA financing due to a recent ruling passed down by the Internal Revenue Service (IRS). On May 4, 2006, the IRS released Revenue Ruling 2006–27, which may lead the IRS to rescind the nonprofit status of a large number of nonprofits who receive funding from property sellers in providing downpayment assistance to FHA borrowers. FHA regulations require that nonprofits providing a downpayment gift have an IRS nonprofit exempt status. Due to the ruling, the IRS has indicated that it is investigating 185 organizations which provide downpayment assistance.

MBA expects this ruling to have a dramatic effect on FHA's purchase production. Before the ruling, more than one-third of FHA purchase loans had some type of downpayment assistance. Such programs currently serve tens of thousands of FHA's primary clientele: first-time homebuyers, low- and moderate-income families and minorities.

Clearly, congressional action on FHA reform this year is vital.

On behalf of MBA, I would like to thank the subcommittee for the opportunity to present our views on the important programs offered by FHA. MBA looks forward to working with Congress and HUD to improve FHA's long-standing mission and ability to serve aspiring homeowners and those seeking affordable rental housing.

Senator MURRAY. Thank you very much. And thank you to all of you for your testimony. It will all be placed in the record of this committee and all members will receive a copy.

Mr. Montgomery, let me start with you. The rising defaults and foreclosures in the subprime market did not just start this past Tuesday. The foreclosure data that was released by Mr. Robbins' association on Tuesday just indicated to us that the situation is worsening. For a great many years, the subprime market was taking market share away from the FHA. Do you think the recent upset in the markets is likely to reverse that trend?

Mr. MONTGOMERY. Thank you very much for your question. We did an historical analysis, looking at the HUMDA data and why FHA was losing market share and you can look at how our market went down and look how the subprime market went up. It became very obvious to us that we were losing a lot of our traditional borrowers, if you will, to a subprime product.

Yes, we are very concerned about the delinquency, the serious delinquency rates that were released yesterday relative to the subprime. Speaking for FHA, yes, we are concerned about that but I do want to note that during that timeframe—this is the most recent data just released yesterday—that our foreclosure rate actually went down, which it hadn't done in several months and the foreclosure rate for the subprime market is about twice that of FHA. While our 30-day delinquency number did go up, our 90-day delinquency number did go down as well. And that's about 30 percent below that of the subprime market.

So yes, we are concerned about the rise of the subprime market, what's been happening there but in many cases, a lot of those borrowers would have faired much better had they had an FHA loan and this is one of the things that we've been talking about at great length at FHA for the 18 months that I've been there, saying we need a reinvigorated FHA to be there for families who have a couple of blemishes on their credit and perhaps don't have a lot of money for a down payment.

Senator MURRAY. Well, HUD has made a claim for over 1 year that if the reform package is enacted by Congress, that the FHA market share will double in 2012. That will bring your market share from 3 percent to 6 percent. Given the recent market uncertainties, do you believe that your market share might grow beyond your 6 percent target?

Mr. MONTGOMERY. Well, let me answer that this way. We're—we're not a private corporation so the degree of our success is not necessarily market share. I do want to get that point out. However, it is important that a reinvigorated, modern FHA be there for lenders and brokers—we're not a bank, as you know, so that they can best decide which is the product that fits a particular family's situation.

For a long time, FHA did not necessarily, as we know, fill that void for the reasons that we've all gone into today. So yes, we think a new reinvigorated FHA would make us a better product and we think that as a result of that, more lenders, more realtors, will be inclined to recommend us to their clients.

If I could add one other point to that, I can't stress enough, when I first got there and talking to all the trade association members and even some other groups, that we were—and still are—a tough place to deal with. We were the slowest game in town. Our IT systems remain antiquated, although we've made some improvements and these are some of the same things I mentioned last year and some of our processes were outdated. We were one of the last organizations to electronically submit loan documents. By the way, this is something our sister agency, VA, had been doing since 1999. Some of our appraisal requirements just didn't make sense so we needed, before we even looked at improving the products that we had to improve our processes as well, to make us a product that our partners out in the field would want to use.

Senator MURRAY. Mr. Montgomery, you gave a speech last month before the National Association of Homebuilders and indicated that you thought the FHA could provide cheaper loan rates to the very same borrowers that are currently loaded into subprime mortgages. Is this the state of affairs today or will this only be the case if FHA reform legislation is enacted?

Mr. MONTGOMERY. It's a key distinction to make. Just because we serve many of the same types of borrowers as the subprime market, we are not a subprime product. We don't have any teaser rates. We don't have any prepayment penalties. We are basically a 30-year, fixed rate product. There are no surprises at the end of an ARM period. Even the ARM that we have is indexed at a much lower rate so that families avoid balloon payments. So there is really no comparison between the two types of products.

But let me also say that there is nothing, from our standpoint, to prevent some current subprime borrowers from refinancing perhaps into an FHA loan. Our eligibility criteria, though, they have to meet. That will not change with these improvements and yes, we do think that some subprime borrowers could and will fare better with an FHA product.

Senator MURRAY. So if the FHA has the ability to provide these borrowers with better rates today, why are these borrowers going elsewhere?

Mr. MONTGOMERY. Well, that's a tough one, Senator. I would say in many cases, what I've read, what I've been told, some subprime borrowers, not all, totally blurred the line between a conventional loan and a subprime loan. There have been court settlements involved with lenders that we're all aware of, where there were cases—in one case, some 750,000 cases of perhaps predatory lending involved.

So I—many times when I talk about why some families went subprime, I use the term, steered toward, because I think that's exactly what happened and way too many families were taken advantage of. All the while, you have a slow to adapt, less than nimble FHA sitting there, going what about us? We had no money to make people aware of our product, no money for consumer awareness. So it was kind of a perfect storm of a treading in the water FHA and large subprime lenders with a lot of marketing dollars coming in there and in many cases—not all—there is a place for the subprime product—but in many cases, totally blurring that line. And now, I think, unfortunately for many families, we are seeing what is going to happen as a result of some of those decisions.

Senator MURRAY. Do you have any idea what percentage of current subprime borrowers you believe would be found creditworthy under FHA's criteria?

Mr. MONTGOMERY. It's a hard number to quantify, Senator but some of our internal discussions, we think it would be in probably the hundreds of thousands.

Senator MURRAY. Ms. Poole and Mr. Robbins, do you think the rising foreclosures in the subprime market will necessarily have an impact on the business that is handled by FHA? Mr. Robbins.

Mr. ROBBINS. Let me take you through a couple of statistics, which would outline the foreclosure issue and in the subprime market. The U.S. population of mortgages is about $50 million in total. The subprime represents about 13.5 percent of that number or $6,750,000. Currently, the MBA announced that loans in foreclosure were about 4.53 percent in the subprime, which is actually half of its peak, which was in the year 2000, when it hit 9.35 percent at that time.

Of that group of loans, through loss mitigation techniques, about half don't complete the foreclosure process. So that would leave about 335,000 loans that would ultimately face foreclosure that had been in the subprime area. We note with great interest that FHA's foreclosure ratio is less than half of the subprime because—again, because of outstanding loss mitigation techniques that are employed by the Federal Housing Administration versus those of subprime companies.

It's the MBA's feeling that without question, that vast numbers of subprime borrowers would benefit significantly from FHA financing. In the past, it takes approximately 70 percent longer to process and underwrite a FHA loan versus a subprime loan. The market moved toward the efficient alternative, inappropriately in some cases, using very lax underwriting. We feel, with FHA modernization, that they could be a formidable competitor in the low to moderate income lending world. They could restore their market share relatively quickly because of the fact that with the full faith in credit of the United States Government in the guarantee portion of that, that the lowest interest rate would induce a significant number of borrowers and a short time processing frame, bridge the efficiency gap that was created. So we feel that these changes have an enormous and a very positive effect on future homeowners.

Senator MURRAY. Ms. Poole, do you care to comment?

Ms. POOLE. Yes. One of the things I'd like to make sure we note is that many more homebuyers could have been and could, in the future, use the FHA product. But one of the things that should be noted is the loan limits that are attached to the FHA product, which puts a lot of borrowers out of the market and sends them into the subprime and exotic mortgages.

I, as a practitioner, am actually facing a lot of borrowers who are now homeowners, who are facing possible foreclosures, simply from purchasing over the last couple of years and they are in upside down mortgages that they did not know they were in. As a practitioner, when talking with a lender, I was sometimes not actually given all the information the borrower was given because the borrower and lender work together.

So when you get to a point of saying, I don't know how this happened, the fact is, it happened. And so I'm looking at it saying, you know, if there had been a FHA product that would have been available for the price range that they were purchasing in, it would have given me an opportunity to help them that way. But without it being there and no matter who you are, what you want to do in the market that I work, is to own a home. So all the promises and pie in the sky seem okay because I can afford the monthly payment but not looking at the long-term effect.

Senator MURRAY. Thank you very much. Senator Bond.

Senator BOND. Thank you, Madam Chair. Commissioner Montgomery, you have certain authorities to ensure the FHA MMI fund is solvent and doesn't require a bailout from Congress and in fact, the administration's 2008 budget request assumes that.

No. 1, can you give us your personal and the administration's commitment that you will not allow MMI fund's credit subsidy to go positive in 2008 and second, GAO's testimony states that high claim and loss rates for loans with down payment assistance financing were major reasons why the estimated credit subsidy rate for MMI is projected to be positive. If that statement is accurate, why do you continue to insure these high-risk loans that may jeopardize the health of FHA?

Then I'll ask Mr. Donohue and Mr. Shear to comment on that, please.

Mr. MONTGOMERY. Do you want me to go first, Senator?

Senator BOND. Yes. I want you to lay it out and then we'll slice it.

Mr. MONTGOMERY. I just wanted to confirm that, sir. Sir, yes, while I am FHA Commissioner, the MMI fund will not go to a positive credit subsidy. We have a fallback position. We're working very hard to get FHA modernization and if you look at how we think volume would increase and thus, receipts and that would keep the credit subsidy negative, which as we all know in government, is a good thing.

However, let me just reiterate, while I am Commissioner, our fallback position would be to raise the upfront premiums modestly from 1.5 to 1.66, .016 of a percentage and a small increase in the annuals to keep that from happening.

Second, sir, on the gift down payment programs, we have worked with the Internal Revenue Service, starting gosh, probably about 1 year, year and a half ago, when they approached us about some of their concerns. I don't want to speak for the IRS but just summarizing some of their concerns, whether some—not all—of the seller funded gift down payment programs met through detached and disinterested clause for bona fide 501(c)3s. And there are some 185 or so, sir, that we're aware of. They had a revenue ruling as we're all aware of, in May of last year, saying—putting on notice, seller funded down payment programs that if you don't meet these criteria then you could be in jeopardy of losing that status.

Now, I don't want to speak ill of the IRS for a number of reasons but as we all know——

Senator BOND. During that time when we're all subject to them——

Mr. MONTGOMERY. Yes, sir. But I know they have their hands full and they are moving a little slower than we anticipated in this area. So HUD also is and has moved toward rulemaking in this area and the rule currently is over at the Office of Management and Budget for their review.

But yes sir, the FHA guidelines state that as long as someone is a 501(c)3, because you have to be a nonprofit to participate in the down payment programs, then we have to continue accepting them. We are not in the business of making the determination as to who is a 501(c)3; that is the IRS's purview.

Senator BOND. Well, I agree with the fact that the 501(c)3 determination is properly the jurisdiction of the IRS. What I'm concerned about is the impact of these gift down payments on the exposure of FHA. That's why we expect to see something and I'd like to hear Mr. Donohue and Mr. Shear talk about that.

Mr. DONOHUE. I'm sorry, mention about the reduction of FHA lower—at least, in part, the foreclosure is partly due to loss mitigation and also, I believe, the foreclosure—moratorium in the gulf—but I want to get back, sir, to your question. I mean it, I get nervous when I hear things about efficiency and modernization, even though I support it. I really do. In my opinion, a lot of money was made here the last couple of years and what I do is I see where enforcement and oversight is not applied in cases.

Senator, you mentioned about this pencil-whipping. Where I come from, they talk about a three-card Monty. This seller down payment assistance, I saw first hand several years ago and as far as I'm concerned is a three-card Monty, the way it was designed. Going back and giving money from the builder back to the lender to come up with the down payment and then what happened? It had direct results—it caused spec house—the increase in value unofficially. The next thing you know, those owners would come back and get hit with a tax bill when the land was re-evaluated and insurance and so many of them move out of the house.

I took that to the FHA and I brought this attention to them and there was great reluctance on their part. In fact, my guess is, I probably upset a lot of the Mortgage Bankers Associations. When I first came on 5 years ago, I used to get invited to a lot of their functions. That seems to have dropped off significantly the last couple of years.

But I think this—when the Commissioner speaks about modernization, I'm drawn upon to a particular matter we dealt with and this had to do with loan binders. Loan binders are the files that are kept with regard to loans executed by FHA. There was a modernization designed for those binders to be retained by the lending organizations. I have concern about that. I went to the FBI and asked them their opinion and they supported me with regard to the very concern is simple. I was in investigations for 31 years. I get real nervous when I'm going back and talking to a particular lender that might have done wrong and the very information I have, the investigation file that I have to recover to look at is maintained by them. I'd hate to think what they might do with if they really are fraudulently aggressive.

But the fact is, this was a situation that I had to challenge and the FHA Commissioner went ahead anyway and administered that modernization plan. I think it's all about aggressive enforcement over sites served.

Senator BOND. Then Mr. Shear and then I'm going to have, since we've mentioned Mortgage Banking Associations, I'm sure that Mr. Robbins may have a view on that. So let me hear from Mr. Shear.

Mr. SHEAR. Thank you, Senator Bond. First, you said something about the subsidy rates and whether a positive subsidy would be required. Over the last few years, part of the improvements that we have noted with FHA is their ability to improve their models for estimation purposes. At the same time, we're trained to be skeptical, and when you see underestimated costs year after year, we still have a reason for some pause. But by the same token, these models have improved. I would expect as the Commissioner has said, with an increase in premiums under current statutory authority, that the program can be made a negative subsidy program in fiscal year 2008.

On the second issue of down-payment assistance, even though we have monitored developments at the IRS, we haven't conducted audits of IRS. Our audit has been of FHA and we have recommended that the seller-funded down payment assistance that has become such a major share of FHA's portfolio, be treated as a seller inducement. At the time we made that recommendation, the response from FHA was that FHA was bound by a HUD Office of General Counsel legal opinion that said that this couldn't be treated as a seller inducement. We don't have a legal opinion about the legal opinion but as a matter of policy, we continue to believe FHA has to take action to deal with seller-funded down payment assistance.

Senator BOND. Mr. Robbins.

Mr. ROBBINS. The down payment assistance program makes up about a third of FHA's current business and its our position that allowing a flexible down payment will effectively do away with abuses in the program and so the answer to that is a more flexible down payment program.

Senator BOND. Tell me how that—what do you mean by a flexible down payment program? I don't really understand what that flexible——

Mr. ROBBINS. Doing away with the formula driven down payment program that is today providing a real zero down program that we can introduce to borrowers. We're not in the business of developing down payment assistance programs, the Mortgage Bankers Association is not. And we are in the business of opining that we want a safe and sound and healthy Federal Housing Administration and support proposals that keep it actuarially sound. But we also are aware that the FHA down payment assistance or the down payment assistance program is being used, principally by low-income and minority buyers in order to get into their house and what we have found is you have seen in traditional marketplace—43 percent of first time homebuyers last year used a zero down payment program. If we were able to adopt a similar kind of program through FHA on a direct program, it would do a lot to go to—to curb the abuses in the DAP program that you see today.

Senator BOND. The public policy goal of getting people into first time houses is extremely important but I am very much concerned about the historical evidence that we've seen that when you don't have skin in the game, when you haven't put something up, when there is no equity value in the home, this puts the homeowner too often in a squeeze where something comes along, a furnace breaks down, a roof leaks, there is no headroom in it. So is this not a problem?

Mr. ROBBINS. You know, to me, it depends on how the borrower is underwritten and there is nothing that takes the place of good old common sense. I mean, there are situations where 100 percent loan to value program is fine for a borrower, properly underwritten. There are some cases where the borrower, with a no-down product is not ready for home ownership yet. And my belief is that a well applied underwriting program adopted by the FHA under that program with the appropriate risk pricing behind that, would go a long way to benefit the homeowners who need that kind of financing and in fact, quality for it versus them using a subprime alternative.

Senator BOND. Ms. Poole, did you want to comment on that?

Ms. POOLE. I sure would. There are a couple of things that I think come into play. One of things is that with the seller funded down payment assistance, it really increases home prices, which start to price people, especially first time homebuyers, out of the market. So we have to keep that in mind.

Flexible down payment would not have the same impact. But flexible down payments are based on credit scores, it's based on credit histories and how a person handles themselves credit-wise.

So the zero down is not something that is even being talked about for everyone. It's on a sliding scale, depending upon where you are and what you're doing. Again, as a practitioner, I work with mostly first time homebuyers and I would say that every time they make a monthly payment, to them, they have invested into that home. Rather they didn't put it all in upfront or with the 3 percent or whether they are doing 80/20, it's when they make that first payment that they feel as though I have vested interest in how this works.

One of the most important things that I think has to be talked about and has to be considered is the education portion that comes into play when people, first time homebuyers buy homes. Without the education piece, sometimes people can get in to situations that they are not prepared for and as for the National Association of Realtors, we are 100 percent in agreement that people need to be educated in the home-buying process long before they decide to make that first home purchase.

Senator BOND. Thank you very much. Madam Chair, I will have other questions for the record but I have another commitment.

Senator MURRAY. Okay, very good.

Senator BOND. I thank the witnesses and you've given some enlightenment and a little bit of confusion on a very important subject and we appreciate your efforts to help us straighten it out.

Senator MURRAY. Thank you very much, Senator Bond. We will make sure your questions get submitted to the record and ask that everyone give their responses back to us.

I do have a few more questions I want to ask and I'll start with you, Mr. Montgomery. Two weeks ago, Secretary Jackson testified before the House Appropriations Committee and said that HUD had changed its position about allowing FHA to offer mortgages with a zero down payment and he went on to say he was not opposed to requiring a 1 or 2 percent down payment requirement. But since that hearing, now HUD has indicated you do not intend to change your reform proposal and zero down payment mortgages will still be permitted. What exactly is the administration's position on this?

Mr. MONTGOMERY. Right now we have a standard minimum 3 percent cash requirement and that can take many different shapes and forms. We are asking and we haven't transmitted a bill but again, it will look very similar to last year's bill, the ability to do away with the requirement of the 3 percent. Now that may mean that either through closing costs assistance or the person finances the upfront mortgage insurance premium and puts some money down that there is some cash in the game. It may be at 99.95 LTV loan but there will be some minimum cash investment on the part of the borrower. It may be that the down payment is a very small number but their cash contribution comes from elsewhere.

Senator MURRAY. But will you be asking for authority for zero down payment mortgages?

Mr. MONTGOMERY. We will be asking authority for flexibility in the cash requirement to include the down payment assistance, to include other cash participation the borrower may do. I also want to say that we do need some flexibility in that area because it's just too difficult. There are a lot of borrowers who would qualify but just don't have the cash and they are creditworthy low-income borrowers and for many of them, they turn to the subprime product, many of them turn to the gift down payment programs. So yes, we do need some flexibility in that requirement.

Senator MURRAY. Well, Ms. Poole, in her formal testimony, said that 43 percent of all mortgages to first time homebuyers in 2005 involved no down payment. And now we're seeing this alarming increase in delinquencies and foreclosures in the subprime market that involve these no down payments. So the administration's FHA reform proposal that would essentially allow no down payments, zero down payments, how are you going to ensure, under this proposal if you move toward that, it won't suffer the same fate as the subprime?

Mr. MONTGOMERY. I can't speak for the subprime but I can speak for FHA and no, ma'am, it will not. Our eligibility criteria will not change. If anything, when a borrower chooses to put less cash down in the transaction, the eligibility criteria will strengthen. I have an obligation to this committee, to this body, to the taxpayers, to make sure the FHA fund is operated in a financially sound manner. So as a result of that, we will not change that criteria. It is not our intent to make homeowners out of families who are not ready to become homeowners. But I would submit that there are working families out there, whether they are social workers, librarians or mechanics, who save a little here and there for a down payment. They are good, creditworthy, hardworking families but they have a little bump in the road, the transmission goes out on the car. You name it and there goes the cash savings. I would submit that there are tens if not hundreds of thousands of families like that, who don't want a handout. They just need a hand, because they pay for this premium. It's not a Government handout. So those are those hardworking, creditworthy, low-income borrowers that we are trying to reach.

Senator MURRAY. Have you done a thorough analysis that will tell us that we'll be able to guarantee these zero down payments that you could share with the committee?

Mr. MONTGOMERY. We have done actuarial reviews of all our products and since we haven't transmitted the bill yet, we have a whole pricing structure that we're still reviewing. But bare in mind, we would price the product with FHA reform, commensurate with the risk. So any borrower again, who might be a higher risk and is choosing to put lower down, will pay for that privilege, if you will. But look at what they get in return. They get a fixed rate loan over a longer period. They have no teaser rates that they have in the subprime, which for many of them, is their only option today and they have no prepayment penalties. The FHA is a fully amortizing product. So I would say it is a far, far better option for many of those families.

Senator MURRAY. Mr. Shear and Mr. Robbins, do you have any comments on that?

Mr. SHEAR. On the zero-down product, one of the things that we found from our work, which is consistent with other research, is that a zero-down product does carry higher risk, higher risk of default. And while it is a congressional prerogative whether to allow FHA to have a zero-down product, we believe it should be provided on a pilot basis. When you look at other mortgage providers, when they offer a zero- or low-down product, they always pilot the program because it is very risky to go into an activity if you don't understand the risks of that activity and pilot programs allow that understanding to occur.

So that is basically our position. It isn't one of whether to allow zero down or not, but if Congress were going to allow it, it should be a pilot program.

Senator MURRAY. Dr. Donohue?

Mr. DONOHUE. Senator, the seller down payment is twice the default rate and I look forward to hearing more from FHA with regard to how they can ensure that will not have an adverse effect on the FHA.

But I want to say one last thing and that's the fact is, my concern remains with the relationship between FHA and the lenders. I think without aggressive enforcement and I'm concerned about what I've seen, aggressive enforcement, I think—that's where I think a lot of problems might exist with regard to what I see in the future. Thank you.

Senator MURRAY. Mr. Robbins.

Mr. ROBBINS. A couple of comments. The lower down payment program would be offset by higher risk premiums that are charged. I don't think you can compare a subprime, no income, no asset loan to a fully documented FHA loan. The underwriting process is completely different and a substantial amount of the loss mitigation would be seen under an FHA program because they are really documenting every aspect of a borrower's assets and income, where obviously, under a subprime, no income, no asset loan, that responsibility would be abdicated.

Here is my basic concern, being a lender and having been one for many, many years and having experienced and done literally billions of dollars of first time homebuyer loans. We're looking at a market that will grow from $10 trillion in outstanding mortgage debt today to $20 trillion estimated within the next two decades, in less than two decades. Harvard's Joint Center for Housing Studies has said that during that period of time, because of the changing demographics of this country, that 66⅔ percent of first time homebuyers will be minority Americans buying their first house. We have to have programs that meet that demand. We have a tidal wave of opportunity that is occurring in this country, to convert people and give them their share of the American dream and let them put their stake in the ground in home ownership. We have to have the programs to meet that demand and a well-founded FHA with solid underwriting is going to allow us to do that.

Senator MURRAY. Thank you very much. I do have one other question. Senator Bond put language in our 2007 appropriations bill that would clamp down on fraudulent gift down payment assistance programs. Mr. Donohue and Mr. Shear, do you think that language—I don't know if you're familiar with it but do you think that would adequately get at the crooked actors without harming the real nonprofits that are trying to get people into homes?

Mr. DONOHUE. Senator, I support that. I think that currently, with the best intentions and the review that is underway, the seller down payment assistance program is still going on. And I'd like to see it end as quickly as possible so I support any notion of that type.

Senator MURRAY. Mr. Shear.

Mr. SHEAR. I'm not familiar with the provisions related to this but certainly, it sounds promising and for us, again, the reason we think FHA should treat it as a seller inducement is because, for all practical purposes, it is. And just to make clear, even though we found that loans with more traditional—what I'll call the old fashioned kind of down payment assistance, where it comes from a charity, from a foundation, where there is real equity created in a home because of the down payment assistance—even though the performance of those loans wasn't quite as good as other loans, our concern isn't with the more traditional down payment assistance. It's with this particular mechanism of seller-funded assistance that has become such a large share of FHA's portfolio.

Senator MURRAY. Mr. Montgomery.

Mr. MONTGOMERY. I just want to make sure that we understand there is a wide difference between a seller-funded gift down payment and a zero-down product. In many cases, the cost of the down payment, if you will, for the seller funded, the charitable one, if you will, is put on at the end of the loan and along with other costs that a borrower may have, they could be in a higher than 100 percent LTV posture, whereas a traditional down payment, you don't have that. It's not a loan you're paying back. You are putting some money in the game so there is a big difference between the two products.

But again, just to reiterate the point I made earlier, we have been working with the IRS. We have been working on a rule and I understand Mr. Donohue's frustration with that but we've moved closer to that point than probably any previous Commissioner and these are not new products. These gift down payments have been around since the late 1990's.

Senator MURRAY. And do you have a comment on Senator Bond's language in the appropriations bill?

Mr. MONTGOMERY. I think if that is what it gets to, then that's the way we would go but I would add again, that the IRS has a revenue ruling out. HUD is moving, FHA may be moving a rule and is currently at OMB.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. That is all the questions I have at this point. I believe we have some questions from other members that we will submit for the record. If you would respond back, I would appreciate it.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED TO HON. BRIAN D. MONTGOMERY

QUESTIONS SUBMITTED BY SENATOR CHRISTOPHER S. BOND

DOWNPAYMENT ASSISTANCE LOANS

Question. Do you support the elimination of these loans? Are you committed to implementing the GAO's recommendations and stopping the practice of insuring these types of high-risk loans? When do you expect your proposed ruling to be implemented?

Answer. Last year HUD published a rule that would eliminate these high-risk loans, however implementation has been delayed due to litigation. We are currently awaiting a court ruling on how to proceed.

Question. Would you support a legislative provision in the THUD appropriations bill that prohibits FHA from engaging in this activity?

Answer. The fiscal year 2009 budget proposes new risk categories for these high risk loans. This risk category bears a positive subsidy rate of 6.35 percent. Should Congress wish FHA to continue to insure these loans, we will require an appropriation to cover the very substantial anticipated cost to the Government of such loan guarantees.

FHA'S STRUCTURE

Question. It is my belief that FHA reform be comprehensive and address some of the structural issues that have impeded FHA's ability to manage effectively the risk of its insured mortgages. I believe having some flexibility in hiring (possibly similar to the FDIC and other quasi-governmental entities) and purchasing authority can help the FHA function more like a business.

Can you comment on how the current structure impacts FHA's operations and what types of flexibility you need to ensure FHA can be more responsive and accountable? In terms of your workforce, are you currently facing a large number of retirements like the rest of the Federal Government and how will that impact FHA?

Answer. For now, we believe that flexibility to increase the FHA funding used for information technology systems would help. We are also attempting to bring new employees on board so they can be trained before experienced staff retires. We do believe these measures will allow us to meet both the challenges of implementing the new legislation and to deal with the very dynamic home mortgage market.

ASSET CONTROL AREA PROGRAM

Question. In the fiscal year 1999 VA–HUD Appropriations Act, the Congress created the Asset Control Areas (ACA) to address the growing number of FHA-foreclosed homes in distressed communities and to promote homeownership to stabilize these neighborhoods. Our intent was for HUD to work with nonprofits and local governments in implementing this program.

Can you give me an update on the program, in terms of how many new contracts have been approved in the last year? How long does it typically take HUD to approve these contracts?

Answer. In fiscal year 2007 one new agreement was approved and one was renewed. Once the ACA participant submits a completed package and accepts the terms of the model agreement, the package is approved within 30–45 days.

IMPACT OF SUBPRIME MARKET

Question. There has been a lot of attention to the subprime market and its recent problems as thousands of subprime loans are going into default and foreclosure. The Federal Reserve chairman recently suggested that the subprime problems could have broader economic consequences and some on Wall Street fear that it will spread to the prime market and to corporate credit.

How has the subprime market affected FHA's business and market-share over the past several years? In other words, did the subprime market attract borrowers who would have traditionally been served by FHA? Second, looking forward, since the subprime market is imploding, will many borrowers return to FHA? Do you see an increase in business happening? Lastly, with many of the subprime mortgages likely to end up in foreclosure, will it cause a domino effect on homes insured by FHA?

Answer. Subprime lenders attracted a significant number of borrowers who would have qualified for, and likely used, FHA. Many of these borrowers are expecting to refinance out of their subprime loans before they reset to a higher interest rate. As with the FHA Secure initiative announced last year, we are exploring ways to assist these families, so we do expect an increase in business. Our borrowers continue to be required to meet FHA's underwriting standards before any loan is insured. Consequently, with the exception of the gift downpayment loans, we do not expect an increase in claims.

MANAGING RISK

Question. The GAO has raised several concerns with FHA's ability to manage risk and that it could impact its ability to manage new products such as the proposed no down-payment mortgage product.

Given the GAO and IG's concerns, the downturn in the housing market, and the record delinquency rate of FHA loans, what safeguards or limitations would FHA place on its risk-based premium and low to zero down-payment products? How will you ensure that borrowers will not be put at risk of owing more than the value of the home? What are your thoughts on piloting a program as suggested by the GAO?

Answer. With the exception of seller financed gift downpayment loans, we do not anticipate large numbers of FHA borrowers being put in a position of owing more than their homes are worth, aside from widespread declines in market values that adversely affect all borrowers. We believe the serious problems confronting the housing market as a whole are not appropriate for a limited demonstration, but rather require a program available to all who need it and who qualify.

COSTS OF IMPLEMENTING RISK-BASED PRICING SYSTEM

Question. The IG's testimony states that moving to a risk-based premium pricing structure could require additional budget authority funding to make FHA system modifications. Further, this new pricing system could impose new administrative/cost burdens on originating and servicing lenders, according to the IG.

Does your budget request include funding to address the system modifications suggested by the IG? If so, how much would it cost in fiscal year 2008 and in the out years? Have you analyzed the potential administrative/cost impact of the proposed risk-based pricing structure on lenders?

Answer. The modifications to FHA systems have been completed. We don't anticipate increased annual requirements solely because of the implementation of risk-based pricing. At the same time, however, FHA systems are as much as 27 years old. They all need to be upgraded or replaced.

FAIR HOUSING CONCERNS WITH RISK-BASED PRICING

Question. The IG's testimony raises fair housing and red-lining concerns with the administration's risk-based pricing proposal. How are you addressing these concerns?

Answer. The Department does not believe that the risk-based pricing will have a discriminatory effect on minority households or neighborhoods. Quite to the contrary, risk-based pricing will allow FHA to more effectively carry out its mission of promoting home ownership by lower income families, especially minorities and first-time homebuyers. With greater pricing flexibility, FHA will be able to reach more families and offer more financing options at more affordable cost.

FHA FRAUD

Question. The IG's testimony listed a number of areas of continuing concern related to FHA fraud. One area of concern was FHA's adoption of a new policy dealing with the Lender Insurance Program. FHA implemented the new policy to this program despite opposition from the FBI and HUD's OGC but committed to making technical corrections to the new policy after implementation. What sort of progress have you made in making technical corrections to this program?

Answer. The Lender Insurance (LI) program is a process that allows for insurance of loans by lenders without prior review by HUD staff. LI loans are subject to the same Direct Endorsement standards with the exception of those requirements that are unique to the LI process. Risk management controls for all Direct Endorsement loans include Social Security Number validation, property flip check of all purchase mortgage loans, electronic review of all insuring data prior to endorsement, analysis of all closed loans to select high risk loans for review, analysis of all lenders to identify the high risk lenders for review, electronic monitoring of each lender's claim and default rates in Neighborhood Watch to determine compliance with FHA approval standards and termination of a lender's origination or underwriting approval for poor performance under Credit Watch Termination.

FHA is working with Regulation Division attorneys on two revisions to current HUD single-family regulations. The first revision would revise the regulations to provide a definition of the term "origination" and clarify that LI is a process and that loans insured under this process are subject to the current Direct Endorsement statutes, regulations and policies.

FHA, under existing regulatory authority to hold program participants fully accountable for their actions, has adopted procedures for dealing with any LI lender that fails to produce a case binder when requested, which is the major source of OIG's concern. The second revision would revise the regulations to require that lenders indemnify HUD for failure to submit a case binder when requested or for failure to submit a case binder with sufficient documentation to determine eligibility of Federal Housing Administration (FHA) mortgage insurance. This revision enhances existing regulatory authority and procedures for dealing with a LI lender who fails to produce a case binder when requested.

FHA would also like to point out that, despite OIG's concerns, those lenders making loans under the LI program have a better record of loan performance than do those lenders that still submit binders to FHA for insuring purposes. LI is a privilege and not a right and LI lenders are abiding by FHA's requirements.

RESPA REFORM

Question. A few years ago, the administration proposed reforms to the Real Estate Settlement Procedures Act (RESPA) to simplify the mortgage process and to provide certainty to borrowers about their costs. The proposed rule, however, was withdrawn. Does the administration have any plans to reform RESPA?

Answer. Yes, the Department looks forward to publication of the rule and public comment very soon. The Department will work with Congress on this very important rule. The goals are to simplify and improve the disclosure requirements for mortgage settlement costs under RESPA, and to protect consumers by making it possible for consumers to shop for the loan and settlement services that best meet their needs.

QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTOR

RISK-BASED PRICING

Question. Risk-based pricing may increase the mortgage carrying costs of those FHA borrowers that are least able to afford them and there is a greater risk of default on zero downpayment loans. How do you plan to prepare for and protect against these risks and ensure that low-income families are not led to greater financial instability?

Answer. FHA will continue to use its very effective underwriting process to ensure that families qualify for and can afford the mortgages they are seeking.

FHA LOAN LIMITS

Question. Raising FHA area loan limits could distance FHA from the lower-income families it was established to serve. How will raising the loan limits help the lowest-income families who have the fewest alternative options?

Answer. We have effectively been eliminated as an option for low-income families in high cost areas such as California and New York. Raising the limits will allow FHA to once again serve low-income and first-time homebuyers in these areas.

QUESTIONS SUBMITTED TO HON. KENNETH M. DONOHUE

QUESTIONS SUBMITTED BY SENATOR CHRISTOPHER S. BOND

FHA FRAUD

Question. Your testimony listed a number of areas of continuing concern related to FHA fraud. One area of concern was FHA's adoption of a new policy dealing with the Lender Insurance Program.

What is the significance of this problem?

Answer. The Lender Insurance Program allows certain FHA-approved direct endorsement lenders to endorse FHA insured loans without a pre-endorsement review and generally relieves the submission of loan origination case binders to FHA. OIG expressed concern that relieving Lender Insurance Program lenders from the responsibility of submitting loan origination case binders to FHA may adversely impact the ability to investigate and prosecute fraud perpetrated upon FHA.

FHA'S STRUCTURE

Question. As I stated in my opening statement, I strongly believe that FHA reform should address some of the structural issues with FHA that has impeded its ability to manage effectively the risk of its insured mortgages. I believe having some flexibility in hiring (possibly similar to the FDIC and other quasi-governmental entities) and purchasing authority can help the FHA function more like a business.

Do you believe that FHA's current structure impedes their ability to perform their mission in a sound and effective manner?

Answer. The OIG has not independently assessed whether FHA's current structure impedes its ability to perform its mission in a sound and effective manner. However, based on our audit and investigative activities we are concerned with the ability of FHA's staff and its current systems (i.e., reliability) to implement and manage the various new programs/products proposed as part of FHA reform.

Since fiscal year 1991, we have reported annually on the Department's lack of an integrated financial system in compliance with all Federal financial management systems requirements, including the need to enhance FHA's management controls over its various insurance and other financial systems. Organizational changes and human capital management have not only been a challenge to FHA, but the Department as a whole for many years. As such, FHA has contracted out a number of its functions that are essential to the accomplishment of its overall mission.

The Department has made progress in implementing a new financial system at FHA, but continued progression in the integration of FHA's financial management systems, and strengthening of lender accountability and enforcement against program abuses is still needed.

HIGH-RISK STATUS OF FHA

Question. The GAO recently removed the high-risk designation for FHA's single-family programs because of the agency's progress in addressing its long-standing problems. However, the GAO warns that FHA's proposed changes to raise its loan limits, implement a new risk-based premium system, and reduce down-payment requirements, could introduce new risks and oversight challenges to FHA.

Despite the removal of GAO's high-risk designation, is FHA still vulnerable to waste, fraud, and abuse?

Answer. The Department has made progress in its efforts to correct some of its challenges and we commend the removal of FHA's single-family programs from GAO's high-risk list. However, FHA is still vulnerable to waste, fraud, and abuse, especially with the changes proposed as part of FHA reform.

We are concerned with the soundness of the front-end risk assessments performed by or on behalf of the Department for the various proposed operational and programmatic changes that are part of or related to FHA reform. Therefore, we have begun an audit of FHA's control structure, which includes a review of its front-end risk assessment process, to ensure cost/performance effective actions are taken to minimize undesired outcomes and maximize the likelihood of desired outcomes.

Additional risk is inherent with the introduction of any new program/product and it must be balanced with a commensurate increase in oversight and enforcement, which was lacking from the various FHA reform proposals. Without such protections to mitigate future insurance losses one cannot ensure the effectiveness of FHA in meeting its overall mission, which includes maintaining and expanding homeownership. The OIG is committed to continuing its work with the Department to ensure the integrity of FHA's single-family insurance programs.

QUESTIONS SUBMITTED TO WILLIAM B. SHEAR

QUESTIONS SUBMITTED BY SENATOR CHRISTOPHER S. BOND

Question. The GAO recently removed the high-risk designation for FHA's single-family programs because of the agency's progress in addressing its long-standing problems. However, the GAO warns that FHA's proposed changes to raise its loan limits, implement a new risk-based premium system, and reduce down-payment requirements, could introduce new risks and oversight challenges to FHA.

Despite the removal of GAO's high-risk designation, do you believe FHA is still vulnerable to waste, fraud, and abuse? Will FHA's proposed new loan products potentially expose FHA to more risk and if not managed adequately, is it possible for FHA to be placed back on the high-risk list?

Answer. We removed the high-risk designation in January 2007 because of the progress FHA had made in addressing weaknesses we had identified in its risk management, including improvements in lender oversight and loan performance modeling.[1] Because of this progress, we believe that FHA is less vulnerable than it has been in the past to risks that could undermine the efficiency and effectiveness of its single-family mortgage insurance programs. However, as we noted in our High-Risk Update and our June 2007 report on FHA's modernization efforts, some of FHA's proposed program changes could introduce new risks and challenges.[2] FHA's proposal to offer products with lower down-payment requirements is of particular concern given the greater default risk of low-down-payment loans, housing market conditions that could put borrowers with such loans in a negative equity position, and the difficulty of setting prices for new products whose risks may not be well understood. Due partly to these risks and challenges, we included FHA's single-family insurance programs on a list of suggested areas for oversight that we provided to Congress in November 2006.[3] To make any future decisions about the high-

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[1] GAO, High-Risk Series: An Update, GAO–07–310 (Washington, DC: January 2007).

[2] GAO, Federal Housing Administration: Modernization Proposals Would Have Program and Budget Implications and Require Continued Improvements in Risk Management, GAO–07–708 (Washington, DC: June 29, 2007).

[3] GAO, Suggested Areas for Oversight for the 110th Congress, GAO–07–235R (Washington, DC: Nov. 17, 2006).

risk status of this program area, we would use published criteria that encompass a number of quantitative and qualitative factors.[4] Additionally, we would review a wide range of data and documentation, including information on FHA's ability to manage the risks of any new mortgage products it is authorized to offer.

Question. In your testimony, you state that high claim and loss rates for loans with down-payment assistance financing were major reasons why the estimated credit subsidy rate for the FHA MMI Fund is projected to be positive for fiscal year 2008. HUD has recently developed a proposed rule to address these types of loans.

Can you elaborate on why these types of loans perform so poorly and what specific recommendations you have made to address these problems? How do these loans perform compared to subprime loans? Do you believe HUD's proposed rule adequately addresses your concerns and recommendations?

Answer. Our testimony focused specifically on the high claim and loss rates for loans with down-payment assistance from nonprofit organizations that received at least part of their funding from property sellers (seller-funded nonprofits). These loans are problematic because property sellers that provide down-payment assistance through nonprofits often raise the sales prices of the homes involved in order to recover the required payments to the nonprofits. For example, in November 2005, we reported that FHA-insured homes bought with seller-funded nonprofit assistance appraised at and sold for about 2 to 3 percent more than comparable homes bought without such assistance.[5] The weaker performance of loans with seller-funded down-payment assistance may be explained, in part, by the higher sales prices and the homebuyer having less equity in the transaction. Seller-funded down-payment assistance effectively undercuts FHA requirements that help to ensure that FHA homebuyers obtain a certain amount of "instant equity" at closing. That is, when the sales price represents the fair market value of the house, and the homebuyer contributes 3 percent of the sales price at the closing, the loan-to-value ratio (i.e., the ratio of the amount of the mortgage loan to the value of the home) is less than 100 percent. But when a seller raises the sales price of a property to accommodate a contribution to a nonprofit that provides down-payment assistance to the buyer, the buyer's mortgage may represent 100 percent or more of the property's true market value. In prior work, we found that, controlling for other factors, high loan-to-value ratios lead to increased insurance claims.

Our 2005 report made recommendations designed to better manage the risks of loans with down-payment assistance generally and from seller-funded nonprofits specifically. We recommended that FHA consider risk mitigation techniques such as including down-payment assistance as a factor when underwriting loans. We also recommended that FHA take additional steps to mitigate the risk associated with loans with seller-funded down-payment assistance, such as treating such assistance as a seller inducement and therefore subject to the prohibition against using seller contributions to meet the 3 percent borrower contribution requirement. Consistent with the first recommendation, FHA is testing additional predictive variables, including source of the down payment, for inclusion in its mortgage scorecard (an automated tool that evaluates the default risk of borrowers). HUD's proposed rule to prohibit seller-funded down-payment assistance is responsive to the second recommendation.

It is difficult to compare the performance of FHA-insured loans with seller-funded down-payment assistance to subprime loans because of differences in the way performance data are reported. (For example, FHA measures the percentage of loans, by origination year, that completed the foreclosure process and resulted in an insurance claim. In contrast, the Mortgage Bankers Association's National Delinquency Survey—which provides data on prime, subprime, and government-insured loans—measures the percentage of loans being serviced, regardless of origination year, that were in any stage of the foreclosure process.) FHA has reported that, as of January 2007, 15.6 percent of fiscal year 2000 loans with down-payment assistance from nonprofits (the large majority of which received funding from property sellers) had resulted in an insurance claim. For this and more recent books of business, the claim rates for loans with this type of assistance were at least twice as high as the claim rates for all FHA-insured purchase loans.

Question. As I stated in my opening statement, I strongly believe that FHA reform should address some of the structural issues with FHA that has impeded its ability to manage effectively the risk of its insured mortgages. I believe having some

[4] GAO, Determining Performance and Accountability Challenges and High Risks, GAO–01–159SP (Washington, DC: November 2000).

[5] GAO, Mortgage Financing: Additional Action Needed to Manage Risks of FHA-Insured Loans with Down Payment Assistance, GAO–06–24 (Washington, DC: Nov. 9, 2005).

flexibility in hiring (possibly similar to the FDIC and other quasi-governmental entities) and purchasing authority can help the FHA function more like a business.

Do you believe that FHA's current structure impedes their ability to perform their mission in a sound and effective manner?

Answer. In our June 2007 report on FHA's modernization efforts, we discussed options that FHA and Congress could consider to help FHA adapt to changes in the mortgage market and the pros and cons of these options.[6] Some of these options could help the agency perform its mission more effectively by increasing its operational flexibility. For example, we noted that mortgage industry participants and researchers had indicated that Congress could consider granting FHA additional authorities to invest in staff and technology. Specifically, Congress could allow FHA to manage its employees outside of Federal pay scales. Some Federal agencies, such as the Securities and Exchange Commission, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation, are permitted to pay salaries above normal Federal pay scales in recognition of the special skills demanded by sophisticated financial market operations. The Millennial Housing Commission and mortgage industry officials have suggested that FHA be given similar authority.[7] This option could help FHA to recruit experienced staff to help the agency adapt to market changes and could be funded with the Mutual Mortgage Insurance Fund's current resources—that is, negative subsidies that accrue in the Fund's reserves. However, the Fund is required by law to operate on an actuarially sound basis. Because the soundness of the Fund is measured by an estimate of its economic value—an estimate that is subject to inherent uncertainty and professional judgment—the Fund's current resources should be used with caution. Spending the Fund's current resources would lower the Fund's reserves, which in turn would lower the economic value of the Fund. As a result, the Fund's ability to withstand severe economic conditions could be diminished. Also, using the Fund's current resources would increase the Federal budget deficit unless accompanied by corresponding reductions in other government spending or an increase in receipts.

Question. The GAO has raised several concerns with FHA's ability to manage risk and that it could impact its ability to manage new products such as the proposed no down-payment mortgage product. And now, the delinquency rate for FHA loans are at a new record level according to the latest Mortgage Bankers Association's Delinquency Survey. In fact, MBA's data seems to indicate that FHA loans are as risky, if not more risky, than subprime loans.

Given FHA's track record in managing its existing portfolio of loans and risky loans such as those with high loan-to-value ratios, should we be concerned about FHA's ability to manage effectively its proposed no- or low-down-payment loan programs?

Answer. In our June 2007 report on FHA's modernization efforts, we expressed concerns about the proposal to lower down-payment requirements potentially to zero given the greater default risk of loans with high loan-to-value ratios, policies that could result in effective loan-to-value ratios of over 100 percent, and housing market conditions that could leave borrowers with such loans with negative equity.[8] We noted that sound management of very low or no-down-payment products would be necessary to help ensure that FHA and borrowers do not experience financial losses. Piloting or otherwise limiting the availability of new products would allow FHA the time to learn more about the performance of these loans and could help avoid unanticipated insurance claims. Despite the potential benefits of this practice, FHA generally has not implemented pilots, unless directed to do so by Congress. We have previously indicated that, if Congress authorizes FHA to insure new products, Congress and FHA should consider a number of means, including limiting their initial availability, to mitigate the additional risks these loans may pose. We continue to believe that piloting would be a prudent approach to introducing the products authorized by FHA's legislative proposal.

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[6] GAO–07–708.

[7] The Millennial Housing Commission, established by Congress in 2000, studied the Federal role in meeting the Nation's housing challenges and issued a report in 2002, which included recommendations for a variety of reforms to Federal housing programs. See Meeting Our Nation's Housing Challenges: Report of the Bipartisan Millennial Housing Commission (Washington, DC: May 30, 2002).

[8] GAO–07–708. Loans with low or no down payments carry greater risk because of the direct relationship that exists between the amount of equity borrowers have in their homes and the risk of default. The higher the loan-to-value ratio, the less cash borrowers will have invested in their homes and the more likely it is that they may default on mortgage obligations, especially during times of economic hardship or price depreciation in the housing market.

Question. Your testimony notes that FHA has generally underestimated the subsidy costs for its single-family program based on the annual re-estimates it conducts. In fact, FHA had a $7 billion re-estimate in 2003 due to various reasons.

Given this history, what level of confidence do you have that FHA's credit subsidy estimate for fiscal year 2008 is accurate? Is it unreasonable to assume that the credit subsidy situation is worse than projected by FHA? Do you believe that the credit subsidy estimate for fiscal year 2007 may change?

Answer. Although credit subsidy estimates by their nature have a degree of uncertainty, FHA's estimates, including those for fiscal year 2008, should be viewed with particular caution given the agency's track record. In recent years, FHA has taken a number of steps to improve its subsidy estimates such as including the source of down payment and borrower credit scores in its loan performance models (the results of which are used to estimate credit subsidy costs). However, FHA's current reestimates of subsidy costs are generally less favorable than the original estimates, even for recent books of business. For example, the current reestimated cost for the fiscal year 2006 book of business is about $800 million higher than originally estimated.

Annual estimates of a program's lifetime credit subsidy costs can change from year to year as a result of changes in estimation methodology, economic assumptions, and program policies. Furthermore, each additional year provides more historical data on loan performance that may influence subsidy estimates. As a result, it is likely that FHA's credit subsidy estimate for fiscal year 2007 (and for other years) will change to some degree. However, it is difficult to predict the size and direction of those changes.

QUESTION SUBMITTED BY SENATOR ARLEN SPECTER

Question. According to GAO's analyses, will FHA's modernization proposals make FHA more financially sound? What is the most crucial change for FHA to implement to improve its risk management?

Answer. As we reported in June 2007, FHA has estimated that its three major legislative proposals (instituting risk-based pricing, raising loan limits, and lowering down-payment requirements) would have a beneficial impact on HUD's budget due to higher estimated negative subsidies.[9] According to the President's fiscal year 2008 budget, the credit subsidy rate for FHA's Mutual Mortgage Insurance Fund (which supports FHA's single-family insurance programs) would be more favorable if the legislative proposals were enacted. Absent any program changes, FHA estimates that the Fund would require an appropriation of credit subsidy budget authority of approximately $143 million. If the legislative proposals were not enacted, FHA would consider raising premiums to avoid the need for appropriations. If the major legislative proposals were passed, FHA estimates that the Fund would generate $342 million in negative subsidies. Although credit subsidy estimates by their nature have a degree of uncertainty, FHA's estimates, including those for fiscal year 2008, should be viewed with particular caution given the agency's track record. FHA's current reestimates of subsidy costs are generally less favorable than the original estimates, even for recent books of business. For example, the current reestimated cost for the fiscal year 2006 book of business is about $800 million higher than originally estimated.

A major reason why FHA has estimated a need for appropriations in fiscal year 2008 (absent program changes) is the poor performance of loans with down-payment assistance from nonprofits that receive funding from property sellers. Accordingly, we believe it is critical that FHA develop sufficient standards and controls to manage the risks associated with these loans. These loans are problematic because property sellers that provide down-payment assistance through nonprofits often raise the sales prices of the homes involved in order to recover the required payments to the nonprofits. For example, in November 2005, we reported that FHA-insured homes bought with seller-funded nonprofit assistance appraised at and sold for about 2 to 3 percent more than comparable homes bought without such assistance.[10] The weaker performance of loans with seller-funded down-payment assistance may be

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[9] GAO, Federal Housing Administration: Modernization Proposals Would Have Program and Budget Implications and Require Continued Improvements in Risk Management, GAO–07–708 (Washington, DC: June 29, 2007).

[10] GAO, Mortgage Financing: Additional Action Needed to Manage Risks of FHA-Insured Loans with Down Payment Assistance, GAO–06–24 (Washington, DC: Nov. 9, 2005).

explained, in part, by the higher sales prices and the homebuyer having less equity in the transaction.

Our 2005 report made recommendations designed to better manage the risks of loans with down-payment assistance generally and from seller-funded nonprofits specifically. We recommended that FHA consider risk mitigation techniques such as including down-payment assistance as a factor when underwriting loans. We also recommended that FHA take additional steps to mitigate the risk associated with loans with seller-funded down-payment assistance, such as treating such assistance as a seller inducement and therefore subject to the prohibition against using seller contributions to meet the 3 percent borrower contribution requirement. Consistent with the first recommendation, FHA is testing additional predictive variables, including source of the down payment, for inclusion in its mortgage scorecard (an automated tool that evaluates the default risk of borrowers). Additionally, HUD has proposed a rule to prohibit seller-funded down-payment assistance. However, implementation of the rule has been delayed due to a legal challenge from certain nonprofit down-payment assistance providers.

SUBCOMMITTEE RECESS

Senator MURRAY. Thank you to all of you for coming forward today and your testimony. It's been very helpful to this committee. With that, this subcommittee will stand in recess, subject to the call of the Chair.

[Whereupon, at 10:50 a.m., Thursday, March 15, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

THURSDAY, MAY 3, 2007

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

The subcommittee met at 10 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

Present: Senators Murray, Lautenberg, Bond, and Allard.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF THE SECRETARY

STATEMENT OF HON. ALPHONSO JACKSON, SECRETARY

ACCOMPANIED BY:

ORLANDO J. CABRERA, ASSISTANT SECRETARY, OFFICE OF PUBLIC AND INDIAN HOUSING

KENNETH M. DONOHUE, INSPECTOR GENERAL

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Good morning. This subcommittee will come to order. I'm going to be joined by Senator Bond in just a minute, but we have a vote in about 40 minutes, so we're going to go ahead and get started with this hearing.

Housing is one of the most important, but least talked about, challenges across our country today. People don't want to talk about how close they are to losing their homes or not being able to afford their rent. I think there's something in our society that makes people feel like they've somehow failed if they can't afford housing.

But with housing prices on the rise, it is a challenge facing more and more American families. In fact, housing has become the silent epidemic facing far too many communities across our country.

The reach of this epidemic was reinforced, for me, last month, when I convened a roundtable on affordable housing in the Puget Sound region of my State. I brought together realtors, bankers, along with representatives from public housing agencies and transit agencies. Together, we discussed the extraordinary financial pressures being placed on working families in the Puget Sound, and how we might address them.

As families are forced to move away from their jobs in order to obtain affordable housing, citizens in a great many cities across the

Nation are spending an inordinate number of hours commuting from their neighborhood to their workplace and back. These are hours that they can't spend with their children and their families. These are hours when parents could be supervising homework or watching a little league game. Instead, they're spent crawling through punishing traffic jams.

Swedish Hospital is one of the premier medical centers in downtown Seattle in my home State of Washington. The recruitment director at Swedish Hospital recently told the Seattle newspaper that more than one-half of the employees don't actually live in Seattle proper, and it's typical for their employees to commute for at least a full hour to a home or a rental property they can afford.

It's not just young families seeking to own a home that can't find affordable housing. HUD section 8 voucher recipients struggle to find affordable rental units, and landlords that will take vouchers. That means endless hours, often on public transportation, just to get to and from work. As a result, Seattle continues to rank as one of the most congested cities in the country, and we have a great many cities facing the identical mix of challenges across the country.

The congestion problem has gotten so troubling that our Transportation Secretary, Mary Peters, has made funding for a number of new congestion mitigation initiatives the cornerstone of her 2008 budget. However, as I review Secretary Jackson's 2008 budget for the Department of Housing and Urban Development (HUD), I do not see the same sense of urgency or importance being devoted to the problem of affordable housing. Instead, what I see is a budget that abdicates responsibility and shortchanges programs that serve some of our most—neediest citizens.

Despite the strong support by Republican and Democratic mayors and Governors across the country, President Bush's housing budget again proposes to slash the Community Development Block Grant Program. This year, it's a cut of 20 percent, a reduction of almost three-quarters of $1 billion. The President's budget fails to provide even an inflation adjustment for the section 8 tenant-based housing assistance program. That means that as rents rise, public housing agencies will have to trim the ranks of their section 8 recipients, potentially throwing some of them into homelessness.

HUD's program for housing the elderly is cut by 22 percent. That is a reduction of $160 million, despite the fact that the number of needy seniors continues to rise.

And HUD's program to house citizens with disabilities is slashed by 47 percent, almost in half, a cut of almost $110 million.

Funds to ensure that public housing is maintained and brought up to safety codes, slashed by 17 percent, $415 million.

Even programs designed to remove lead paint from low-income housing units with children, cut by 23 percent.

And the HOPE VI program that has allowed us to tear down some of the most dilapidated public housing and replace it with modern mixed-income units is proposed for complete elimination.

In fact, the President wants this subcommittee to go a step further when it comes to HOPE VI by reopening the appropriations bill that he already signed for 2007, so we can eliminate the funding we provided for HOPE VI for this current fiscal year.

The President's budget for HUD is irresponsible and unacceptable on its face, but it is all the more startling considering his investment in housing infrastructure in Iraq. Over the past 4 years, the President has asked American taxpayers to spend almost $36 billion on building housing and utilities and other necessary infrastructure in Iraq.

Unfortunately, the Special Inspector General for Iraq Reconstruction has reported to us that a frightening percentage of that $36 billion has been wasted or stolen. Despite these reports, the President has sought, and received, an additional $2 billion to rebuild Iraq in the supplemental appropriations bill he vetoed 2 days ago.

The President sees no problem in investing up to $38 billion to rebuild the nation of Iraq, but when it comes to rebuilding America's struggling communities through the Community Development Block Grant Program, the President is calling for a cut of three-quarters of $1 billion. In fact, the President is unwilling to provide even 10 percent of what we've invested in Iraq's reconstruction to rebuild and provide some hope to the rundown neighborhoods right here at home.

The President's budget and supplemental request are a clear statement of his priorities. Unfortunately, far too frequently these priorities are out of step with the American people. As chair of this subcommittee, I will work to put our budgets and priorities back on track.

Earlier this year, we held a hearing with Secretary Jackson's Federal Housing Commissioner, Brian Montgomery. During that hearing, it became clear that at a time when we are facing an historic level of foreclosure and a potential crisis in the availability of loan capital for low- and middle-income homebuyers, the Federal Housing Administration (FHA) has become an increasingly irrelevant player in the market.

In my home State of Washington, while the FHA covered 80 percent of the home loan activity of the Washington State Housing Finance Commission some 10 years ago, it covers only 20 percent today. Nationwide, it represents only 3 percent of total mortgage volume.

I believe it's essential that we revive the FHA and make it a relevant player in the market again, especially now, when we have a great many families facing foreclosure because of the upheaval in the subprime market. I look forward to discussing with Secretary Jackson this morning how the FHA might develop solutions to keep these families in their homes.

I also want to talk about how the FHA can get back to the business of providing access to first-time homebuyers who want to live near where they work, who want to spend time with their families, rather than in ever-worsening traffic jams.

And, finally, I'd like to examine with the Secretary what HUD is doing to address the housing crisis that faces the communities that were devastated by Hurricanes Katrina and Rita. For weeks, Americans across the country were glued to their televisions, simply overwhelmed by the pictures of tremendous devastation and unfathomable suffering of so many of our fellow Americans. The images were too much to bear, watching families without food and water, people trapped on their roofs and searching for their loved ones. And although the TV cameras have left the gulf coast, for far too many the suffering continues still.

Damage estimates indicate that over 300,000 homes were damaged or destroyed by those hurricanes, at a cost of over $67 billion. Mr. Secretary, this is arguably the biggest housing crisis of the modern era. This subcommittee invested an unprecedented level of resources to rebuild the housing stock and assist in that region in their recovery. I want to hear from you how the resources and legal authorities that we granted HUD are being used now to improve the lives and communities of our gulf coast residents.

With that, I will turn it over to Senator Bond for his opening statement.

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you very much, Madam Chair, for calling this important hearing on the budget for fiscal year 2008 of the Department of Housing and Urban Development.

And I welcome my old friend, Secretary Jackson, back to this——

Secretary JACKSON. Thank you.

Senator BOND. [continuing]. Subcommittee. You're playing a very difficult hand, and this budget that the Office of Management and Budget (OMB) has given us is not adequate in many areas. I share the concerns raised by the chair of this subcommittee. But since this is the Senate, and even though it's already been said, I'm going to say, essentially, many of the same things as she has said.

The subcommittee's already held an in-depth hearing on the state of HUD's FHA mortgage insurance programs, where serious concerns were raised about the FHA's challenges in meeting the needs of new homeowners, and the implication of certain reforms to address the FHA mortgage insurance problems.

Today's hearing should provide us insights into the remainder of HUD's programs, including the reforms in funding needed to ensure that our Nation's affordable housing and community development needs are being adequately met.

Secretary Jackson has been a good friend and a strong and committed advocate of housing. He served this administration first as Deputy Secretary and now as HUD Secretary. Prior to that, Secretary Jackson served as president and chief executive officer (CEO) of the housing authority of the city of Dallas, Texas, and as executive director of the St. Louis Housing Authority, where I came to know and respect his good work. And I think his past experience has contributed significantly to his work in the very challenging structure, both legally and bureaucratic, of HUD.

Before I discuss this budget and other matters, I would like to express my strong appreciation for Mr. Robert Kenison, who recently retired from HUD after 40 years of dedicated public service as the dean of HUD lawyers. Mr. Kenison contributed positively to almost every housing and community development legal issue. He's known for a bright, inquisitive, and creative mind. To say that he will be sorely missed is a major understatement, due, not only to his legal insights, but his contributions to the always growing body of housing and community development law, but also for the many friends he leaves behind at HUD, and I personally wish Bob and his family all the best in his retirement.

Secretary JACKSON. Thank you.

Senator BOND. Now, in terms of this budget, we begin the appropriations process being hamstrung by OMB's apparent mission to underfund most HUD programs. This is not new, unfortunately. We have seen this in administration after administration, and this budget request is simply a rerun of a bad budget movie that I'm tired of watching. Frankly, it has become predictable and frustrating because of its potential negative impact on our most needy Americans in communities across the Nation.

Unfortunately, nondefense discretionary shortfalls are more problematic than in just Transportation/HUD appropriations. This is a challenge I think Congress is recognizing, as evident in the budget resolutions recently passed by the House and Senate. Nevertheless, I know that Chair Murray shares these concerns, as she's already outlined. I look forward to working with her, the chairman—and the chairman and the ranking member of the House Appropriations Subcommittee to fund, adequately, the needs of HUD.

Let me highlight a few areas of concern. My first area of concern is the HOPE VI program, which the administration, again, proposes to zero out. The administration didn't propose it. The past administration didn't propose it. And nobody in the administration seems to support it. But I strongly support HOPE VI, which Senator Mikulski, a previous partner on the VA/HUD Appropriations Subcommittee, and I helped initiate. As the HOPE VI program demonstrates, it has helped to rebuild and transform blighted communities by leveraging other funding and program commitments. This has resulted in stable and safe communities and new homes, increased tax bases for these communities and new job opportunities.

A second area of concern is the proposed elimination of the Bond-Mikulski Lead Hazard Reduction Demonstration Program. It is absolutely unforgivable that we have a significant health threat to a whole generation of young people because of lead based paint hazards that can be resolved fully, in particular, this program has made substantial inroads against the hazards of lead-based paint, which has placed many children in situations constituting unacceptable health risks, including diminished IQs, brain damage, and sometimes health impacts that are even worse.

My most significant concern, however, is the Section 8 Project-based Rental Assistance Program. Frankly, I am extremely troubled. Based on a reasonable assumption, my staff has calculated that the budget request underfunds section 8 project renewals by almost $1.2 billion. We're not talking about a simple rounding error here. We're talking about a major funding gap which could impact some 176,000 affordable housing units. I'm not here to point fingers, but I emphasize the shortfall is unacceptable, and I expect resolution.

I recall an incident several years ago, when the HUD Secretary at that time contacted the then-chair of the VA/HUD Appropriations Subcommittee on the eve of the bill's markup to inform us that HUD had underestimated section 8 funding by over $1 billion. Let's just say that that HUD Secretary did not get a very pleasant reception. I hope history is not repeating itself, and that the administration plans to address this matter in the very near future.

I'm equally troubled by the administration's proposal for tenant-based section 8 programs. Under this proposal, the administration proposed to lift the cap on the number of section 8 vouchers that can be utilized by public housing authorities.

The budget request for fiscal year 2008 for the tenant-based section 8 program appears to rely on the fact that a number of public housing authorities (PHA) are sitting on some $1.3 billion in section 8 reserves. Under HUD's proposal, PHAs with reserves would be permitted to use these funds for vouchers in excess of their authorized level. Unfortunately, PHAs without reserves would not appear to receive funding for additional vouchers, regardless of need or the effectiveness of their section 8 program. This seems both inequitable and counter-intuitive; PHAs which have done a good job should not be penalized but should be rewarded, assuming there is adequate funding. This is a complex and sensitive issue, and any decision on the use of the excess reserves will have a significant impact on PHAs throughout the Nation.

I'll not get into questions I have about this proposal right now. But I emphasize the fact that PHAs must be treated fairly, and that any new vouchers, or use of vouchers, must be implemented with criteria that is objective, balanced, and equitable in the allocation of any new vouchers.

Other areas of concern of mine include the section 202 Elderly Housing Program, and the section 811 Housing for the Disabled Program, which are both severely underfunded. This is not the time to cut the development of housing for seniors and those with disabilities. Their needs are significant, and cutting programs for these vulnerable citizens is simply harsh.

Finally, I emphasize my strong objection to the proposed cuts to the Community Development Block Grant Program, or CDBG, and the elimination of the Rural Housing and Economic Development Program. Despite criticism of the effectiveness of CDBG, it remains a critical resource for leveraging other public and private dollars for local affordable housing and economic development process.

In addition to my concerns about HUD funding, I highlight HUD's efforts in the rebuilding of the gulf coast region that were devastated by Hurricanes Katrina, Rita, and Wilma. Despite the negative press and criticism from some on Capitol Hill, it appears that real progress is being made, and much of the success is the result of funding made available under the emergency CDBG Program, the Public Housing Program, and section 8. It's important that we understand how these funds are being used, any mistakes that have been made, and the success stories. This is important, because any misuse or fraud in the use of Federal funding undermines the credibility of any future request for Federal funds.

While I acknowledge that full recovery will take several years and significant challenges remain, I still have optimism that we are beginning to make some real progress in these areas.

I'll not belabor my concerns about FHA today, which I laid out in detail at a FHA hearing in March. I support reforming FHA if the reforms are tied to benchmarks that measure the success of the reforms while preventing fraud and abuse. However, I consider proposals like zero downpayment to be a nonstarter, because these types of products are marked by historically high rates of default, substantial losses to FHA, damage to creditworthiness of families in default, and a negative impact on the community where there are large numbers of defaults, leading to severe community problems, not just for the families affected. FHA reform must balance the risk and benefits of homeownership so that the interests of the borrower, the American taxpayer, and the communities affected are adequately protected.

Before I close, however, I want to make sure there's no confusion by the media, by saying that I do not blame you, Mr. Secretary, for the funding gaps in the budget request. I am assuming that you fought hard on behalf of many of these programs, and I will expect you to work with Senator Murray and I throughout the appropriations process to assure that HUD programs are adequately funded and implemented.

Further, you've not gotten the credit you deserve in some areas of housing. I believe your most notable achievement in housing has been in the area of homelessness. I'm proud of the efforts to end chronic homelessness and the results we are beginning to see across the Nation, including in my own home State of Missouri, in St. Louis, where homelessness has decreased by 34 percent over the past 2 years. These results demonstrate that homelessness can be solved if properly addressed.

Last, I credit you, Mr. Secretary, and your senior management team, led by your Deputy Secretary, CFO, and CIO, for the management reforms and improvements over the past several months. For years, I and others on Capitol Hill have railed mercilessly on the longstanding and seemingly intractable management problems at the Department. But I give credit where credit is due, and I believe you and your team have made some significant progress and deserve credit for that progress.

Despite this progress, I still believe the Department has many challenges to overcome. Unfortunately, many of HUD's challenges are tied to inadequate budget funding. This is a failure that is largely the responsibility of the administration and its fiscal year 2008 budget. And without adequate funding of HUD programs, there cannot be true success.

Thank you very much, Senator Murray.

Senator MURRAY. Senator Lautenberg, do you have a statement?

STATEMENT OF SENATOR FRANK R. LAUTENBERG

Senator LAUTENBERG. Thank you very much, Madam Chairman.

This subject is such an important one, Mr. Secretary. And you have an enormous responsibility. But we're concerned about the availability of affordable housing. When you see the definition of what constitutes affordable housing in our State, and with a 30-percent maximum cost for housing, the income of a family's got to be $44,000. Well, $44,000 is in the middle-class category. And it's very hard to be spending $3,600 a year on rent. And, you know, I don't understand where the numbers have come from that deal with inflation, cost of living, et cetera, these very modest gains in the index for inflation. They don't seem to stand up in the real world. If you look at gasoline, if you look at other things, things that are included in the calculations belie the fact that inflation has been so modest, except, frankly, in wages for working people across the country.

And, above all, we have to be certain, Mr. Secretary, that when we award contracts for Government work, that they're done without any bias at all, that they're done—contracts given to the most efficient, best price that we can find in the market, and without any hint of any other suggestions involved that say, "Well, we'll give it to these guys because they smile right," or, "give it to these people for other reasons."

One of the things, in particular, that came up in your remarks in April of last year, when you posed the question, "Why should I reward someone who doesn't like the President, so they can use funds to try to campaign against the President? Logic says they don't get the contract. That's what I believe." Your statement. Do you still believe that contract awards should be—contain a political calculation when awarding that contract?

Secretary JACKSON. Are you asking me to answer that now?

Senator MURRAY. Senator Lautenberg, we're going to let the Secretary make his opening statement——

Senator LAUTENBERG. Oh, I'm sorry.

Senator MURRAY [continuing]. And then we'll move to——

Senator LAUTENBERG. Forgive me. Okay.

Senator MURRAY. We'll let you ask your questions——

Senator LAUTENBERG. Forget I asked the question——

Senator MURRAY. Yes, well, we'll——

Senator LAUTENBERG [continuing]. Mr. Secretary.

Senator MURRAY [continuing]. We'll come back to our——

Senator LAUTENBERG. I'm sorry.

Senator BOND. He got the first question in.

Senator LAUTENBERG. I didn't mean to do that.

Senator MURRAY. All right. No problem.

We're going to go ahead and let the Secretary give his opening statement. And, again, we have a vote very shortly, so we would like you to——

Secretary JACKSON. All right.

Senator MURRAY [continuing]. Keep it to 5 minutes. We do have your written statement, so we'll make sure that all members of the subcommittee have that. So, if you can keep it to 5 minutes, I'd appreciate it.

Secretary JACKSON. First of all, thank you very much, chairlady, Ranking Member Bond, and other members of the subcommittee.

PREPARED STATEMENT

What I would like to do so that we can get right to the point is to submit my oral statement also and give you all the opportunity, since you will have a vote, to ask questions of me.

Senator MURRAY. Thank you, we will put that in the record.

[The statement follows:]

PREPARED STATEMENT OF HON. ALPHONSO JACKSON

Chairwoman Murray, Ranking Member Bond, distinguished members of the committee: The President's proposed fiscal year 2008 budget will address our Nation's housing, economic, and community development needs. HUD's $35.2 billion fiscal year 2008 budget request—an increase of $1.6 billion more than last year's request—ensures that our Department can build on our success in helping low-income and minority families achieve the dream of homeownership, ensure equal opportunity in housing, and lend a compassionate hand to Americans in need, while using taxpayer money more wisely and reforming programs in need of improvements. The President's fiscal year 2008 budget request will allow the Department to build upon those successes by advancing the core mission given to HUD by Congress.

In formulating HUD's fiscal year 2008 budget, HUD examined its funding priorities to ensure that the resources were used for those most in need. The fiscal year 2008 HUD budget also requests needed reforms in multiple program areas, notably FHA, CDBG, and Public Housing.

PROMOTING ECONOMIC AND COMMUNITY DEVELOPMENT THROUGH HOMEOWNERSHIP

The President's vision of an ownership society has been a central theme of his administration, and correctly focuses on the reality that ownership—and homeownership in particular—is the key to financial independence, wealth building, and stronger, healthier communities.

Under President Bush's leadership, this administration has achieved new records in the rate of homeownership. Today, more than 75 million families, or nearly 70 percent of all Americans, are homeowners—the largest number of Americans to ever own their own homes. Despite having achieved record-level homeownership rates, minorities in America remain less likely than non-Hispanic whites to own their homes. To close this gap, President Bush challenged the Nation to create 5.5 million new minority homeowners by the end of the decade, and to date 3.5 million minority families have joined those ranks. President Bush and I are pleased that we are making progress ahead of schedule. But we will not rest until the goal has been fully met, and we are asking Congress to help us do more to close the minority gap.

The President's proposed budget will help HUD to further that mission by transforming the Federal Housing Administration (FHA) so that it can expand homeownership opportunities for low- and moderate-income families; spur Fannie Mae and Freddie Mac to lead the market to create more affordable homeownership opportunities; help more of the lowest-income Americans make downpayment and closing costs through the HOME Investment Partnerships program (HOME) and American Dream Downpayment Initiative (ADDI) and increase the level of housing counseling that has been so useful in helping families prepare for homeownership, avoid predatory lending practices, and avoid default on their homes. Let me explain each of these areas further.

FHA MODERNIZATION

Since its inception in 1934, FHA has helped more than 34 million Americans become homeowners. In recent years, however, FHA's outdated statutory authority has made it difficult to keep pace with the changing financial needs of those families who traditionally participated in the programs. Through the Expanding American Homeownership Act of 2006, HUD sought to provide workable solutions for borrowers, including homebuyers who do not qualify for prime financing. This will give borrowers more affordable and safer ways to achieve the American Dream and reward them for having good household financial management. The key components of the legislative proposal, which has been reintroduced in this Congress, will: provide greater flexibility to the current statutory 3 percent minimum downpayment, reducing a significant barrier to homeownership; create a new, risk-based insurance premium structure for FHA that would match the premium amount with the credit profile of the borrower; and increase and simplify FHA's loan limits.

Modernizing FHA will give it the tools it needs to again meet its legislative mandate: offering hard-working, credit-worthy borrowers, including those who cannot qualify for prime financing, the opportunity to obtain financing on reasonable terms at a cost they can afford.

USING HOME TO HELP MORE LOW-INCOME FAMILIES OWN THEIR OWN HOMES

The HOME Investment Partnerships program is the largest Federal block grant program specifically focused on creating affordable housing. Since 1992, more than 600 communities have completed building almost 762,000 affordable housing units, including more than 319,000 for new homebuyers. In addition, more than 160,000 tenants have received direct rental assistance. The administration proposes to increase the HOME program to $1.97 billion in 2008, $50 million over the fiscal year 2007 request and $210 million above 2007 enacted.

For many low-income Americans, the single greatest obstacle to homeownership is the cash requirement for downpayment and closing costs. Within the HOME allocation, American Dream Downpayment Initiative or ADDI funds have assisted 21,000 families to purchase their first home—of which approximately 50 percent were minorities. The fiscal year 2008 budget requests $50 million to continue funding the ADDI—double the fiscal year 2007 enacted—to help provide grants to low-income families to help purchase their first homes. Further, the administration plans to submit re-authorization for ADDI in the coming months to continue this effort.

SELF-HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM

SHOP grants are another important program to boost homeownership among low-to-moderate income Americans. These grants are provided to national and regional non-profit organizations, like Habitat for Humanity, that are experienced in providing self-help housing. The fiscal year 2008 budget seeks $40 million for the SHOP Program. An additional $30 million under this account is also proposed for the National Community Development Initiative (NCDI). This funding will be used by intermediaries—Enterprise Community Partners, Inc., and Local Initiatives Support Corporation (LISC)—to develop the capacity and ability of nonprofit community development corporations to undertake community development and affordable housing projects.

COUNSELING OUR WAY TO GREATER HOMEOWNERSHIP

Housing counseling is an extremely important tool to help Americans purchase and keep their homes. The fiscal year 2008 budget proposes $50 million for housing counseling, $5 million over the fiscal year 2007 request, in order to prepare families for homeownership, help them avoid predatory lending practices, and help current homeowners avoid default. In partnership with faith-based and community organizations, HUD will assist approximately 600,000 families to become homeowners or avoid foreclosure in fiscal year 2008. More than ever, potential homebuyers need assistance to make smart homeownership choices. Housing counseling is the most cost-effective way to educate individuals and arm them with the knowledge to make informed financial choices and avoid high risk, high cost loans, and possible default and foreclosure.

COMBATING HOMELESSNESS

While helping homeowners and renters to a better way of life, HUD remains committed to the goal of ending chronic homelessness, and has aggressively pursued policies to move more homeless families and individuals into permanent housing. While persons experiencing periods of long-term homelessness frequently get temporary help, they often return to a life on the streets. New data from the Annual Homeless Assessment Report indicates that 20 percent of the homeless experience chronic homelessness. Persons with disabilities who are homeless for extended periods of time, often referred to as the chronically homeless, consume a disproportionate share of available resources (psychiatric facilities, jails, detox centers, hospitals, emergency shelters, etc.) without having their basic needs appropriately addressed. Housing this population will free up Federal, State, and local emergency resources for families and individuals who need shorter-term assistance.

In July 2002, the President reactivated the Interagency Council on Homelessness (ICH) for the first time in 6 years, bringing together 20 Federal entities involved in combating homelessness. Since its inception, the ICH has helped State and local leaders across America draft plans to move chronically homeless individuals into permanent supportive housing, and to prevent individuals from becoming chronically homeless. As HUD Secretary, I currently chair the ICH.

In 2003, the Federal Collaborative Initiative to End Chronic Homelessness, through HUD, Health and Human Services, and Veterans Affairs, funded 11 grantees across the country.

The fiscal year 2008 Budget provides a record level of resources to address the housing needs of homeless persons living on the streets of this Nation. The fiscal year 2008 Budget provides $1.586 billion for Homeless Assistance Grants. In addition to requesting a record level of funding, the administration also proposes to consolidate the various competitive homeless programs into a single Continuum of Care grant program that would greatly simplify the local administration of HUD's homeless resources which benefit over 3,800 cities and counties.

INCREASING ACCESS TO AFFORDABLE HOUSING

While homeownership is one of President Bush's top priorities, the President and I realize that it is not a viable option for everyone. The largest component of HUD's budget promotes decent, safe, and affordable housing for families and individuals who may not want to become homeowners or who may not yet be ready to purchase a home.

ASSISTING THE MOST FAMILIES—SECTION 8

HUD's Housing Choice Voucher Program provides approximately 2 million low-income families with subsidies that help them obtain decent, safe, sanitary, and affordable homes. In the fiscal year 2008 budget request, the President is asking for $16 billion, nearly $100 million over the fiscal year 2007 request. The administration is also proposing several changes to the Housing Choice Voucher Program that would allow the 2,400 Public Housing Authorities (PHAs) that administer the program to assist even more families. The administration is proposing that Congress eliminate current appropriations language that imposes a cap on the number of families each PHA is allowed to assist. Many PHAs that have reached their caps have additional funds that they are unable to use to assist additional households. In addition, administrative fees would again be tied to the number of households assisted, encouraging PHAs to assist more families. By better utilizing all appropriated funds, the Housing Choice Voucher Program would assist thousands of additional families.

MAKING IMPROVEMENTS TO PUBLIC HOUSING

For fiscal year 2008, the Department will continue its efforts to transition Public Housing Agencies to asset management, which will result in improvements in public housing management and financial accountability.

PUBLIC HOUSING FUNDING

The fiscal year 2008 budget for the Public Housing Operating Fund provides $4 billion, which is the highest funding level ever in the history of the program, up from $3.6 billion in the fiscal year 2007 request. This funding will assist PHAs in the second year of transition to the new operating formula and will help pay for utility/energy and other cost increases. Additionally, HUD will continue its successful implementation of the Public Housing Capital Fund Financing Program. This program allows PHAs to borrow from banks or issue bonds using future Capital Fund grants as collateral or debt service, subject to annual appropriations. In this way, PHAs can leverage their Capital Funds to make improvements. The President's fiscal year 2008 budget request maintains the overall Capital Fund Account funding at the $2 billion level.

MANAGEMENT ACCOUNTABILITY OF PUBLIC HOUSING

The Department continues to place great emphasis on the physical condition of public housing properties, and the financial status and management capabilities of PHAs. The Department will continue providing technical assistance to PHAs and rating the effectiveness of PHAs through the Public Housing Assessment System (PHAS). PHAs with consistently failing scores may be subject to an administrative or judicial receivership. The Department will continue to utilize other tools such as Cooperative Endeavor Agreements with local officials, Memoranda of Agreements, and increased oversight, in order to correct long-standing deficiencies with PHAs.

INDIAN HOUSING LOAN GUARANTEE FUND

HUD is also working to improve housing for Native Americans. The U.S. Government holds much of the land in Indian country in trust. Land held in trust for a tribe cannot be mortgaged, and land held in trust for an individual must receive Federal approval before a lien is placed on the property. As a result, Native Americans historically have had limited access to private mortgage capital. The section 184 program addresses this lack of mortgage capital in Indian country by authorizing HUD to guarantee loans made by private lenders to Native Americans. The President's budget proposes $367 million in section 184 loan guarantees under the Indian Housing Loan Guarantee Program for homeownership in tribal areas, which represents a more than $251 million increase over the enacted fiscal year 2006 budget and $116 million over the fiscal year 2007 request.

ELDERLY AND PERSONS WITH DISABILITIES

The fiscal year 2008 budget will provide $575 million in funding for the Supportive Housing for the Elderly (section 202) Program—a net increase of $30 million over the fiscal year 2007 request. This funding level covers all operating costs for existing section 202 housing and supports construction of about 3,000 new units. In the section 202 program, funding for housing for the elderly is awarded competitively to non-profit organizations that develop these facilities. The facilities are also provided with rental assistance subsidies, enabling them to accept very low-income residents. Many residents live in the facilities for years, and over time, they often become frail and less able to live without some additional services. Therefore, the budget allocates up to $25 million of the grants to fund the conversion of all or part of existing properties to assisted-living facilities, enabling these elderly residents to remain in their units. In addition, up to $71 million—an increase of $11 million over the fiscal year 2007 request—of the grant funds will be targeted to funding the service coordinators who help elderly residents obtain supportive services from the community.

The fiscal year 2008 budget proposes $125 million for Supportive Housing for Persons with Disabilities (section 811), a $6 million increase over the 2007 budget request. The section 811 program will also continue to set aside funds to enable persons with disabilities to enjoy independent lifestyles. In fiscal year 2008, up to $75 million of the grant funds will be used to renew Mainstream section 8-type vouchers so that individuals can continue to use their vouchers to obtain rental housing.

The Department is proposing financing demonstration projects in both section 202 and section 811: $25 million is requested for section 202 and $15 million is requested for section 811. A key priority is to increase the production of units serving these special needs populations by removing the barriers that discourage tax credit applicants from utilizing sections 202 and 811. In developing the program, the Department will consider mixed-finance arrangements including low-income housing tax credits and other creative financing options for development of additional housing units and/or rental operating assistance.

HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA)

The HOPWA program provides formula grants to states and localities for housing assistance for low-income persons living with HIV/AIDS. The program helps maintain stable housing arrangements that improve access to health care and other needed support. The program also provides competitive grants to government agencies and nonprofit organizations that serve as Special Projects of National Significance due to their model or innovative qualities. HOPWA also provides grants to governmental agencies in areas that do not qualify for formula funds.

In fiscal year 2008, HOPWA will fund an estimated 26 competitive grants to renew expiring permanent housing projects and use the remaining funds to select new model projects. HUD will also provide HOPWA formula funding to an estimated 122 jurisdictions. Grant recipients will collaborate with over 700 non-profit and local agencies to subsidize housing for an estimated 67,000 households. In fiscal year 2008, HUD will proposes to provide $300 million in new grant funds for housing assistance and related supportive services for low-income persons with HIV/AIDS and their families.

The administration is proposing legislation to update the HOPWA allocation formula. The revised formula will more accurately reflect the current housing needs of persons living with AIDS in this country.

REFORMING THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

It has been more than 30 years since President Gerald Ford and Congress created the Community Development Block Grant (CDBG) Program to address the community needs. Since 1974, CDBG has been an important tool for cities, counties and States, allocating more than $116 billion to help them to target their own community development priorities. The fiscal year 2008 budget proposes funding CDBG's formula program at $2.775 billion.

CDBG's underlying formulas have remained essentially the same since 1978 while the Nation's demographics have changed significantly. It has becoming increasingly clear that an outdated formula that once measured the needs of urban America no longer reflects the modern needs of today's cities, larger urban counties and States. Some high-need areas receive smaller grants than they should, some low-need areas receive larger grants than they should; and some communities with similar needs receive different per capita grant amounts.

The Department will continue to pursue "formula fairness" by appealing to Congress to authorize a new formula that will more effectively target CDBG funding to areas of greatest need in 21st Century America. A second key part of the President's proposal is the $200 million Competitive Challenge Grant. The Challenge Fund will award "bonus grants" to distressed communities that target and leverage funds to the most distressed areas within the community. In addition, HUD will work to boost performance measurements within CDBG to ensure these critically needed dollars produce the results the program was designed to achieve.

HEALTHY HOMES AND LEAD HAZARD CONTROL

HUD's Lead Hazard Control program is the central element of the President's effort to eradicate childhood lead-based paint poisoning. In fiscal year 2008, proposed funding for the Lead Hazard Control Program will be $116 million, continuing the substantial progress to date in eliminating lead hazards to all children. Grant funds are targeted to low-income, privately owned homes that are most likely to have children exposed to lead-based paint hazards.

The program conducts public education, compliance assistance, and regulatory enforcement to prevent childhood lead poisoning. New estimates from the Centers for Disease Control and Prevention (CDC) show that the program has helped to reduce the number of children at risk by 65 percent, but more than 250,000 children still have dangerous levels of lead in their bodies.

CONTINUING THE FIGHT AGAINST HOUSING DISCRIMINATION

The Bush Administration is committed to the vigorous enforcement of fair housing laws in order to ensure that equal access to housing is available to every American. Fair housing enforcement and education activities are pivotal in achieving the administration's goal to increase minority homeownership by 5.5 million by 2010.

The intent of HUD's fair housing programs is to bring about equal opportunities in housing by protecting the right of families and individuals to live where they choose, free from discrimination. HUD accomplishes this goal by aggressively enforcing the Nation's fair housing laws and by educating the public and the housing industry about their fair housing rights and responsibilities. HUD also furthers fair housing by funding housing activities through two programs: the Fair Housing Assistance Program (FHAP) and the Fair Housing Initiatives Program (FHIP).

The fiscal year 2008 budget will provide $25 million through FHAP for State and local jurisdictions that administer laws substantially equivalent to the Federal Fair Housing Act. The Department supports FHAP agencies by providing funds for capacity building, complaint processing, administration, training, and the enhancement of data and information systems.

The fiscal year 2008 budget will also provide $20 million to help private, non-profit FHIP agencies across the Nation combat discrimination through an array of targeted education and outreach and enforcement activities.

Additionally, the requested amount would support the Department's ongoing efforts to address fair housing concerns in areas affected by Hurricanes Katrina and Rita. The efforts would include support for fair housing enforcement efforts in the gulf coast, bilingual public service announcements, printed advertisements, and training events. Protecting the fair housing rights of persons with disabilities is a Departmental priority. As such, the Department would continue to provide technical assistance to builders, architects, and housing providers on disability-accessibility requirements through its Accessibility FIRST program to ensure that newly constructed housing units are accessible to persons with disabilities.

INCREASING OPERATIONAL EFFICIENCY

Over the past several years, HUD has taken many notable steps to improve its management and performance, and the President's new budget request strengthens these efforts.

In fiscal year 2006, HUD received a clean financial audit for the seventh consecutive fiscal year, and for the first time ever had no auditor-reported material internal control weakness issues.

In January 2007, the Government Accountability Office (GAO) removed HUD from its watch list of high-risk government programs. It marked the first time since 1994 that no HUD programs were on the list, demonstrating HUD's effective implementation of the President's Management Agenda to improve our fiscal house and program results.

Improved information technology systems are enabling HUD and its program partners to more efficiently and effectively deliver HUD's program resources, and more can be accomplished with the funding increases proposed for the Working Capital Fund that supports the Department's information technology infrastructure and systems applications.

In Conclusion, Madam Chairwoman, the President's proposed fiscal year 2008 budget makes good progress toward successfully realigning Federal Government priorities according to our Nation's current needs. The HUD portion of that budget will help promote economic and community development through increased opportunities for homeownership and affordable rental housing, free from discrimination; it will also lay the groundwork for reform by focusing community development funding more carefully toward those most in need; and it will enable HUD to continue along the path to greater Departmental efficiency and effectiveness.

This is a good budget, Madam Chairwoman, and I respectfully urge the Congress to adopt it. I am now available to answer any questions that you, or other members of the committee, may have.

Senator MURRAY. So, you're ready for a question?

Secretary JACKSON. We're ready.

Senator MURRAY. Okay. Well, very good, we'll do that, then. I will ask a couple of questions. I'll turn it over to Senator Bond. He's going to ask his questions and then go to the floor and vote and come back. So—all right.

Mr. Secretary, let me just ask you, really quickly, before I turn to Senator Bond, for the cost to renew the 2 million section 8 vouchers that are currently in use, your 2008 budget request asks for an increase of only $9 million above the level that we provided for the current year. That is an increase of less than six one-hundredths of 1 percent. And, at the same time, as we all know, rents across this country are growing by 4.6 percent.

Where I live, in Puget Sound, it's even more than that, it's 7 percent. What—how is your requested funding increase of just six one-hundredths of 1 percent supposed to be sufficient to ensure that our public housing authorities across the country are able to even keep all the current tenants that they do have?

Secretary JACKSON. Chairlady, I would say this, that if we would carry out the reforms and deal with section 8 on a budget base rather than a unit base, we have ample monies. And I thought that I had an agreement 2 years ago, when I went and got a little over $1 billion for the industry in section 8 that we would go toward budget-base allotment. They have not carried out their part of the agreement. So, if you're saying, If we're still using unit-base, will that cover the process? Probably not. But we would like to see the reforms enacted, and I thought I had an agreement to enact those reforms.

Senator MURRAY. Your agreement with who?

Secretary JACKSON. With the industry, whether it be CLPHA, PHADA, NAHRO.

Senator MURRAY. Well, so knowing that that's not happening, isn't it your responsibility to ensure that the section 8 housing authorities are able to keep their current tenants?

Secretary JACKSON. Well, we believe that by lifting the cap, they will be able to keep that commitment. That will be some $600 million more to meet the process. So, yes, I think the budget is—for the section 8 tenant base is fair. We've lifted the cap so they can utilize their monies to help house probably about 170,000 more people.

Senator MURRAY. Yes, I know that you believe that some of them have reserves, but even your own data says that about one-third of all the public housing authorities have no reserves, or a reserve that's lower than inflation costs for a full year. So, how are all of they—how are all of them going to be able to provide additional—or to even keep their own section 8?

Secretary JACKSON. From our perspective, we believe that each housing authority will be able to address their section 8 needs. And we think the budget clearly amplifies that.

Senator MURRAY. So, you don't think there's any out there without reserves that would be put in jeopardy?

Secretary JACKSON. Well, there are some without reserves, but I don't think that many of those that are without reserves will be hit the hardest. It's those large housing authorities in many of the major cities that, really, the $600 million will address the issues of the shortfall.

Senator MURRAY. Well, if they don't have the reserves, then they're going to have to put people out on the street.

Secretary JACKSON. No, that's not necessarily true.

Senator MURRAY. How do you see that——

Secretary JACKSON. I just—I don't see the same thing you see. I think we do have enough within our budget to address the needs of those tenant-based vouchers, clearly.

Senator MURRAY. Where I live, we saw, on average, rent increase by 6.4 percent in Seattle, at an average unit cost of $900 a month. And, like I said, the Bureau of Labor Statistics (BLS) is reporting that for the 1-year period that ended in March, rents across the country are being increased by 4.6 percent. So, knowing that that rent increase is out there, how can you make that——

Secretary JACKSON. I still believe that the budget that we submitted for the tenant-based section 8 program is absolutely well enough to make sure that those persons who today have vouchers will keep those vouchers.

Senator MURRAY. I find that hard to believe, with what we have, and it's certainly not what we're hearing from on the ground.

But, with that, I will turn it over to Senator Bond to ask his questions, and head over to the floor.

Senator BOND. Thank you very much, Mr. Secretary.

Continuing on the section 8 tenant-based ones, I understand we do have a budget-based approach for section 8 vouchers, subject to the authorized level. But, as the chair mentioned, there are some PHAs who have no reserves, and may have greater needs. You talked about the amount of excess reserves in certain PHAs. How will you ensure that those reserve funds and any other funds are adequately and equitably allocated to PHAs which may have done a very good job——

Secretary JACKSON. Right.

Senator BOND [continuing]. In spending, but do not have sufficient funds in the budget proposal to meet section 8 housing needs.

Secretary JACKSON. Ranking member, as I said to the chairlady, I think there are a number of things that can be done, and I do think that the budget is still ample for this process. Housing authorities have the ability to modify the payment standards. They can aggressively negotiate with landlords on rent. And they can charge a minimum rent.

Now, in many cases, I think you know, as I know, since we have that 75 percent of those vouchers must be for persons 30 percent less than median, we're ending up, in many cases, not serving more people, serving the same people over and over. Pre-1998, the average stay of a voucher was about 3½ years.

Today, it's about 8, because of the standards that we've set up. So, my position is, clearly—or, you know, 2 years ago, when I went and got the extra—a little over $1 billion, that we would go to basically a leave unit base and go to a project-based budget. If we go to that immediately, yes, I think we have more than ample money. And even now, with the three standards that I just gave you, I still think it's ample money to carry out the program.

Senator BOND. Turning now to the project-based section 8, my staff analysis suggests that the current budget is about $1.2 billion short. Have you and the Department done a thorough examination of the needs for project-based section 8? And have you done that? Can you give me a figure on what the shortfall is?

Secretary JACKSON. What we are doing now is going contract by contract. We expect to have that finished by the end of the summer to make sure that we have the ample resources. We will be able to submit that to you in—probably by September, the raw data; and probably sometime in November, we will have it all calculated. But we truly believe that the project-based contracts will be fine. But we have to make an evaluation. And we've never had an evaluation of these contracts. Each year, we have been piecemealing, and now I think it's important to have an evaluation of them.

Senator BOND. Mr. Secretary, I couldn't agree with you more. Now, I'm not one who believes in artificial timelines in certain other areas, but we have a legislative timetable, and we hope to be passing this bill in the latter part of July. So, if you could move up that analysis——

Secretary JACKSON. Okay

Senator BOND [continuing]. And give us some idea——

Secretary JACKSON. I will——

Senator BOND [continuing]. Before we get this bill done, and I also would like your assurance that if you see a shortfall, you will go back to OMB and suggest that they are not to throw people out of project-based section 8, that a budget amendment is needed. And I hope that you will consider that, and help us, because right now it looks like a significant shortfall to us that is unacceptable.

Secretary JACKSON. Okay. I will do my very best, I can assure both of you—all three of you all, to make sure that we can get you an answer as—before July.

Senator BOND. Thank you, Mr. Secretary.

Madam Chair, we are hoping that we are going to have a vote here very shortly, so I will go over and get aligned and ready to vote as soon as it occurs, and look forward to a significant number of questions when I get back.

Senator MURRAY. Very good. All right.

Senator Lautenberg.

Senator LAUTENBERG. Thank you. Once again, I apologize for my jumpstart.

But, Mr. Secretary, you heard where my inquiry was going. And I'll repeat it, just to make sure that I'm not missing anything or that I'm not misquoting you. And you say, "Why should I reward someone who doesn't like the President, so they can use funds to try to campaign against the President? Logic says they don't get the contract. That's what I believe."

Now, the question, Mr. Secretary—and I commend you for the work that you do, but I think that what took place there needs explanation. So, do you still view that position, that contract awards should be based on political favoritism?

Secretary JACKSON. First of all, let me say this to you, Senator. The inspector general did a thorough investigation and found that I had not tampered, nor touched any contract. In fact, because of what the Government Accountability Office (GAO) said, and the inspector general said, I set up a Contract Review Board. I do not interfere with any contract that is given in HUD, period. That's a fact. And the inspector general looked at every contract that had been given out at HUD, and I didn't touch it.

Now, if you're asking me about my personal opinion, the President is my friend, and I care a great deal about him. But it doesn't mean that I'm going to interfere with contracts because I think that people might not like him. What I said, when this guy approached me in the hallway, is that, "He must be out of his mind if he's going to attack me and attack the President, and think I'm going to help him." I'm not going out of my way to help him, but I didn't go out of my way to hurt him, either.

Senator LAUTENBERG. Well—so, was the quote accurate?

Secretary JACKSON. Which quote?

Senator LAUTENBERG. The one I gave you, "Why should I reward someone who doesn't like the President," et cetera, "so they can use funds to campaign against him? Logic says they don't"——

Secretary JACKSON. Well, first of all——

Senator LAUTENBERG [continuing]. "That's what I believe." Did you say that?

Secretary JACKSON. First of all—yes—first of all, I don't touch contracts.

Senator LAUTENBERG. But you said it, Mr.——

Secretary JACKSON. Yes, I said it, but I don't touch contracts. I set up a Contract Review Board.

Senator LAUTENBERG. But you're stating a view that I think poisoned the—poisons the atmosphere. You——

Secretary JACKSON. I disagree with you. I don't think I——

Senator LAUTENBERG. You disagree——

Secretary JACKSON [continuing]. Poison the atmosphere.

Senator LAUTENBERG [continuing]. With me?

Secretary JACKSON. Yes.

Senator LAUTENBERG. So, you think, then, that it's appropriate——

Secretary JACKSON. No, I don't think it's appropriate. I said——

Senator LAUTENBERG [continuing]. If I said——

Secretary JACKSON [continuing]. I said what I said.

Senator LAUTENBERG. Why did you say it, if you don't——

Secretary JACKSON. Because——

Senator LAUTENBERG [continuing]. Think it's appropriate?

Secretary JACKSON [continuing]. I was speaking——

Senator LAUTENBERG. Why are you defending it now? That, I don't understand, altogether. I mean, you're saying, "Well, yeah"——

Secretary JACKSON. I have not touched——

Senator LAUTENBERG [continuing]. "It's true, but I"——

Secretary JACKSON. Senator, I have not touched one contract. Not one. Now, if you can prove that I have interfered with a contract, then you should do that.

Senator LAUTENBERG. Mr. Secretary, we're spinning words here.

Secretary JACKSON. No, I'm not spinning words, Senator. I have not touched a contract.

Senator LAUTENBERG. But if you said it, then we shouldn't believe what you said is what you're——

Secretary JACKSON. It——

Senator LAUTENBERG [continuing]. What you're saying.

Secretary JACKSON. Absolutely, then, if that's——

Senator LAUTENBERG. We should not——

Secretary JACKSON [continuing]. That's right.

Senator LAUTENBERG [continuing]. Believe what you said.

Secretary JACKSON. Because I have not touched a contract.

Senator LAUTENBERG. Too bad.

In New Jersey, the HOPE VI program successfully generated over $1 billion to revitalize distressed public housing, yet the President's 2008 proposes to totally eliminate the program. Wouldn't funding programs like this pay big dividends on our communities, helping poor and middle-class families to——

Secretary JACKSON. I will——

Senator LAUTENBERG [continuing]. Obtain——

Secretary JACKSON. Sorry. I would agree with you. I sat on the National Commission for Severely Distressed Housing, which the HOPE VI came out of—I agree that HOPE VI, when it's performed well, it's a great program. I've never said that it wasn't. Of the 237 awards, Senator, that we have made, only 65 have been completed. If we look from 1994 to 2000, we still have over $500 million outstanding, where nothing has been done on those HOPE VI funds. And of all the money that's outstanding, about a million—$1.8 billion is still outstanding.

So, I don't believe that we should continue to fund a program, when you have less than 30 percent of the projects completed since the beginning of the program. Sixty-five of 237 projects, that's all we've completed since HOPE VI started in 1992. And this is 2007.

Senator LAUTENBERG. Why is that? Why haven't we done better in completion?

Secretary JACKSON. I really think that one of the things we have done lately with the HOPE VI program is required that the housing authorities come in with a developer who can leverage the money. And in the process of leveraging the money, we're able to develop much better. The initial HOPE VI were not that way. Many of the housing authorities took those HOPE VI themselves, and they used the administrative authority that they had, and used it up with architectural engineering drawings and pulled down the money.

So, they still have money to develop, but they don't have the necessary plans to move forward. So, we have suggested that we look at those housing authorities, Senator, who have not performed, and try to recapture some of that money to send it to housing authorities that are performing. It's not that I believe the program is bad. That's not the issue. The issue is, we have so much money outstanding.

Senator LAUTENBERG. Yes. I assume that the red light indicates that my time is used, Madam Chairman.

I would close, and ask that the questions that I'll submit after the hearing be promptly responded to.

But I would say that if you believe in the program, and you don't—and you're looking for contractors who can leverage the money, there's a mix in language there that I, frankly, don't get, because housing doesn't take overnight to build.

But, thank you, Mr. Secretary. Thank you——

Secretary JACKSON. Thank you, Senator.

Senator MURRAY. Thank you, Senator Lautenberg. And your questions will be submitted to the Secretary for responses for the record. So, thank you.

Mr. Secretary, this is the third year in a row that your budget is proposing to slash funding for the CDBG program while arguing that the program needs to be reformed. You are, again, arguing that this program needs to be better targeted to eliminate funding from thousands of communities you consider to be too affluent. Over the last 3 years, has any subcommittee ever scheduled a markup to consider that proposal?

Secretary JACKSON. Not—I don't think so, Senator—I mean——

Senator MURRAY. Has any——

Secretary JACKSON [continuing]. Chairlady.

Senator MURRAY. Yes. Has any member of the House or the Senate ever introduced your legislative proposal?

Secretary JACKSON. No, they have not.

Senator MURRAY. Well, there are sections of King County, Washington that are affluent, and that is partly why working families have such a hard time finding affordable housing there. Let me tell you where King County spent the vast majority of their CDBG funds last year. They developed 637 new affordable units, they rehabilitated another 150 affordable units, they provided 442 households with homeless prevention service, they created 487 permanent supportive housing units, they constructed 33 new affordable homes, and they repaired another 500 homes occupied by low- and moderate-income residents—that were repaired. Those funds weren't spent for amenities on the wealthy. And under your budget proposal, King County would see its CDBG funds slashed by 20 percent.

So, can you tell me how your budget proposal reforms would alleviate the shortage of affordable housing in places like King County?

Secretary JACKSON. I think it's going to be very difficult in places, in my estimate, west of Utah, east of Virginia. These are very, very high-price areas. And it's going to be very difficult, even when we target the money to certain cities, counties, or areas, to address affordable housing in many places. So, I can't tell you that we're going to be able to address affordable housing all over this country because I don't think that is the case. We will do everything in our power within the budget construct and within the way we put our formula in place, to address those cities that are most in need. And if we can address those cities that are most in need, I think we can make a substantial impact.

Senator MURRAY. Well, when you announced your reform, you published the formula that you'd use for distributing those funds, on your web site. I'm told that when you use your own formula at the reduced funding level, it really doesn't help the poorest communities across the Nation, because the funding is slashed so severely. So, I wanted to ask you, does your proposal provide any additional help to the poorest communities?

Secretary JACKSON. Yes. I think that what we have calculated is, at the—the lowest-income cities, counties, will be addressed. Second——

Senator MURRAY. How is that?

Secretary JACKSON. Because we think we have enough money within our budget to address them, if the formula is approved.

Senator MURRAY. Well, I don't see how that's going to happen, when you're cutting funding for everybody. And, you know, the other thing, I heard you last year when you were here, you talked about the affluent companies that shouldn't receive any funding, and you're trying to devise this formula that somehow does that. And one of the cities you talked about last year was in my home State of Bellevue, Washington, that you defined as affluent. Yet, even in these so-called affluent communities, funding under the current formula is targeted by law—by law—on assisting low- and moderate-income individuals.

So, I went back and looked at you—at how Bellevue used their funding, and they used it to rehabilitate owner-occupied units, to upgrade a center for the disabled and the handicapped, they built a facility for the homeless, and they built a facility for abused and neglected children. Wouldn't you agree that those uses of funding are within the goals of CDBG?

Secretary JACKSON. Yes, I would.

Senator MURRAY. Well—so, when you define Bellevue as affluent, which many would disagree with you, because of the price of living there, you take away funding to do that. So, I don't understand how your funding formula helps communities——

Secretary JACKSON. Well, I——

Senator MURRAY [continuing]. Deal with these issues.

Secretary JACKSON. I'm sorry. Well, I think that Bellevue is an affluent community. And I think that in many of those—in many of those—the problems that you have just——

Senator MURRAY. Have you—I'm sorry——

Secretary JACKSON [continuing]. You've just talked about——

Senator MURRAY [continuing]. When was the last time you were in Bellevue?

Secretary JACKSON. Probably a couple of years ago.

Senator MURRAY. Where did you go?

Secretary JACKSON. I can't remember where I went. I was in—I was in the city.

Senator MURRAY. I mean, this—somehow, just to describe Bellevue as affluent is to not know the community that has changed dramatically in the past 5 years. And, again, what your formula does is, says to Bellevue, "You're going to have to raise your own taxes to pay for the cost of providing the services that are dramatically needed." And I would urge you to go back and take a look at the demographics of that city again, and you might——

Secretary JACKSON. I'll be happy to do that for you.

Senator MURRAY [continuing]. Be surprised. But your funding formula impacts a community that is really a diverse community that is trying desperately to deal with some really difficult challenges that they're facing today.

I believe Senator Bond's going to be back in just a minute, but let me go to another topic——

Secretary JACKSON. Surely.

Senator MURRAY [continuing]. Before he returns.

This subcommittee held a hearing earlier this year, that you may have been aware of, with your FHA Commissioner, Brian Montgomery. We talked at length of what role, if any, the FHA can play in helping families that are facing foreclosure because of the crisis in the subprime lending market. Have you already seen FHA activity increase as a result of the shakeup in the subprime lending market?

Secretary JACKSON. We really have not, at this point. What I have said to you and to Senator Bond is that I believe that if we can get the FHA modernization legislation passed, that we can make a great impact. We cannot help everyone that's in the foreclosure area—there's no question we can't—because some of the people are—income is really out of reach. But there are a number of people that we can help. And I know a lot of times we've had studies that say, "Well, HUD has got a 12, 13 percent foreclosure rate." We don't go by 30 days, we usually go by 90 days, and we do everything in our power for those persons to make sure they keep their homes. And I will continue to do that.

And one of the criteria that I talked with Senator Bond about was that—the zero downpayment. I agreed with him that a cash installment by everybody should be made, because they have an investment, to make sure that they've invested in their own home. So, I don't disagree with him. But we will do everything in our power, if the modernization legislation is passed, to try to prevent foreclosure and to try to address low- and moderate-income people who are right now in the process of being foreclosed on.

Senator MURRAY. Do you believe that many of the borrowers that were enticed into that subprime loan are now facing—and are now facing high interest rates and penalties would be eligible to refinance with FHA?

Secretary JACKSON. Some of them—some of them would. Some of the exotic loans that were made to—to even some members of our staff at the housing authority, their income would probably be out of reach. But for low- and moderate-income people, yes, I think we would—we would make every effort to work with them.

Senator MURRAY. Okay. And I believe Senator Bond will have more questions on that as well.

So, before he returns—and I'm going to have to leave in just a minute to vote—I did want to ask you about the gulf region, as I mentioned——

Secretary JACKSON. Sure.

Senator MURRAY [continuing]. In my opening statement.

Payments to homeowners have been very, very slow to arrive. It's been very painful. And there's little to no evidence that public housing units are being rebuilt. Of the $16.7 billion which this subcommittee provided to help rebuild the gulf, only 12 percent, or about $2 billion, has been sent. Can you tell us why, 2 years after this disaster, that this activity's been so slow?

Secretary JACKSON. When we allocated the money to the gulf coast—specifically, Mississippi and Louisiana—they submitted a plan to us of how the money was going to be spent. Each plan was basically a compensation plan that they would allocate monies to a certain level to persons, based on the damage of their homes. About 1 month ago, we had a hearing with Chairman Frank and Chairlady Waters. An issue was brought up, Are they spending the monies the way that they should be spending the monies? And I asked our staff, at the request of Chairman—Chairlady Waters, I asked our staff to go back to make sure that Louisiana was complying with the compensation program. We realized——

Senator MURRAY. Mr. Secretary, I'm going to miss the vote if I don't go.

Secretary JACKSON. Okay.

Senator MURRAY. So, I'm—I want to get back to this question——

Secretary JACKSON. I'll——

Senator MURRAY [continuing]. And—I'm going——

Secretary JACKSON. I'll wait for you.

Senator MURRAY [continuing]. To go vote, and return. We will recess, shortly. And when Senator Bond returns, he is going to call the meeting back to order, and return with his questions.

Secretary JACKSON. Thank you.

Senator MURRAY. I will be right back.

Senator BOND. [presiding] Gentlemen, ladies, recess is over.

My apologies. The Secretary is sufficiently familiar with how this place works, or doesn't work, to know what's happening. But, again, we appreciate your indulgence.

And I want to go back, Mr. Secretary, to the discussion of section 8 vouchers, which——

Secretary JACKSON. Right.

Senator BOND [continuing]. Appears to go back to the administration's Section 8 Block Grant Program, whereby PHAs would adjust rents down to meet their budget. Now, this appears to be a reversal of some 20-plus years of housing policy, where the Federal Government has sought to reduce the concentration of low-income families in the worst neighborhoods. However, with the lower rents, HUD and the PHAs will be pushing a policy whose necessary result would be to move the poorest into the worst neighborhoods, neighborhoods without jobs, good schools, and amenities. And this almost is a return to redlining. So, when we talk about budget-based vouchers for PHAs, I think we lose sight of the fact that the objective should be, as you indicated, to get people in homes where they move from publicly assisted housing into market-based housing, because of having access to jobs. And I thought you might want to comment on that and in light of my further questions about what we see to be the $1.2 billion shortfall.

Secretary JACKSON. Senator, I agree with you, in the sense that we do not want to redline or re-segregate. And I do believe that if the housing authorities in this country—and I did it with three housing authorities—if they negotiate with landlords, if they charge a minimum rent, if they even put a timetable on the time that a person can keep a voucher, I do believe that we can move people into very, very good areas. And in Dallas, that's what we did.

In St. Louis, that's what we did. It's whether you really want to take the time to negotiate and to make sure that there is fair treatment of the residents. And I did it, and I think it should be done. And I do think that if we can go to project base, it gives the housing authorities incentives to negotiate, and to get the best deal that they can. But as long as we're unit base, they have no incentives, period. Persons can stay on the voucher as long as they want.

I'm just one that believes that there should be a timetable for these vouchers. I don't think people should be on these vouchers, Senator, in perpetuity.

Section 8, from its inception, was to transition from public housing to market-rate housing. That was the intent of it. But it has become a secondary system for public housing today. And I think that the 1998 legislation was a mistake, when we said that 75 percent of those vouchers should be for 30 percent of less than medium. I think we should all go up to 60 percent of medium and help people transition. That's my belief.

But I do not want people—any person to be re-segregated. And I think we did a very excellent job in Dallas making sure that we disbursed those vouchers into middle- and upper-middle class areas.

Senator BOND. But, still, wouldn't that require additional resources, if you're going up to a larger population?

Secretary JACKSON. I think that, Senator, when—I entered into an agreement with the industry 2 years ago, that I went and made a major case to OMB to increase the section 8 tenant-based budget by $1.1 billion, I think, that in the final analysis we would go to project base. Have we done that? Yes, clearly. And I still think, if we go to it today, that we can cover the cost of the vouchers. But—and that's why we removed the cap, so that they would have additional money to carry it out.

Senator BOND. Well, if you have further legislative proposals, obviously you should take that to the Banking Committee first, but share a copy with us, because we may get it—we may help them on that issue, if there is a good rationale for it.

Secretary JACKSON. I do think—let me say this—I do think there is a good rationale for it, Senator. Pre-1998, we were on the budget base budget. We got a budget. That's what I did. I got a budget. And I stretched that budget as far as I could to make sure that as many people were served as could be served.

Now, in—after 1998, we went to unit base, and, in that process, we have—we have not served more people. That's what most of us don't understand. The price has increased significantly for the program, but we're not serving a greater group of people, because the housing authorities basically have no incentives to make sure they stretch the dollar as far as it can go. And as long as they don't have those incentives, they're not going to do what they should be doing.

Now, some housing authorities are doing better than others.

Senator BOND. Well, I was going to say, couldn't they do that now, with——

Secretary JACKSON. Yes.

Senator BOND. They could do that now, and they're not doing it.

Secretary JACKSON. They're not doing it. It's unit base. And they're—they get the administrative fee, whether they house or don't house. I think we should give them some incentive to work hard. I had no problem housing people when I was at the Dallas Housing Authority or when I was at St. Louis or when I was in Washington. And they were all based on budget base. That's what it was before 1998.

Senator BOND. Well, that's something we need to discuss with you further.

Let me talk about—for a minute about——

Secretary JACKSON. I appreciate that.

Senator BOND [continuing]. The FHA modernization. It appears that FHA's business is already doing better than last year, with tens of thousands of homeowners with conventional loans coming in to FHA through refinancing, which is up 94 percent this year. Do you think that some of this growth is attributed to the problems with subprime borrowers?

Secretary JACKSON. I really do think that it is. And we are up. But I also think that's what's important is that if we can get this modernization legislation done, we can make significant strides and changes low- and moderate-income persons. And you and I both agree to—some months ago, when we were in Kansas City, one of your major concerns—I agree with you that there must be a cash investment. We cannot go zero downpayment.

So, I believe that if we can get this legislation done, we can. And I can tell you, the refinancing in FHA has been at 94 percent since last year. And we're doing everything in our power, as I just was going to address to the chairlady, to help those low- and moderate-income people who are facing foreclosure. We can't help certain groups, because their income is too high. But for those that we can help, we will do everything in our power to make sure that they keep their homes. Because, in my mind, this was not a case where you had bad borrowers.

People were trying to get into a home. But what I saw was, you had—people got into really bad products, and there were people who were pushing these products, and the people did not really read the fine print. And we just had a case that we resolved for them—Congressman Scott, in Georgia—where these people really didn't understand what they were getting into. But we got it resolved. And so, I think that—I don't want anyone to leave here saying that, "Well, these people who borrowed was bad." It's not that. They wanted a home, like everybody else in this room, but they got into a bad product. And if we can help some of them get out of that bad product, we'll do it.

Senator BOND. With respect to the modernization, the Congressional Budget Office (CBO), the GAO, and the HUD Inspector General have all expressed concerns about the proposal. And the CBO expects that developing and maintaining the appropriate systems for managing a risk-based pricing system would take FHA several years to implement. In other words, there would be, potentially, a chaotic situation. How do you respond to these concerns?

Secretary JACKSON. First of all, I guess, Senator, I don't want to get into a debate with GAO or the inspector general. I believe in this product. I believe that, yes, we're going to have a transition period.

I believe that clearly we can make this transition period—we can do it very quickly—much quicker than 7 years. I think we're going to have to look at the risk-based factor in this process, and we will look at that risk-based factor. But I don't want us to connect subprime lending with FHA. There are so many more steps in FHA that will stop the subprime area. And we will do everything in our power to do that.

So, I believe that the GAO, the inspector general, have their opinions. And I'm not here to debate their opinions. I'm here to tell you that I believe that this product can work. I'm convinced that if we get to modernization, we can save a lot of foreclosures and we can help a lot of low- and moderate-income people.

Will we put the checks and balance in place? Yes. In fact, I met with the—I guess it was last week or week before last—with our inspector general, and I said that I wanted him to meet with our FHA Commissioner, and I said, "Put all your concerns on the table so we can address your concerns, because if you have concerns, I want to address them. I don't want to leave them out there, where he'll come before—and said, 'I gave them suggestions, but nothing was done.'" So, if GAO has it, we're taking those concerns into study, too.

Senator BOND. Well, we'd like to be either part of those discussions or kept advised of those discussions, because when these are credible—creditable entities, and if they've got concerns, we want to see how those concerns are addressed. So, we're—we'll be very interested to see how that works.

Secretary JACKSON. And I will.

Senator BOND. Now let's turn to another area of interest and excitement for the—for HUD. And that's the Housing Authority of New Orleans (HANO) after Hurricane Katrina. How many units are habitable now, and how many tenants have returned to the HANO?

Secretary JACKSON. We have, habitable units, almost 2,000. We've had about 1,600 families to return. We are still trying to get families to return. We have done surveys. We've been to Houston, to Atlanta, to other places. In fact, what has occurred is—Senator Bond, is, I've gotten a number of letters from public housing directors telling us to stop scaring the people. Many of the people don't want to return. People don't like for me to say that, but that's a fact. And so, I have to take in consideration, when I get these letters from these directors, they're saying, "You're really scaring many of these people, because they're satisfied, they're living better, they have a better job," and I have to take that in consideration, too. So, those persons who are saying, "Oh, he does not want people to return to New Orleans," that's not true.

We're doing everything in our power. But, at the same time, I think I must in consideration—because I once ran a housing authority, the concerns of those people who are running housing authorities, who have provided decent, safe, and sanitary housing for people—if the persons want to stay, let them stay.

Senator BOND. Well, I think—I think you make a good point, if somebody doesn't want to go back. But, then again, I think we all recognize that the more tenants a PHA director has, the more administrative fees they receive. So, I——

Secretary JACKSON. Sure.

Senator BOND [continuing]. Think that needs to be weighed in with the—in the considerations.

Secretary JACKSON. I agree.

Senator BOND. I know there's been a lawsuit delaying the development of HANO. And I'd like to know what efforts you're making to resolve it, when are you expected to have that lawsuit resolved. And will resolving that lawsuit clear the way for any additional residents who wish to return?

Secretary JACKSON. Yes. Let me say this. The lawsuit is an impediment. We have gotten significant low-income tax credits from the State of Louisiana. We've got funds allocated, of $500 million, to totally redo most of the public housing in New Orleans. It's baffling to me for people to say, "It's okay for low-income people to live in the squalor that they were living in." I find that very abhorring.

Senator BOND. I agree.

Secretary JACKSON. If we can change the quality of life, and make it better, we should do it. We didn't have the resources, before, to do it. We have the resources now. But that lawsuit is standing in the way. I was very pleased with the ruling of the judge, but we're still going to have to have a hearing when—on this process. We have people like the Enterprise Foundation, Catholic Charity, ready to go to work to redevelop housing in this country—I mean, in New Orleans. But we have a lawsuit pending, with——

Senator BOND. What does that lawsuit—how are you trying to resolve that lawsuit? That was my question.

Secretary JACKSON. Well, we're trying to work it out. I've been working with Chairlady Waters to try to get them to come to some agreement. One of the agreements that we came to is to have 2,000 units—2,500 units by September. Well, we have 2,000, but we still have not got any actions from the plaintiffs. I mean, they're continuing to talk about, "People should go back into the present situation that exists."

Senator BOND. Well, I would—I would think that those—I don't know if any of those housing units were in the very lowest areas, the low-lying areas, which are most flood-prone, and I certainly think it serves anybody's interest to put them more at risk.

Secretary JACKSON. I agree.

Senator BOND. And I will—I'm now going to defer to my colleague from Colorado, but, afterwards, I'd like to call on the inspector general to provide any insights he has. So, if he would be ready to step up.

But, Senator Allard, we'll now turn to you.

PREPARED STATEMENT

Senator ALLARD. Well, thank you very much.

And, first of all, I have a full statement I'd like to make a part of the record.

Senator BOND. We would be delighted to make it part of the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR WAYNE ALLARD

I would like to thank Chairman Murray and Ranking Member Bond for holding this hearing to review the fiscal year 2008 budget of the Department of Housing and Urban Development. I would also like to welcome Secretary Jackson to the subcommittee. Secretary Jackson, we appreciate you making time in your busy schedule to be here.

HUD has a long history of problems; for years it was the only cabinet level agency on GAO's high risk list. However, I want to take this opportunity to publicly commend Secretary Jackson for his progress on this point; earlier this year the remaining HUD programs were removed from GAO's high risk list. This is a tremendous accomplishment and represents a great deal of work. I would encourage Secretary Jackson and all the dedicated staff at HUD to remain focused on maintaining this direction.

Certainly one of the biggest challenges HUD faces is the tight fiscal scenario. This is a constraint shared by nearly all agencies. No one denies that the budget for HUD, or any other agency for that matter, is insufficient to meet every single perceived need in this country; increasingly, the definition of need seems to be a bottomless well.

I believe, though, that this budget strikes a reasonable balance at meeting the most pressing needs, while still being responsible. I support the administration's decision to pursue fiscal responsibility in these times. It would be irresponsible to continue to overspend and leave a mounting debt for future generations.

It is easy to look at the proposed HUD budget and complain that it lacks money. Certainly, needs are great, and in a perfect world we would have the money to meet all needs. However, the administration has had to make some very difficult choices, and the choices at HUD were, I'm sure, no exception in their difficulty. This budget is evidence of those difficult choices, and I commend the administration for facing reality and not simply taking the easy way out.

I want to reiterate a position that I have put forward at previous hearings: HUD's success as an agency is not defined by a budget number. More money does not necessarily mean more people are served or that people are served any better. This would seem to be especially true when reviewing the effectiveness of HUD's programs as determined under the PART analysis. In 40 percent of the programs we either know that they are failing to produce results or we have no way to tell whether they are producing any results. Why do we talk at such length about the dollars going to HUD, but fail to look at what is coming out on the other side? I, for one, intend to keep looking at BOTH sides of the equation.

I appreciate the opportunity to do so at this hearing. Mr. Secretary, your testimony will helpful as this subcommittee begins to write the appropriations bill for fiscal year 2008. Thank you.

Senator ALLARD. And I also just would like to congratulate Secretary Jackson. When his confirmation came before me on the Banking Committee and whatnot, GAO had HUD on the risk list, and now you're off of that.

Secretary JACKSON. Yes.

Senator ALLARD. And I'm very pleased to see that happening, because that brings accountability, as you know, to the process. I know how difficult it is to get the Government Performance and Results Act, you know, implemented, and then each year you get more comfortable with it and——

Secretary JACKSON. Right.

Senator ALLARD [continuing]. Things keep moving along. And so, I want to compliment you for that effort.

I think HUD's success as an agency isn't going to be defined by the budget number. More money doesn't necessarily mean more people are served, and the people are served any better. I think, with what you've put in, then I think we can feel much more comfortable about what's happening there at HUD.

The first question I'd have, Secretary Jackson is—it's an issue that you and I have explored at past—previous hearings. According to a recent article, Deputy Secretary Bernardi had indicated that you plan to issue a RESPA rule proposal by September 30, and possibly as early as this summer. Will you please comment on your intentions? And what is your timeframe for action on RESPA?

Secretary JACKSON. The Deputy Secretary is correct. Hopefully, by September. But it's going to be clearly transparent. We learned our lesson last time around about not being transparent with this rule. We will continue—we will not put the rule into effect until we have discussed it with—for the final time with the industry groups, with the subcommittee here, with the subcommittee in the House. We realize that, in the final analysis, that we really need a consensus. You know, I like to use the analogy, Senator Allard, like last time, it's—I was a sprinter, an all-American, and I ran on the 400-by-100 relay. And if you don't have anybody to hand——

Senator BOND. Good training for your current position, I would say.

Secretary JACKSON [continuing]. If you don't have anybody to hand the baton off to, you're not going to be four other people running by yourself. That's the situation we were in. And I think you made it clear. I think Senator—Congressman Manzullo made it clear. And so, we don't want to do anything haphazardly this time. We want the rule to be acceptable to a consensus of the people. So, we will not be moving the rule. And I have not moved it very quickly. There are some people who say we should get it out quickly. No, we're still discussing it, and we hope to have a consensus.

Senator ALLARD. So, what we're going to be seeing in September is a proposed rule, it's not going to be a final rule by——

Secretary JACKSON. That's correct.

Senator ALLARD [continuing]. And so, we're just getting the process started.

Secretary JACKSON. That's correct.

Senator ALLARD. Okay. And are you going to—what role do you see Congress playing in this process? Any at all? Or are you just going to expect Members of Congress to drop in on public comment?

Secretary JACKSON. No, I think that when you see the proposed rule, I would think that you would give us suggestions as to how you think the final rule should be made.

Senator ALLARD. Well, you know, I think that's nice, but I also do think we need to work with the affected parties, you know——

Secretary JACKSON. Right.

Senator ALLARD [continuing]. And so, like I say, I appreciate the way you've been doing business, and—but I felt like I needed to ask that question, because it does tend to be controversial.

Secretary JACKSON. Surely.

Senator ALLARD. Now, your 2008 budget assumes enactment of a number of legislative proposals. How would funding and staff needs change should those proposals, particularly the FHA reform package, not be enacted?

Secretary JACKSON. Well, we believe that if we can enact the FHA modernization legislation, we would probably need additional staff, but that's because, I think, that we have lost a significant number of persons who want to deal with FHA. If—you know, if I were a low- or moderate-income person with all of the paperwork that they have to go through, I wouldn't deal with FHA.

I think the key to it is to modernize it, but, at the same time, not lower our standards, and make sure that, in the final analysis, that we can document everything that we're doing, and that we, even in the risk-based premium part, make sure that we're doing everything we should be doing.

Senator Bond asked a question a few minutes ago and I agreed with him, it's going to take a transition, it's not going to be done overnight. I don't think that it will take several years. I really don't think that. I think we've got competent staff. So, I think that if we can get this legislation passed by this summer, we can help a lot of low- and moderate-income people, and we can help a number of people who are facing foreclosure today.

Senator ALLARD. Mr. Chairman, may I—or you're—I guess you're the acting chairman—I'll keep going, if that's okay.

Senator BOND. That's fine.

Senator ALLARD. Okay.

Also, Secretary Jackson, you've been dealing with some issues, as far as waste and—wasteful spending. And I want to commend you, again, for correcting some of the practices that we have there. Can you describe your efforts to end improper payments, and update us on your progress?

Secretary JACKSON. Yes. We have done extremely well with the improper payments. I would let Assistant Secretary Cabrera answer that question, because he's dealt with it firsthand.

Senator ALLARD. Mr. Cabrera?

Mr. CABRERA. For the record, Senator Allard, Orlando Cabrera, Assistant Secretary for Public and Indian Housing at the Department of Housing and Urban Development.

We've had enormous success, due to the Secretary's efforts and our staff's effort. And what we have done is essentially work with other agencies in order to acquire data. That has minimized, to a great extent, improper payments. They are down to, as I recall, about $1.2 billion, from $3.1 billion, through the end of the—through the end of the last fiscal. And I don't have the most current data, but my expectation would be that it would be even less than that now. And that's in a 2-year period, I believe.

Senator ALLARD. Thank you for your response.

Mr. CABRERA. You're welcome.

Senator ALLARD. Now, one of the—go ahead.

Secretary JACKSON. Senator, what I was going to say is that when I became Secretary, one of the things that I committed to the President and to the people is that we would correct a number of the problems, the improper payments, and we would get off of the high-risk list. And I'm glad that we've done both of those. And—but I could not have done it—it was a great team effort, not only from the Deputy Secretary and all the Assistant Secretaries, but, also, OMB helped us tremendously. So, I am very proud that we did that.

One of the major issues was FHA. I would not be here asking for FHA modernization if we were still on the high-risk list. It would be very difficult to ask, until we got ourselves in order. And the single-family and others have been very positive to date.

Senator ALLARD. Good.

Now, you—a lot of businesses and whatnot are experiencing an aging workforce. In your agency, I think yours might be as acute as any, as I understand it.

Secretary JACKSON. I'm sorry, I didn't hear you.

Senator ALLARD. Businesses all over the country are facing some problems with an aging workforce.

Secretary JACKSON. Yes.

Senator ALLARD. The agencies in the Government are no exception. Your agency, HUD, has the highest risk on an aging workforce, in that many of them are coming up for retirement in 2006 and 2008. That is something you can plan for and look into. Could you give us some—what you're doing about addressing that potential problem, where you're going to have your forces coming up for a mass retirement, so to speak, in a couple of years?

Secretary JACKSON. In all honesty, it's very scary. It's very scary, because unlike when I was running American Electric Power—we had a succession program, where, if we knew that an engineer was leaving, we could bring one on for the next 90 days so this—and, you know, you could train—there is basically no succession policy in Government. I mean, until the person leaves, we can't hire, because we have 9,000 full-time equivalents (FTEs), and we can't bring somebody in to a slot based on the person leaving in 60 days or 90 days. So, it's very difficult. And about 67 percent, I think—Dave can help me; he's sitting behind you. I think about 67 percent of our population that's at HUD can leave right now. It's very devastating. And I can tell you, on a number of occasions I've asked at least 30 people to stay, because we didn't know—in fact, Ranking Member Bond, I asked Attorney Kenison to stay, but he said he had 40 years, and he was ready to go. But that's a huge void that we have right now, because he was really a senior attorney and knew a lot.

So, I will tell you, my best answer is I'm afraid that if we have a mass exodus, we're going to have a serious problem.

Senator ALLARD. Madam Chairman, I've finished—well, I have some more questions, but——

Senator MURRAY [presiding]. Thank you very much.

And, Mr. Secretary, thank you for your patience as we've bopped in and out, here.

When I had to leave, I was asking you about the money to the gulf region, and wanted to ask you, in particular, about the $2 billion, the vast majority of which has been spent on—focused on homeowner assistance, not on rental housing. This subcommittee included statutory mandate in June, 1 year ago that required at least $1 billion of the $5.5 billion we provided at that time to be used for repair, rehabilitation, and reconstruction of affordable rental housing stock in the impacted areas. How many projects, can you tell us, have been rebuilt or repaired as a result of that funding? And how many tenants have now been able to reoccupy those facilities?

Secretary JACKSON. Yes, I will. Let me say this, that in Mississippi they've moved expeditiously to do exactly what you said. In Louisiana, I must tell you, we have been disappointed. In fact, I can't pinpoint exactly what has occurred to rehab units for rental, at this point, in Louisiana, because most of the monies that have been spent, it's been spent basically on paying a vendor, which was—who headed the program, ICF.

We have been very slow in awarding the compensation grants to the people who lost their home. We met with the Governor—I shouldn't say the Governor—the Governor's staff, about 1 month ago, and told her that it was totally unacceptable at the rate that they were spending to—spending the money, and the rate that they were giving people compensation or rehabbing housing.

Now, I think if you look at the legislation, chairlady, the first $6.5 billion to Louisiana, we have very little control over. The second part, we have a lot of control over. And so, with that, we can either say, "You're not doing an acceptable job"—but the leverage is not there.

So, I will tell you that I'm not pleased with the progress that's been made. I'm just not——

Senator MURRAY. So, you can't give me the number that have been repaired or rebuilt?

Secretary JACKSON. I will look and find out, but I don't think it's very many. So, I don't want to give you a faulty number today, but I will get it to you immediately after this.

Senator MURRAY. Okay. I would appreciate that.

[The information follows:]

PUBLIC LAW 109–234—REQUIREMENT FOR AFFORDABLE RENTAL HOUSING

Public Law 109–234 appropriated a total of $5.173 billion in supplemental CDBG disaster recovery grant funds to the five gulf States affected by Hurricanes Katrina and Rita.

The fifth proviso stated:

"Provided further, That not less than $1 billion from funds made available on a pro-rata basis according to the allocation made to each State under this heading shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD-assisted housing) in the impacted areas:"

On October 30, 2006, HUD published in the Federal Register the five-State allocations, waivers and requirements. In particular, HUD published the following provision to implement the statutory requirement for the $1 billion to be spent for affordable rental housing stock:

"Also as required by the law, not less than $1 billion of the $5.2 billion appropriation less $27 million in administrative set-asides (which computes to 19.3311 percent of any State's allocation) shall be used for repair, rehabilitation, and reconstruction (including demolition, site clearance and remediation) of the affordable rental housing stock (including public and other HUD assisted housing) in the impacted areas. Therefore, HUD is requiring that not less than 19.3311 percent of each State's grant be used for these activities."

State	Minimum amount for affordable rental housing
Alabama	$4,103,146
Florida	19,344,001
Louisiana	811,907,984
Mississippi	81,777,703
Texas	82,867,166
Total	1,000,000,000

The five States have submitted Action Plans for the required housing that HUD has accepted.

The amounts budgeted for affordable rental housing is as follows:

	Amount
Alabama: Unspecified projects for affordable rental housing	$4,103,146
Florida: Multifamily Housing Repair and Mitigation	20,013,304
Louisiana:	
Piggyback/LIHTC Affordable Multifamily Rental Development, 18,000 units proposed	593,970,000
Small Rental Development—10,000 units proposed	492,700,000
Subtotal	1,086,670,000
Mississippi; Small Rental (1–4 units) Assistance Program	262,000,000
Texas:	
Assistance to Multifamily properties (16+ units) in areas damaged by Hurricane Rita	82,866,984
Rehabilitation of Multifamily Apartments in Houston/Harris County where large numbers of evacuees live.	20,000,000
Subtotal	102,866,984
Grand Total	1,475,653,434

The above programs are in various stages of program design and implementation. The States are at the forefront of implementing their program designs which took time to develop and institute. We anticipate future progress reports will capture the activity and commitment of each State. Louisiana has been accepting applications from prospective apartment owners as well as projects for the Affordable Multifamily Rental Development program. Mississippi has rolled out its program and applications are available on-line.

The CDBG disaster grant funds currently budgeted for affordable housing exceeds the statutory minimum by over 47 percent. Not counted in these amounts are funds the States have budgeted from the CDBG disaster supplemental appropriated under Public Law 109–148. Funds budgeted by the States from this appropriations exceeds an additional $500 million. In all, total resources committed to affordable housing, public housing and supportive and housing for the homeless is approximately $2 billion. At the moment there is limited progress as the States are in the initial stages of operationalizing their programs or undergoing the application phase.

Senator MURRAY. And the administration asked us, and we approved, a provision that allows the PHAs in the most heavily impacted areas in Mississippi and Louisiana flexibility to combine their funding streams from all the Federal resources to assist tenants in a lot of ways in reconstructing damaged or destroyed housing. You kind of alluded to this, but the Housing Authority of New Orleans, which is under your exclusive control, is now sitting on over $95 million in Federal funds, and doesn't have a lot of activity to show for it. Can you tell us why—this is under your control—can you tell us why those Federal dollars are not being spent?

Secretary JACKSON. You mean in Louisiana?

Senator MURRAY. It's the Housing Authority of New Orleans.

Secretary JACKSON. The dollars are being spent. We are moving expeditiously. As the ranking member asked, we have completely rehabbed 2,000 units. We have committed to rehab 2,500 units. We—to date, we've housed 1,600 people. And I will give you the same answer that I gave the Senator, we're trying to entice people to come back and occupy those units, but we have not been very successful, because many of the people are pleased with where they are. But the units are online, and we committed to the court and to Chairlady Waters on the House side, that we would have 2,500 units for occupancy by September, and we will keep that commitment.

Senator MURRAY. We're seeing $95 million sitting on the books. Is that inaccurate?

Secretary JACKSON. I will find out. I don't think there's $95 million sitting on the books that's not being spent. If it is, I will get back to you.

[The information follows:]

On December 7, 2006 HANO, in accordance with Federal Register Notice No. 145 Vol. 71, submitted a fungibility plan to the Department of Housing and Urban Development (HUD). Under this plan, HANO was allowed to combine its Operating Fund, section 8, and Capital Fund/RHF funds under one plan to provide for the development and revitalization of its public housing stock. The following summarizes HANO's financial position at September 21, 2007 in relation to its 2006 fungibility plan:

Summary of HANO 2006 fungibility dollars, amounts expended and/or committed, and remaining 901 funds:

	Amount
2006 Fungible Dollars (Operating Fund, Capital Fund, and section 8)	$121,586,296
Expended on rehab of reoccupancy units at Iberville	(1,468,875)
Expended on security for vacant sites	(2,666,354)
Expended on Lafitte Pre Development Costs	(3,226,893)
Total 2006 Fungible Dollars Expended	(7,362,122)
Obligated for the demolition and infrastructure of properties slated for redevelopment	(33,527,103)
Obligated for pre construction loans on mixed finance projects	(18,688,000)
Total 2006 Fungible Dollars Obligated	(52,215,103)
Total 2006 Fungible Dollars Expended and Obligated	(59,577,225)
2006 Fungible Dollars net of expended and obligated balances	62,009,071
Interest earned on 901 funds held in depository accounts	1,087,654
Net Currently Available	63,096,725

Although HANO has not expended a majority of the 2006 funds available, nearly 50 percent has been obligated. This delay between obligation and expenditure is typical of redevelopment projects. In the case of HANO, delays in redevelopment have been caused by external factors such as environmental reviews, including protracted historic negotiations with the State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP) requiring the finalization of Memoranda of Understanding (MOA) with multiple consulting partners. Additional delays resulted from litigation and time required to select developer partners. Recently, several approvals have been obtained. HUD has approved the demolition and disposition of four major public housing sites and predevelopment agreements have been signed with the developers of the four sites. HANO intends to obligate the remaining funds for redevelopment of public housing within 6 months.

Secretary JACKSON. I—in fact, one of the issues that we are facing is that we have been told by the accountant that's in the housing authority, that we have a shortage of funds. And I've asked Scott Keller, who's the Deputy Chief of Staff, to make sure that we have ample funds to carry out the responsibilities.

So, if we have $95 million, I will surely get back to you, because I really don't—I really don't know, at this point.

Senator MURRAY. Okay. I have one other area that I wanted to just quickly ask you about, and that is the issue of the men and women coming home from serving us in the armed services. We are hearing a lot about the homelessness issue that is facing these veterans when they return, their ability to get in, and stay in, housing. And I wanted to ask you what HUD is doing specifically to meet some of the challenges of our returning veterans.

Secretary JACKSON. We have been working with Secretary Nicholson, because he has the same concern. And we're doing everything in our power with our vouchers with public housing to house many of these people. I'm totally in agreement with you, they should not come back and not be housed. And I will do everything—I won't say "I'll do"—I'll continue to do everything in my power to make sure that they're housed.

Senator MURRAY. Well, I'm familiar with the HUD–VASH program——

Secretary JACKSON. Right.

Senator MURRAY [continuing]. May have been what you're referring to—that combines HUD section 8 with some supportive services. We know that, since 1992, only 1,780 of those vouchers have been issued. Is this a program that HUD still supports?

Secretary JACKSON. Yes, we do. And what we—we're doing—whenever vouchers are available—and I promised Secretary Nicholson this—we will allocate it to the program up to the number that we should require. Back in 1996 or 1997, they stopped allocating the vouchers and began to allocate them outwardly. We should have never allocated those vouchers that were set out for veterans. And we're trying to recapture them. We have—I think we—to date, we've gotten about 200 back. It's very difficult to get the vouchers back once they're out there.

Senator MURRAY. Have you had a personal discussion with Secretary Nicholson about this program?

Secretary JACKSON. Yes, I have.

Senator MURRAY. Okay. Well, I would like to find some answers back, and I'd hope that you can really focus on this. It is a growing concern out there, and, I think, one that we all need to——

Secretary JACKSON. And I agree with you, wholeheartedly.

Senator MURRAY. Okay, thank you very much.

Senator Bond.

Senator BOND. Thank you very much, Madam Chair.

And I said I'd like to call up Mr. Donohue. While he's taking his seat, I want to call to your attention, Mr. Secretary, a problem that was highlighted in the May 2 Post-Dispatch. And I know you're familiar with that paper, having lived and worked in St. Louis.

There is a tragic situation at Centenary Housing, a company of Portland, Maine, that acquired property and—it's a public/private venture that, according to this paper, and from our information, allowed the housing to lapse into a state of disrepair and chaos. The elderly and disabled residents are being forced out of their homes, and it is another serious situation. And I'd ask that you make a personal commitment to have somebody look into it to ensure that these residents are not harmed and their needs are addressed. Apparently, there has been a tremendous number of police calls over the last 2 months, some 1,151 calls for police support. So, something is going drastically wrong there. So, I would like——

Secretary JACKSON. Well, I'll say this. I think, as of last evening, we had found vouchers and housed about 60 of the 97 people. I will be making a trip out to St. Louis early next week to make sure that many of the elderly and the disabled issues related to housing is addressed, because I'm very, very concerned when they're elderly and disabled.

Senator BOND. Well, thank you. We are, too. And I appreciate your personal attention.

Now, turning to Mr. Donohue, I would like to get your views and assessment on the HUD funding, addressing the devastation caused by Katrina. And I would like your assessment of what the key concerns are and how well Mississippi and Louisiana are implementing the use of emergency CDBG funds. Are they being allocated quickly and effectively? Has—have you seen any evidence of fraud and abuse in these programs?

Mr. DONOHUE. Yes—Kenneth M. Donohue, D-o-n-o-h-u-e, Inspector General, Housing and Urban Development. Thank you, Senator.

We—as far as the disbursement of funds, I have some notes here—Louisiana, 129,260 applications; grants paid out is $12,681.

Senator BOND. So, that's 10 percent?

Mr. DONOHUE. That's about right, sir.

Mississippi is 18,753; grants paid is $12,413.

Senator BOND. So, that's about 67 percent.

Mr. DONOHUE. Yes, sir.

Senator BOND. My math is a little—my horseback math is a little shaky, but, I think, just for the sake of comparison, it's—it would be helpful to know.

Mr. DONOHUE. I think—as far as our patterns are concerned with regard to Louisiana, I think what we're seeing is that the applications are slow in the process. And the fact is, I think what we're finding is a lot of homeowners are trying to make a determination as to whether they want to return or rebuild. And I think part of that reason is the fact—is whether the infrastructure—education programs and hospitals and so on—are enough there to support the efforts that they want to return to. But it has been quite slow, and we continue to watch it closely.

Senator BOND. Are you seeing—are the funds—the funds that are being allocated, are they being effectively allocated? Have you come across any fraud and abuse in either of these two States?

Mr. DONOHUE. We certainly do, sir. We—as I told you that we've tried to take a very proactive approach to our efforts. We have several ongoing audits. I've expanded my offices to include several locations in Mississippi—Hattiesburg and Jackson, Mississippi, increased my staff in New Orleans. We have, at this point, about—in the criminal side, about 123 cases, fraudulent applications.

Senator BOND. Where are those cases, mostly?

Mr. DONOHUE. They were both in Mississippi and Louisiana. We had a recent announcement, on April 16, where we indicted ten people in Mississippi, primarily with grand fraud. What we're seeing, Senator, is, we're seeing a movement from grand fraud now to move contract or public corruption cases. And we think that will continue on as more contracts are awarded.

Senator BOND. That's an unfortunate—that's an unfortunate result of it, and we appreciate very much you staying on top of it. Any other problems on how HUD's dealing with the rebuilding, or any major problems facing HUD in rebuilding the low-income housing stock?

Mr. DONOHUE. Well, just a few things are—I think that one of the things we've found is that the Privacy Act issues with regard to transferring—doing data matching between Government agencies—we'd like to see—and I believe—I would suggest that when we have disaster of this type, there are issues that have to be addressed in the privacy issues so Government agencies can share information with each other more easily.

The other thing I've seen is—with the Department, is communications. And I think—what I mean, between the program areas themselves, and also communications with the local offices and headquarters. I'm pleased to have learned that the Deputy Secretary has—and the Secretary—have announced naming a person in charge of the department that'll oversee the entire efforts in the gulf States area, and I applaud that effort.

Senator BOND. Thank you very much, Mr. Donohue.

Thank you, Madam Chair.

Senator MURRAY. Do you have any other questions?

Senator BOND. Well, I'll—I have just two more, but I'll let you and Senator Allard go forward.

Senator MURRAY. Senator Allard.

Senator ALLARD. Thank you, Madam Chairman.

Mr. Secretary, as you may well be aware of, I pay close attention to the President's PART program. This is made possible through legislation we passed over a decade ago, where the Congress asked for the agencies to establish a Government Procedures and Results Act—I guess it's Performance and Results Act.

Secretary JACKSON. Right.

Senator ALLARD. And I watch that fairly closely. And I notice that you have some agencies there—four, I believe—that are rated as ineffective. They have eight or so that are rated as "no results demonstrated." And rating on that is: no results demonstrated, ineffective, moderately effective, or effective.

And what is it that you're doing to address these agencies that refuse to try and do anything, or, for some reason or other, are unable to, and then those that are also rated ineffective? In my way of thinking, the most egregious one are those that absolutely aren't trying. And then, those that are ineffective would be next to the bottom. So, I just wondered what you're doing, when you look at the results of that, to correct those problems.

Secretary JACKSON. Two things. First of all, as I said, we are making every effort to do what we did with FHA in the public integrity issue with undercounting. I believe that, clearly, getting off the high-risk list was extremely important to us. One of the things that we have stressed—and, I mean, when—I said "we," because I don't like the term "I"—we have stressed—that means the Deputy Secretary and the Assistant Secretaries—is performance. And I must tell you, working with Clay Johnson, over at OMB, who is a performance expert, we have begun to move quickly, programs that were ineffective to effective programs.

Second, when we hired our Chief Information Officer, we had so many computer systems, Senator Allard, that did not talk to each other, it was unbelievable. She has done—we've gone from an F to an A, because we have integrated those systems and cut out a lot of those systems. So, we're making tremendous strides, because I think that if we don't make those strides, then clearly we will find ourselves back on the GAO list again, and I don't want to be back on that list.

Senator ALLARD. Well, good for you. What are your—getting to your budget—I think, 6 years ago, you were carrying—the HUD was carrying somewhere—about $12 billion unallocated and unspent balances. Are you carrying any unallocated—I assume you're carrying some unspent balances and some unallocated—do you have any idea what that figure is?

Secretary JACKSON. I will get it for you. I don't, today.

Senator ALLARD. Okay.

Secretary JACKSON. If we have it, I will get it.

Senator ALLARD. I would like to—I'd like to have that information——

Secretary JACKSON. Sure.

Senator ALLARD [continuing]. If you would, please.

[The information follows:]

UNOBLIGATED AND UNEXPENDED BALANCES

At the end of fiscal year 2001, The Department carried over $10.99 billion in unobligated balances into fiscal year 2002. At the same time, the unexpended balances for the Department were $103.26 billion. At the end of fiscal year 2006, the most recently completed fiscal year, the Department carried over $13.69 billion into fiscal year 2007, while the unexpended balances were $85.35 billion. Although the amount of unobligated balances increased by $2.7 billion, this is largely attributable to the emergency supplemental funds appropriated in response to Hurricanes Katrina, Wilma, and Rita. During this same timeframe, the Department was continuing the successful efforts to expend funds more efficiently and expeditiously as demonstrated by the $17.9 billion reduction in unexpended balances.

Senator ALLARD. And then, finally, as far as I'm concerned, on the multifamily mortgage insurance premium, I see that—in the budget there, that you're asking for an increase in that. The past years, that's been highly controversial. What—are there other ways? I mean, why are—why do you include that in your budget when it's—in your appropriation—when it's so controversial?

Secretary JACKSON. Well, let me have—I can give you an answer, a generic answer, but let me have Brian Montgomery—Brian is not here? Oh.

Senator ALLARD. Well, he can give me a written response.

Secretary JACKSON. I will give you a written response, very quickly.

Senator ALLARD. Okay.

Thank you, Madam Chairman.

Senator MURRAY. Thank you.

[The information follows:]

MULTIFAMILY MORTGAGE INSURANCE PREMIUM INCREASE

The proposal to raise the annual insurance premiums on multifamily housing projects was prompted by the outcome of an evaluation of the program using OMB's Program Assessment Rating Tool (PART). That evaluation raised questions concerning program targeting and its overall efficiency. While we intend to review the program to determine whether or not changes need to be made, let me assure you that no actions—including raising the premiums—will be taken until they are fully discussed with all interested stakeholders, especially Congress.

The annual premium increases impact only the following multifamily products. Projects that use Low-Income Housing Tax Credits are exempt from this increase:

	Description	Fiscal year 2007	Fiscal year 2008
221d4	FHA New Construction/Substantial Rehab Apartments	45 basis points	61 basis points.
223a7	Refinancing of Apartments	45 basis points	61 basis points.
223f	Refinancing/Purchasing of Apartments	45 basis points	61 basis points.

Senator MURRAY. Mr. Secretary, I do have some questions that I'm going to submit for the record that I hope that you will respond with, and I will leave the record open for any other members who have questions, as well.

Senator Bond, did you have anything else you wanted to ask now?

Senator BOND. Thank you, Madam Chair.

Yes, I'll have a few, just to make sure that we keep the Secretary busy. But I do want to ask a question about housing for the disabled. The 811 budget request assumes a new $15 million demonstration program, and I'm curious what the logic is behind requesting funds for the demonstration, while drastically cutting the overall program. I'm especially troubled that HUD recommends that $75 million, of the $125 million requested, be targeted solely to tenant-based vouchers. This continues a trend against, apparently, new housing for persons with disabilities. And what's the definition for going tenant-based without providing some incentive for construction or rehab for—of facilities for persons with disabilities?

Secretary JACKSON. Senator, we believe that, as we do with HOME dollars, that we should begin to leverage the dollars, find developers to develop housing for disabled, for the elderly, and do all—and do as much as we can to create more housing. We have strictly been building housing with 202 and 811, but we have not been building it in a quick or judicious fashion. We really haven't. And I think that if we can find an interim area where we can do it—and that's for the demonstration program—then I clearly believe that I will come back and ask for more monies. But we've got to build the house—housing quickly.

Now, I know the question becomes, "Well, if you will ask if it's done, what happens to the—to many of the people who are disabled?" That's why we've increased the vouchers, because we find that much quicker to be used. They can get an apartment much quicker, or get a home much quicker than we can build it. So, we're trying to accommodate as many disabled and elderly as we can, and that's the reason why we went to the demonstration program.

Senator BOND. Well, it would seem to me that, rather than cutting the overall 811 program, that perhaps project-based, along with the demonstration program, would begin to provide the facilities that we need that are in—truly wanting in many areas. So, I question—have you worked with the disabled community? And do you expect any legislative proposals to be submitted to Congress?

Secretary JACKSON. Yes, I just met with ADAPT—today is Thursday—on Monday, when there were about 500 disabled persons in town. I went to see them. And clearly their concern is the concern that you've raised, not only for veterans, but for disabled—not only for disabled veterans, but disabled people, period, and especially those persons in nursing homes. And I agreed with them that we would work with them to try to create legislation that could be presented to you all. And I have my staff working with their executive board or committee, whatever they're called, to see exactly what it is that they want, and to have us introduce legislation.

Senator BOND. We'll look forward to that proposal.

Finally, saving some of the best for submission for the record, on the question of homeless, as I said in my opening statement, I think you've made great progress, and I support your—the administration's focus on the chronic homelessness and the goal to provide 150,000 units. How close are we to meeting this goal? And, after that goal is met, what are your—what are the next steps to addressing other types of homelessness, especially family homelessness? Do you have a long-term strategy?

Secretary JACKSON. Yes. You know, I visited a number of homeless organizations, and I think the model that I've seen that works best is the model out in Los Angeles called PATH. And I don't know exactly what the acronym—what they do—and that's one of the reasons we increased the budget by $1.6 billion—they first take the person off the street, then they clean up the person, then they have the person go through both physical and psychological evaluation, then they begin to train the persons in job classifications, and then they monitor the person for the next 18 months after they leave. To me, that is the way we should be addressing the homeless, not putting a person in a shelter because it's cold that one night. And that's traditionally what we have been doing. So, what we're trying to do is replicate PATH around this country, because if they can do it, other cities can do it.

I think you have made great strides in St. Louis, too, addressing the homeless.

Senator BOND. I'm proud of what's going on there.

Secretary JACKSON. Very much so. But there are other cities—and I like to use the city that I'm from—like Dallas, that has not made great strides. They still think that the most important thing is to house a person for a night. And I don't think that's the approach that the President wants to take, or I want to take. Once a person is on the streets for 90 days or more, they're going to need tremendous help not to go back to the street. And I would prefer see them—seeing them not go back to the street. I look out, every day, at my window at HUD, and there are people sleeping under the freeway. And that is unacceptable. And they've been there for 3 or 4 weeks. So, clearly, we should be addressing their needs to get them off the streets.

Senator BOND. Well, thank you very much. Mr. Secretary, the only thing I'd disagree with, I still think you ought to claim St. Louis as your roots, but——

Secretary JACKSON. Well, St. Louis is—let me say this to you, Senator. I was born in Dallas, Texas, but I lived most of my——

Senator BOND. You didn't have a choice about that.

Secretary JACKSON. That's right. But I lived most of my adult life in St. Louis, and St. Louis is like my home.

Senator MURRAY. Okay.

Senator BOND. Keep the faith in the Cardinals.

Thank you very much.

Secretary JACKSON. And they are my team, too——

Senator MURRAY. But we're not——

Secretary JACKSON [continuing]. The St. Louis Cardinals.

Senator MURRAY [continuing]. Going to go there.

Well, thank you very much, Senator Bond.

And, Mr. Secretary, I want you to get back to us on a number of questions that were raised here today. I especially want to find out about the $95 million that the Housing Authority of New Orleans—your Assistant Secretary is the one who gave us the number——

Secretary JACKSON. Okay.

Senator MURRAY [continuing]. That it is sitting there, it is available for reconstruction now. So, we want to find out——

Mr. CABRERA. Who is it? I can talk—I can speak——

Secretary JACKSON. He can speak to it, if you want him——

Senator MURRAY. I would like a question back in——

Secretary JACKSON. Okay.

Senator MURRAY [continuing]. Response.

Secretary JACKSON. I didn't know he had given you the number.

Senator MURRAY. Actually, we'll get a response back from you in writing, if—and not in testimony today, because we do need to move on. But I appreciate your being here today. But I want to——

Mr. CABRERA. Can we give a quick——

Senator MURRAY. If you can give a 30-second response, we have a vote we have to get back——

Mr. CABRERA. Absolutely, Madam Chair. Orlando Cabrera, for the record, once again.

The $95 million is a reserve number that allows for the fungibility that Congress provided in section 901 of the supplemental. And so, the reason that it's not—the reason it's there is because currently HANO, HUD, and others are being sued, and that's impeding development. The purpose of that money is to redevelop. And so—but there is—that's composed of section 8, operating fund——

Senator MURRAY. Right.

Mr. CABRERA [continuing]. And it includes capital fund, even though that determination is a little bit unclear. It's actually $81 million plus $14 million——

Senator MURRAY. Right.

Mr. CABRERA [continuing]. But there's an interpretive issue as to whether that $14 million is inclusive. And so, that's what—that's what the $95 million is.

Secretary JACKSON. And we will still get you a written response.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. I—and I very much appreciate that, thank you.

Secretary JACKSON. Okay.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR HERB KOHL

CUTS IN THE OPERATING FUND

Question. The Milwaukee Public Housing authority recently told me that they are being restricted from using a portion of their capital fund to off set some of their operating costs. Specifically, they use capital fund money to pay for their Public Safety program, which provides security and intervention services for seniors, disabled individuals, families and veterans in public housing. They are very concerned because current law allows them to use up to 20 percent of their capital fund to cover certain operational costs, however, HUD issued guidance that would eliminate this flexibility. This rule would force the Milwaukee PHA to lay off 35 employees who administer evening and weekend security. It is unclear why HUD would eliminate PHAs flexible use of the Capital fund given the constraints on the operating fund. Why would HUD issue this guidance and will you withdraw the provision?

Answer. The Department has not implemented any restriction on the ability of a PHA to use 20 percent of its Capital Fund Program to support the "operations" of a project. In the case of the Milwaukee Housing Authority, security expenses are an "operating" cost of each project. Hence, the PHA can continue to use the Capital Fund (up to the 20 percent permitted by statute) to fund its security program.

SEC. 202/811 FUNDING

Question. The section 202 program provides capital to non-profits to develop and maintain housing for low-income seniors and section 811 helps develop housing for disabled individuals. Both programs couple housing with supportive services to allow these individuals to live independently and participate in the surrounding community. The administration has proposed deep cuts to both programs. In 2005, in Wisconsin, there were only three new housing developments, totaling 41 units, to serve these populations. If the administration's proposed cuts were accepted, it would result in approximately only 150 new units across the country. For every section 202 housing unit, there are around 10 seniors on the waiting list and the number of disabled adults living with their aging parents is close to 700,000. With these two populations growing and housing resources becoming more scarce, how can you justify cutting these very valuable programs?

Answer. The Department's first priority is to provide for the increased costs associated with serving the roughly 3.4 million families currently receiving section 8 rental assistance. This required that the Department make some very difficult funding decisions. However, despite the fact that section 8 renewal funding absorbed a major part of the Department's budget, we are able to direct significant funding in the budget to the section 202 program to provide for: (1) funding to convert projects to assisted living; $390.5 million for the construction of new units; (2) funds to renew and amend existing contracts (Our estimate is that the requested budget funding will produce several thousand units nationwide); (3) congregate services; and (4) service coordinators.

In addition, we proposed sufficient funding for the section 811 program providing for: (1) funds to renew and amend existing contracts; (2) $14.5 million for the construction of additional new units; and (3) continued financial support for projects under payment and in the construction pipeline.

QUESTIONS SUBMITTED BY SENATOR FRANK R. LAUTENBERG

FUNDING FOR PUBLIC HOUSING

Question. Many housing authorities in New Jersey have told me that public housing is in crisis. Yet, President Bush's proposed budget for fiscal year 2008 falls $700 million short of what is needed to fully fund the HUD operating fund. How are public housing authorities supposed to provide the affordable housing thousands of people need without full funding?

Answer. At the end of fiscal year 2006, nationwide, PHAs had approximately $2.7 billion in reserves that can be used to support the operation and maintenance of low-income housing. Additionally, PHAs are allowed to retain all of the income they receive from investments and other non-dwelling rental income, such as income from rooftop antennas, laundry receipts, etc. In 2006, this other income accounted for $349 million. Further, for the purposes of subsidy calculation, rental income is frozen at 2005 levels, which means that any increase in rental income does not decrease the amount of subsidy that the PHA will receive in 2007 and 2008.

Through a variety of initiatives, the Department has encouraged PHAs to look at their inventory and make informed management decisions about the housing stock.

Steps that PHAs have taken include demolishing the worst, and often most expensive, housing stock, entering into energy performance contracts to reduce the cost of utilities, and switching to tenant-paid utilities.

AT-RISK REPUBLICANS

Question. Last month, the Bush Administration admitted conducting political briefings with your agency on Republican candidates that were at risk of not being re-elected. Was such a briefing given to your agency? If so, did your agency award any contracts or take any specific action to assist vulnerable Republicans gain re-election?

Answer. White House personnel conducted briefings for various HUD employees to provide overviews of the national electoral landscape. At those briefings, there were no discussions of HUD assisting any individual candidates, and HUD did not award any contracts or take any specific action to assist vulnerable Republicans gain re-election as a result of any of those briefings.

QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

ASSET MANAGEMENT

Question. The fiscal year 2008 budget requests funding at $4.0 billion for the Public Housing Operating Fund. According to your agency, this level of funding would represent only 85 percent of actual operating subsidy needed for fiscal year 2008 as housing authorities convert to asset-based management.

Given the anticipated shortfall, how will housing authorities be able to meet their operating needs, without cutting vital services and security, and covert to asset management?

Answer. At the end of fiscal year 2006, nationwide, PHAs had approximately $2.7 billion in reserves that can be used to support the operation and maintenance of low-income housing. Additionally, PHAs are allowed to retain all of the income they receive from investments and other non-dwelling rental income, such as income from rooftop antennas, laundry receipts, etc. In 2006, this other income accounted for $349 million. Further, for the purposes of subsidy calculation, rental income is frozen at 2005 levels, which means that any increase in rental income does not decrease the amount of subsidy that the PHA will receive in 2007 and 2008.

Through a variety of initiatives, the Department has encouraged PHAs to look at their inventory and make informed management decisions about the housing stock. Steps that PHAs have taken include demolishing the worst, and often most expensive, housing stock, entering into energy performance contracts to reduce the cost of utilities, and switching to tenant-paid utilities.

HOPE VI

Question. HOPE VI enhances communities by decentralizing poverty and giving families an opportunity to live in mixed-income neighborhoods with better educational and employment opportunities. I have visited HOPE VI sites throughout Pennsylvania and have discovered the critical impact that reconstruction in these public housing developments has on revitalizing neighborhoods.

As HOPE VI has accomplished one of its goals of demolishing 100,000 severely distressed units—which suggests to me that the program has been effective—how does HUD propose to accomplish the necessary level of reconstruction in the future if HOPE VI is eliminated?

Answer. The Department recognizes the importance of addressing the current capital backlog within the public housing inventory. In most cases, this need can be more appropriately met through other modernization and development programs operated by the Department, e.g., the Capital Fund, the Capital Fund Financing Program, non-HOPE VI mixed-finance development including leveraging private capital investment, required and voluntary conversion, section 30, and use of tax credits. The Department will encourage housing authorities in need of this assistance to submit proposals under these programs.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

CUTS IN SECTION 811 FUNDING

Question. Secretary Jackson, I was disappointed to see that for the third year in a row, the Department of Housing and Urban Development is seeking a huge cut in funding for the section 811 Supportive Housing for Persons with Disabilities programs. This year you requested only $125 million for a program that is currently funded at $237 million. In each of the last 2 years, Congress—including this subcommittee with bipartisan support—has restored these funds. Why does HUD continue to seek cuts to this program?

Answer. The fiscal year 2008 budget request of $125 million is $6.2 million greater than the $118.8 million requested in fiscal year 2007. Despite the fact that we are required to provide funding for renewals and amendments, we were able to provide additional funding for new production in the fiscal year 2008 request. This includes $14.5 million for new capital grants and associated Project Rental Assistance Contracts (PRAC). The Department has proposed $15 million for a Leverage Financing Demonstration. The Department is committed to fully funding all the projects in the construction pipeline.

Question. All of the cuts you have proposed in the section 811 programs would come from the capital advance-project-based side of the program that helps produce new units. These units help individuals with more severe disabilities that have higher support needs and face an enormous struggle in trying to find housing. These units also help provide a direct link to supportive services such as medical care, transportation, and employment. Why is HUD requesting a cut of $112 million (70 percent) for these programs which fall under your own budget title of "Serving Those Most In Need?"

Answer. The Department remains committed to serving this vulnerable population. There are approximately 250 projects in the development pipeline that the Department will continue to work with sponsors to develop. The Department will provide additional funding for new capital grants and PRAC in fiscal year 2008. HUD also proposed the new Leverage Financing Demonstration to investigate more efficient means of bringing additional resources to support the program and its participants.

Question. The administration's request for fiscal year 2008 for section 811 includes a proposed $15 million demonstration program that would allow funding from the Low-Income Housing Tax Credit (LIHTC) program. When do you anticipate having this demonstration proposal ready for Congress?

Answer. Neither the House nor the Senate included the Demonstration in their fiscal year 2008 appropriations bills. We estimate that we would have a proposal for Congressional consideration 90 days after approval.

Question. How many permanent supportive housing units do you anticipate this demonstration proposal to produce in fiscal year 2008?

Answer. It is unlikely that funding will be available in time to produce any units in 2008.

Question. Do you anticipate this demonstration proposal requiring any waivers or exceptions to current statutory or regulatory standards in the current 811 program?

Answer. We are in the process of developing the detailed features of this demonstration and have not yet identified any specific statutory or regulatory impediments.

Question. If any such waivers or exceptions are needed, would this require a change to the current 811 statute?

Answer. This will be determined after the completion and evaluation of the Demonstration program.

Question. In March, HUD issued the fiscal year 2007 Super Notice of Funding Availability (SuperNOFA) for a range of programs. For section 811, the SuperNOFA makes available only $88.3 million for the new capital advance-PRAC grant competition. This is substantially below what was assumed in the fiscal year 2007 "continuing resolution" that was enacted by Congress back in February (H.J. Res 20). H.J. Res 20 assumed a freeze at the fiscal year 2006 level of $145.87 million. In order for this reduction to be explained by increased demand for 811 tenant-based renewals, the percentage of renewals would have to have increased by 120 percent. What happened to this funding for section 811?

Answer. The total new appropriation in fiscal year 2007 was $236.6 million and the total amount allotted in fiscal year 2007 amounted to $158,697,000 exclusive of $77.5 million for Mainstream Vouchers and $396,000 for the Working Capital Fund. The table below reflects the fiscal year 2007 allotment by funding category including the new capital advance funding of $113.6 million and PRAC renewals of $16.9 million.

	Allotment
Capital Advance Inspection Fees	$1,000,000.00
PRAC Renewals	16,943,000.00

	Allotment
Initial PRAC Awards	11,436,600.00
Capital Advance Amendments	11,590,759.00
PRAC Amendments	3,542,623.00
Initial Capital Advance Awards	113,575,425.00
Technical Assistance	608,593.00
Total	158,697,000.00

Question. Between fiscal year 1997 and fiscal year 2002, Congress annually appropriated funding for tenant-based rental assistance for non-elderly people with disabilities adversely impacted by the designation of public and assisted housing as "elderly only." There are approximately 62,000 of these non-elderly disabled vouchers—also known as Frelinghuysen vouchers—in use. Unfortunately, HUD was slow to develop a tracking system to ensure that these vouchers continue to be targeted to the population for which Congress intended. In February 2005, the Office of Public and Indian Housing (PIH) issued Notice 2005–5 relating to issuance and preservation of these vouchers. This PIH Guidance also covers "mainstream" tenant-based rental assistance for non-elderly people with disabilities funded under the section 811 program.

However, due to the lack of guidance until 2005, there is considerable uncertainty as to how many of these vouchers remain targeted to non-elderly people with disabilities as Congress originally intended.

Can you please provide the subcommittee with estimates of how both the Frelinghuysen vouchers and 811 "mainstream" tenant-based assistance has been targeted—and is remaining targeted to—the intended population?

Answer. PIH Notice 2005–5 issued implementation guidance to enable PHAs and HUD field staff on initiatives to assist non-elderly people with disabilities in their search for housing under the Housing Choice Voucher Program. In addition, this notice clarifies issues related to issuance and preservation of certain types of special purpose vouchers, i.e. Frelinghuysen and 811 Mainstream Vouchers. By requiring PHAs to electronically report using the Form HUD–50058, HUD monitors these vouchers to ensure they are targeted to the intended population. The Department continues to work with these agencies to ensure that all special purpose vouchers are used for their intended purpose. In fiscal year 2007, the Department had 50,533 Housing Choice vouchers, and 14,836 section 811 vouchers reserved for individuals with disabilities.

Question. Can you please update the subcommittee on steps that PIH has taken to ensure housing agencies that have these non-elderly disabled vouchers are meeting their obligations under PIH Notice 2005–5?

Answer. To ensure that non-elderly vouchers are meeting their obligations under PIE Notice 2005–5, HUD is tracking monthly the usage of these non-elderly vouchers through its Voucher Management System (VMS). The Department is also working with the PHAs to ensure that all special purpose vouchers are used for their intended purpose. Failure to serve disabled families as required will result in forfeiture of the vouchers.

QUESTION SUBMITTED BY SENATOR WAYNE ALLARD

HUMAN CAPITAL

Question. The Government cannot function without human capital, yet human capital has been a challenge for most agencies. This is particularly true at HUD, which has on average the oldest workforce. In fact, HUD is at risk of losing half its employees to retirement between fiscal years 2006 and 2008. What are you doing to address this challenge?

Answer. HUD has taken significant steps to better utilize existing staff capacity, and to obtain, develop, and maintain the capacity necessary to adequately support HUD's future mission-critical program delivery. The Department's 5-year Human Capital Management Strategy seeks to ensure that: (1) HUD's organizational structure is optimized; (2) succession strategies are in place to provide a continuously updated talent pool; (3) performance appraisal plans for all managers and staff ensure accountability for results and a link to the goals and objectives of HUD's mission; (4) diversity hiring strategies are in place to address under-representation; (5) skills gaps are assessed and corrected; and (6) human capital management accountability systems are in place to support effective management of HUD's human capital. Further, in fiscal year 2006, HUD developed and officials approved the Human Capital Vision Plan, and developed a Leadership Succession Plan and set targets for leadership bench strength through 2009. This document is currently being updated. Collectively, these actions are better enabling HUD to recruit, develop, manage, and retain a high-performing workforce that is capable of effectively supporting HUD's program delivery and mission." Following this, each program office within the Department was asked to develop a succession plan for their organization that identifies succession targets and strategies to ensure that HUD's talent pool is secure.

Additionally, HUD is making great use of intern recruitment opportunities to support succession planning. In fiscal year 2004, the Department launched and enhanced the HUD Intern Program with several hires of Federal Career Interns (FCIs) and Presidential Management Fellows (PMFs). In fiscal year 2006, this program was renamed the "HUD Fellows Program" and a new Masters of Business Administration Fellows (MBAFs) was added in fiscal year 2007. In fiscal year 2007, there were a total of 58 PMFs and FCIs on board. By the end of fiscal year 2007, HUD recruited and hired 50 additional PMFs, MBAs, and FCIs; and for fiscal year 2008, an additional 100 Interns will be hired. The Department also developed a Recruitment and Retention Plan of Action for PMFs, MBAFs, and FCIs in accordance with succession planning recommendations made by the Workforce Planning Task Force that were approved by the Deputy Secretary on October 12, 2006. The Assistant Secretary for administration was authorized to establish a formal 2-year program for all Fellows, with consultation and input from the major program offices.

In addition to the recruitment efforts, HUD is also using retention strategies to support succession planning. In fiscal year 2005, HUD developed and launched the Student Loan Repayment Program (SLRP) to strengthen and support recruitment and retention efforts. Since launching of this program, the Department has reimbursed the following amounts to employees participating in the SLR program: fiscal year 2007 ($604,343); fiscal year 2006 ($410,868); fiscal year 2005 ($399,993); and fiscal year 2004 ($275,701). The number of HUD employees who have received reimbursements under this program is as follows: fiscal year 2007 (179); fiscal year 2006 (253); fiscal year 2005 (178); and fiscal year 2004 (69). We expect to have more than $600,000 available for this program for fiscal year 2008. In addition to increasing the amount available for the program each year, the SLRP program has been automated. Employees can now submit their applications electronically to their supervisor and continue the approval process on-line through HR staff, the Office of the Chief Financial Officer, and ultimately the Employee Service Center for processing. This program is an attractive retention tool for new intern hires and top employees throughout the Department. In appropriate situations, HUD has also utilized retention and relocation incentives to help retain top employees.

SUBCOMMITTEE RECESS

Senator MURRAY. This subcommittee now stands in recess until Thursday, May 10, when we will take testimony from the FAA Administrator and the DOT Inspector General.

[Whereupon, at 11:40 a.m., Thursday, May 3, the subcommittee was recessed, to reconvene subject to the call of the Chair.]

TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

THURSDAY, MAY 10, 2007

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

The subcommittee met at 9:30 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

Present: Senators Murray, Lautenberg, Bond, Specter, Stevens, and Allard.

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

STATEMENT OF HON. MARION C. BLAKEY, ADMINISTRATOR

ACCOMPANIED BY HON. CALVIN L. SCOVEL III, INSPECTOR GENERAL

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. The subcommittee will come to order. I want to welcome my witnesses this morning, FAA Administrator Marion Blakey and DOT Inspector General Calvin Scovel.

Over the next 8 years, it is estimated that the number of air passengers will grow by 40 percent. That's pretty good news for our country, but it's also good news for my region, because we build the best airplanes in the world, and we are a gateway to our biggest trading partner in Asia.

But all those new aircraft will do little to expand our economy if we don't have a modern air traffic control system to move those planes safely and with maximum efficiency. If we fail to modernize that system and soon, it will not just be a drag on the economy of my region, it's going to be a drag on the entire global economy.

Unfortunately, we are years behind in this effort. We are years behind because just 3 years ago, the Bush administration and Administrator Blakey successfully advocated a cut to our annual investment in their traffic modernization funding by more than $400 million, and the program has been funded roughly at that reduced level every year since.

That represents a loss of more than $1.2 billion from the baseline that we established back in 2004. We are years behind because well over a decade ago, the FAA's modernization effort got seriously derailed as the agency wasted billions of dollars in a failed effort known as the Advanced Automation System.

That debacle was characterized by the FAA constantly changing its requirements and throwing good money after bad through undefined, open-ended contracts.

Today, in 2007, we are still paying to replace systems that were slated to be fixed in the 1980s and 1990s as part of that failed effort. Back then, the FAA was not up to the task of rapidly and efficiently modernizing the system. I'm worried that the FAA may still not be up to the task today.

Just last month, Administrator Blakey gave a speech that included the following passage. And I quote: "It stings when I listen to criticisms about the FAA that are based on something that happened 10 or 20 or 30 years ago. In the last few years, we have achieved enormous management efficiencies, and at the end of fiscal year 2006, 97 percent of our major capital projects were on time and on budget."

The Administrator has made similar statements before several House and Senate committees. I don't disagree with the Administrator that things have improved since the bad old days of the Advanced Automation System, but I do have to question whether it's appropriate or accurate to claim that the overwhelming majority of FAA's capital projects are progressing along just fine.

Part of my goal for this morning's hearing is to scratch under the surface of that claim. From my perspective, we still see too many examples where the FAA has signed contracts with under-defined requirements, and countered sizable cost overruns that get handed right back to taxpayers, purchased equipment that could not provide all the functions promised, and failed to produce all the operating savings that have been promised.

Now, I'm not talking today about examples from 10 or 20 or 30 years ago; I'm talking about examples in the last 5 years. I'm talking about programs that we are paying for right now, and I'm talking about programs for which the Administrator is seeking more money in 2008.

So how can we have all of those procurement delays and cost overruns, but have the FAA claiming that almost all of its programs were on time and on budget? Well, the answer lies in a process known as re-baselining.

This is a process required by OMB for major procurements throughout our government. When a program appears to be exceeding its targeted cost or failing to deliver its intended product, that agency is required to re-baseline the program.

That means the agency must re-estimate the cost, schedule, and benefits, and decide if it still makes sense to move forward. As we will hear today from the Inspector General, the FAA has been required to re-baseline a significant number of programs because of substantial cost overruns and schedule slips.

Let me be clear. I do not question that the FAA did the right thing in re-baselining these programs. What I do question is whether the agency is being honest with the system's users, Congress, and taxpayers when it establishes a new, higher cost estimate, a later delivery date, or a weaker performance goal, and then continues to proclaim that the program is on time and on budget.

As the IG says in his formal testimony today, "This re-baselining process explains why the Wide Area Augmentation System, according to the FAA's logic, is still on budget, even though its costs have grown from $892 million to over $3 billion since 1998.

That's right, a program that has experienced cost growth of 233 percent is still considered to be on budget by the FAA, and this is yet another program that will not produce all of the benefits that were originally promised, but that is how the Administrator can claim that 97 percent of her major capital programs are doing just fine.

So it appears to me that things are not all on track at the FAA. I want to share a couple of examples of programs that FAA has re-baselined but that it still considers on time and on budget. The Integrated Terminal Weather System costs have grown by $10 million, and the schedule has been extended by nearly 6 years, yet the FAA says they are on time and on budget. I think the taxpayers wouldn't agree.

Or look at the ASR–11 radars. Instead of installing 112, they slashed it down to 66 units, and the schedule has been extended by 4 years. That doesn't sound like on track to me.

Another worrisome case of this re-baselining process has been the so-called ASDE–X programs. This program is designed to address perhaps the greatest safety threat in our current commercial aviation system, which is runway incursions. It's designed to ensure that aircraft operating on the ground do not collide with other planes or vehicles on the airfield.

These are not hypothetical threats. This past summer, two aircraft at O'Hare missed each other by 35 feet. As the Administrator knows, improved measures to prevent runway incursions have been on the National Transportation Safety Board's Most Wanted List since 2001.

This program was re-baselined in September 2005 and as a part of that process, the FAA substantially changed its goals and reduced the number of airports to be served by 25 percent.

The FAA also admitted that the cost of the program had grown from roughly $500 to $550 million, and the completion date would slip from 2007 to 2011. Ever since that re-baselining took place, this program has been declared as being on time and on budget.

In Administrator Blakey's formal testimony, she points with pride that the FAA installed five of these systems in 2006, but she fails to mention that the agency schedule called for seven systems to be installed this year—that year.

Today, the IG will report to us that since that initial re-baselining, the program's costs have grown by another $100 million, and the program has gotten further behind schedule.

Even more disturbing, the IG will testify that at present, the new systems are not delivering the safety benefits that were promised. Central to the FAA's decision to pursue this program was the plan to install new software upgrades that would greatly improve the equipment's ability to warn controllers of impending collisions between aircraft operating on converging runways.

From my region of the country, the upgrades are necessary for— so that equipment can perform in rainy and foggy conditions, but controllers at SeaTac Airport tell me that when it rains, they observe so many false targets and hear so many false alarms that they have to turn the system down to its most limited setting, and use just 10 percent of its capability.

It is precisely when the weather is bad that this technology is needed the most, but instead of getting the service promised on foggy days, the controllers have to send out a vehicle to the end of the runway to see whether the target they see on the ASDE screen is real aircraft, or just another false target.

Every time they have a false target or a false alarm, the controllers have to fill out reports, and in the last 15 months, they filled out more than 480 reports, including 25 false alarms. That is more than 30 reports a month, roughly one false target alarm for every day of operation.

Many incidents are now going unreported, because controllers are getting tired of filling out the forms. You don't have to use that airport every week like I do to know that in the Pacific Northwest, we do get a lot of rain.

Madam Administrator, it shouldn't be a surprise to the FAA that safety technologies that don't work in the rain do not provide safety in my part of the country. Right now, the FAA is struggling to get those functions to work. Hopefully, they will succeed, but in the meantime, the rising costs are being passed along to taxpayers.

That is because once again, according to the IG, the FAA's contract with the vendor does not have all the necessary taxpayer safeguards in place. The contract has a number of undefined requirements that are allowing costs to pile up while the system struggles to perform as promised.

Now, I'm not talking about a contract from 20 years ago; I'm talking about a contract that is less than 2 years old. It is important to point out these problems persist at the FAA at the same time that Congress is considering a legislation to substantially alter how the FAA is funded.

I view my mission as part of this reauthorization process, to ensure that this subcommittee continues to exercise appropriate oversight and budgetary control. These ongoing procurement problems at the FAA must not escape notice. Elected officials must continue to have the opportunity to withhold or redirect funding when the agency is not performing.

Back during the failed Advanced Automation System, it was this subcommittee that began withholding funds, long before the FAA was prepared to recognize the extent of the failure. Continuing budgetary oversight is essential, whether we're talking about funds that are directly appropriated or funds that are borrowed under the administration's new proposed borrowing authority.

I want to be clear. The role of this subcommittee is not just to cut budgets once funds are being wasted. To the contrary, in many critical aviation areas, this subcommittee has taken the lead in funding initiatives well before the FAA has decided they are a priority.

I'll give you an example. For 3 of the last 6 years, this subcommittee has included funding well above the President's request to boost the number of FAA air safety inspectors.

As the IG will testify this morning, the FAA still has a long way to go to ensure that the FAA's safety inspection force is adequately trained and deployed to deal with a growing amount of major aircraft maintenance that is being conducted overseas.

The FAA has been losing their safety inspectors to retirement at a very rapid rate. If this subcommittee had not provided funding above the administration's request for these inspectors, the situation would be even more dire today.

Similarly, the Administrator has requested funds in her 2008 budget for both the ADS–B program and the SWIM program. These are critically important technologies that are needed if we're really going to launch the next generation of air traffic modernization.

There are also two programs where this subcommittee has provided resources before the administration ever got around to asking for them. As a result, these programs are further along today because this subcommittee rejected the administration's request and funded them on our own.

So I look forward today to discussing with the Administrator not just how the subcommittee will have control to stop wasteful programs, but also how this subcommittee will have the ability under the new funding regime to have funds that the agency desperately needs.

The need to modernize our air traffic control system could not be more urgent. We have lost precious time and precious dollars, but given the daunting cost and urgency of this challenge, we must not throw dollars at programs without adequate oversight or fiscal control.

We have to make sure that the taxpayer is getting what it pays for, and we have to quit saying that all programs are performing well when they're not.

I look forward to working with the Administrator to make air traffic control modernization a near-term reality, and I know that Ranking Member Senator Bond does, as well. Senator Bond?

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you very much, Madam Chair, and good morning, and welcome, Marion Blakey, Administrator, and Mr. Scovel, Inspector General of the Department of Transportation. We look forward to receiving your testimony.

I must apologize in advance. If you know the Senate schedule, chaos, as always, is the rule for the day, and I am going to leave immediately to vote, and try to return so we can keep the hearing going. I'm sure you won't miss me, but I will look forward to reading your testimony.

Administrator Blakey, I know your term as an administrator expires in September, and I appreciate the opportunity to thank you for your hard work and dedication in ensuring the United States' continuing leadership in maintaining a world-class commercial aviation industry.

Before I discuss the budget, I acknowledge we're at a critical juncture in the future of the aviation industry. Not only is the current authorization for aviation programs and Vision 100, the Century of Aviation Reauthorization Act, set to expire, but the current tax authority that funds the Airport and Airway Trust Fund also expires at the end of the fiscal year.

At this point, we're looking at at least two different versions of FAA reauthorization, the administration-proposed bill, and a draft bill proposed by the Senate Commerce Committee, which is, I gather, expected to be marked up over the next several weeks. I expect the House Transportation and Infrastructure Committee to draft and pass its own version of legislation.

In any event, any FAA reauthorization must respect the existing role and jurisdiction of the Appropriations Committee, which has played, as the Chair has indicated, a critical role in the oversight of FAA programs, including the prevention of fraud and abuse, and ensuring that heartily needed, but under-requested funding, is provided.

I think the most significant controversial issue facing us will be the amount and sources of funding that will be made available to support FAA programs under the reauthorization.

In particular, the administration is proposing to establish new sources of income for financing aviation operations and capital improvements that moves away from relying primarily on ticket tax revenues and certain excise taxes, to a new system which includes revised user fees for commercial aviation and increased fuel taxes for general aviation, and reforms to the passenger facility charge program, and new bond financing through the Department of the Treasury.

While I've not had an opportunity to examine adequately the administration's proposal, a reauthorization must provide a balanced system of funding to ensure the FAA and the aviation industry has an adequate, stable, and reliable stream of funding that will support the current and future needs of the aviation industry.

It's especially important that we have adequate funds to support the NextGen Air Transportation System, which is intended to replace the 40- to 50-year-old system of radar and IT backbone with technology that will allow for some 3 times the current air traffic capacity.

Finally, much of the initial debate over the reauthorization legislation resulted from FAA's belief that the Trust Fund was going bankrupt. However, the drop in revenues in the Trust Fund was largely due to a steep drop-off in passenger volume after 9/11.

Increased confidence in aviation safety and the Nation's surging economy has resulted in increased passenger levels approaching the pre-9/11 levels, with continued growth likely. As a result, CBO projects the current system of taxation will be adequate to sustain the Trust Fund and associated funding needs for the foreseeable future.

So I support a more balanced approach to the funding needs of FAA and its programs. There does not appear to be an immediate crisis that demands rapid legislative action. As for the FAA budget for 2008, the administration proposes $14.077 billion in new spending commitments, a $404.5 million reduction from the 2007 level.

At the same time, the FAA is proposing a new account structure, consistent with the anticipated passage of the administration's proposed new legislation.

Let us leave aside a discussion of the desirability of the new account structure. The key funding issue in the budget request includes an increase of $352 million, or 4.2 percent, in operations; an increase of $8.37 billion in 2007 to $8.73 billion in 2008; and a reduction of some $651 million, or 19 percent, in the AIP program, from $3.4 billion to $2.75 billion in 2008.

While I support the FAA operations increase necessary to fund additional air traffic controllers and air inspectors, I'm very concerned over the substantial cut to Federal investment in airport construction, most especially the funding reductions in the AIP.

As the administration knows, the AIP program is critical to the future of commercial aviation in the Nation, and any shortfall in funding could undermine the infrastructure needs of airports, and most importantly, the funding needs of NextGen.

In particular, the IG testimony indicates that the aviation industry serves some 700 million passengers per year, and projects this number to grow to over 1 billion passengers in 2015.

At the 35 busiest airports in the Nation, total operations are expected to grow by more than a third by 2020. Consequently, we cannot afford to nickel and dime our aviation needs, whether related to safety issues or infrastructure investments.

The FAA is facing many other important issues regarding its oversight and administration of a number of its contracts designed to modernize FAA equipment.

These issues include continued controversy over the NATCA contract, as well as issues related to cost, savings, and delays in programs, such as the Airport Surveillance Detection Equipment-X Program, the STARS program, FAA Telecommunications Infrastructure, or FTI program, and others.

Also, as I discussed last year, the IG, in 2005, reviewed some 16 major acquisitions and found that FAA projects experienced a cost growth of over $5.6 billion, from $8.9 billion to $14.5 billion, as well as significant delays in many of these programs.

However, as the Chair has indicated, the FAA since has implemented a system of re-baselining its programs that have had delays or cost overruns. As a result, it's very difficult to examine adequately the programs as to projected cost savings and implementation dates.

Instead of shortfalls and delays, the programs, for the most part, now appear to be meeting all implementation and funding requirements, regardless of prior problems or other concerns.

Let's be clear. I'm concerned about this approach, since it has the feel of a three-card Monte game, where a sleight of hand guarantees the dealer wins. I'm sorry, but that is what it looks like to me.

I'm disturbed the FAA appears to be using re-baselining to meet time and cost requirements. We have to have a complete and true understanding of the real cost of FAA programs, the amount of savings, any delays, and what those delays mean to cost and on-time requirement of related programs.

This information is critical, since it will provide us with the necessary and real cost information that should be driving our appropriations decisions.

I thank you, Madam Chair, and our witnesses. I look forward to coming back and pursuing these in the question and answer session. Thank you.

Senator MURRAY. Senator Lautenberg.

STATEMENT OF SENATOR FRANK R. LAUTENBERG

Senator LAUTENBERG. Thank you, Madam Chairman. Not only is the situation puzzling, because it never ceases to amaze me that despite the enormous growth in air travel, we're not matching it by acknowledgement that we need better planning and more resources to continue to meet these greatly expanding needs.

In order to maintain a level of safety, we've got to hear FAA plans to meet these obligations, and realistic financing requests to match it. The FAA's greatest assets are its loyal, capable people. Thank goodness we have them. But in many cases, we don't have enough of them.

Now, although we've experienced an excellent period of safety for aviation, I'm concerned that the Bush administration is reducing the safety levels because of structures in place that call for cuts in funding. Many of the air traffic control facilities are understaffed, and we need a surge of controllers, in my view.

Safety inspectors are overextended, and cannot adequately oversee this industry properly, especially in non-certified repair stations. With one in four flights running late, the delays are overpowering the system, and it's time to upgrade the 1970s-era equipment.

Now, I come from the corporate world. I ran a large company, we continuously modernized our computer systems. That was our basic business. As a matter of fact, I was in shock when I came here just over 20 years ago to see that the equipment being used by the FAA was impossible to give away, because the maintenance costs were more than the value of the equipment itself.

So when I see what is being proposed—to divide the research and development functions of FAA—I don't think it's a smart move.

At the FAA Tech Center in Pomona, New Jersey, so much aviation research gets done, but it's funded through different stovepiped programs. The budget would further divide and potentially even duplicate research functions by combining the facilities and equipment budget with the operations budget.

Also, as President Bush continues to propose cuts to the Airport Improvement Program, he's got to know that, by now, this proposal will not fly in the Congress. The skies are ever more crowded, and even if you depart on time, in many instances, when you get to the destination, there are no gates. There's no opportunity to move air traffic expeditiously.

So, Madam Chairman, we've had a good safety period, and we commend FAA and those involved in the management of the system, but we cannot cut important safety projects that are funded through AIP, like runway safety area upgrades. The list goes on with controller shortages, and this Bush budget proposal doesn't match with the realism that we're looking at with the expansion of passenger traffic in the years ahead.

So I look forward to this appropriations examination. It's clear that Congress needs to maintain a strong oversight review of what is taking place in FAA, and Madam Chairman, I think we're doing exactly that, and I commend you for it.

Senator MURRAY. Senator Stevens.

STATEMENT OF SENATOR TED STEVENS

Senator STEVENS. Thank you very much, Madam Chair. I think this bill shows the ludicrous problem of the battle of the earmarks. If I understand right, this bill started off in March 2006 with a request for planning for 2008. The President gave us a budget in February of this year. We're going to pass it in September of this year, and it's supposed to carry the monies for the period from September or October of this year until September of next year.

Now, the difficulty is, and particularly in the field of aviation, the scenery is changing, and it is changing very rapidly. The demands for modernization are there. The costs of planning for the next generation are just overwhelming.

I wish that the Administrator had your immunity, Mr. Inspector General, because you have the luxury of looking at the way things are done without the burden of deciding how the money is going to be spent and who's going to meet the emergencies, and whether or not you have to short one area in order to take care of the hurricanes, typhoons, earthquakes, fires, and really, this rapid demand for change.

As a matter of fact, several of the things that's been mentioned here this morning came about because of earmarks. During the process of the last few years: ADS–B, Capstone, a lot of the other things, even the money to start the modernization program came from earmarks.

So I hope the President will ask you to stay. We're in the middle of a modernization, in the middle of change. We're in the middle of reauthorization. I think it would be a travesty if we had to try to figure out how we can get your successor confirmed and through this period that we're in.

I do hope that we can act on the bill that is before our authorization committee. Many of us are on that one, too, but as a practical matter, there are some serious problems there, and I'm not sure we won't end up with just what we did before, which was a 2-year extension until we worked it out.

I hope we can avoid that, but that is what happened last time, and with a different administration and a different control of Congress. So it is not something that is political. It's something that's just a problem of the way we do oversight.

But I am here to thank you very much. No state has more impact from FAA than mine. Seventy percent of the people who go home in my state go home by air. You can't get there year-round any other way.

Without the FAA, without the safety that is involved, without the programming that you give us, and without really the willingness to modernize—ADS–B started in Alaska. Capstone started in Alaska. The whole concept of modernization started in Alaska, because there's a need for it, but there wasn't any money in the budget.

So I hope people keep that in mind as we go through this. This budget may be changed, but it's going to be awfully difficult to put other things in the bill, as I understand, the penchant of some people to impose earmarks. Without earmarks, the modernization of the FAA is going to be 4 or 5 years behind, because we cannot have the President anticipating a year and a half in advance on what to put in a bill that takes us almost a year to pass.

Now, I think it's time for us to wake up and do the job right, and stop these people from screaming about earmarks, because this bill—this agency won't survive without earmarks. Thank you very much.

Senator MURRAY. Senator Allard.

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Well, first of all, Madam Chairman, I want to thank you for holding this hearing. We've got a great record on aviation. We've got the most advanced aviation system in the world. We're recognized for that. We have the safest.

The challenge is to keep that record up, keep it economically feasible, flexible, and friendly, and still maintain that safety record. I would caution the Administrator, as well as the Inspector General, against getting so bogged down in procedure that we actually miss out on some new technology with the potential to enhance safety.

I'm very much aware of new technology that is being used in other places in the world, in France, in Germany, in Hong Kong, but we're not able to use it in our airports, which will help us make those airports safer. And I happen to feel that it's proving itself.

And, as you know, we obviously need to bring on new technology. We need to constantly be working to be aware of these new technologies and bring them on as soon as possible, because any unnecessary delay could lead to increased risk to passenger flight. On the other hand, if you move it in too fast, there's a risk there, too. So we have to reach a proper balance.

But when we have technology that's being used in other countries at very busy airports, and we haven't yet accepted into our system, I think we really ought to take a very, very serious look at it, because it's beginning to prove itself.

So again, we have challenges with upgrading, expanding, and maintaining what we have. We want to make sure that we have the concerns of the public in mind. You know, there's various interests in aviation.

You have the private interest, you have the public transportation interest, and a lot of local interest. But we need to make sure that we don't lose sight of new technology as it comes along, and hopefully, in this particular piece of legislation, we can recognize that.

Thank you very much for both of you for coming and testifying here, Administrator Blakey and Inspector General Scovel. I look forward to your testimony.

Senator MURRAY. Thank you very much. We obviously have a vote on. We're going to be transferring hats back and forth here as we try and balance getting to the floor.

So Administrator Blakey, I'll have you go ahead and begin your testimony. Hopefully, Senator Bond will be back. I'm going to go to vote as soon as he returns, and I will be delayed coming back. We will try and continue having questions, and may have to go into a short recess until I return, if we don't have any other members here. I ask all the witnesses to bear with us as we get through this, but I appreciate your patience.

Administrator Blakey, we'll start with you.

STATEMENT OF HON. MARION C. BLAKEY

Ms. BLAKEY. Good morning, and thank you, Chairman Murray, and I appreciate the opportunity to testify before you, and to address the FAA's 2008 budget request.

Our goal is, as always, to provide the world's safest air transportation system and to use the taxpayer's investment wisely. As always, we appreciate the wisdom, insight, and guidance that this committee provides, because this is a historic time for aviation. It is the golden age of safety.

Commercial aviation has never been more safe, and it continues to get safer still. But this period is historic, as well, because we have the opportunity to reshape the FAA's funding stream.

The bill before the Senate represents an opportunity for FAA's funding mechanism to switch from one that is patched together and instead become a dependable, consistent stream on which businesslike investments can be made.

In the mid-1990s, Congress made it clear that the FAA needed to drop the blank check mentality. We made sweeping changes in our hiring and acquisition practices. We've taken what was a mess of redtape, and transformed it into a bottom-line organization.

A hundred percent of our major capital programs are right now on time and on budget. The criticisms of the past are no longer the case. We're spending wisely, and the beneficiary is the taxpayer.

With delays setting records, and airlines, passengers, pilots, controllers, lining up to emphasize the need for modernization, there's little question that the solution is the Next Generation Air Transportation System.

THE NEXTGEN FINANCING REFORM ACT OF 2007

The NextGen Financing Reform Act of 2007 is the vehicle that will allow us to free up gridlock in our skies and on our runways. The act's linchpin is financing reform. Without this financing reform, NextGen simply will not happen on time, and the longer we take to put NextGen in place, America's economy will suffer.

As you know, the FAA's current revenue stream has no direct link to our costs. We also have major inequities between what users pay and the services that they receive.

The Financing Reform Act will tie cost directly to revenue, and give us the funding we need for the NextGen system, while maintaining the congressional oversight that the public and we expect. All revenues we collect will continue to be subject to appropriations.

There's a larger issue here, as well. U.S. leadership in aviation is in jeopardy. Europe is moving full steam ahead with its modernization plan. Japan, India, Mexico, Canada, are all moving forward aggressively with the latest in satellite technology.

Getting bogged down in a protracted debate over who pays for the NextGen system will prevent us from actually deploying one, ceding our place as the world leader in aviation.

We're already working to leverage FAA resources. As I said, 100 percent of our major capital programs are on schedule and on budget. We ended fiscal year 2007 at 97 percent. We've reduced layers of management and consolidated facilities, focusing our resources on providing service to our customers.

Our safety metrics speak for themselves. Four errors per million air traffic activities, making the safest mode of travel even safer.

It's a track record I think we are very justifiably proud of together, and while we're confident that our fiscal year 2008 budget request hits the mark, we have changed the funding lines, so Operations and F&E have been replaced with a Safety and Operations account, and an Air Traffic Organization account, both of which will closely match our lines of business.

FISCAL YEAR 2008 REQUEST

Under our reformed proposal, these accounts would be funded by a combination of fees, taxes, and a significant general fund contribution. Our 2008 request provides almost $2 billion for Safety and Operations. The bulk of that is directed to our aviation safety efforts and workforce, and would increase our inspector workforce by 177.

Our Air Traffic Organization budget provides $7 billion for operating expenses. This will fund 1,420 new air traffic controllers. We have no shortage of recruits—far from it. This budget request makes sure that we'll have the right number of controllers working in the right place at the right time.

The budget request provides unprecedented levels of funding for the NextGen system. Capital funding would increase by over 40 percent, from $2.5 billion in fiscal year 2008 to $3.5 billion by 2012.

Our proposal would also grant the administration authority to borrow up to $5 billion from the Treasury starting in 2013. The funds would be dedicated to making capital investment in NextGen related equipment and facilities.

This would leverage our limited resources to transition to the NextGen system. The proposal allows us to take on major new investments, while spreading the cost to our users over a 5-year period, making it easier to afford.

Satellites will be the linchpin for the next generation of aviation. Specifically, ADS–B. ADS–B and SWIM are very critical technologies, as all who have supported them already know.

Senator MURRAY. Administrator Blakey, if I could have you sum up real quick, I'm going to have to recess and get to the vote. Hopefully, Senator Bond will be back.

Ms. BLAKEY. I'll be happy to. Our proposal also provides $2.75 billion for airports in grants and aid, and funds all of the high-priority safety and capacity projects. There's also $140 million for research engineering, and we are working in advanced areas like synthetic jet fuel.

But with all of that said, the system is safer than ever. The capacity of our airports, our runways, and our skies is still stretched thin. So if we fail to take action, we believe that the record we set last year for delays will be eclipsed again and again.

PREPARED STATEMENT

Therefore, we're going to have to move to address these issues with the NextGen system. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF HON. MARION C. BLAKEY

Good morning, Chairwoman Murray, Senator Bond and members of the subcommittee, I am delighted to be here today and am deeply appreciative for the opportunity to talk to you about the Federal Aviation Administration's (FAA) budget request. It is a pleasure to appear before you on behalf of the 44,000 men and women of the FAA to discuss our fiscal year 2008 budget request. As this is my first appearance before you in the 110th Congress, I would like to take this opportunity to acknowledge the new chairman and ranking member of the subcommittee and say that I look forward to working with you on what I'm sure will be a broad range of aviation issues. I also would like to thank you for your actions on our behalf during the full length continuing resolution which has allowed us to ensure continued safety and efficiency of our services on behalf of the flying public.

Before discussing next year's budget, I would like to briefly mention the administration's reauthorization proposal introduced as S. 1076—"Next Generation Air Transportation System Financing Reform Act of 2007." The simultaneous expirations at the end of September of the funding authorization for the FAA's current programs as well as the 10-year term for existing taxes that fund the Airport and Airway Trust Fund (Trust Fund) present us with a unique opportunity.

Let me just emphasize how important I believe it is to move toward a stable, cost-based funding structure to ensure that FAA's costs and revenues are better aligned and that our stakeholders are treated equitably and reap the benefits of their investments in the system. S. 1076 offers a simple, transparent, and repeatable methodology to equitably allocate and recover the FAA's costs among aviation users. It also contains other needed programmatic reforms that provide airports with greater financing flexibilities and addresses environmental and congestion challenges.

While S. 1076 has generated some debate already, I think we can all agree that we share two fundamental goals for reauthorization: first, that we continue to keep our air transportation as safe as we possibly can; and second, that we have the ability to grow the system to meet our Nation's future air transportation needs—both in the short and long term supported by a predictable funding system.

FISCAL YEAR 2008 BUDGET

I will now turn to the issue at hand. The fiscal year 2008 budget requests a total of $14.1 billion to improve safety, reduce congestion, and improve global connectivity. The request supports our financing and programmatic reforms and focuses on accountability and performance. For several years, we have pushed to manage more effectively, rein in costs, and better respond to our customers' needs.

As always, safety is FAA's primary concern. Our collaboration with industry speaks for itself: we are enjoying the safest period in aviation history. At the same time, the demand for FAA services has never been greater. We oversee about 50,000 flights per day. In 1995, the system supported about 545 million passengers. In 2005, it was 739 million. Forecasts estimate one billion passengers annually by 2015.

Given the anticipated growth—both in terms of passengers, and, critically, in the number of aircraft operations—we know that our services must adapt to meet the demand. We also know that the complexity of the future operating environment—with evolving fleet mixes, new aircraft technology, and environmental constraints—must be approached in partnership with our customers. This budget demonstrates a long-term commitment to the Next Generation Transportation System (NextGen), not as a pie-in-the-sky vision, but as embodied by tangible systems, processes, and capital projects that will lead us to the future.

For fiscal year 2008, FAA has prepared the budget in a new account structure that aligns with the financing reform proposal and the services that we provide. While the Grants-in-Aid for Airports (AIP) and Research, Engineering, and Development (R, E, & D) accounts remain, the Operations and Facilities and Equipment accounts have been replaced with two new accounts. There is a Safety and Operations account and an Air Traffic Organization (ATO) account that align with our lines of business. Under our reauthorization proposal, beginning in fiscal year 2009 these accounts would be funded by a combination of user fees, taxes and general fund contributions. The General Fund contributions for each account covers specific activities that benefit the public, such as safety oversight and public sector use of air traffic control services. We consider this structure to be more consistent with and supportive of our business-like approach by expanding our comprehensive pay-for-performance programs, consolidating operations, improving internal financial management, and delivering benefits to our customers.

SAFETY AND OPERATIONS

The fiscal year 2008 budget requests $2 billion for Safety and Operations. Most of the funds requested for Safety and Operations in fiscal year 2008 support maintaining and increasing aviation safety and efficiency, reflecting the President's commitment in this area. Of this request, $1.1 billion is for the agency's Aviation Safety (AVS) office. This level supports increasing the AVS safety workforce by 87 inspectors and 79 other safety staff.

The fiscal year 2008 budget requests $12.8 million for Commercial Space Transportation to continue its commitment to timely and responsive licensing and regulatory processes designed to enable a safe, secure, efficient, and internationally competitive U.S. space transportation industry. Commercial space transportation is an exciting area, and we are committed to supporting its continued growth.

The Budget also requests $758 million for Staff Offices to fund administrative and managerial costs for FAA's international, engineering, and development programs, as well as policy oversight and management functions.

AIR TRAFFIC ORGANIZATION

As a Performance Based Organization, the Air Traffic Organization (ATO) continues to provide safe, secure, and cost effective air traffic services. The budget requests $7 billion for ATO operating expenses. In fiscal year 2008, this will fund 1,420 new air traffic controllers to both address the projected 1,276 controller losses next year, and to fund a net increase of 144 controllers to meet increased demand for air travel.

Recently, there has been a great deal of misinformation generated regarding controller staffing levels, and our recently updated controller staffing plan. Let me take this opportunity to assure you that our 10-year plan recognizes the dynamics of staffing to steady increases in overall traffic as well as accounting for workloads at individual facilities. We are planning for an average net increase of 148 controllers every year for the next 10 years, resulting in a total count of about 16,000 controllers by 2015. FAA's goal is to have the right number of people in the right facilities at the right time. This includes using overtime more strategically. The overtime levels for controllers are trending downward. The overtime rate in fiscal year 2007 to date is 0.9 percent, which is down from 1.1 percent in fiscal year 2006 and 1.6 percent in fiscal year 2005.

FAA is meeting its recruiting needs, with new people coming into the applicant pool on a daily basis. We have actually selected and filled all en route controller slots for fiscal year 2007 and tentatively selected the majority of terminal controllers for fiscal year 2007. Our plans are already progressing for filling specific controller slots in fiscal year 2008. We have targeted vacancy announcements in cities around the country to ensure we have sufficient applicants in areas where we expect to need controllers in the future.

Most importantly, the system is safe. In fiscal year 2006, we achieved our performance safety metric on operational errors which was down to 4.11 errors per million activities. In fiscal year 2007, the operational error rate is tracking even lower.

In October 2005, ATO completed the largest non-military A–76 competition in history. That action will save the agency $51.7 million in fiscal year 2008, with a 10 year projected savings and cost avoidance totaling almost $2.2 billion. The contract not only saves money, it also commits the vendor to modernize and improve the flight services we provide to general aviation pilots. In addition, the employees who left Federal service as a result of this transition were given offers to work for Lockheed Martin, the successful bidder of the contract.

In fiscal year 2006, ATO consolidated its administrative and staff support functions from 9 service areas to 3. This will allow us to provide better service to customers while saving an estimated $360 to $460 million over the next 10 years. In fiscal year 2008, we anticipate savings of $29 million from Service Area Consolidation.

NEXTGEN AND CAPITAL NEEDS

The fiscal year 2008 budget requests $2.3 billion for ATO capital programs and more than $100 million for Safety and Operations capital programs. Much of this request will support the ultimate NextGen vision—with $173 million requested for the transformational NextGen activities detailed below, and over $950 million for current programs that contribute to the NextGen effort. The request also supports the investments needed to keep the current National Airspace System (NAS) functioning. We know that it will take not only funding, but new management approaches, to transform today's aviation system to meet tomorrow's needs. We have done much in recent years to break down stovepipes and plan in a more integrated manner, but NextGen requires us to go further. The new OEP—formerly the Operational Evolution Plan, and now the Operational Evolution Partnership—is a big step in the right direction. OEP has gone from a 10 year rolling plan to a more comprehensive roadmap for how we get to NextGen. The emphasis is on "partnership"—within and between major FAA organizations, with the Joint Planning and Development Office (JPDO) and its other partner agencies, the private sector, and, of course Congress.

One of our greatest challenges is our ability to define what the future system will look like. What technologies will the future system be comprised of? In the coming months, the JPDO will publish the first official NextGen Enterprise Architecture and Concept of Operations. The significance of these foundational documents should not be understated. They are essential to understanding the transformed operational environment, which will allow us to more precisely develop a plan for achieving it, and will provide the basis for architecture-based, quantitative resource planning. Our reauthorization proposal is designed to strengthen the key linkages needed to implement NextGen, and to deliver those resources when they are needed.

Given demand growth, we know it is essential to improve operations well in advance of 2025. To do so, we are requesting funding to stage demonstrations and develop critical infrastructure that will better define how we can move to trajectory-based operations and identify opportunities for early implementation of promising technologies and practices. The demonstrations will also help us to eliminate certain concepts and technologies from further consideration, thereby allowing us to focus our resources more effectively going forward. Ultimately, trajectory-based operations will allow pilots to select the most cost-effective, fuel-efficient routes, achieving substantial cost and time savings for our customers, while maintaining the highest levels of safety. In addition to these demonstration projects, our capital request funds a growing list of NextGen transformational technologies. Most significantly, these include Automatic Dependent Surveillance-Broadcast (ADS–B), the next generation of satellite-based surveillance technology; System-Wide Information Management (SWIM), which will provide a broad range of real-time information to users of the National Airspace System; and NextGen Network Enabled Weather, which will improve forecasting and information sharing and enhance safety.

We are again requesting research funds to continue supporting the JPDO. As the unit that spearheads NextGen for the federal government, JPDO will continue defining the future operating environment, identifying demonstration opportunities, and working with the relevant agencies to implement them. We are also requesting funds to support wake turbulence research, the results of which will help us increase capacity while maintaining safety. In addition, research funds would be directed to environmental research, especially noise and emission control, critical to the design of the future system. And finally, we would fund further research on unmanned aircraft systems, a likely addition to the future fleet mix.

GRANTS IN AID FOR AIRPORTS (AIP)

The FAA is committed to a healthy national air transportation system. Airports are a key part of the system, and that includes small airports that rely most on AIP funding to help meet their capital needs.

We have proposed changes to the Federal funding programs, which will stabilize and enhance these funding sources for airports. With our proposed programmatic changes, the $2.75 billion requested in our budget will be sufficient to finance airports' capital needs and meet national system safety and capacity objectives. These changes will assure that the small airports continue to benefit from the funding formulas currently in place, and provide FAA and States with the level of discretionary AIP funds we need to finance our critical safety, capacity and security requirements. In addition, the proposed increase in the maximum passenger facility charge from $4.50 to $6.00 will provide commercial airports of all sizes with additional local revenues to meet their capital needs. This proposal would bring an additional $1.5 billion annually to commercial airports, with $1 billion going to large airports and $500 million going to small airports.

RESEARCH, ENGINEERING, AND DEVELOPMENT (R, E, & D)

The fiscal year 2008 request for R, E, & D is $140 million. The request includes $91.3 million for continued research on aviation safety issues. The remaining research funding is for reduced congestion and environmental issues, including $14.3 million for the JPDO to continue defining and facilitating the transition to NextGen. An additional $3.5 million in support for JPDO is contained in the ATO capital request, related specifically to the work on the demonstration projects.

FLIGHT PLAN 2007–2011

The Flight Plan is FAA's rolling 5-year strategic plan that we first undertook in 2004. As scheduled, we updated it last fall, with input from our internal and external stakeholders. The Flight Plan is organized around the agency's primary goals: increased safety, greater capacity, international leadership, and organizational excellence. The Flight Plan is our blueprint for managing the agency. It has made FAA more business-like, performance-based, and customer-focused.

As part of our Flight Plan, each FAA organization now has its own individual business plan. Each of these plans is linked to the Flight Plan, budgeted and tied to what the customers need. The agency's business plan goals have been built into a performance-based tracking system that is posted to the FAA website each quarter. It lists each of the agency's goals, performance targets, who is responsible, and the status of each. Using this data, the senior management team conducts a monthly review of our performance. When used with other cost and performance data, the Flight Plan information clearly and precisely identifies the effectiveness of a program across the entire agency. With this perspective, the agency is able to capitalize on successful strategies. Let me address our performance and requests under each of our goals.

INCREASED SAFETY

At FAA, safety is our top priority, and approximately 66 percent of our budget request, $9.4 billion, supports this goal. Over the last three years, the accident trends in both commercial and general aviation have been at all-time lows. Commercial space transportation continues its remarkable safety record, without a fatality, injury, or any significant property damage to the public. The Flight Plan continues our commitment to reduce commercial and general aviation fatal accidents. We continue to strive toward a 3-year rolling average for our commercial airline fatal accident rate of 0.010 fatal accidents per 100,000 departures or below.

We have achieved the highest safety standards in the history of aviation. Even so, our goal is—as always—to continue to improve safety. We address our operational vulnerabilities to reduce risk. One major key to our successful safety efforts is cooperation among our stakeholders. We constantly work with our stakeholder groups to meet our safety goal. Each group helps us with technology, communications, and its own unique expertise. In our responsibility for safety oversight, we work with them to establish their own safety management systems to identify potential areas of risk. Then we work together to address these risk areas.

To help reduce runway incursions, we deployed the Airport Surface Detection Equipment-Model X (ASDE–X) warning system at 5 major airports in fiscal year 2006. We also strengthened the airfield paint markings standard for taxiway centerlines at 72 large airports to alert pilots when they are approaching hold short lines so they won't inadvertently enter a runway without a clearance.

Our efforts also are helping controllers do their jobs more safely, especially when it comes to tracking and eliminating operational errors. In response to a long-standing recommendation by the Department of Transportation Inspector General and the National Transportation Safety Board to improve reports of operational errors, we've added a new initiative to automate data collection. The Traffic Analysis and Review Program—known as "TARP"—is a state-of-the-art traffic analysis and playback system that will improve operational error identification and quality assurance. We're putting the software in place for use next year, with all installations complete by 2011. The high-fidelity, near-real time playback feature of TARP will also support more effective and efficient air traffic controller training.

At airports, over 48 percent of our AIP grants go to safety-related projects, such as upgrades to runway safety areas, runway safety action team recommendations, purchase of airport rescue and fire fighting vehicles, and airfield signing, marking and lighting. AIP also supports projects that reduce runway incursions. For example, end-around perimeter taxiways at Atlanta and Dallas-Fort Worth will not only increase capacity, but will also reduce the risk of runway incursions by substantially reducing the number of runway crossings.

The work of the Commercial Aviation Safety Team (CAST), which includes representatives from government, industry, and employee groups, has been instrumental in using data to drive decisions. The team's disciplined and focused approach to analyzing accidents and incidents, identifying precursors, and developing targeted implementation strategies helped to reduce the risk of an airline fatal accident rate by 60 percent in the last 10 years. We are also working with this team to develop new metrics and goals to more effectively measure performance in commercial aviation safety.

Finally, we continue our work to expand the growing field of commercial space transportation. In 2006, there were seven commercial launches. We are issuing experimental permits and are now ready to grant safety approvals of commercial space launch and reentry vehicles, safety systems, processes, services and personnel. We met our commercial space launch target and continued improvement of internal processes and partnerships with the Air Force, other government agencies, and the commercial space transportation industry.

INCREASING CAPACITY

While safety is always our primary concern, our mission includes expanding capacity throughout the aviation system—both in the air and on the ground. The fiscal year 2008 budget requests $3.6 billion to support expansion of capacity on the ground, in the form of new runways, and the continued deployment of new technologies that allow more efficient use of the system. Given the anticipated growth—both in terms of passengers, and, critically, in the number of aircraft operations—we know that our services must adapt to meet the demand. We also know that the complexity of the future operating environment—with evolving fleet mixes, new aircraft, technology, and environmental constraints—must be approached in partnership with our customers.

Since fiscal year 2000, FAA has provided approximately $1.7 billion in AIP funding to increase capacity and decrease delays at the most congested airports in the country. These 13 new runway projects have provided these airports with the potential to accommodate 1.6 million more annual operations. In addition, funding is being provided to two of the busiest airports in the United States (Atlanta and Dallas-Fort Worth) to construct end around taxiways which improves efficiency, but eliminates runway crossings that improve airfield safety.

Every day, our capacity accomplishments, such as Domestic Reduced Vertical Separation Minimum (DRVSM), help provide more economical and efficient aircraft operations. DRVSM created an additional six layers of cruise levels at higher altitudes enabling aircraft to operate at more fuel-efficient cruising altitudes while also increasing system capacity. Implemented in fiscal year 2005, DRVSM was estimated to yield over $5.3 billion in savings from fiscal year 2005 through fiscal year 2016, but with the rise in jet fuel prices, the savings will exceed $13.4 billion, a 152 percent increase.

Advanced Technologies and Oceanic Procedures (ATOPs) are now available in 24 million square miles of airspace. ATOPs set the stage for reducing aircraft separation from 100 nautical miles to 30. ATOP modernizes the systems and facilities we use to manage over 24 million square miles of airspace over the Atlantic and Pacific Oceans. Using ATOPs, the Atlantic routes will save airlines 6.5 million pounds of fuel and $8 million per year.

Three operating capabilities are key to handling the traffic demand forecast for 2025 and beyond: Navigation, Communications, and Surveillance. We have already developed design criteria as well as aircraft and operator requirements for Required Navigation Performance (RNP) approaches—a critical element of NextGen's near term operational environment. We published 6 special RNP approaches in 2005, 28 in 2006, and set a goal of 25 each for fiscal year 2007 and fiscal year 2008. In addition to its safety benefits, we expect RNP to help keep runways accessible and that could mean fewer canceled or diverted flights, thereby saving time and money.

INTERNATIONAL LEADERSHIP

The United States established world leadership in aviation with a consistent commitment to make safety our most important export. Today, FAA has operational responsibility for about half of the world's air traffic, certifies more than two-thirds of the world's large jet aircraft, and provides technical assistance to more than 100 countries to improve their aviation systems. In fiscal year 2006 alone, FAA provided technical guidance and training to 66 countries and 5 international organizations. The fiscal year 2008 budget requests $78 million for global connectivity activities so FAA can be even more globally focused, helping to ensure that U.S. citizens can travel as safely and efficiently around the world as they do at home, and strengthen America's aviation leadership role in both safety and air traffic control.

We cooperate with bilateral and multilateral partners in Europe and Asia to negotiate executive agreements and implementation procedures supporting the transfer of aviation products to help lower accident rates in areas that are experiencing substantial growth in operations. We have also developed initiatives to collaborate with key international partners to implement NextGen technologies globally as they become available to improve aviation safety and capacity. Last June, FAA entered into a cooperative agreement with European aviation organizations to participate in each other's air traffic management modernization programs to harmonize operations. These efforts are essential to seamless operation of aircraft.

We are also leading the world in the development of both private human spaceflight and commercial spaceports.

ENVIRONMENTAL STEWARDSHIP

The FAA is committed to managing aviation's growth in an environmentally sound manner. Indeed, NextGen recognizes the need to develop and insert technology to reduce levels of aviation noise and emissions, thereby reducing environment as a constraint on capacity. The fiscal year 2008 budget requests $354 million to support environmental stewardship for noise mitigation, air and water quality, fuel efficiency, environmental streamlining, and facility remediation. We are on track to reduce the impacts of airport noise on more than 100,000 people over the next 5 years through AIP grants in our fiscal year 2008 budget.

In April 2006, the Office of Airports issued its revised environmental guidance handbook. This handbook is the most recent product in our continuing efforts to meet the streamlining goals of Vision 100 and the President's Executive Order (13274) on environmental stewardship and streamlining of transportation infrastructure projects. Recent environmental review for capacity enhancing projects at O'Hare, Dulles, and Philadelphia Airports demonstrated that this integration process produces meaningful results.

We are also working with our Center of Excellence for Aircraft Noise and Aviation Emissions Mitigation to foster breakthrough scientific, operations, and program advances. We call the Center "PARTNER", and it truly is an excellent partnership of government, academic, and industry participants—led by MIT. Our work this year includes Continuous Descent Approaches to airports that can reduce noise, emissions, and fuel use; the feasibility of alternative fuels for aircraft; and assessing fuel burn reduction through en route optimization. In fiscal year 2008, with our reauthorization and budget request, we plan to expand PARTNER's work to develop and certify lower energy, emissions, and noise engine and airframe technology over the next 10 years.

SECURITY

While the U.S. Department of Homeland Security's Transportation Security Administration (TSA) has primary responsibility for transportation security, FAA also works closely with TSA and other federal agencies to support aviation security, transportation security, and other national security matters. FAA also has responsibility for the security of its personnel, facilities, equipment and data. FAA ensures the operability of the national airspace, which is essential to the rapid recovery of transportation services in the event of a national crisis. The budget request includes $246 million to continue upgrading and accrediting facilities, procure and implement additional security systems, enhance IT security, and upgrade Command and Control Communications equipment to meet the increased national security demands that have resulted since the September 11 attacks.

ORGANIZATIONAL EXCELLENCE

The budget requests $384 million to support our organizational excellence initiatives. FAA's progress over the past four years has been steady, as we've embraced the vision of the President's Management Agenda (PMA) and its strategy to improve management throughout the Federal Government. Through the Flight Plan and PMA, we've made significant management gains relating to human capital, competitive sourcing and consolidations, financial performance—including controlling costs; and, in terms of accountability to Congress, the taxpayers, and our customers.

CONTROLLING LABOR COSTS/PAY-FOR-PERFORMANCE—HUMAN CAPITAL REFORM

We know that labor costs drive a significant share of our budget, and we have been working to slow the rate of growth of these costs, as was evidenced by our efforts in the recent controller negotiations. We're also increasing workforce productivity in several ways and we are on track to achieve cost efficiencies of 10 percent by fiscal year 2010 in controller staff costs. We achieved the first 5 percent of this goal in fiscal years 2005–2006 by staffing our facilities based on traffic levels and controller workload, and through imposing greater scrutiny of controller duties that take them away from controlling traffic. Our budget request assumes we will achieve controller productivity improvements of 2 percent in both fiscal years 2007 and 2008.

Our improved oversight and proactive management of our worker's compensation caseload resulted in a cost avoidance of $5.5 million in fiscal year 2005 and $7 million in fiscal year 2006. The estimated cost avoidance for fiscal year 2007 is $7 million.

I have mentioned in the past of ATO's efforts to streamline its organization. Over the last several years, ATO reduced its overhead expenses by cutting multiple levels of senior management, reducing its executive ranks by 20 percent. In addition to the Service Area Consolidation noted above, ATO has used Activity Value Analysis to help streamline its operations, and eliminate and consolidate administrative staffs and support functions. Since fiscal year 2003, ATO non-safety workforce was reduced by 16 percent.

Many of the efficiencies I've noted are the result of the personnel reform that was granted to the agency in 1996. It has enabled FAA to transition from the traditional General-Schedule pay system to pay-for-performance. Accountability for results is systemic throughout our organization, with 80 percent of our employees on a pay-for-performance system, including our executives. Flight Plan performance targets must be achieved before annual pay raises are calculated. The system provides discretion to reward high-performing employees, and incentives are available to ensure that quality work and innovation are rewarded.

In December 2003, we strengthened the approval process for negotiated agreements by requiring, among other things, an analysis of the budget impact of all proposed agreements.

SMARTER CAPITAL INVESTMENT CHOICES AND IMPROVED PERFORMANCE

A capital investment team was created in 2004 to review financial and performance data. The team completes an evaluation of baseline performance and includes associated variances, obligations, schedule milestones and earned value management (EVM) data. EVM will provide an early warning for potential and actual variances as well as help the program manager develop corrective actions. The members of this team apply a business case approach to each project as the program is assessed. Since April 2004, over 100 projects have been reviewed. Seven major projects (a total of $60 million) have been significantly restructured and segmented. Three projects were terminated. These changes alone resulted in $460 million in lifecycle savings to FAA. In the fiscal year 2006 Flight Plan, all of our major capital programs were on schedule and we missed only a single program milestone. As we move to the NextGen environment, it will be critical to maintain rigorous oversight of our capital investments.

SAVES

The Strategic Sourcing for the Acquisition of Various Equipment and Supplies (SAVES) initiative is an ambitious effort begun in fiscal year 2006 to implement best practices from the private sector in the procurement of administrative supplies, equipment, and IT hardware. It is expected to achieve $5 million in savings in fiscal year 2007 and annualized savings of $6 million thereafter.

IMPROVED FINANCIAL MANAGEMENT PERFORMANCE

We're making significant strides in improving our financial management. The Government Accountability Office (GAO) removed us from its high-risk list in 2006, a particular accomplishment since FAA Financial Management had been a high-risk item since 1999. We also received, for the third year in a row, the Association of Government Accountants' prestigious Certificate of Excellence in Accountability Reporting (CEAR) for our 2005 Performance and Accountability Report.

CLOSING

I'll end where I began. At FAA, our top priority is safety. Because of the growth forecasted in air traffic, however, we must also focus significant energy on training and transitioning to a NextGen air transportation system. Even with new efficiencies, the current system cannot meet future demand. America's ability to launch NextGen depends on the enactment of FAA's reauthorization proposal and our fiscal year 2008 budget request which supports it. I thank you for your time and look forward to discussing this legislation and our budget request in greater detail today and in the coming weeks.

Senator MURRAY. Thank you very much. Inspector General Scovel, I'm going to take a short recess. I believe Senator Bond should be here in just a minute, and we will take your testimony, and then we'll move to questions. We'll go into a recess for a few minutes.

Senator BOND [presiding]. The hearing will resume. Senator Murray has passed the baton to me, and I apologize. I'm slowing down as I get older. It takes me longer to run and get back.

All right. We are now ready to hear the testimony from the Inspector General. Mr. Scovel?

STATEMENT OF HON. CALVIN L. SCOVEL III

Mr. SCOVEL. Madam Chairman, Ranking Member Bond, members of the subcommittee, we appreciate the opportunity to testify today regarding the Federal Aviation Administration's fiscal year 2008 budget request. FAA is presenting its $14.1 billion budget request in a new format and structure that mirror its plans to reform how the agency is financed.

FAA has proposed changing the existing revenue stream to one that is based primarily on user fees, and Congress is currently deliberating on that proposal.

However, regardless of the funding mechanism ultimately decided upon by Congress, there are a number of front and center issues that demand attention and will shape FAA's requirements over the next several years.

We see three key areas. First, keeping existing modernization efforts on track and reducing risks with NextGen. Currently, we are reviewing the progress of 18 projects with a combined cost of $17 billion. Overall, we have not seen the massive cost growth and schedule slips that we did in the past with FAA's major acquisitions. This is due to FAA's efforts to re-baseline major efforts and segment investment decisions.

However, there are projects, such as FAA's Telecommunications Infrastructure Program, that are at risk of not achieving expected cost savings and benefits because of schedule slips.

ASDE–X, we're also concerned about further cost increases and schedule slips with the Airport Surface Detection Equipment Model-X, an important program to reduce the risk of accidents on runways. ASDE–X was initially designed to provide a low-cost alternative to FAA's ASDE–3 radar systems, but has now evolved into essentially a replacement system for ASDE–3.

In September 2005, FAA increased ASDE–X costs from $505 million to $550 million, and extended the completion date from 2007 to 2011. As of March 2007, FAA had commissioned only 8 of the 35 ASDE–X sites. Further, it's uncertain when key safety features will be delivered.

For example, FAA has yet to commission an ASDE–X system that can alert controllers of potential collisions on intersecting runways or converging taxiways. Because of these issues, we believe the program is at risk of not meeting its current cost and schedule plans to deliver all 35 ASDE–X systems by 2011. We are reviewing ASDE–X and will issue a report later this year.

NextGen. A central question in the debate about financing FAA is what it will cost to develop and implement NextGen. The most current estimates suggest the agency will require $15.4 billion for capital projects between 2008 and 2012, which includes $4.6 billion for NextGen initiatives.

However, there are still unknowns with respect to requirements for new software, intensive automation systems, and data communications. Considerable development will be required to refine these concepts.

We've recently made a number of recommendations to FAA aimed at reducing the risks associated with NextGen. Those included providing Congress with costs along three vectors: the research and development, adjustments to existing projects, and funds for new initiatives.

Second, addressing attrition in FAA's critical workforces. FAA is facing significant attrition issues within two of its most critical workforces, air traffic controllers and aviation safety inspectors. Through 2016, FAA must hire and train over 15,000 new controllers, as controllers hired after the 1981 strike begin to retire.

In December 2004, FAA developed a comprehensive workforce plan to address this challenge. This past February, we completed our review of FAA's progress to implement its controller workforce plan.

Overall, we found that FAA continues to make good progress to implement key aspects of the plan. However, further progress is still needed in several areas, including completing actions to validate its facility level staffing standards, and continuing efforts to reduce the time and costs associated with controller on-the-job training.

FAA concurred with our recommendations. This issue will remain a high priority for FAA and Congress over the next 10 years, and we will continue to monitor and report on FAA's efforts.

Inspectors. Like its controller workforce, FAA is facing significant attrition among its aviation safety inspectors. As of May 7, FAA currently had 3,821 inspectors to oversee foreign and domestic aspects of the NAS.

Clearly, FAA will never have an inspection workforce that is large enough to oversee all aspects of aviation operations, so it's important that inspectors are located where they're most needed.

The National Research Council recently completed its study of FAA's methods of allocating inspector resources, and concluded that the agency's current model is ineffective.

Ranking Member Bond, with your permission, if I may have another minute or two to wrap up?

Senator BOND. Under the circumstances, you can have two, if you wish.

Mr. SCOVEL. Thank you. Thank you very much. FAA must develop a reliable staffing model to ensure that it has the right number of inspectors at the right locations. However, completion of the model is likely years away, and we will continue to monitor and report on FAA's efforts here, as well.

Finally, determining the appropriate amount of airport funding. Over the last 2 years, FAA's budget requests for the AIP have been significantly less than authorized levels. However, Congress has provided FAA with close to the authorized amounts each year. For fiscal 2008, FAA has requested nearly $1 billion less than 2007 levels.

PREPARED STATEMENT

With growing demands for airport improvement projects and potentially less AIP funding available, AIP funds must be directed to the Nation's highest priority projects, while meeting the unique needs of small airports.

That concludes my statement. I'll be happy to answer any questions you and other members of the subcommittee may have.

[The statement follows:]

PREPARED STATEMENT OF HON. CALVIN L. SCOVEL III

Chairman Murray, Ranking Member Bond, and members of the subcommittee: We appreciate the opportunity to testify today regarding the Federal Aviation Administration's (FAA) fiscal year 2008 budget request. Our testimony will focus on the key issues that will frame FAA's financial requirements over the next several years.

A significant challenge facing FAA today is how to move forward with the next generation air transportation system. The current system handles over 700 million passengers per year, a number that will grow to over 1 billion travelers by 2015. This system must also be poised for the introduction of thousands of very light jets [1] during the same timeframe. This influx of new aircraft will strain the Agency's air traffic control systems and its inspection and certification workforces.

FAA oversees the busiest and most complex aviation system in the world. In 2006, FAA enroute centers—facilities that manage high-altitude traffic—handled 46 million operations, which approximated the activity levels in 2000. However, with respect to delays, operational performance of the National Airspace System (NAS) slipped slightly in 2006 with one in four flights arriving late, the worst level since 2000.

It is against this backdrop that we would like to discuss FAA's fiscal year 2008 budget request. FAA is presenting its $14.1 billion budget request in a new format and structure that mirror its plans to reform how the Agency is financed. Currently, FAA is financed by two mechanisms: excise taxes (primarily those from ticket taxes on airfare) and a contribution from the General Fund. FAA has proposed changing that revenue stream to one that is based primarily on user fees; Congress is currently deliberating that proposal.

The focus of our testimony today, Madam Chairman, is that regardless of the funding mechanism ultimately decided upon by Congress, a number of "front-and-center" issues demand attention and will shape FAA's requirements over the next several years. These include the following:

Keeping Existing Modernization Efforts on Track and Reducing Risks With the Next Generation Air Transportation System (NextGen).—FAA is requesting $2.46 billion for its capital programs in fiscal year 2008, the majority of which is for the Air Traffic Organization's capital efforts. The fiscal year 2008 request also includes funding for key NextGen initiatives, such as the Automatic Dependent Surveillance-Broadcast Program (ADS–B) and the System Wide Information Management Program (SWIM), and for demonstration projects.

Currently, we are reviewing the progress of 18 projects with a combined cost of $17 billion. We do not see the massive cost growth and schedule slips that we have in the past with FAA's major acquisitions. This is due to FAA's efforts to re-baseline major efforts and segment investment decisions. However, there are projects, such as FAA's Telecommunications Infrastructure program, that are at risk of not achieving expected cost savings and benefits because of schedule slips.

We are also concerned about further cost increases and schedule slips with the Airport Surface Detection Equipment Model-X (ASDE–X), which is an important program to reduce the risks of accidents on runways. It is planned to improve airport safety by operating in all-weather and low-visibility conditions (e.g., fog, rain, and snow) when controllers cannot see activity on ramps, runways, and taxiways. ASDE–X was initially designed to provide a low-cost alternative to FAA's ASDE–3 radar systems but has evolved into a different program. In September 2005, FAA increased ASDE–X costs from $505.2 million to $549.8 million and extended the

[1] These are small, "affordable" aircraft that will carry up to six passengers. Priced as low as $1 million per aircraft, very light jet manufacturers anticipate that these aircraft will find a niche among corporate and private owners and as on-demand air taxi services. According to FAA, up to 5,000 very light jets will vie for airspace by 2017.

completion date from 2007 to 2011. In addition, the cost to acquire and install some key ASDE–X activities has increased by $94 million since the 2005 re-baseline. To stay within the revised baseline, FAA offset this cost by decreasing funds for seven program activities, such as construction for later deployment sites.

As of March 2007, FAA had commissioned only 8 of the 35 ASDE–X sites. Of the seven sites planned for fiscal year 2006, FAA only commissioned four. Further, it is uncertain when key safety features will be delivered. For example, FAA has yet to commission an ASDE–X system that can alert controllers of potential collisions on intersecting runways or converging taxiways. Because of these issues, the program is at risk of not meeting its current cost and schedule plans to deliver all 35 ASDE–X systems by 2011. We are reviewing ASDE–X and will issue a report later this year.

A central question in the debate about financing FAA is what it will cost to develop and implement NextGen. The most current estimates suggest that the Agency will require $15.4 billion for capital projects from fiscal year 2008 to fiscal year 2012. This includes $4.6 billion for NextGen initiatives ($4.3 billion from the capital account and $300 million from the Research Engineering and Development account). However, we caution that there are still unknowns with respect to requirements for new software, intensive automation systems, and data communications. Further, considerable development will be required to refine these concepts and determine how systems can be certified as safe.

We recently made a number of recommendations [2] aimed at reducing risk with NextGen, a multibillion-dollar effort that will dominate FAA's capital account. We recommended that FAA provide Congress with costs along three vectors—research and development, adjustments to existing projects, and funds for new initiatives. This will help decision makers understand the magnitude of the effort and how additional funds will be used. Given the high-risk nature of NextGen, we also recommended that FAA articulate a strategy for how this extraordinarily complex effort will be managed (beyond conducting demonstration projects) and what expertise will be required to prevent past problems and successfully deliver new capabilities. FAA concurred with our recommendations.

Addressing Attrition in FAA's Critical Workforces.—FAA is facing significant attrition issues within two of its most critical workforces—air traffic controllers and aviation safety inspectors. Ensuring that there are enough adequately trained and certified professionals in these two fields is critical to the safety and efficiency of the NAS and will remain a high priority for FAA and Congress over the next 10 years.

Through 2016, FAA must hire and train over 15,000 new controllers as controllers hired after the 1981 strike begin retiring. In December 2004, FAA developed a comprehensive workforce plan to address this challenge and issued the first in a series of annual reports to Congress. FAA issued its first update to the plan in June 2006 and its second update in March 2007.

In February, we issued the results of our review of FAA's progress in implementing its controller workforce plan.[3] Overall, we found that FAA continues to make progress in implementing a comprehensive staffing plan to address the surge in retirements. For example, we found that FAA has significantly improved its hiring process and has made progress in reducing the time and costs to train new controllers. However, further progress is still needed in key areas. Those include:

—Completing validation of accurate facility-level staffing standards (a critical component because FAA has over 300 air traffic facilities with significant differences in air traffic levels and complexity);

—Continuing efforts to reduce the time and costs associated with on-the-job training (the longest and most expensive portion of new controllers' training);

—Establishing baseline metrics to measure the effectiveness of controller productivity initiatives (FAA must ensure that reductions in staffing are a result of increased productivity and not simply fewer controllers controlling more traffic); and

—Identifying the estimated total costs of the plan (which will significantly impact FAA's operating cost requirements over the next 10 years).

We recommended that FAA include the progress made in validating facility staffing standards in the next update of the plan along with the plan's total estimated

[2] OIG Report Number AV–2007–031, "Joint Planning and Development Office: Actions Needed To Reduce Risks With the Next Generation Air Transportation System," February 12, 2007. OIG reports and testimonies can be found on our website: www.oig.dot.gov.

[3] OIG Report Number AV–2007–032, "FAA Continues To Make Progress in Implementing Its Controller Workforce Plan, but Further Efforts Are Needed in Several Key Areas," February 9, 2007.

costs. FAA concurred with our recommendations and included interim staffing ranges for all facilities in its March 2007 update to the plan as well as the expected additional personnel and compensation costs that it will incur for new controllers in training each year through 2016. However, the actions needed to address this issue are ongoing and, in some cases, it may be years before they are fully implemented. We will continue to monitor and report on FAA's efforts in addressing this challenge.

Like its controller workforce, FAA is facing significant attrition among its aviation safety inspectors. FAA currently has 3,865 inspectors to oversee domestic and foreign aspects of the largest, most complex aviation system in the world. Over one-third of these inspectors (44 percent) will be eligible to retire by 2010.

FAA will never have an inspection workforce that is large enough to oversee all aspects of aviation operations, but it is important for the agency to ensure that its inspectors are located where they are most needed. The National Research Council recently completed its study[4] of FAA's current methods of allocating inspector resources and concluded that the Agency's current model is not effective. FAA must develop a reliable staffing model to ensure that it has the right number of inspectors at the right locations. FAA advised us that it intends to implement the Council's recommendations and has procured the services of an independent contractor to obtain the most effective staffing mechanism. However, completion of this process is likely years away.

Determining the Appropriate Amount of Airport Funding.—The Airport Improvement Fund (AIP) supports the airport system by providing funds to primarily enhance safety and security, maintain the infrastructure, increase capacity, and mitigate airport noise in surrounding communities. Over the last 2 years, FAA's budget requests for the AIP have been significantly less than authorized levels. However, Congress has provided FAA with close to the Vision 100[5] authorized amounts in fiscal year 2005 and fiscal year 2006.

In fiscal year 2007, the AIP is funded at the 2006 level of $3.5 billion, which is a $200 million reduction from the fiscal year 2007 authorized level. For fiscal year 2008, FAA has requested $2.75 billion for the AIP—$950 million less than the fiscal year 2007 Vision 100 authorized level.

With growing demands for airport improvement projects and potentially less AIP funding available, AIP funds must be directed to the Nation's highest priority projects while meeting the unique needs of small airports. Given the growth in projected passenger traffic and the Department's commitment to accelerate major airport infrastructure projects by giving priority treatment and resources to capacity projects, it may be time to re-examine AIP funding levels and the type of projects funded.

For example, we found that under current AIP Military Airport Program set-aside requirements, low-priority projects could be funded at an airport that meets set-aside requirements while higher-priority projects at other airports could go unfunded. We will report on FAA's prioritization of AIP funds later this year.

Another important funding mechanism for airports are passenger facility charges (PFC). PFCs have become an important funding mechanism for airports—between 1992 and 2006, FAA approved the collection of $57.3 billion in PFCs. Of this amount, airports have collected approximately $22 billion, with another $2.6 billion anticipated for 2007. Currently, PFCs are capped at $4.50 per segment of flight (a maximum of $18.00 on a round trip). Over 75 percent (248 of 328 airports) of the airports collecting a PFC charge the maximum amount. The current cap on PFCs has significant implications for major airports' capital expenditure plans because over 75 percent of the airports collecting PFCs are already charging the maximum amount, and some airports are anticipating an increased PFC as part of major capital improvement financing plans.

I would now like to discuss FAA's fiscal year 2008 budget request and these three areas in greater detail. I will also provide our observations on FAA acquisition and contracting issues.

FAA'S FISCAL YEAR 2008 BUDGET

FAA is requesting $14.1 billion for fiscal year 2008, a reduction of nearly $460 million from the fiscal year 2007 enacted levels, and $233 million from the fiscal year 2006 actual levels. FAA is presenting its budget request in a new format and structure that mirror its plans to shift from the current excise taxes to a structure

[4] Study completed by the National Research Council of the National Academies, "Staffing Standards for Aviation Safety Inspectors," September 20, 2006.

[5] Vision 100—Century of Aviation Reauthorization Act, Pub. L. No. 108–176 (2003).

that relies on, among other things, cost-based user fees. FAA anticipates that the new financing system will be implemented in fiscal year 2009.

For fiscal year 2008, FAA has realigned its four accounts to better reflect its lines of business and proposed financing system. The budget request shows the Operations and Facilities & Equipment (F&E) accounts realigned into two new accounts. The first account combines the Agency's safety oversight, Commercial Space Transportation, and staff offices into a single account called Safety and Operations. The second account combines most of the Facilities and Equipment account with the Air Traffic maintenance and other Operations account functions into the Air Traffic Organization (ATO) account. The Airport Improvement Program and the Research, Engineering, and Development (RE&D) accounts remain the same. FAA's budget funds these four accounts as follows:

—For the Safety and Operations account, FAA is requesting $1.88 billion (13 percent of FAA's total budget), an increase of $102 million over last year's enacted amount for comparable functions. For safety-related functions, such as safety inspectors and certification activities, FAA is requesting $1.11 billion, an increase of $105 million from last year's enacted amount.

—For the ATO account, FAA is requesting $9.3 billion (66 percent of FAA's total budget), an increase of $184 million over comparable functions in the fiscal year 2007 enacted budget. For the operation and maintenance of the air traffic control system, the Agency is requesting $6.96 billion, an increase of $225 million over last year's amount. FAA is also requesting $2.34 billion in capital program funds for the ATO, a decrease of $41 million from last year's enacted amount. Capital projects associated with other functions, such as safety, are now included in the Safety and Operations account.

—For the AIP account, FAA is requesting $2.75 billion (20 percent of FAA's total budget). This represents a $765 million decrease from the amounts provided in fiscal year 2007. To put this figure into context, since fiscal year 2001, the AIP account has been authorized at $3.2 billion or higher each year.

—Finally, FAA is requesting $140 million for the RE&D account (1 percent of FAA's total budget), an increase of $10 million from the fiscal year 2007 enacted level.

To demonstrate in terms of the old and new budget presentation, table 1 summarizes the fiscal year 2008 budget request in last year's four-account format.

TABLE 1.—FAA BUDGETS FISCAL YEAR 2006 THROUGH FISCAL YEAR 2008

(In millions of dollars)

Account	Fiscal Year 2006 Actual	Fiscal Year 2007 Enacted	Fiscal Year 2008 [1] Request
Operations	8,104	8,374	8,726
Facilities & Equipment	2,555	2,518	2,462
Airport Improvement Program	3,515	3,515	2,750
Research, Engineering, and Development	137	130	140
Total	14,310	14,537	14,077

[1] We summarized FAA's fiscal year 2008 budget request using the previous format for comparative purposes.

Note: Figures may not add up exactly due to rounding.
Source: FAA's fiscal year 2008 budget request and FAA's Office of the Budget.

The fiscal year 2008 budget would be financed by the two mechanisms currently used to fund FAA: excise taxes deposited into the Airport and Airway Trust Fund and a General Fund contribution. The Trust Fund, which was created in 1970, provides FAA with a dedicated revenue source for funding aviation programs.

Initially envisioned as a means to fund the infrastructure and modernization needs of the NAS, the Trust Fund also pays for large portions of FAA's operating budget, the Essential Air Service Program, and one-time items (e.g., security funding after the September 11, 2001, attacks). The General Fund is used to make up the difference between Trust Fund revenues and the unfunded portion of FAA's budget.

For fiscal year 2008, FAA expects the Trust Fund to contribute $11.5 billion, or 81 percent, toward its total budget and the General Fund to contribute $2.6 billion, or 19 percent. These amounts are similar to what has been budgeted in the previous 4 years. Table 2 shows the contribution from each of the funding sources toward FAA's proposed new accounts.

TABLE 2.—FUNDING SOURCE CONTRIBUTIONS

(Dollars in millions)

Account	Airport and Airway Trust Fund		General Fund		Total
	Amount	Percent	Amount	Percent	
Air Traffic Organization	$7,915	85	$1,393	15	$9,308
Safety and Operations	672	36	1,208	64	1,879
Airport Improvement Program	2,750	100	....	0	2,750
Research, Engineering, and Development	123	88	17	12	140
Total	11,459	81	2,618	19	14,077

Note: Percentages in table are toward the total budget.
Note: Figures may not add up exactly due to rounding.
Source: FAA's fiscal year 2008 budget submission to Congress.

KEEPING EXISTING MODERNIZATION EFFORTS ON TRACK AND REDUCING RISKS WITH NEXTGEN

FAA faces challenges in maintaining existing systems while developing and implementing new capabilities to meet the anticipated demand for air travel. For fiscal year 2008, FAA is requesting $2.46 billion in capital funds, the majority of which ($2.3 billion) is for Air Traffic Organization (ATO) efforts to modernize the NAS. Over the last several years, increasing operating costs have crowded out funds for the capital account. Since fiscal year 2005, capital funding requests have leveled off, falling within the range of $2.4 billion to $2.5 billion, well below the levels authorized in the Vision 100 Act. Another trend has been FAA's decision to cancel, defer, and segment acquisitions while the capital budget stayed essentially flat. Further, only about 50 percent of FAA's capital budget goes to air traffic systems; the remainder goes to personnel, mission support, and facilities (i.e., sustainment). Although a large portion of FAA's capital funds will go toward sustainment, FAA is requesting additional funds for key technologies for NextGen. These include the following:

—Automatic Dependent Surveillance-Broadcast (ADS–B)[6] is a satellite-based technology that allows aircraft to broadcast their position to others. FAA requested $80 million in fiscal year 2007 for this satellite-based technology. For fiscal year 2008, it is requesting $85.7 million. FAA expects to award a contract for the installation and maintenance of the ADS–B ground infrastructure in 2007. However, a number of challenges must be addressed. These include conducting human factors work and determining how air and ground elements will be certified as safe. FAA may have to rely on a rulemaking initiative to help speed ADS–B airspace user equipage. The current cost estimate for ADS–B is approximately $1.2 billion, and FAA is planning to re-baseline the ADS–B costs this summer.

—System Wide Information Management (SWIM) is a new information architecture that will allow airspace users to securely and seamlessly access a wide range of information on the status of the NAS and weather conditions. It is analogous to an internet system for all airspace users. FAA requested $24 million for this program in fiscal year 2007. For fiscal year 2008, it is requesting $21.3 million. The cost to fully implement SWIM is unknown, and we note that SWIM is scheduled to be reviewed by FAA's Joint Resources Council this June.

In its fiscal year 2008 budget submission, FAA is requesting funds for new NextGen initiatives, such as NextGen Data Communication ($7.4 million), NextGen Network Enabled Weather ($7 million), and a new National Airspace System Voice Switch ($3 million). FAA is also requesting $50 million for demonstration and infrastructure projects.

We are tracking 18 programs with a combined acquisition cost of $17 billion. Today, we will highlight (1) FAA's progress and problems with key modernization efforts and (2) FAA actions needed to reduce risk with NextGen.

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[6] The first phase of ADS–B implementation, known as ADS–B out, is expected to replace many ground radars that currently provide aircraft surveillance with less costly ground-based transceivers. Aircraft would be equipped with ADS–B out, which broadcasts a signal to these transceivers. However, implementing ADS–B out is just the first step to achieving the larger benefits of ADS–B, which would be provided by ADS–B in. ADS–B in would allow aircraft to receive signals from ground-based transceivers or directly from other aircraft equipped with ADS–B. This could allow pilots to "see" nearby traffic and, consequently, transition some responsibility for maintaining safe separation from the air traffic controllers to the cockpit.

FAA's Progress and Problems With Ongoing Modernization Projects

We do not see the massive cost growth that we have in the past with FAA acquisitions. This is due to FAA's efforts to re-baseline programs and segment investment decisions. However, we found that several projects (totaling of $6 billion in capital investment costs) will require significant attention and oversight because of their size, diminishing benefits, potential cost and schedule problems, or importance to the NextGen transition. These are discussed below.

En Route Automation Modernization (ERAM).—This program is intended to replace the "Host" computer network—the central nervous system for facilities that manage high-altitude traffic. FAA requested $375.7 million for ERAM in fiscal year 2007. For fiscal year 2008, it is requesting $368.8 million. The first ERAM system is scheduled to be fielded by December 2009. While providing some enhancements, ERAM is essentially a one-for-one replacement for the existing "Host" computer system. As currently structured, ERAM will have two follow-on software releases (releases 2 and 3) valued at $83 million; these are still undefined. ERAM is expected to provide the basic platform for NextGen's automated capabilities.

With an acquisition cost of $2.1 billion and a monthly expenditure or "burn rate" of $31 million, this program continues to be one of the most expensive and complex acquisitions in FAA's modernization portfolio. While currently on track, considerable testing and integration work lies ahead. The next major milestone is completion of Factory Acceptance Testing,[7] which is planned for June 2007. Any ERAM cost increase or schedule slip will have an impact on other capital programs and could directly affect the pace of the overall transition to NextGen.

Federal Aviation Administration Telecommunications Infrastructure (FTI).—The FTI program is to replace seven FAA-owned and -leased telecommunications networks with a single network that will provide FAA with telecommunications services through 2017. FAA expects that FTI will significantly reduce its operating costs after the new network is completed. In fiscal year 2007, FAA requested $28 million for the FTI program. For fiscal year 2008, it is requesting $8.5 million. The vast majority of FTI, however, is funded out of the Operations Account as opposed to the Facilities and Equipment account, which funds most acquisitions. For fiscal year 2008, FAA estimates that it will need $210 million to support FTI operations. Additionally, FAA is planning to request another $91 million to maintain legacy network operations until the FTI transition is complete.

In April 2006, we reported[8] that FTI was a high-risk and schedule-driven effort that was unlikely to meet its December 2007 completion date. We found that FAA needed to improve management controls over FTI by developing a realistic master schedule and an effective transition plan. Since our report, the Agency has extended the FTI completion date to December 2008; this represents a 1-year schedule delay. In May 2006, we began a follow-up review of FTI. To its credit, FAA is making significant progress in delivering FTI services. As of March 31, 2007, 10,973 of about 21,820 services were operating on FTI.

As a result of the delay, FAA's Joint Resources Council approved a new cost baseline for FTI in August 2006. FAA increased its acquisition costs to develop the FTI network by an additional $8.6 million (from $310.2 to $318.8 million) and increased its overall operations costs to support FTI network and legacy networks by about $100 million (from $3.0 to $3.1 billion).

We also continue to see an erosion of expected FTI cost savings. For example, in October 2005, the Program Office reported a reduction in the benefit estimate from $820 million to $672 million. By the end of fiscal year 2006, we estimate that FTI cost savings decreased from $672 million to $442 million, including sunk costs. Moreover, since FAA has not yet validated the FTI cost and benefits estimates that were approved in August 2006—an action that we recommended and that FAA agreed to take—the true FTI costs and benefits remain unknown.

FAA continues to face challenges in making the transition to FTI. For instance, FAA currently has a large backlog of FTI services (averaging about 1,800 services over the last 3 months) that need to be addressed. The backlog includes failed transitions, on-hold services, misconfigured [sic] equipment, and obsolete services. Additionally, the transition of digital services, such as critical radar and flight data, to FTI continues to be problematic. Some digital services were placed on "national hold" while engineering solutions could be developed.

[7] Factory Acceptance Testing is defined by FAA as formal testing conducted by the contractor to verify that the production item conforms to all contract specifications, is free from manufacturing defects, and meets all system requirements.

[8] OIG Report Number AV–2006–047, "FAA Telecommunications Infrastructure Program: FAA Needs To Take Steps To Improve Management Controls and Reduce Schedule Risks," April 27, 2006.

In addition, FAA needs to ensure that it has an effective strategy to address FTI reliability and customer service problems. For example, many FTI services are not meeting reliability standards and are not being restored to service within contractual timeframes after outages. These problems led to unscheduled outages of both primary and back-up services, which led to flight delays. For example, on January 9, 2007, the Salt Lake City en route center experienced a 3-hour outage that caused 90 departure delays due to an FTI maintenance contractor trying to upgrade operational FTI equipment.

Overall, key watch items for FTI include addressing the backlog of services, improving FTI reliability and customer service, stopping the erosion of expected cost benefits, and validating costs. Recently, FAA completed negotiations with Verizon Business to extend LINCS[9] (FAA's largest and costliest existing network to be replaced by FTI), which expired in April 2007. FAA has agreed to a $92 million ceiling price to extend LINCS until April 2008. We will be reporting on the FTI program later in the year.

Airport Surface Detection Equipment-Model X (ASDE–X).—ASDE–X is an important safety initiative planned to reduce the risks of accidents on runways. In fiscal year 2007, FAA requested $63.6 million for the ASDE–X program. For fiscal year 2008, it is requesting $37.9 million.

ASDE–X is FAA's latest effort designed to provide controllers with positive identification of aircraft and vehicle positions on the airport surface. It is planned to improve airport safety by operating in all-weather and low-visibility conditions (e.g., fog, rain, and snow) when controllers cannot see surface movement on ramps, runways, and taxiways.

ASDE–X was initially designed to provide a low-cost alternative to FAA's ASDE–3 radar systems for small- to medium-sized airports but has evolved into a different program. FAA made a significant change to the scope of the program in September 2005 and now intends to upgrade ASDE–3 systems with ASDE–X capabilities at 25 large airports and install the system at 10 other airports that currently lack surface surveillance technology. In September 2005, FAA increased ASDE–X costs from $505.2 million to $549.8 million and extended the completion date from 2007 to 2011.

We are concerned about further cost increases and schedule delays with this program since the cost to acquire and install some ASDE–X activities has increased by $94 million since the 2005 re-baseline. To stay within the revised baseline, FAA offset this cost by decreasing planned expenditures funds for seven other program activities, such as construction for later deployment sites.

We are also concerned that the ASDE–X schedule is not realistic. As of March 2007, FAA had commissioned only 8 of the 35 ASDE–X sites. Of the seven sites planned for fiscal year 2006, FAA only commissioned four. Further, it is uncertain when key safety features will be delivered. For example, FAA has yet to commission an ASDE–X system that can alert controllers of potential collisions on intersecting runways or converging taxiways. Because of these issues, the program is at risk of not meeting its current cost and schedule plans to deliver all 35 ASDE–X systems by 2011. We are reviewing ASDE–X and will issue a report later this year.

Air Traffic Management (ATM).—ATM includes the Traffic Flow Management-Modernization (TFM–M) program and the Collaborative Air Traffic Management Technologies (CATMT) program. TFM–M modernizes the TFM system, which is the Nation's single source for capturing and disseminating air traffic information to reduce delays and make maximum use of system capacity. CATMT provides new decision support tools to deliver additional user benefits and increase effective NAS capacity. At a cost of $450 million, these are two key efforts for coordinating air traffic across the NAS and managing the adverse impacts of bad weather. In fiscal year 2007, FAA requested $79 million for ATM programs. For fiscal year 2008, it is requesting $91 million.

Although the TFM–M effort has not experienced cost increases or schedule delays, we are concerned about risks and what will ultimately be delivered. Our concerns are based on the fact that FAA and the contractor significantly underestimated the size and complexity of TFM–M software development. FAA was pursuing TFM–M through a cost-reimbursable agreement, meaning that all risk for cost growth rested with the Government. FAA has modified the contract and adjusted the scope of work. The current risks for TFM–M focus on developing complex software, integrating TFM–M with other NAS systems, and stabilizing requirements.

Terminal Modernization and Replacement of Aging Controller Displays.—FAA's fiscal year 2008 budget request calls for $40 million for efforts aimed at modernizing controller displays and related automation systems at terminal facilities. FAA's

[9] In March 2007, about 43 percent of LINCS A-nodes had been decommissioned.

budget states that three-fourths of the fiscal year 2008 funds will be used for the Standard Terminal Automation Replacement System (STARS) "technology refresh" (i.e., replacing obsolete components) and software enhancements.

FAA's past modernization efforts have focused exclusively on STARS. In 2004, faced with cost growth in excess of $2 billion for STARS, FAA rethought its terminal modernization approach and shifted to a phased process. FAA committed STARS to just 50 sites at an estimated cost of $1.46 billion as opposed to the original plan to deploy STARS at 172 sites at a cost of $940 million.[10]

In 2005, FAA renamed this modernization effort the Terminal Automation Modernization-Replacement (TAMR) initiative and approved modernizing five additional small sites with STARS and replacing the aging displays at four large, complex facilities at a cost of $57 million. This leaves over 100 sites that still need to be modernized. Although FAA has not decided on how it will modernize these 100 sites, its budget submission indicates that this effort could cost over $1 billion.

There is no current defined "end state" for terminal modernization, and past problems with developing and deploying STARS leave FAA in a difficult position to begin transitioning to NextGen capabilities. Future costs will be shaped by (1) NextGen requirements, (2) the extent of FAA's terminal facilities consolidation, and (3) the need to replace or sustain existing (or legacy) systems that have not yet been modernized.

Without question, the most urgent concern facing terminal modernization is how quickly FAA can replace aging displays at the four large sites that are particularly critical to the NAS—Chicago, Illinois; Denver, Colorado; St. Louis, Missouri; and Minneapolis, Minnesota. FAA chose not to compete this work based on a joint proposal from two contractors and instead decided to modify the current STARS contract to include the work. This was expected to expedite replacement of the aging displays, but the time spent revising the contract to establish cost, schedule, and design parameters caused FAA to lose the time advantage from foregoing competition. As a result, the aging displays will not be replaced until 2008. We recommended action on this matter over 2 years ago in November 2004.

Advanced Technology and Oceanic Procedures (ATOP).—FAA requested $31.4 million in fiscal year 2007. For fiscal year 2008, it is requesting $53.1 million. ATOP is FAA's $548 million effort to modernize how controllers manage oceanic flights. FAA now has ATOP in use at Oakland, California; New York, New York; and Anchorage, Alaska.

Since September 2005, FAA controllers have experienced recurring failures (loss of data-link communication with aircraft and aircraft position jumps) with the new ATOP system at the Oakland site. These problems directly limit the potential capacity and productivity benefits from the new automation system. This could impact FAA's plans for using ATOP to demonstrate NextGen capabilities.

According to controllers, these incidents represent potentially hazardous safety conditions that need to be resolved. The larger separation distances required between aircraft over the oceans than for those in domestic airspace have allowed controllers to manage these problems. However, benefits from the new automation system, such as reduced separation, have not been fully realized. Problems persist in ATOP, as evidenced by two operations bulletins (on aircraft altitude changes and detecting conflicts between aircraft) issued by the Oakland facility in April. FAA needs to resolve the problems that it has identified with communication service providers and aircraft avionics and adjust ATOP software as needed to realize expected benefits.

Perspectives on FAA's Metrics for Measuring Progress With Major Acquisitions

FAA reports in its fiscal year 2007 Flight Plan and the most recent Performance and Accountability Report that 100 percent of its critical acquisitions were within 10 percent of budget estimates and 97 percent were on schedule for 2006. FAA is currently tracking about 29 acquisitions, such as the acquisition of new radars. FAA's cost and schedule metrics are worthwhile tools for Agency management and oversight of major acquisitions—a step we called for a number of years ago. However, these metrics have limitations that need to be understood by decision makers in order to properly assess the overall status of FAA's acquisition portfolio.

First, FAA's cost and schedule metrics are snapshots in time. They are not designed to address changes in requirements, reductions in procured units, or shortfalls in performance that occur over time. Second, FAA's budget metrics involve comparisons of cost estimates taken during the fiscal year. These estimates involve the updated, "re-baselined" cost figures—not estimates from the original baseline.

[10] OIG Report Number AV–2005–016, "Terminal Modernization: FAA Needs To Address Its Small, Medium, and Large Sites Based on Cost, Time, and Capability," November 23, 2004.

This explains why the Wide Area Augmentation System (a satellite-based navigation system) is considered "on budget" even though costs have grown from $892 million to over $3 billion since 1998. "Re-baselining" a project is important to get realistic cost and schedule parameters and is consistent with Office of Management and Budget (OMB) guidance and the Agency's own Acquisition Management System. The revised baselines are used for justifying budgets and making investment decisions, i.e., ensuring that major acquisitions are still cost beneficial. We note that OMB allows FAA to measure deviations from the new baselines once they have been approved. Nevertheless, such comparisons of revised program baselines—absent additional information—fail to provide an accurate picture of a program's true cost parameters.

Finally, FAA's schedule metrics used for assessing progress with several programs in 2006 were generally reasonable, but focused on interim steps or the completion of tasks instead of whether systems met operational performance goals. For example, ASDE–X metrics focused on delivery of two systems. This metric does not relate to whether systems entered service or met operational performance expectations. We note that there are no written criteria for selecting or reporting the milestones. Table 3 provides information on some of the metrics used for measuring progress in acquisitions in fiscal year 2006.

TABLE 3.—METRICS USED TO MEASURE PROGRAMS IN 2006

Program	Metric	Planned Date	Actual Date
Airport Surface Detection Equipment Model-X.	Deliver two systems	February 2006	February 2006
Standard Terminal Automation Replacement System.	Deliver to one site	February 2006	January 2006
Air Traffic Management	Conduct Detailed Design Review	August 2006	March 2006
Precision Runway Monitor	Complete Factory Acceptance Testing for Atlanta.	April 2006	April 2006
Wide Area Augmentation System	Complete initial installation of two reference stations.	September 2006	May 2006

Source: FAA ATO–F Capital Expenditures Program Office.

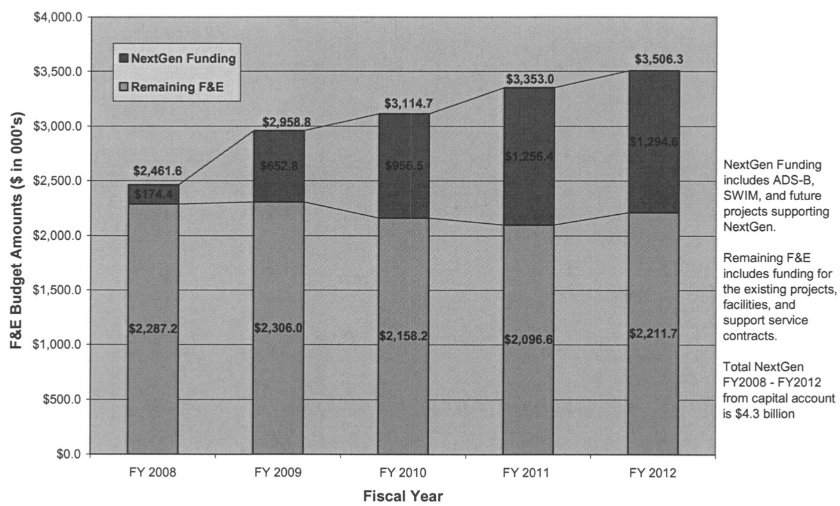
As FAA's former chief operating officer stated, simply measuring cost and schedule may not be sufficient in evaluating NextGen initiatives. We agree and believe it will be important to focus on the promised capability and benefits of new initiatives, particularly those associated with the goals of enhancing capacity, boosting productivity, and reducing Agency operating costs. Therefore, FAA should explore a wider range of metrics to measure—and report on—progress with NextGen efforts.

FAA Actions Needed To Reduce Risks With the Next Generation Air Traffic Management System

The transition to NextGen is an extraordinarily complex, high-risk effort involving billion-dollar investments by the Government and airspace users. We have made a series of recommendations specifically aimed at reducing risk and facilitating the shift from planning to implementation.

FAA needs to develop realistic NextGen cost estimates, quantify expected benefits, and establish a road map for industry to follow.—A central question in the current debate on financing FAA is what the costs associated with developing and implementing NextGen will be. Figure 1 illustrates FAA's most recent cost estimates.

Figure 1. FAA Capital Funding Projections for FY 2008 to FY 2012



Source: FAA National Airspace System Capital Investment Plan FY 2008 – FY 2012

FAA estimates suggest that the agency will require $15.4 billion for capital projects from fiscal year 2008 to fiscal year 2012. This includes $4.6 billion for NextGen initiatives ($4.3 billion from the capital account and $300 million from the RE&D account).

We note that the bulk of NextGen funds will be allocated to developmental efforts, including demonstration projects. There are unknowns with respect to performance requirements for new automation systems and data-link communications. The development of new automation systems is a particular concern given their complexity and the fact that almost flawless performance will be required. FAA will not have a firm grasp on costs until it has a mature enterprise architecture and a NextGen R&D plan that clearly indicates the contributions of other agencies.

The costs for airspace users to equip with new avionics will be significant. The Joint Planning and Development Office's (JPDO) most recent progress report estimates the cost for airspace users to be between $14 billion and $20 billion for the long term. This underscores the need for FAA to have a clear understanding of complex transition issues and what will be required to get expected benefits. Another cost driver focuses on the extent to which FAA intends to consolidate facilities based on modern technology. We recommended that when FAA reports NextGen costs to Congress, it should do so along three vectors—research and development needed, adjustments to existing projects, and costs for new initiatives. FAA agreed and stated that it will build a comprehensive cost estimate this year.

More work remains to set expectations, requirements, and milestones—or "transition benchmarks"—for developing when new procedures, new ground systems, and aircraft need to be equipped to realize benefits. During an April 2006 workshop, industry participants asked FAA for a "service roadmap" that (1) specifies required aircraft equipage in specific time increments, (2) bundles capabilities with clearly defined benefits and needed investments, and (3) uses a 4- to 5-year equipage cycle that is coordinated with aircraft maintenance schedules. Once concepts and plans have matured, it will be important for FAA to provide this information to industry.

FAA and the JPDO need to develop approaches for risk mitigation and systems integration.—FAA and the JPDO must articulate how they will do things differently to avoid problems that affected modernization efforts in the past (such as cost growth, schedule slips, and performance shortfalls). Developing and implementing NextGen will be an enormously complex undertaking. As the JPDO notes in its December 2004 Integrated Plan,[11] "there has never been a transformation effort similar to this one with as many stakeholders and as broad in scope." The central issue is determining what will be done differently from past modernization efforts with NextGen initiatives (other than conducting demonstration projects) to ensure success and deliver much needed benefits to FAA and airspace users.

FAA's decision to use the Operational Evolution Plan (the Agency's blueprint for capacity) to help implement NextGen is a good first step. Nevertheless, the transition to NextGen will pose complex software development and integration problems and will require synchronized investments between FAA and airspace users over a number of years.

To maintain support for NextGen initiatives, we recommended that the JPDO and FAA articulate how problems that affected past modernization efforts will be mitigated and what specific skill sets with respect to software development and system integration will be required. This will help reduce cost and schedule problems with NextGen initiatives. FAA concurred with our recommendations and stated that it will form a panel of experts to examine the issues we raised.

FAA is requesting $50 million in its fiscal year 2008 budget for demonstration projects, which are important opportunities to reduce risk. In the past, FAA has experienced problems with certifying systems as safe, which led to cost growth and schedule slips. Therefore, we recommended, and FAA agreed, that planned NextGen demonstration projects should develop sufficient data to establish a path for certifying new systems and identify the full range of adjustments to policies and procedures needed for success.

FAA needs to review ongoing modernization projects and make necessary cost, schedule, and performance adjustments.—As FAA's budget request points out, 29 existing capital programs serve as "platforms" for NextGen. We recommended that FAA review ongoing modernization programs to determine what adjustments in cost, schedule, and performance will be required. This is critical because NextGen planning documents suggest that billions of dollars will be needed to adjust ongoing programs, like ERAM and TFM–M.

During fiscal year 2007 through fiscal year 2008, over 25 critical decisions must be made about ongoing programs. These decisions will directly impact how quickly new capabilities can be deployed and will involve establishing requirements for future ERAM software releases, making investments to support existing radars, and incorporating weather information into SWIM.

ADDRESSING ATTRITION IN FAA'S CRITICAL WORKFORCES

Controlling operating cost growth will remain a significant challenge for FAA as it faces several workforce challenges in the coming year. Our office has an extensive body of work regarding cost control and financial issues within FAA. For example, in 1999, we reported[12] that persistent cost growth in the agency's operating account (primarily salary-driven) was "crowding out" critical capital investments in the agency's modernization account. This is still a challenge today. As FAA focuses on increasing workforce productivity and decreasing costs, it must also continue to address the expected increase in air traffic controller and safety inspector retirements and ensure that it has the right number of controllers and inspectors at the right locations.

FAA Continues To Make Progress in Implementing Its Controller Workforce Plan, but Further Efforts Are Needed in Several Key Areas

In December 2004, FAA issued the first in a planned series of congressionally directed annual reports that outline the agency's plans for hiring new controllers to replace those expected to leave over the next 10 years. The 2004 plan also outlined various initiatives for increasing controller productivity and for decreasing on-the-job training (OJT) time and costs. FAA updated the 2004 plan in June 2006 and again in March 2007.

In February 2007, we reported on the results of our review of FAA's progress in implementing key initiatives of its controller workforce plan. Overall, we found that FAA continues to make progress in implementing a comprehensive and complex staffing plan. For example, we found that FAA made significant improvements by centralizing many aspects of its hiring process. We also found that FAA made progress in reducing the time and costs to train new controllers, primarily through greater use of simulator training at the FAA Training Academy, and implemented

[11] JPDO "Next Generation Air Transportation System—Integrated Plan," December 2004.

[12] OIG Report Number AV–1999–066, "Federal Aviation Administration's Financing and Cost Control," March 22, 1999.

a new national database to track on-the-job training statistics. Further progress is needed, however, in several key areas.

First, FAA is still in the process of validating facility-level staffing standards, which are a foremost necessity in effectively placing newly hired controllers where they are most needed. Planning by location is critical because FAA has over 300 terminal and en route air traffic control facilities with significant differences in the types of users served, the complexity of airspace managed, and the levels of air traffic handled. Without accurate facility-level planning, FAA runs the risk of placing too many or too few controllers at these locations.

FAA is aware of this concern and is validating its facility staffing standards down to the sector and position level for each location in order to develop accurate staffing ranges for all of its facilities. FAA expects to complete this assessment for its 21 en route centers (its largest facilities) by the end of this year. However, FAA does not expect to complete the entire project, including terminal facilities, until late 2008. In the interim, FAA established staffing ranges by facility, which take into account the existing staffing standard models but also include facility manager input and expected productivity improvements. Although these ranges are a step toward more accurate controller levels, they are not a replacement for a facility-level staffing range based on validated staffing standard models.

We recommended that FAA report the progress made in validating facility staffing standards in its next annual update to the workforce plan, including the number of facilities completed, the staffing ranges established for each location, and the estimated completion date for all remaining facilities. FAA concurred with our recommendation and included the interim staffing ranges for all facilities in its March 2007 update.

Second, FAA reached its goal of reducing controller staffing by 3 percent relative to its national staffing standard for fiscal year 2005, but it is unknown whether the initiatives established in the 2004 plan were effective in helping achieve that reduction. FAA introduced several initiatives in the 2004 plan intended to improve workforce efficiency and controller productivity. Those initiatives include efficiencies such as reducing the use of sick leave by 8 percent, ensuring appropriate use of workers' compensation benefits, and increasing scheduling efficiencies.

FAA achieved a 3-percent productivity gain in fiscal year 2005 by decreasing total controller staffing by 3 percent relative to its national staffing standard, a goal established in the 2004 plan. However, it is unclear what, if any, additional impact FAA's productivity initiatives had on controller productivity because FAA did not establish baseline metrics for measuring their effectiveness. We recommended that FAA establish baseline metrics for the initiatives and update the plan annually to reflect actual progress in achieving each initiative and, ultimately, in accomplishing its goal to reduce controller staffing by 10 percent. FAA agreed to continue providing status updates for the initiatives but stated that estimating the contribution of each initiative would be labor intensive and costly and would divert resources.

We believe that FAA should reconsider its position. FAA runs the risk of simply having fewer controllers controlling more traffic without the benefit of metrics to determine if the productivity initiatives are driving the reductions in staffing. This is important given that the agency is still validating its staffing needs at the facility level. FAA's 2007 update did not include an update on its productivity goals.

We also recommended that FAA identify the annual and total costs for hiring, training, and certifying new controllers to meet future requirements. The cost of hiring and training over 15,000 new controllers will be substantial, particularly since it currently takes 2 to 5 years for new controllers to become fully certified. During that time, FAA incurs the cost of the trainee's salary and benefits as well as the cost of the salaries and benefits of the certified controllers who instruct trainees individually. FAA concurred with our recommendation and included estimates for the salary and benefit costs of newly hired controllers each year through 2016 in its March 2007 update to the plan.

An Evolving Aviation System Requires That FAA Maintain a Sufficient Number of Safety Inspectors Positioned in the Right Locations

Safety is and must remain FAA's highest priority. Although accidents have occurred in recent years, the United States continues to maintain the safest aviation system in the world. While much credit is due to safety systems that air carriers have built into their operations, FAA regulations and inspectors play an important role in providing an added layer of safety oversight. As shown in table 4, this oversight covers a vast network of operators and functions, which make up the largest, most complex aviation system in the world.

TABLE 4.—FAA INSPECTORS' WORKLOAD

Commercial Air Carriers	123
Flight Instructors	90,555
Repair Stations	4,927
FAA Designee Representatives	11,000
Active Pilots	744,803
Aircraft	347,326
Approved Manufacturers	1,738
FAA-Licensed Mechanics	320,293

Source: FAA.

FAA's 3,865 inspectors must oversee both domestic and foreign aspects of these operations—a task made more difficult by the rapidly changing aviation environment. To ensure that the system remains safe, FAA must maintain a sufficient number of inspectors.

FAA needs effective oversight systems to maximize inspector resources.—FAA will never have an inspection workforce that is large enough to oversee every aspect of aviation operations. As a result, FAA is working toward using risk-based safety oversight systems—that is, systems that target inspection resources to areas of greatest risk.

Without question, risk-based oversight is the best approach; however, our past reports have identified a wide range of areas in which FAA should strengthen its inspector oversight. For example, air carriers continue to increase their use of external maintenance facilities, but FAA still needs to implement better processes to determine where air carriers send their critical maintenance. In December 2005, we reported [13] that FAA must understand the full extent and type of work that is being performed by non-certificated repair facilities. These facilities are not licensed or routinely visited by FAA inspectors but perform critical maintenance, such as engine replacements. FAA has yet to develop a process to determine which non-certificated repair facilities perform this type of maintenance for air carriers. Until FAA knows where critical maintenance is performed, it cannot ensure that it has focused its inspection resources to areas of greatest risk.

FAA developed a risk-based oversight system for FAA-certified repair stations; however, it only recently completed full implementation of the system. If used effectively, the new repair station oversight system should significantly improve FAA's ability to target resources to areas of higher risk in this growing segment of the aviation industry.

A changing aviation environment requires strategic inspector placement.—The pace at which changes are occurring in today's aviation environment makes it imperative that FAA place sufficient resources in areas where they are most needed. FAA has made at least two attempts to develop a staffing model to determine the number of inspectors needed and the best locations for placement. Neither model, however, provided FAA with an effective approach to allocate inspector resources. In September 2006, the National Research Council completed a study of FAA's current methods for allocating inspector resources. This study validated a concern that we have also reported—that FAA's current method of allocating inspectors is antiquated and must be redesigned to effectively target inspectors to those areas of higher risk.

In particular, the Council reported that the changing U.S. and global aviation environments have important implications that will be key drivers of future inspector staffing needs. For example, airlines' outsourcing of aircraft maintenance, FAA's shift to a system safety oversight approach, and safety inspectors' attrition and retirement are all important changes that must be considered in determining staffing needs. This year, 28 percent (1,085 of the 3,865) of the current inspector workforce will be eligible to retire. By 2010, 44 percent of the workforce will be eligible to retire.

Unless FAA develops an effective staffing model, however, it will not be able to make effective use of the resources that it obtains. Further, the Council stressed that FAA must ensure that its safety inspectors are sophisticated database users, with knowledge of system safety principles and an analytical approach to their work. In addition, inspectors must maintain their capabilities to conduct thorough on-site inspections of air carrier, aircraft maintenance, and aircraft manufacturer operations.

[13] OIG Report Number AV–2006–031, "Review of Air Carriers' Use of Non-Certificated Repair Facilities," December 15, 2005.

At the same time, FAA must prepare for emerging safety issues, such as very light jets and unmanned aerial vehicles. For example, by 2017, approximately 5,000 new aircraft known as very light jets will be an integral part of the U.S. aviation system. These aircraft will be flown by a new class of pilots with mixed levels of expertise and will vie for airspace with commercial jets. Three models of very light jets were certified in 2006 for operation. As these become operational, FAA inspectors will face new oversight challenges in every aspect of FAA's operations, including inspector oversight of pilot training and aircraft maintenance and air traffic control.

DETERMINING THE APPROPRIATE AMOUNT OF AIRPORT FUNDING

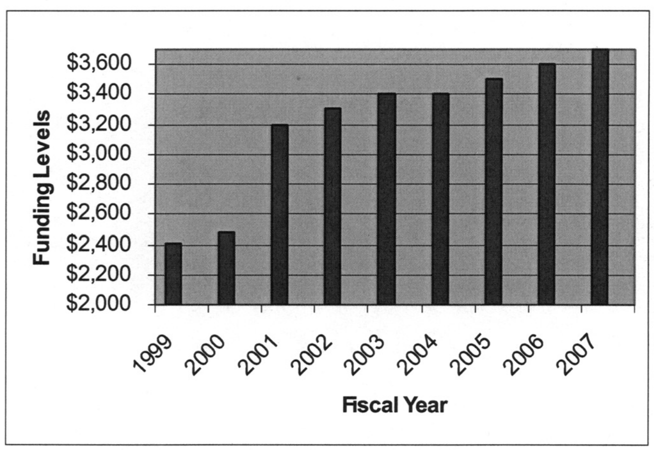
In the months following the release of FAA's reauthorization proposal, Congress, FAA, and aviation stakeholders have been discussing important questions about how to fund airport improvement projects. Key issues for the reauthorization debate will be the fiscal year 2008 AIP and PFC funding levels, project priorities, and project eligibility.

Airport Improvement Program

FAA is requesting $2.75 billion for the AIP in fiscal year 2008. Since the current authorization, Vision 100, expires in fiscal year 2007, no AIP authorization target exists for fiscal year 2008. However, the fiscal year 2008 request is a substantial reduction over the fiscal year 2007 authorized level in Vision 100.

The AIP supports the airport system by providing funds to primarily enhance safety and security, maintain the infrastructure, increase capacity, and mitigate airport noise in surrounding communities. AIP authorized funding has steadily increased over the last 9 years. As shown in figure 2, authorized funding increased by approximately 54 percent from 1999 to 2007. Since 2001, the AIP has been authorized at $3.2 billion or higher in funding each year.

Figure 2. AIP Authorized Funding Levels, 1999 to 2007
($ in Millions)



Sources: 1999-2003 Wendell H. Ford Aviation Investment and Reform Act for the 21st Century and the 2004-2007 Vision 100-Century of Aviation Reauthorization Act

As shown in table 5 below, 2 of the last 3 years' budget requests have been significantly less than authorized levels. The fiscal year 2007 budget request for AIP funding of $2.75 billion was nearly $1 billion less than authorized under Vision 100 for fiscal year 2007.

TABLE 5.—AIP AUTHORIZED AND BUDGET REQUEST FUNDING LEVELS 2005 TO 2007

(In millions of dollars)

Fiscal Year	Authorized	Budget Request	Funding Level
2005 (Vision 100)	3,500	3,500	3,500
2006 (Vision 100)	3,600	3,000	3,500
2007 (Vision 100)	3,700	2,750	3,500

Source: FAA budget submissions from fiscal year 2005 through fiscal year 2007.

However, Congress has provided FAA with close to the Vision 100 authorized amounts in fiscal year 2005 and fiscal year 2006. For fiscal year 2007, the AIP is funded at $3.5 billion, which is only a $200 million reduction from the fiscal year 2007 authorized level, not the nearly $1 billion reduction requested in FAA's fiscal year 2007 budget.

With the potential decrease in available AIP funds, FAA must take a more proactive role in managing and overseeing airport grants. Since the early 1990s, we have identified hundreds of millions of dollars in airport revenue diversions—revenues that should have been used for the capital or operating cost of an airport but were instead used for non-airport purposes. In the last 4 years, we reported on revenue diversions of more than $50 million at seven large airports, including one airport whose sponsor—a local government agency—diverted about $40 million to other projects not related to the airport.

FAA is now taking a more active role to identify airport revenue diversions, but airports must do their part to ensure that airport revenues are not used for non-airport purposes. Similarly, as we testified last year,[14] ensuring that airports dispose of land acquired for noise mitigation purposes when the land is no longer needed for noise compatibility purposes or airport development would also provide additional funds for airport projects. Our review[15] in 2005 of 11 airports identified approximately $242 million that could be used for other noise mitigation projects at the respective airports or returned to the Trust Fund.

With growing demands for airport improvement projects and potentially less AIP funding available, AIP funds must be directed to the Nation's highest priority projects while meeting the unique needs of small airports. During our current review of the AIP, we found that FAA policies and procedures, for the most part, ensure that these high-priority projects are funded with AIP funds. We also found, however, that the AIP Military Airport Program set-aside[16] (MAP) can result in low-priority projects being funded at an airport that meets set-aside program requirements while higher-priority projects at other airports could go unfunded.

In order to meet the required level of MAP set-aside funding of approximately $34 million per year, the majority of projects being funded are comprised of lower-priority projects as rated under FAA's numerical rating system. FAA ranks projects on a scale of 0 to 100. Projects rated at 40 or above are generally funded by FAA. However, in fiscal year 2006, 17 of 25 (68 percent) MAP projects with ratings ranging from 17 to 36 were funded at an estimated cost of $31 million, as a result of the MAP set-aside funding requirements. For example, one project with a rating of 19 was funded at a cost of more than $2.2 million to rehabilitate a parking lot.

Given the growth in projected passenger traffic and the Department's commitment to accelerate major airport infrastructure projects by giving priority treatment and resources to capacity projects, it may be time to re-examine AIP set-aside funding levels and the type of projects funded. We will report on FAA's prioritization of AIP funds later this year.

Passenger Facility Charges

In addition to AIP funds, PFCs have become an important funding mechanism for airports. For instance, between 1992 and 2006, FAA approved the collection of $57.3 billion in PFCs. Of this amount, airports have collected approximately $22 billion, with another $2.6 billion anticipated for 2007. In comparison, airports received about $35.2 billion in AIP grants between 1992 and 2006, with FAA requesting an-

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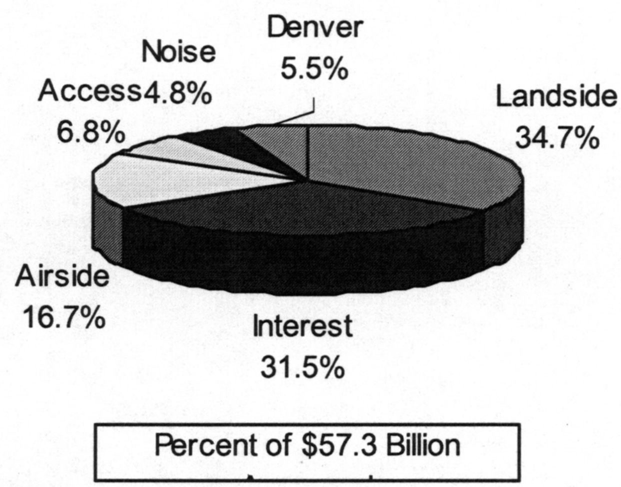
[14] OIG Report Number CC–2006–027, "Perspectives on FAA's fiscal year 2007 Budget Request and the Aviation Trust Fund," March 28, 2006.

[15] OIG Report Number AV–2005–078, "Audit of the Management of Land Acquired Under the Noise Compatibility Program," September 30, 2005.

[16] Under Vision 100, the AIP discretionary fund is subject to three statutory set-aside programs that benefit (1) noise compatibility planning to mitigate airport noise in surrounding communities, (2) the Military Airport Program to convert former military fields to civilian airfields, and (3) certain reliever airports.

other $2.75 billion for 2007. Overall, airports anticipate using 34.7 percent of PFC collections to finance landside projects (e.g., terminals, security, and land), another 31.5 percent for bond interest payments, 16.7 percent for airside projects (e.g., runways, taxiways, and equipment), 6.8 percent for access roadways, 4.8 percent for noise abatement, and 5.5 percent for the Denver International Airport (see figure 3).[17]

Figure 3. Approved PFC Uses by Category CYs 1992 to 2006



Source: OIG analysis of FAA data

Currently, PFCs are capped at $4.50 per segment of flight (a maximum of $18.00 on a round trip). The current cap on PFCs is an important matter for this Committee and has significant implications for major airports' capital expenditure plans. Over 75 percent (248 of 328 airports) of the airports collecting a PFC charge the maximum amount. The current cap has led some airports to collect PFCs for extremely long periods of time in order to cover the cost of their projects, including: Clarksburg, West Virginia (50 years); Miami, Florida (34 years); Detroit, Michigan (25 years); and Denver, Colorado (25 years). Overall, 45 percent of airports collecting a PFC have set collection periods longer than 10 years. Other airports such as Chicago O'Hare International, are anticipating future increases in the cap as part of their financing plans. The funding of future airports projects and the level of AIP funding and PFC charges will be important issues as Congress decides how best to finance FAA.

An important issue regarding PFCs is FAA's reliance on airport sponsors for PFC oversight. Unlike AIP grants, DOT and FAA officials have concluded that the agency lacks clear authority to prevent airports from contracting with suspended or debarred companies for projects funded by PFCs. This is significant because, of the 838 projects that FAA approved in fiscal year 2006 to receive PFC funding, 194 are to be funded solely by PFCs. Ninety-three others will be funded via PFCs and other non-AIP funding sources. Moreover, of the associated $2.7 billion in approved PFC collections, an estimated $1.8 billion (67 percent) will go for projects funded solely by PFCs or a combination of PFC and other non-AIP funding sources. According to FAA, however, companies suspended or debarred for committing fraud on other Gov-

[17] FAA tracks Denver's PFC separately due to its large size and because it was used to fund the new airport, not specific projects.

ernment contracts cannot be excluded from projects funded solely with PFCs. Congress should consider legislation to address this risk area.

ACQUISITION AND CONTRACTING ISSUES

Providing increased attention to ensure that procurement and acquisition activities are conducted in an efficient and effective manner and that taxpayer dollars are protected from fraud and abuse is a Government-wide priority, and we have focused significantly more audit and investigative resources on procurement and acquisition issues. In our testimony today, we would like to highlight two specific watch areas for FAA: support services contracts and the transition of flight services to contract operations.

Support Services Contracts

FAA faces challenges for each phase of the acquisition cycle, including planning, awarding, and administering support services contracts. In fiscal year 2006, FAA obligated about $930 million for support services using numerous contracts and three multiple-award "umbrella" procurement programs.

In September 2006, we issued a report [18] on our review of the RESULTS program (one of the three multiple-award programs), for which FAA has awarded about $543 million since program inception. We found that the program was not properly established or managed. Continued use of this program would cost FAA tens of millions of dollars in higher costs. FAA terminated this procurement program in 2006 and started strengthening oversight of all support service contracts. FAA needs to pay special attention to the following.

Verification of Labor Qualification and Rates.—Labor costs generally account for the largest portion of support service contract costs. Our RESULTS audit and FAA's own review identified incidents when contractor staff did not meet the expected qualifications for positions billed. For example, we found that an employee on a contract was originally billed as an administrative assistant at an hourly rate of $35. Four months later, the same employee was billed as an analyst at an hourly rate of $71 without any proof of additional qualifications. Verifying contract labor qualification for the rates billed could potentially save FAA millions of dollars for support services.

Based on our RESULTS audit, and as part of an agency-wide initiative announced by the FAA Administrator to strengthen internal controls over procurements, FAA reviewed one of its other multiple-award programs, BITS II, and found similar problems. For example, FAA found evidence that multiple contractors had extensively billed FAA for employees at labor rates that were higher than their actual education and experience warranted, as specified by terms of the contract.

FAA referred this matter to us for investigation. In one case, we found that a contractor invoiced FAA for the services of an employee in the labor category of "Senior Management Analyst" at a rate of $100 per hour, instead of the proper rate of $40 per hour based on the employee's qualifications. Specifically, the "Senior Management Analyst" category required an individual with 12 years of direct experience, yet the employee in question had only 2 years of experience. As a result of our investigation to date, 12 of 13 contractors have agreed to repay a total of $7.9 million in inflated billings under administrative settlements with FAA.

Review of Contractor-Proposed Prices.—Our audit found that FAA awarded contracts without sufficient competition and price analyses. FAA now requires that the Deputy Administrator approve all new contracts valued over $1 million that are awarded on a sole-source basis. While this is a step in the right direction, FAA still needs to strengthen its review of contractor-proposed prices. When facing inadequate competition from bidding contractors, FAA's contracting officers are required to perform a price analysis to assess the fairness of contractor-proposed prices. We found that this control was not working in many incidents. For example, we found a case where the Independent Government Cost Estimate was prepared by the contractor to whom the contract was awarded. We plan to follow up on FAA's use of price and cost analysis techniques to ensure the reasonableness of prices in contract proposals.

Controls Over the Conversion of Flight Service Stations to Contract Operations

On February 1, 2005, FAA awarded a 5-year, fixed-price incentive contract (with 5 additional option years) to Lockheed Martin to operate the Agency's 58 flight service stations in the continental United States, Puerto Rico, and Hawaii. The contract,

[18] OIG Report Number FI–2006–072, "Audit of the Federal Aviation Administration's RESULTS National Contracting Service," September 21, 2006.

worth about $1.8 billion, represents one of the largest non-defense outsourcing of services in the Federal Government.

FAA anticipates that by contracting out flight service facilities, it will save $2.2 billion over the 10-year life of the agreement. On October 4, 2005, Lockheed Martin took over operations at the 58 flight service stations. We are currently conducting a review of FAA's controls over the conversion of flight service stations to contract operations. We plan on issuing our interim report later this month.

Overall, we found that FAA has implemented effective controls over the initial transition of flight service stations to contract operations. These controls include contractual performance measures that require the contractor to achieve acceptable levels of operational performance and service and internal mechanisms that oversee the operational and financial aspects of the program.

We also found that the agency uses these controls to monitor contract flight service stations and, in some cases, penalizes the contractor for poor performance. To date, FAA has imposed approximately $9 million in financial penalties against the contractor for failing several contractual performance measures. FAA is requiring the contractor to submit corrective action plans to resolve the deficient performance measures. In addition, FAA and the contractor are now entering the next and most critical phase of the transition.

In February, the contractor began efforts to complete, test, and implement a new software operating system for flight service stations and consolidate the existing 58 sites into 3 hub and 16 refurbished locations—all by the end of July.[19] Any slips in that schedule could have significant implications to the costs and anticipated savings of the transition.

In addition, FAA could be facing further reductions to savings as Lockheed Martin is requesting nearly $177 million in equitable adjustments to the contract. Most of that adjustment ($147 million) is based on the contractor's claim that it was not provided the correct labor rates when it submitted its bid.

In April, FAA provided us with the first of its planned annual variance reports comparing estimated and actual first-year costs. This is an important tool in that it will allow FAA to identify cost overruns, determine the reasons for the overruns, and allow for adjustments to ensure that savings are realized. We are currently reviewing the completed variance report and assessing the contractor's progress in executing the next phase of the transition.

That concludes my statement, Madam Chairman. I would be happy to address any questions you or other members of the subcommittee may have.

RE-BASELINING CAPITAL PROJECTS

Senator BOND. Thank you very much, Mr. Scovel. First, to both of you, it appears the FAA has implemented a system of re-baselining, as we've discussed, and it's very difficult to examine adequately programs as to projected cost savings and implementation dates.

But now, it shows everything's on schedule, on time, on performance. Please let me know how these programs have changed, and how do we determine the true savings of a program, the true cost, and whether a program is on time per the initial implementation, if the goal post changed when the team loses 10 yards instead of gains 10 yards. Madam Administrator?

Ms. BLAKEY. I'd be happy to, because there seems to be some real energy around something we believe is a good practice. In fact, I've worked closely with Congress, and have been instructed to do so by both the Department of Transportation and OMB.

We are trying to be more accountable and transparent, for when circumstances do change on these major capital programs, which they do. As you can appreciate, that happens in business, that happens anywhere where you're making major technology investments over a long period of time.

[19] One facility, which was originally planned to be refurbished, will now remain open until the end of the year; it will then be consolidated into the Leesburg hub.

Now, I think it's important to understand, when we say that we have our major capital programs on schedule and on budget, we track them very carefully. There are 37 programs that we're tracking in the Flight Plan, and 27 of those are what we consider to be major, and that has to do with size and scope.

At this point, this year, 100 percent are on schedule when we have re-baselined, and there were seven that I can count that are major programs since 2004, so there's not very many we're talking about here that we have in fact re-baselined.

We do have reasons in each case for that. One that I would particularly point out is the WAAS program. The WAAS program is turning out to be a tremendous success. I'm not talking about just in this country. I'm talking about worldwide, that it is being adopted all around the globe as a GPS basis for navigation, that it is getting close to Cat 1, in terms of ILS capability, in terms of its performance.

What has happened with the WAAS program is that we re-baselined because several years ago—and I believe this probably was 2004—we had a shortage of funds in our operations account, because of the lease of the satellites and the lease of some of the connectivity were all coming out of operations.

In consultation with both Congress and OMB, we moved those costs into our capital investment line. Absolutely, that caused a bump in the F&E account.

But I think that was sound business. It was the right thing to do, because we were having severe constraints in the cost of our operations at that point. So that is one example.

Senator BOND. Let me just ask you about that. In other words, you included operational cost, not in the cost of the program, not in the capital cost of the program, but in operations, and when you had a shortfall in operations, then it was an accounting move, just to charge those operating costs to the program, whereas you had not done so before. Is that what I understand?

Ms. BLAKEY. Essentially. Essentially, that is correct. In other words, where should you count the lease of the satellites? We felt that this was an appropriate way to deal with budget shortfalls.

There has been some cost growth in the WAAS program over time, but it was determined to be a capital lease by OMB, not by FAA.

Again, I think everyone was comfortable with that at the time, in terms of that shift. So yes, the taxpayer would've paid for it one way or the other.

Senator BOND. Mr. Scovel? Do you have a comment on that?

Mr. SCOVEL. Yes. Thank you, Senator Bond. Many members of the subcommittee this morning have mentioned their reservations about FAA's use of budget and schedule metrics.

We share the committee's reservations, but we commend FAA and other agencies in government for following OMB's directions and using cost and schedule metrics as worthwhile tools for management.

We think that there's always the rest of the story to be told. We believe that, first of all, a statement such as 100 percent of projects are on time or on budget simply represents a snapshot in time, rather than a videotape.

That is important, because, as Administrator Blakey just described, the evolution of the WAAS program, program events, in terms of capabilities and performance requirements, will change over time.

A simple statement that it is on time and on budget doesn't capture that evolution, and certainly, the taxpayer and the Congress will be interested in that entire story, rather than just the sound bite.

The budget metrics should be—I wish to emphasize represent a snapshot largely of the current fiscal year picture. In other words, it represents a variation from the most recent baseline figure, which has been reset essentially to zero. So it doesn't capture cost events that occurred before the re-baselining event. Again, that is part of the rest of the story.

This is done in response to OMB's directions. We fully acknowledge that, what happened with the WAAS program. We commended Administrator Blakey this morning for explaining very cogently what happened with that program, but if we look simply at a statement, on time, on budget, it doesn't convey what the true parameters of that particular program's events were.

Finally, when it comes to schedule metrics, sir, we would ask that there be greater specificity on the part of FAA in choosing which metrics it wishes to highlight in its reports to the public and to Congress.

Here, we would draw a distinction between a simple task completion, such as delivery of units to a site for installation, and a metric that would capture movement toward full operational capability.

Some of the metrics that FAA has chosen highlight the latter, much to their credit. Others, for example, simply, as I mentioned, delivery to a site for installation, it doesn't give you or the public a good idea of how far along a program may truly be to becoming full mission capable.

AIR TRAFFIC CONTROLLER STAFFING

Senator BOND. Thank you, Mr. Scovel. Senator Lautenberg?

Senator LAUTENBERG [presiding]. Thanks, Senator Bond. Administrator Blakey, it's become abundantly clear to me that FAA doesn't really know how many air traffic controllers are needed at the Newark Tower. Last year, you said that 35 were needed. This year, if I understand your statement correctly, you say between 30 and 36.

Well, as we discussed before, there are only 29 certified controllers there, and that, despite an increase in movements at the airport, it is my understanding that in the last 3 years, staffing levels at Newark have dropped 20 percent, and operational errors have increased 700 percent.

Now, for one of the most complex jobs in the country, when will we have fully-trained, certified controllers at Newark to assure public safety? It's understood that more are needed, and more will be placed there.

Ms. BLAKEY. All right. The numbers currently—and as you know, these are always fluid, depending upon some other time on a given day, or some change occurring; someone gets promoted into supervisory ranks. But currently, at Newark Tower, we have 27 fully certified controllers on board.

We also have three who have been fully certified controllers, veteran controllers from other facilities who are learning the specific sectors there, and are partially certified. Again, we consider them, since they are veterans and have been working in other towers in complex airspace, that they are fairly new for Newark. We also have what we call developmentals, and those are true trainees, and there are two.

Right now, that therefore brings us to 32. The authorized staffing for the Newark Tower is between 30 and 36. As you know, we work with a range. And at this point, we have brought in those two new developmentals.

We are scheduled before the end of the fiscal year to have an additional seven coming in. So that will be planned to increase, and when you add seven more, you're up there close to 39, unless we have additional retirements.

Senator LAUTENBERG. What you're saying is that we really haven't met the schedule thus far. Mr. Scovel, in your opinion, is FAA fully aware of how many controllers are needed in each of these facilities to run this system in a safe and efficient manner?

Mr. SCOVEL. Thank you, Senator Lautenberg. I'm not prepared at this point to comment specifically on the New York TRACON. I know that is a specific concern of yours. If you'd like, I can get back to you with perhaps a more detailed analysis.

Our effort, my staff's effort, has concentrated rather truly systemwide. FAA's 2004 Controller Workforce Plan indicated to us that it didn't have a good grasp of how many controllers would be needed at that time in order to replace what we expected to be a sizable number of retirements of controllers hired immediately after the 1981 strike.

We recommended a workforce study in order to validate at a facility level what would be needed, and, to its credit, FAA has undertaken that, and the Mitre Corporation currently has that underway this year, with respect to en route centers, and they expect to complete their study of en route center staffing in 2007.

It's our understanding that it won't be until later in 2008 that other facilities, to include TRACONs and the New York TRACON, might be completed.

FAA's most recent update to its workforce plan, which was just issued in March of this year, has facility-level targets or numbers, and those are updates of their own internal numbers, with management input and some analysis over productivity achievements and so forth. My understanding is that is the most recent number that the agency is working from.

Senator LAUTENBERG. So let's be sure, Madam Administrator. Even using your controller staffing range estimates, how many facilities would you say are below the minimum range needed?

Ms. BLAKEY. Very, very few. I can get you a number. That's actually not really an issue in the system. We have a handful of facilities where at this point, we are below the authorized staffing range, and we're working very quickly to bring controllers into them.

AIR TRAFFIC CONTROLLER STAFFING

For the most part, there was a period where we had several centers that we were particularly concerned about. We've done a great deal of center hiring, and right now, we have a few smaller facilities. But let me be clear, Senator Lautenberg. The Newark Tower is within the staffing range. We are not below the staffing range.

Senator LAUTENBERG. Well, if you want to add these new people, the transfers who aren't really qualified under the usual definition, and you talked about two trainees. That is not what we discussed in last year, Madam Administrator.

I think that we ought not to try to bypass what was the standard established by your own statement, and now talk about how we're going to be doing by the end of the year.

We're late on these things, no matter how you slice it. As a consequence, we see the increase in operational errors there. According to the information I have, there are 164 facilities that are below the minimum range, and even if you count the trainees, we're 61 down.

Do you dispute those figures?

Ms. BLAKEY. They don't sound correct, but I'm looking back there. I'm hoping staff can give me the specifics. I think we have them for you. I'll certainly submit them for the record.

[The information follows:]

CONTROLLER STAFFING

The following table shows the number of facilities below their corresponding authorized staffing range minimums as of April 28 and August 18 (i.e., based on end of pay period data).

NUMBER OF FACILITIES BELOW STAFFING RANGE

	All controllers [1]	All Controllers excluding developmentals
April 28, 2007	17	81
August 28, 2007	17	107

[1] All controllers include CPC, CPC–IT, and developmentals.

CPC–IT is a certified professional controller at one facility but in training for certification at a new facility.

Senator BOND. Thank you very much, Senator Lautenberg.

Senator LAUTENBERG. Mr. Chairman, what——

Senator BOND. Well, we have been—I cut off my questions after five minutes to give you an opportunity. I just wanted to mention—are you finishing up now, because I have some questions.

Senator LAUTENBERG. Well, I would like to, but I think we're in kind of a funny situation, where traditionally, I thought the majority party exceeds to the chairmanship of a subcommittee or committee. But in fairness, if you have questions you want to interrupt for, please do.

Senator BOND. I just thought we ought to trade back and forth for 5 minutes, but please, finish up your questions.

Senator LAUTENBERG. Well, I just wanted the Inspector General's verification. Are you satisfied with the answer that we have about the number of facilities that are understaffed, using the parameters that we do?

Mr. SCOVEL. Senator, I would ask permission to do some quick research on that and get back to you with an answer for the record, better information.

[The information follows:]

Whether a facility is understaffed compared to the staffing ranges established by FAA depends on which types of controllers are included in the comparison. Non-supervisory bargaining unit controllers assigned to a particular facility fall into three categories:

Certified Professional Controllers (CPCs).—Those controllers fully certified to control air traffic at their assigned facility;

Certified Professional Controllers-In Training (CPC–IT).—Those controllers that were fully certified at a previous facility, have transferred to a new facility, and are currently training on the new airspace at their assigned facility; and

Developmental Controllers.—Newly hired controllers that have not been fully certified to control air traffic at their assigned facility.

According to FAA, the staffing ranges developed for air traffic control facilities and published in the 2007 Controller Workforce Plan update were based on the number of CPCs and CPC–ITs required to control air traffic at a specific location. The staffing ranges developed by FAA do not include developmental controllers. Therefore, when we analyzed facility staffing reported by FAA, we compared the facility staffing ranges to the number of CPCs and CPC–ITs actually on-board at each location—we did not include the number of developmental controllers on-board at each facility.

The results of our analysis shows that as of April 2007, there were 84 facilities that had actual controller staffing levels (CPCs and CPC–ITs) below the minimum staffing range for that location. As of August 2007, the number of facilities that had actual controller staffing levels (CPCs and CPC–ITs) below the minimum staffing range for the location had increased to 107.

As of August 2007, the Newark tower had 26 CPCs and 3 CPC–ITs (29 controllers) on board. The staffing range established for Newark tower is between 30 and 36 controllers.

We are currently conducting an audit of FAA's facility training program. As part of that review, we are recommending that FAA report on the actual number of CPCs, CPC–ITs, and developmental controllers at each location in its next update of the Controller Workforce Plan. We plan on issuing our report during the second quarter of fiscal year 2008.

Senator LAUTENBERG. Senator Bond?

AIRPORT IMPROVEMENT PROGRAM

Senator BOND. Thank you, Senator Lautenberg. The Airport Improvement Program is far below previously appropriated levels. Considering your own estimates about a growing need, how can your request for 2008 not be justified, when it doesn't come close to meeting the expanding need for our airport capacity?

Ms. BLAKEY. We believe that you have to look at the entirety of our request to have a good picture of the support we're providing for airports. As you know, under a separate bill, of course, our reauthorization bill, we are requesting an increase in the amount of passenger facility charges from $4.50 to $6.

This enables very, very substantial revenue to be raised by airports around the country for the specific needs they have, and is something that they are able to do targeted to the exact projects that they need to fund at the time they need to fund them.

What that also enables is it takes some pressure off the AIP funding, which, of course, comes in through our Trust Fund, so that we're able to provide significant funding for medium and smaller size airports.

We would transition the very large airports that are eligible for PFCs from the discretionary AIP funded, and allow more funding for medium and smaller airports.

Now, we believe that this is a good system. Certainly, Congress has looked at the AIP program differently over time, and allocated more funding coming from AIP. But we believe that the kind of streamlining we're proposing in the program will be a great asset.

Senator BOND. Again, that depends upon the new structure, which is a triumph perhaps of hope over reality, in our experience. The fiscal year 2008 budget request proposed reorganizing the account structure even if Congress does not authorize a new financing system before the 2008 appropriations bill is enacted.

What advantages would there be in changing the appropriations structure, absent a user fee system and the other proposed financial changes?

FAA ACCOUNT RESTRUCTURING

Ms. BLAKEY. I think the new account structure reflects a more holistic understanding of the FAA's work. When you're looking at this, not many people in the public or in the large aviation community think in terms of F&E or R&D. They think in terms of what we're doing for safety, what we're doing for air traffic control, and capacity enhancements.

So I think that it really does help, in terms of people understanding the large investments they were making on big areas that track to what people know are the key elements in the system. I would offer that as good rationale, but certainly, this does support a different kind of financing mechanism.

DELAYS IN THE NAS

Senator BOND. A major question I raised with you earlier, there have been lots of horror stories this winter about severe delays due to weather and other unfortunate circumstances. You can't change the weather, but there are certain things that I think can be changed.

As I believe I mentioned to you, I was the one who had the good fortune of sitting on a runway at National on an incoming plane. There were at least four full planes sitting there for 2½ hours, and we were told that the FAA would not let the airplanes be brought in to the gate to unload the incoming passengers, because of some rule or regulation.

The question I guess I would have for both you and Mr. Scovel is what can the FAA do? You can't manage the weather, you can't control what the carriers do necessarily, but what can you and the system do to alleviate the problems for passengers in these terrible weather delays?

Ms. BLAKEY. Well, it's an excellent question, Senator Bond, and I wish I had the entirety of the solution here, because you're right. A tremendous amount of it is the God-given weather we have, and we have tremendous delays in the system. About 70 percent of the delays in the system are weather-related.

That said, they're also related to capacity, and we make no bones about the fact that we cannot get, particularly in the congested corridors on the east coast, where you are flying, all the airplanes up there on a given day into that very congested airspace, and back down often, again, into airports like Newark and Washington, and New York out of Washington.

I don't know the specifics, obviously, on that flight, although I might be able to trace it back with a little information and just see. But what I do find is that it's not infrequent to hear on the PA system in the cabin that FAA says, when it really does not go to FAA regulations.

It is always the pilot's prerogative and responsibility to determine when an aircraft is going to get out of line and go back to the gate when they have been too long in queue, and that is something we rely on the airlines for. I know the Inspector General has been looking at those practices rather closely, so I would defer to him. But short of every gate at National being full, or some other problem having to do with the weather conditions, it is the responsibility of the pilot to make that determination.

Mr. SCOVEL. Thank you, Senator Bond. Some members of my staff have spent the past 5 or 6 years, in fact, on so-called airline customer service issues. The Administrator mentioned the rule—and you did, as well, in recounting your history with landing recently at National—an FAA rule that an arriving flight would be prohibited from going to a gate, even if a gate were available.

I'm not familiar with that rule. A rule that I am familiar with, however, is FAA's practice and rule for departing flights when they're in queue waiting for weather to clear, that if they leave the queue to return to a gate to offload passengers for their convenience, if they can get back in line, it's at the end of the line.

We have suggested to FAA and to both Houses of Congress in testimony on customer service questions that that rule be examined as part of a way to increase airline customer service. We've also recommended to the airlines that they look at their contingency plans to provide for specific deadlines when customers may be offloaded for convenience or other reasons.

We have also asked for airports and the FAA to assist in that, especially when it comes to getting the airlines together in order to share facilities, which would necessarily limit it at most airports, so that gates can be made available, even if they're not customarily assigned to a particular airline.

Senator BOND. Thank you, Madam Administrator and Mr. Inspector General. I'll ask unanimous consent that the rest of my questions, and questions from Senator Specter, be submitted for the record. Thank you.

LABOR ISSUES

Senator LAUTENBERG. Madam Administrator, regarding working conditions, and with the air traffic controller workforce, there isn't—there hasn't been a negotiated agreement with their representatives and as a consequence, is it fair to say that there might have been higher than predicted retirements?

Ms. BLAKEY. I think the effect of the work rules and pay that we put into place in September did cause an uptick in retirements last fall. We saw about a 25 percent increase. I think it was a negative reaction on the part of some of the controllers. We have, of course, stepped up our hiring plan as a result.

The conditions in the facilities, we continue to keep a very sharp eye on, and address issues as they arise at the local level. I think we are being very effective in doing that.

Senator LAUTENBERG. I just want to correct—there was a transposition in the number that I had, and the internal memo that we had an opportunity to review said there were 146, not 164, facilities that are below the minimum range with their controller staffing.

I wanted to ask, as mentioned when there was a failure to negotiate a new contract with the NATCA over employee compensation, working conditions, and even the dress code; however, you decided what you thought was appropriate and imposed your views.

Now, given the difficulty among controllers, how can you work with NATCA to address the important safety issues, like controller fatigue? As you know, the National Transportation Safety Board recommended that this be done after the commuter jet crash in Lexington, Kentucky last year. So I would appreciate your view, Administrator Blakey.

Ms. BLAKEY. Thank you, Senator Lautenberg, and let me be clear. The work rules that were put in place in this contract were not my view at all. They were over 2 years in the making on the part of a large team of managers who all came together to discuss better ways to have heightened safety and productivity in our facilities.

All of those managers, of course, as you know, came up through the ranks of being controllers themselves. So we're relying on expert views and advice in terms of work rules. Let me mention that the dress code is simply asking that people wear pants, a collared shirt, and shoes.

It is nothing more than that. There is no tie. There is nothing that anyone would consider in the workplace to be anything other than simply neat and casual. That is what we're looking for, rather than flip-flops, tank tops, et cetera.

Now, on the issue of controller fatigue——

Senator LAUTENBERG. After negotiating with them, I can't intercede here, because I don't know what—I understand why a dress code might be necessary to preserve an atmosphere of dignity, but negotiate that, please, with your group, and don't just impose it, because I think that then starts to stiffen the backs of people on both sides.

Ms. BLAKEY. Senator Lautenberg, some of these things are surprising there would be that much energy and concern, about something that I think is considered to be just simple professionalism.

That said, I would talk to you for a moment about fatigue, since you've raised that, because we are very concerned that we use the best practices possible, in terms of our staffing.

The scheduling practices that the FAA has, in terms of shifts, and how those work, particularly on what we call the midnight shifts and the later shifts, are ones that were developed over the years, again, with NATCA, with the controller workforce, and much of the schedule as we have it right now is very much preferred.

That said, I think we do have to look at the question of whether or not we should permit that kind of rolling and back-to-back scheduling. Perhaps we should insist that we run schedules that are consistent over a period of time for the same shift.

Therefore, we would pay more attention to circadian rhythms and the latest research on fatigue. We're opening that question right now, at the urging of the NTSB.

Senator LAUTENBERG. Again, negotiating with NATCA, I think, can facilitate a better working relationship, which I think has been slightly somewhat damaged by a relatively heavy hand on some things. I would urge you to negotiate these things with them, schedules, as you do other things.

I want to ask you this. Controllers at the Newark Tower have tried to get FAA's attention for years about a potentially dangerous practice that FAA has endorsed there, that involves allowing two planes to land at the same time on intersecting runways. Is that a problem?

NEWARK LIBERTY AIRPORT PROCEDURES

Ms. BLAKEY. The procedures that we have in place for allowing approaches using intersecting runways are well developed all around the country. As you know, many of the Nation's airports are old military airports, and they use intersecting runways a great deal, allowing simultaneous or offset approaches into those is something we have worked with and worked effectively.

I'm not aware there's a real issue at Newark, but I'll be happy to take a look at that and see if there is something we need to address there.

I will tell you this. We have just changed practices, for example, in Memphis, and we're always looking at better safety measures that we should take. So if there is an issue at Newark, I'd be happy to take it under advisement.

Senator LAUTENBERG. Because last year, the agency renewed this program and found it to be a problem, and I quote "requiring immediate attention." So I would urge you to take a look there.

Before I surrender the chair here, I'm going to ask you a question about a proposed redesign of the airspace above New Jersey that is going to cause hundreds of thousands of residents in my State to face the increased noise from aircraft.

Now, I've heard from many of them, in no uncertain terms, that they're concerned about this and feel it would be an inappropriate change. Now, I've heard from many constituents, and I've written to you twice now, asking for more public hearings in New Jersey on this issue.

At a recent public hearing in Philadelphia, people were actually turned away at the door and did not get to see the maps and projections of how their lives would be affected under the FAA's plan.

Now, I'll ask you now, will you hold another hearing in New Jersey on this issue, to accommodate, and at least let the people in the area know that their voices and their views count?

AIRSPACE REDESIGN

Ms. BLAKEY. Senator, as you know, we have held multiple hearings over a period of time. This has been in the works for 9 years. I can't tell you the numbers we have held, but we have held a lot in New Jersey itself.

At this point, we have our very best information up on the Web site, and I would urge that any of the constituents that you have that need further information about the maps, the approach patterns, or the way the preferred alternative works, to go there. And if they want to send in questions via e-mail, we're very happy to respond.

I think that's the most efficient way, given the years this has all evolved and the numbers of public hearings we've had. We do have a number of Members of Congress who would like to have public hearings. If we were to do that, I don't think there would ever be an end to it. After 9 years, I think we're there.

Senator LAUTENBERG. I hope that you will find that in your schedule, you can do it. This is a major change. We have reviewed and rejected many changes of this type, trying to crowd up the airspace, and I would urge that you turn an ear to these people, and at least let them know that we're concerned about it.

I think that is not an uncommon practice, and that is to have public disclosure or public review of these things.

Ms. BLAKEY. It is important, Senator, to know that the airspace redesign that we're proposing actually results in a dramatic reduction in the number of people who are exposed to noise in the area.

It also is essential to being able to continue to avoid the kind of delays that you have been so concerned about at Newark and at the New York and Philadelphia airports. We really do have to undertake changes in the very, very old way we sector the airspace.

Senator LAUTENBERG. Please explain it to the people in New Jersey directly, that their fears are imagined and not real. Thank you. Thanks, Madam Chairman.

ASDE–X

Senator MURRAY [presiding]. Thank you, Senator Lautenberg, for filling in. I really appreciate it. Thank you. I apologize for having to be gone, and appreciate your patience.

Administrator Blakey, you heard my concerns with my opening remarks about the ASDE–X program during—that I spoke about.

Costs have grown by almost $100 million since you re-baselined the program, and are likely to grow even more, and you've fallen further behind schedule while serving fewer airports.

And the systems are not performing as promised, especially as I talked about, when the weather's bad and the risk of runway incursions is really heightened.

Your technological solution isn't performing very well, in fact, at SeaTac Tower. I wanted to ask you why you still promote this program as one that is on schedule and on budget.

Ms. BLAKEY. I think it's important to understand what we're saying when we talk about programs being on schedule and on budget. If you want to look at programs from their very inception—some of the ones you mentioned are more than a decade old. AAS is really sort of the Dark Ages in terms of the FAA's history.

It is like saying you never can consider that a team is winning this year, because way, way back, they had their losing season.

We do believe that the re-baselining periodically is the right way to tackle changes in complex technological programs. Sometimes, slips are because of shortfalls in appropriations; sometimes, they're because of shortfalls from the standpoint of the technology itself. We're acknowledging that. But what we do say when we are on schedule and on budget is we take it within a fiscal year, and we look at it then. That's the way we can measure performance and hold people accountable.

If we say that they're accountable for things that happened 5 years ago, it's a defeating approach.

Senator MURRAY. But this was re-baselined 18 months ago.

Ms. BLAKEY. ASDE–X was re-baselined for several different reasons. It's important to know that we did incorporate some of the technical refresh that we would have done further down the road. As you know, you always do technical refresh on major software programs.

It also combined the sites that we were going to place ASDE–X in. ASDE–X is an interesting program, because it was not originally designed for the way we are approaching it now. It's, in a sense, outperformed what we expected.

It started as a program for small airports. It started as one that we would address runway problems in a less complex atmosphere.

Because it has proven to be excellent technology, we are now deploying it at some of the airports with the most complex runway patterns, and frankly, the biggest problems with runway incursions. It has moved to the larger airports. When you do that, there are costs involved, and I think that has to be taken into account, as well. But on the whole, we believe that ASDE–X is one of the best safety programs we have got.

At Seattle, we just installed some changes, and we think they're going to help address the problem. Seattle seems to have pretty complex challenges because of the weather conditions. The precip, and some fairly unique factors, that, make it more challenging than some other airports.

Senator MURRAY. Well, rain and fog occur in a number of our airports around the country: San Francisco, Seattle, Alaska.

Ms. BLAKEY. I would tell you, as I say, Seattle has proven to be a challenge, and we're spending a lot of time and money trying to address it.

Senator MURRAY. Let me ask you, are you satisfied with the pace at which this equipment is being installed?

Ms. BLAKEY. I would like for it to be faster. It takes us about 3 years to put an ASDE–X system in place. Because it is a critical safety program that has a significant effect on aircraft and vehicles on the airport surface, you have a lot of requirements that go into it—from site selection to the installation to operational testing.

We also spent, at the beginning of ASDE–X a lot of time on the software and a lot of time on the initial requirements. So I think that the pace is going to pick up considerably, in terms of the deployment and actual commissioning.

That is the reason we're less concerned than the IG is about the overall schedule.

Senator MURRAY. Is it ever going to be able to perform in rainy weather?

Ms. BLAKEY. Yes, absolutely. I can't tell you that we have all of the technical challenges completely solved, but we are addressing them, and I think we will.

The issue of using radar, which depends on reflectivity off of surfaces, and at times, we found that sleet and certain forms of precip reflect. So we're trying to make sure that we go at this whenever we find that there's an issue. The same thing has been true, as you know, on the STARS system.

Senator MURRAY. General Scovel, would you like to comment on any of this?

Mr. SCOVEL. Thank you, Senator Murray. I would concur with Administrator Blakey that ASDE–X is a technology that has outperformed, and indeed, it has tremendous safety potential. It's unique in that it can use radar transponders and ADS–B data to generate target information and avoid potential collisions.

You covered the history of the program in your opening statement. If I can add one data point to that, and that was, as originally conceived, ASDE–X, together with the AMAS and ASDE–3 systems, were designed to be in place at a total of 59 airports. And if that had happened, then it was calculated that 95 percent of the risk of fatal collisions could have been addressed.

As the program currently stands, we won't hit 59 airports. My understanding is that 44 airports total will now have some sort of surface detection technology. I think that if the other 15 airports are left uncovered, certainly, that should be worrisome.

We mentioned cost and safety issues. My statement, for the record, indicated that 64 percent of the planned funding had been obligated to date, but only 8 of 35 systems had been placed in operational use. In other words, we're almost two-thirds of the way through the funding stream, and less than one-fourth of the systems have been installed.

We have a gap. It doesn't appear that we will be able to get there from here without additional re-baselining and, of course, additional funding.

When it comes to scheduling issues, we've mentioned as well that in fiscal 2006, four of seven planned systems were commissioned for use. It should also be noted that the agency has determined that the ASDE–X system for Chicago should be advanced on the schedule.

We certainly don't quarrel with that decision, but it should be—Chicago had some unique ground safety challenges. But it should be noted that when a system is advanced on the schedule like that, it may well have a domino affect on other ASDE–X systems further down on the line.

To address safety, just in passing, there's been talk of the dangers of intersecting runways and converging taxiways. We note that the agency has a modification to ASDE–X which is currently being tested in Louisville. I'm sure the committee and we have great hopes for that system, but it still remains unproven.

When it comes to the unique weather challenges that you've talked about with regard to Seattle, specifically, it's our understanding that the agency has another modification to ASDE–X that is being tested at Orlando. Again, we have great hopes for that, but it still remains untested.

NTSB's recommendation, longstanding now, that there be an alert system in the cockpit to alert flight crews of impending collisions on the ground, may be able to be addressed by incorporating

ADS–B features into ASDE–X, but again, unaddressed, and we would hope that would be focused on in the future, and hopefully incorporated into the system.

One final point regarding safety, Madam Chairman, and that is there's been recent press attention to the problem of ground vehicles at airports. That brings up the question of radio frequencies and funding to equip those vehicles with transponders.

FAA has responded to that attention by promising to work with FCC to obtain radio frequencies. The question of funding for vehicles we think is up in the air. The agency certainly has a valid question when it asks why should it be responsible for funding of vehicles instead of airports, but that's a question that needs to be addressed, again, because it's certainly a very real danger of collision between aircraft and vehicles.

Senator MURRAY. I appreciate that. And, General, while you're talking, you have in the past criticized the contracting mechanism the FAA used for the ASDE–X program. Why, in your view, did the FAA continue to use a cost-plus contract with undefined requirements for that technology?

Mr. SCOVEL. You know, I'd better continue——

Senator MURRAY. Maybe you could explain why the costs have grown by about $100 million in the last 18 months.

Mr. SCOVEL. We've recently sent a management advisory to FAA about the ASDE–X contract. What we identified were what we believed to be prohibited contract administration practices, including the lack of contract terms and conditions.

Specifically, we advised FAA of our reservations concerning increased contractor fees, based on a cost incurred instead of a negotiated fixed fee dollar amount.

Second, we believe that the agency had made payments to the contractor before work had been completed in some instances. And third, we believe that the agency hadn't documented contract changes.

The agency responded to us in August 2006 by addressing our first point, that they disagreed with our legal analysis and believed the statute did permit them to increase cost—contractor fees, based on a cost-incurred basis.

They agreed with us on the latter two points, and they are addressing those.

Senator MURRAY. Administrator Blakey, do you want to comment on that?

Ms. BLAKEY. We're working with the IG, and whenever they point out that there are issues—and this goes back even more than a year now. We have looked at cost-plus contracts, and they make a great deal of sense in many cases. But as you also know, we use fixed-price. We try to use those appropriately.

A program like ASDE–X has tremendously benefited by the fact that it has evolved. I think you all, from the committee's standpoint, would want it to. The idea that you keep something absolutely frozen, with only a specific set of requirements, even though you know that it has greater applicability, and frankly, will have more benefit at different airports is the question.

Chicago is a great example. I think it was the right thing to do, because we were seeing operational errors at Chicago that we knew

ASDE–X could help fix. That is an evolving airport with tremendous pressure on it.

Senator MURRAY. So it's impossible to kind of tell us what the final cost of this is going to be?

Ms. BLAKEY. Five hundred and fifty million dollars is what we're projecting right now for ASDE–X. If there turns out to be additional requirements and evolutions that we think are sensible, we will certainly consult with a committee.

Senator MURRAY. Inspector General, will we be able to keep to 550?

Mr. SCOVEL. We don't think so. As I alluded to before—as I specifically addressed before, with the number of systems currently being installed, and the funds obligated being expended at the rate they are, we don't think that we can even get to the 35 systems, much less modify them to incorporate, for instance, technology to address the rainy weather situation or the intersecting and converging runway situation.

Ms. BLAKEY. Madam Chairman, I would simply point out the obligation rate is not necessarily an indicator of what the final cost will be. Because you obligate a great deal of money up front before you get to the stage of operational commissioning.

So we do think that this is going to be something that is doable, but as I say, if it should be that we looked at improvements or we looked at shortfalls, we will consult with you all about it. Our best belief at this point, because we work on ASDE–X a great deal, is that we will be able to work within that parameter.

SAFETY INSPECTORS

Senator MURRAY. I appreciate the comments from both of you. We'll keep moving forward and trying to get to a good number on this. Let me move to the topic of safety inspectors.

Administrator Blakey, for the past 3 out of 6 years, this committee has given you more funding for safety inspectors than you requested.

For the current fiscal year, we added $16 million that you did not request to hire additional inspection certification personnel. But despite our efforts, we have seen staffing levels drop in this critical function. Your on-board strength, as of 3 weeks ago, showed that the number of inspectors in flight standards was almost 150 below the level of last year, and you're also below last year's level in aircraft certification.

When we are giving you additional funding to increase the number of critical safety inspectors, why are we still seeing the number of these inspectors decline?

Ms. BLAKEY. We expect to be able to hit the end of the year numbers that your $16 million additional allowed us to undertake. At this point, we do not see that there's going to be difficulty doing that.

What we think there will be difficulty doing is to be able to sustain those next year, because the President's budget request was predicated on an ongoing CR—a full-year CR.

When it turned out that the committee was able to help us with the additional funding, that was not the base that we looked at.

When you annualize those salaries for the additional inspectors we are hiring this year, plus the ones that we had intended to hire under the 2008 budget, there is a gap there. I think that is the thing I would simply call to your attention. I do not have the exact numbers that you are referring to. I would be happy to check them and submit them for the record.

[The information follows:]

INSPECTOR STAFFING

	On Board Staffing as of 5/30/2007
Flight Standards	4,728
Aircraft Certification	1,146

FUNDING THE INSPECTOR WORKFORCE

Senator MURRAY. I appreciate that. Can you assure us the full $16 million will be used to exclusively raise the number of inspectors?

Ms. BLAKEY. Yes

Senator MURRAY. Inspector Scovel, do you think—are you satisfied with the FAA's overall efforts?

Ms. BLAKEY. Madam Chairman, can I put one little caveat? We do need to support the work of those inspectors, obviously. There are attendant costs to bringing them on board. Let me be dead sure I'm speaking correctly, it would all go to their ability to be hired and deployed.

Senator MURRAY. Inspector General, are you satisfied with the FAA's efforts to hire and deploy safety inspectors?

Mr. SCOVEL. Senator, we believe the agency is making a good faith effort to hire, train, and deploy inspectors.

We would note for the committee's attention, however, that until the staffing study is complete—and it's our understanding that FAA recently contracted with PriceWaterhouseCoopers in order to complete a staffing study workforce-wide to determine number and location of aviation safety inspectors. Until that's done, we're really dealing with a moving target.

We would also note further—one further point on that, it's our understanding, as well, that staffing study won't be completed until 2009, so there is some gap yet.

While we commend the Congress for giving the FAA funding in order to hire inspectors, we just won't know whether it's enough or whether they're in the right places until that staffing study is done.

We would note one other item briefly for the record, and that is that our statistics show that 50 percent of aviation safety inspectors will be eligible for retirement—in fact, they are currently eligible for retirement. And given that kind of uncertainty, that may well lead to further attrition.

Senator MURRAY. Administrator Blakey, can you tell me how much more funding you do need for fiscal year 2008 to afford the inspector staff that you're going to be hiring this year? Do you have a number?

Ms. BLAKEY. Madam Chairman, I was afraid you were going to ask me that and I don't have that exact figure. I will get it for you.

Let me also tell you this, that I think the Inspector General has very good concerns on this issue of a staffing model for our safety staff.

[The information follows:]

FISCAL YEAR 2008 INSPECTOR FUNDING

The fiscal year 2008 budget requires an additional $16 million above requested funding in order to maintain the inspector staff hired in fiscal year 2007.

INSPECTOR STAFFING

Ms. BLAKEY. We do have one, but it goes back some time. I think advances in terms of industrial engineering, plus the kind of very specific work that we can do, right down to each facility, with an eye to the very changing face of the airline industry—because, as you know, things have changes a great deal there—I think will allow us to have a much better sense of that. We have two contracts in response to the Inspector General's recommendations to develop that, and we're going to be hard at work at it, so I do want you to know we will have it underway.

Because it's complex, it's hard to do, it will probably take us the better part of 2 years to complete it, but we will learn from it as we go. We intend to, on an ongoing basis, have that refine the way we are assigning our workforce.

And retirements, I'm really happy to say this. As you know, we get our safety inspectors very significantly from people who've already spent a lot of their career as aerospace engineers with the airlines, military, et cetera. They seem to be very much willing to stay with the FAA, and we have a very, very low rate of retirement in that workforce.

OUTSOURCING TO NON-CERTIFIED FACILITIES

Senator MURRAY. Well, one of the areas I'm very concerned about is the change in the airline industry, where we're seeing an outsource of the repair work being conducted by firms that aren't certified by the FAA.

Ms. Blakely, you don't allow airlines to use airplane parts that aren't FAA certified, correct?

Ms. BLAKEY. They have to meet FAA standards; that's correct.

Senator MURRAY. Well, how can we allow airlines to use repair stations that are not certified by you?

Ms. BLAKEY. The issue of certified repair stations, as you know, we have a very large network of those in this country. In addition to that, there also are repairs, modifications, et cetera that are done by non-certificated entities out there.

A lot of this goes to things that are generic in their nature; for example, welding. The best places to do welding may not be solely confined to aerospace, and they may not be facilities that, in fact, we should try to directly oversee or to directly certificate.

What we do believe is ultimately, that the FAA's regulations are extremely clear, and that the airlines themselves have to apply the quality control and the oversight to be responsible, that they do meet the aspects, that they do meet the certification requirements, and that they are living up to the finest level of detail.

The requirements that the FAA places is what we really do rely on, in addition to the fact that we have, of course, a now better and more robust inspector team out there. We are requiring that everyone adhere to the safety management systems that apply issues of risk appropriately to where you then target what you are specifically watching day in and day out.

But there's a great deal to this that I think under girds the system of having some companies out there that are providing service to the airlines that are not directly certified by the FAA.

Senator MURRAY. Inspector General, are you satisfied with this program?

Mr. SCOVEL. Senator, my office has undertaken a number of studies of air carrier outsourced maintenance. What we've concluded is that we're not concerned so much with where maintenance may be performed, whether it's by certificated facilities, or facilities in this country or overseas.

What we are concerned about is the level of oversight by FAA and its aviation safety inspector workforce. We think that there's generally a continuum of concern. Many air carriers maintain their own in-house maintenance facilities, and they do very well, and there's very close and detailed oversight by FAA aviation safety inspectors.

There are certificated repair facilities in this country and overseas that, likewise, receive much more aviation safety inspector oversight. When you talk about non-certificated facilities, both in this country and especially overseas, then the level of oversight, the degree of attention necessarily declines.

A concern that we have is that we don't believe the agency has a firm grasp on the type of maintenance that some of these non-certificated facilities are indeed performing. It may be generic, in the nature of welding.

On the other hand, we know that it also includes such items as engine replacements and landing gear maintenance. Those are critical items of maintenance in any analysis of aircraft maintenance.

We have asked that the agency get a firm handle on what type of maintenance is being performed and where, so that it can address it, both with its inspector workforce and using its risk-based safety oversight systems.

Ms. BLAKEY. And we have said that we will require that the airlines inventory all of this. So we are specifically aware when they are using non-certificated companies out there for various kinds of work.

Senator MURRAY. So is that an ongoing basis, or do you have a deadline for them to come back to you?

Ms. BLAKEY. I'll have to check about deadline. This is something we've been responding to the IG on very recently, so I'll find out exactly what period of time we expect to have that fully in place.

[The information follows]

USE OF NON-CERTIFICATED REPAIR FACILITIES

By regulation title 14 Code of Federal Regulations part 121.369, an air carrier is required to maintain a list of contract maintenance providers, both certificated and non-certificated, and a description of the services they provide.

In response to the Department of Transportation's Office of Inspector General (OIG) report number AV–2006–031, Air Carriers' Use of Non-certificated Repair Facilities, dated December 15, 2005, the FAA issued Notice N 8000.362 on April 23, 2007. This notice addresses all the OIG concerns and tasks the FAA with reviewing air carrier procedures for qualifying and authorizing all contract maintenance providers used by air carriers, whether certificated or not. Any discrepancies noted by the FAA in the subject areas would need to be corrected by the air carrier.

Adding to N 8000.362, Flight Standards will publish two notices of national policy and guidance to its inspector workforce. The notices are: (a) Notice 8000.D91 Revised Operations Specification D091, Substantial Maintenance Providers (SMP) and All Other Outsource Maintenance Providers (OMP) for part 121 Operations and (b) New Operations Specification D491, The Quarterly Utilization Report (QUR), for part 121 Operators. Regarding the deadline for the first notice, the compliance date of the notice is 30 days after its publication, meaning prior to December 2007; for the second notice, air carriers must submit the data quarterly for the months of months of March, June, September, and December.

These notices further respond to the OIG report number mentioned above. During this audit, the OIG made recommendations to the FAA concerning oversight of a part 121 certificate holder's contract maintenance practices. The notices address the OIG report and provide inspectors with guidance for continued oversight of air carriers using contract maintenance providers, specifically, requiring regular surveillance to ensure compliance and that air carriers produce a QUR that details their use of contract maintenance providers.

Additionally, the FAA plans to publish a Notice of Proposed Rulemaking (NPRM) in June 2008 that propose to amend the current regulation (see above, part 121.369) to require air carriers to include requirements specific to outsourced maintenance in their maintenance manuals to ensure that all maintenance is performed in accordance with the provisions of the air carriers' maintenance programs and to require air carriers to provide the FAA with a QUR.

FLIGHT SERVICE STATIONS

Senator MURRAY. Thank you. Let me move on and ask about another issue. Back in 2006, your agency asked us to fund a large and expensive initiative to transition the operations of your flight service stations to a private vendor.

Fiscal year 2007 was the first year where you had the flexibility to spend your capital budget without the limitations of a project by project amount stipulated in the appropriations act.

To our surprise, you used that flexibility to augment the funding for your flight service stations by another $9 million in order to address the needs associated with the downsizing of a number of those facilities.

Can you tell us why those costs were never included when you presented the costs of the transition back in 2006?

Ms. BLAKEY. My understanding of this is that—as you know $9 million, while it's big to us as taxpayers, it's a relatively small amount of money in the overall scope of that endeavor.

The transition period was one in which there was some shift in terms of timetable and responsibilities, and ultimately, we felt this was within the appropriate use of those funds. We were not aware that the committee would see it differently. If that's the case, that's instructive for the future.

Senator MURRAY. Well, in order to ease the impact of that transition on your employees, you required the competing vendors for the effort to hire, at least temporarily, all the FAA personnel that were operating those flight service stations.

The winning vendor, Lockheed-Martin Corporation, is now claiming the FAA misstated the wage rates of the employees they were required to hire, and they're now asking that you pay them an additional $147 million to make up for that mistake.

Can you tell us, did your agency understate the wage rate for those workers?

Ms. BLAKEY. Madam Chairman, I'll tell you, this is a matter of much dispute between us and Lockheed at the moment. It's very different from the amount we just were talking about, and we take this very seriously.

The situation is one in which, as we were making the necessary changes and working with the then union, NAT, that was representing the employees. We agreed that we would have the Department of Labor review the wage rates, because we felt that that was a request of the union that we could accommodate.

So that was in play when Lockheed put their contract into bid, and we ultimately selected—put their bid forward. We did stipulate in a number of places in our request for proposals that that was the case, and that was among risk factors that companies needed to take into account.

I will tell you, this is in dispute with Lockheed at this point. We also are challenging the Department of Labor's wage rate that they have put forward, because we do not believe the comparable professions that they chose to benchmark against are the correct ones, and we would see that the amount of money that would be involved in this, under any circumstances, would be dramatically lower than that $140-plus million figure you mentioned, but that is what currently is in discussion and dispute.

Senator MURRAY. Is the likely result we'll need that additional $147 million, or is it too soon to tell?

Ms. BLAKEY. I don't believe so, but it is too soon to tell. This, as I say, is something we are actively addressing right now.

FTI

Senator MURRAY. Let me switch to another area. The NextCom program is expected to provide the FAA with a system for providing air to ground communications. That's going to be essential to any Next Generation Traffic Control System.

However, NextCom is now experiencing the same problems with many of the other capital programs as the FAA. At the end of 2005, the FAA delayed the program's full implementation by 2 years.

Your own program managers told our staff that this delay was due largely to the fact that too much of the NextCom workforce had to work on fixing problems at the Telecommunications Infrastructure Program, or FTI, so they could not focus on their original assignment.

Can you tell us why the agency has been unable to address the problems at FTI, while still effectively managing this NextCom program?

Ms. BLAKEY. FTI has been a challenging program because, as you know, it is one that is, on the surface, not a technology challenge like a lot of the NextGen systems, but one in which we're trying to convert the service to a unified single service from one that developed over many, many years, in sort of a growing like topseed with a lot of patchwork to it.

So what seemed to be a more straightforward enterprise turned out to have a lot of, if you will, just operational glitches to getting it done. We also had the situation of a disappointed bidder for the contract who was required to help make this transition to the new successful bidder.

All of that is by way of background on FTI, but I have compared it in the past to stacking bricks. It is not one where you don't know how to get there; it's just how well and how fast can you get these cutovers done?

The good news on FTI is that despite the fact that we were required to re-baseline that program by the requirements that are stipulated by OMB, we actually are now running ahead of schedule against the new re-baselined schedule.

As you know, it's a fixed-price contract, so it's not changing, in terms of money, but it is certainly one in which the speed at which we can make those cutovers affects how much savings the taxpayer will experience. At this point, we are ahead of schedule, and are fairly optimistic we will do better than December 2008.

The issue of NextCom staff against the FTI contract, certainly, some of those are the same people, and we did put tremendous focus on that, because it is the here and now. It is immediate. But that in no way lessens our commitment to the NextGen communication capabilities that we expect to put forward.

Senator MURRAY. Well, that program was touted as a great opportunity for the FAA to enjoy huge savings in its operating costs, but now, it looks like the program won't save as much as anticipated.

The initiative was originally scheduled to save $444 million over the life of the program. Now, it's expected to be about $320 million.

Part of that savings—or lost savings is attributable to the fact that the FAA had to extend at least one full year the cost of keeping the old phone lines operational, costing us $65 million. That's all because of the delays in getting the system up and running.

I just have to ask how many additional safety inspectors could we have bought with that money?

Ms. BLAKEY. I will have to simply tell you we are working as fast and hard as we can to achieve those savings, and we are catching up, Madam Chairman. I mean, that is what's important here, when you hit a problem, if you focus on it and address it, you very often can recover.

Not entirely, and we do use different figures. I think it depends over what period of time you're talking about, about savings. How do we see our savings dropping from somewhere close to $800 million to somewhere close to $600 million? Still big numbers. And the faster we can go at making the cutovers to the new service, the more we will be able to save.

So I think that's important to see. Beyond that, all I can suggest to you is that we also have a tremendous amount of interest in using our resources as best as possible, and that's one of the reasons why we aggressively moved to the FTI contract, as opposed to leaving in place the old system.

Senator MURRAY. General Scovel, do you want to comment on the FTI program at all?

Mr. SCOVEL. Yes, just in general. Thank you, Madam Chairman. You've talked about the erosion of expected cost savings, and our study—and, in fact, I will note that we've had an ongoing study on FTI that we reported on in depth last year, and we have a follow-up study that's underway currently, so we have good information on this.

The savings that were expected initially in the program, in 2002, were $820 million. By 2005, those had eroded to $672 million. Our estimate is that in late 2006, including some costs, the estimated cost savings now were at about $442 million. So it has declined dramatically.

There have been performance questions, as well. The Administrator is entirely correct when she says that they've made great progress on those in reducing the backlog in so-called cutovers that is moving telecommunication services from the old system to the new one, but they still have an ongoing backlog rate, if you will, of about 1,800 services per month.

They're about halfway through the anticipated 21,000 or so services that need to be transitioned from the old system to the new. That's a watch item, however, for us, is how fast they can move in the overall number, and also, how fast they can move to reduce the backlog.

I've talked about the expected cost savings erosion. We would also note that there have been, if you will, customer service problems, and that is with the FTI contractors performing upgrades on FTI equipment at various airports, and inadvertently, certainly, bringing the equipment down to the point that it's resulted in operational delays, at some airports, of several hours, and many dozens of flights that were affected and had to be delayed.

It's not our belief this amounts to a safety risk, and I want to be entirely clear on that, but it is an operational risk, in terms of flight delay.

Ms. BLAKEY. Madam Chairman, if I could, I really would tell you though that we are actively contesting the IG's figures on the area of FTI.

The savings we projected were $790 million. This has dropped to $596. As I've said, it was about a $200 million drop. But we will substantiate that with the IG's office, because there seems to be some confusion of the figures.

[The information follows:]

FTI

In then-year dollars, the FTI program savings were projected to be $790.5 million prior to baselining. The new baseline savings figure established in September 2006 is $596.4 million—a difference of $194.1 million. The program, however, is overachieving against the 2006 baseline by a significant measure. We therefore expect the eventual erosion of cost savings to be less than $194.1 million.

SWIM AND ADS–B

Senator MURRAY. And we'd like to see the results of that. Better information. Let me just ask a few more questions. You've both been very patient with the committee this morning. I appreciate it.

Last year, Administrator Blakey, I commended you for including funds for the SWIM and ADS–B programs in your budget request for 2007, and I'm really glad to see that you're continuing to request them in 2008.

This committee started funding those initiatives without the benefit of a request prior to last year, and these programs are going to build, I think, a strong foundation for the next generation of air transportation systems.

Can you tell us what your target dates are for implementing those two programs?

Ms. BLAKEY. I certainly can tell you what we are doing with regard to ADS–B, and I think also probably with regard to SWIM. I'm very encouraged by how well SWIM is performing.

The NEO demonstration that we had just done, I think substantiates why this kind of data interconnectivity—our Internet for aviation is critical.

ADS–B is a program that we are moving on very aggressively. We expect to have the contract this summer for the ground stations. We would expect to have the initial phase of those in place by 2009 and move out to about 2011. I want to double-check that in terms of our national network. But we're moving very fast on that.

As you know, part of the initial deployment is on a regional basis. The Gulf of Mexico, the Ohio River Valley, Philadelphia, in addition to the aspects that, as Senator Stevens referred to earlier, where we have pioneered in the Alaskan area.

So the program is well underway. I think the questions, of course, on ADS–B are also how fast the airlines and the general aviation community will be able to equip, and I will turn your attention to the fact we're going to put a rule out this fall, which will propose a timetable.

It is under discussion now, but we will propose that timetable, and then we will see if the comments that we receive support that.

Senator MURRAY. The timetable on requiring all the airlines to install this?

Ms. BLAKEY. Exactly.

Senator MURRAY. So you are looking to require everybody to do it?

Ms. BLAKEY. As a mandate, that is correct. Ultimately, it will be essential for the system to require relatively universal equipment. There will always be exceptions for GA below certain altitudes, but as a matter of operating the NAS, yes.

Senator MURRAY. Inspector General, do you agree that requirement will be necessary to make it work?

Mr. SCOVEL. We do, and thank you. In order for ADS–B to achieve its full potential, it needs to be aboard the large majority of major carriers' aircraft.

In order to permit reduced separation and achieve the capacity and safety advantages represented by ADS–B, to get a handle on all those benefits, it needs to be installed really across the entire system.

If there is a point regarding that that I would like to make further, it has to do with the human factors issue. For ADS–B, again, to achieve its full potential, it has significant workforce challenges when it comes to the performance of both controllers, whose role will change under ADS–B, and with regard to pilots and flight crew.

Their role will change, as well, and significant attention should be paid to those human factor issues, with regard to both workforces.

Ms. BLAKEY. Let me also correct what I said, because the initial phase is 2009–2011 timeframe, but we will have the full national build-out on ADS–B by 2013.

BORROWING AUTHORITY

Senator MURRAY. Very good. Let me just ask you two other questions. Earlier this year, Secretary Peters came before us and testified that the FAA's proposal for reauthorizing the aviation programs would not include any mandatory spending outside of this committee's control, but the administration's proposal is now in front of us, and it includes $5 billion in what is called direct borrowing authority from the Treasury.

I wanted to ask you, Administrator Blakey, what do you see this committee's role in overseeing and determining the programs that will be funded using those dollars with this new borrowing authority?

Ms. BLAKEY. I don't see the committee's role changing at all. We see that all the funds that are extended will be subject to appropriations.

What we do think, though, is that the potential to have borrowing as an additional tool to spread out the period of time in which those investments are covered, in terms of the cost to the users, could be a very valuable asset, but it really does not change the role of the committee.

We'll still see those projects as being ones that the committee has to sign off on.

Senator MURRAY. Inspector General, I wanted to ask you, the FAA proposed replacing the current system of aviation taxes with a new user fee system. That really represents a dramatic change in the way aviation programs are funded.

Do you think it is necessary to completely restructure how the aviation programs are financed, in order to fund the FAA over the next 5 years?

Mr. SCOVEL. Senator, I think that's a significant policy question. If I can help inform the debate along those lines, our conclusion after running the numbers is that the current financing system will be sufficient to sustain FAA to include its NextGen costs—estimated costs of $4.6 billion between 2008 and 2012.

Senator MURRAY. Okay. Thank you very much to both of you. I wanted to just mention as we are closing, we recently learned that this subcommittee is going to be losing a very valuable asset.

Cheh Kim has been a steady and valuable staff member of this subcommittee now for over 8 years, and his wise counsel and intellect have provided some significant results that have increased the quality of life for all Americans.

We're going to miss him, and wish him the best in his new position. I understand you're going over to Treasury, and we wish you the absolute best.

ADDITIONAL COMMITTEE QUESTIONS

Thank you very much. Any additional questions will be submitted to you for your response.

[The following questions were not asked at the hearing, but were submitted to the Department for response subsequent to the hearing:]

QUESTIONS SUBMITTED BY SENATOR BYRON L. DORGAN

AIRPORT IMPROVEMENT PROGRAM (AIP) FUNDING

Question. I was disappointed that the President has proposed to cut the Airport Improvement Program (AIP) from $3.5 billion in fical year 2007 to $2.75 billion in fiscal year 2008. The airports hurt hardest by your fiscal year 2008 proposal would be the smaller general aviation airports in our smallest communities. The North Dakota Aeronautics Commission estimated that the State's 45 general aviation airports would see their AIP dollars cut on average 58 percent in fiscal year 2008.

Can you explain why you are targeting our smallest airports and communities that are already at a transportation disadvantage?

Answer. The administration believes that $2.75 billion in Airport Improvement Program (AIP) funding is sufficient to support the critical safety, security, and capacity projects scheduled for fiscal year 2008. The proposal also targets funding to the smallest airports, while allowing larger airports to fund capital projects through other means.

The administration's FAA reauthorization proposal includes significant programmatic changes to both the AIP and the Passenger Facility Charge (PFC) program to refocus AIP on the projects and airports with the greatest need. Additionally, the proposal gives the largest airports flexibility to use the PFC program to meet their ongoing capital needs, retains the ability of large airports to apply for AIP grants, and eliminates the burden on the AIP program of providing an entitlement to the largest airports. With these changes, AIP would be targeted to the smaller airports.

Additionally, the Administration's proposal:

—Retains entitlements for small airports at current levels and eliminates the risk that they will be cut in half or terminated if AIP falls below $3.2 billion.

—Enhances the general aviation airport entitlement by moving from a flat $150,000 maximum entitlement for all GA airports to a tiered system giving the largest and most complex GA airports $400,000 per year.

—Increases the minimum discretionary fund and establishes a minimum State apportionment to make sure that FAA and the States have the funds they need to help airports build major capacity and safety projects, such as runway safety area improvements.

—Increases the maximum PFC from $4.50 to $6.00, permitting airports to generate an additional $1.5 billion annually in PFC revenue.

Question. Have you assessed the impact a 58 percent cut in AIP dollars will have on small airports that already struggle to make needed improvements? If so, will you share it with our committee?

Answer. The administration's proposal contained formula changes directly for Airport Improvement Program (AIP) funding to the smaller airports. Small airports are most dependent on AIP to provide the funds they need to finance their most critical safety and capacity projects. The administration proposal does that by:

—First, the proposal ensures that smaller airports can rely on a stable AIP funding stream by preserving passenger entitlements at all levels of AIP.

  —Under current law, if AIP falls below $3.2 billion, the smallest primary airports currently getting $1 million will lose $450,000. Larger airports would have their entitlements cut in half. Our proposal eliminates these reductions.

—We preserve the non-primary entitlement at all levels of AIP. Under current law, this entitlement funding would disappear if AIP falls below $3.2 billion.

—We move from a flat non-primary entitlement to a more strategic investment program, which recognizes that GA airports play different roles in the system and have different capital requirements. Our proposal does this by moving from a flat $150,000 non-primary entitlement to a four-tier system.

—Over 900 small airports will see their non-primary entitlement increase under our proposal.

—The proposal provides a higher guaranteed level of State apportionments, which States can direct to high priority projects at their rural airports.

—Making common-sense eligibility changes to AIP eligibility rules to fund Federal mandates.

—Expanding the eligibility of airports to build revenue-producing facilities.

SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

Question. The Small Air Service Community Development Program was established by Congress in 2000 to provide grants to help address their local air service problems, such as high fares and insufficient levels of service. Several communities in my State, including Grand Forks, Jamestown, Devils Lake and Fargo, have received small community air service development program grants to improve air service. Minot, North Dakota has submitted a grant application in fiscal year 2007. Unfortunately, the President has proposed to eliminate this program in his fiscal year 2008 budget.

In testimony before a House panel last month, Michael Reynolds, Deputy Secretary for Aviation and International Affairs at the U.S. Department of Transportation, said DOT is monitoring the progress of the communities who have received past awards but that "it is difficult to draw any firm conclusions as to the effectiveness of the Small Community Program in helping small communities address their service issues" because ". . . the majority of the projects involve activities over a 2- to 4-year period" and "many grant projects are still in process." Does the FAA routinely eliminate programs before they've ever been properly evaluated?

Answer. There are a number of recent and ongoing efforts to evaluate the Small Community Air Service Development Program (SCASDP). In 2005, the Government Accounting Office (GAO) assessed the program and found that certain types of grant awards worked better than others. As the GAO indicated in conducting its review, it is impossible to get a comprehensive understanding of the effectiveness of the program with a very limited sample of completed grants. Of the over 200 grants currently being administered, the GAO reviewed a little over 20 grant projects. GAO recommended the Department follow up with a later analysis of the program and the Department's Office of the Inspector General (OIG) is currently undertaking such a review. The emphasis of the OIG review is to evaluate the effectiveness of past grants on the ability of small communities to acquire and/or maintain air service. The OIG was able to include about 40 grants in its assessment.

Question. What is the FAA's justification for eliminating this program?

Answer. The administration has determined that the cost of continuing to fund the program cannot be justified in light of the many other budget priorities that are competing for limited funding resources. DOT and FAA are fully committed to ensuring that grants already awarded are effectively administered.

Question. Did the FAA or DOT conduct any comprehensive review of the Small Air Service Development Program before it put the program on the cutting block for fiscal year 2008?

Answer. GAO recommended the Department follow up with a later analysis of the program and the Department's Office of the Inspector General (OIG) is currently undertaking such a review. The emphasis of the OIG review is to evaluate the effectiveness of past grants on the ability of small communities to acquire and/or maintain air service. The OIG was able to include about 40 grants in its assessment.

AIR TRAFFIC CONTROLLER OFF-THE-STREET HIRING—IMPACTS ON UND

Question. Administrator Blakey, you face a daunting challenge in hiring and training 15,000 air traffic controllers in 10 years to replace the retiring controllers. We all agree that air traffic controllers are an integral part of the National Airspace System and we support efforts to meet the 15,000 controllers in 10 years goal. Your 10-year plan identifies three pools of potential candidates: (1) previous controllers; (2) Collegiate Training Initiative program students; and (3) general public.

How many new controllers has the FAA hired in the past 3 fiscal years?

Answer.

—Fiscal year 2005—519

—Fiscal year 2006—1,116

—Fiscal year 2007—1,815

Note: Includes 81 transfers from the Flight Service Station operation.

Question. Of that total, how many controllers were from Category 1 (previous controller)? From Category 2 (Collegiate Training Initiative program students)? From Category 3 (general public):

Answer.

Category	Fiscal Year 2005 Total	Fiscal Year 2006 Total	Fiscal Year 2007 Total
CATEGORY 1 (Previous Controllers) [1]	210	516	666
CATEGORY 2 (Collegiate Training Initiative)	296	544	1,019
CATEGORY 3 (General Public)	13	56	130

Category	Fiscal Year 2005 Total	Fiscal Year 2006 Total	Fiscal Year 2007 Total
TOTAL	519	1,116	1,815

[1] Includes Veterans Readjustment Act hires, and 81 transfers from the Flight Service Station operation.

Question. The media has reported that the FAA plans to launch an aggressive new general public, off-the-street recruiting campaign called "Destination FAA."

Can you describe your Destination FAA initiative, including what it is, its time-frame, cost, goals and objectives?

Answer. "DESTINATIONFAA" is a slogan utilized under our corporate recruitment branding campaign. "Land the Perfect Job," "Reach Your Destination," and "Watch Your Career Take Off," are a few of several tag-lines used in marketing career opportunities at FAA. The slogan and tag-lines are used when participating in career fair activities, on recruitment materials, and in advertisements.

FAA's DESTINATIONFAA campaign was designed to market the agency as an employer of choice in an effort to attract highly qualified talent to the agency by educating the public on careers in aviation with emphasis on our mission critical occupations (i.e., air traffic controller, aviation safety inspector, engineers, airway transportation systems specialists, computer specialist and computer scientist). Our recruitment and marketing campaign are collaborative efforts developed by the Office of Human Resource Management and the lines of businesses. Our campaign encompasses a broad based outreach approach to attracting active as well as passive job seekers in all communities throughout the United States.

For fiscal year 2008, our recruitment and marketing strategy is estimated to cost approximately $720,000. The recruitment plan utilizes the following activities:

—Military Job Fairs
—Internet advertising, recruitment tools and direct mass e-mailings
—Newspaper (majority and minority publications) advertisements
—Periodicals (majority and minority publications) advertisements
—Transportation Outlets Advertisements
—Radio and Television
—Career Fairs
—College, University and Technical School Outreach

If the plan is fully funded and implemented, we anticipate reaching over 4,000,000 employment contacts.

Question. Does this initiative represent a policy change or have you always allowed people with no experience to be considered for controller jobs?

Answer. We believe this question refers to applicants from the general public. Those applicants are not required to have prior experience or training in air traffic control to be considered for jobs. Utilizing this source of applicants is not a change in policy. On page 28 of the fiscal year 2007 update to the Controller Workforce Plan, FAA stated that it planned to open vacancy announcements for the general public in the second quarter of fiscal year 2007. Vacancy announcements were opened from March through August 2007.

Previously, applications from the general public were accepted in limited fashion through job fairs. This was done on an as-needed basis. In fiscal year 2007, FAA began recruiting from the general public more extensively than in the past few years. The objective is to maintain a large pool of readily available applicants. It should be noted that the FAA has also expanded the number of Air Traffic Collegiate Training Initiative schools, in part to assist in meeting the same objective.

Question. I'm told that the FAA plans to advertise air traffic controller job announcements on popular Internet sites, such as diversity hire.com, Craig's List, and Career Builder. An April 19, 2007 Craig's List posting states the "FAA does all the training, so you don't have to know anything about air traffic control to be considered." The University of North Dakota (UND) in Grand Forks is one of the FAA approved Air Traffic Collegiate Training Initiative (AT–TCI) programs. The UND program has graduated more than 500 students since 1993. However, UND has seen a reduction in the number of transfer students entering into its Air Traffic Control program. The school directly attributes this transfer student reduction to the FAA's off-the-street initiative.

Aren't you undercutting the need for a four year degree from an FAA-approved program when you are aggressively advertising that applicants need no experience to become an air traffic controller?

Answer. Only those occupational series that have a "positive educational requirement" in the qualifications standards set by the Office of Personnel Management require a 4 year degree. Those occupations with positive educational requirements are rare and they also include specific courses taken or credits earned in a particular course of study. For most occupational series positions, including the Air Traffic Controller series, ATCS 2152 occupation, the qualifications are less restrictive in that they allow for either a full 4-year course of study leading to a bachelor's degree or 3 years of progressively responsible work experience or an equivalent combination of work experience and college credits. Applicants would also meet the qualification requirement upon the successful completion of an FAA approved Air Traffic-Collegiate Training Initiative (AT–CTI) program.

The University of North Dakota has been a valued AT–CTI participant since the early development of the AT–CTI program. The approved AT–CTI programs vary between 4-year, 2-year, and certificate programs. All approved programs that meet the agency's requirements are acceptable to FAA. It is possible that the 4-year bachelor level programs may benefit applicants who may later transition into management and throughout their careers.

This summer FAA re-evaluated all existing AT–CTI schools, and opened the program for new schools to apply. The FAA also evaluated and completed site visits at newly applied schools. As a result, the program accepted 9 new schools for a total of 23 current AT–CTI schools.

The FAA is tapping into multiple hiring sources to keep up with the agency's staffing needs and projected attrition. The AT–CTI schools are a significant source of applicants for FAA. We speculate that this will become a more significant source for FAA in the coming years as our hiring needs continue to grow. For this reason, the agency has opened the AT–CTI program to new schools.

Question. Is the FAA turning its back on the FAA-approved controller college programs?

Answer. No. The FAA is in full support of the Air Traffic Collegiate Training Initiative (AT–CTI) program. The AT–CTI is a growing and significant hiring source for FAA. This hiring source will be critical to our meeting controller staffing needs in the next several years and we speculate the need for this source to grow.

In fact, this summer FAA re-evaluated all existing AT–CTI schools, and opened the program for new schools to apply. The FAA also evaluated and completed site visits at newly applied schools. As a result, the program accepted nine new schools for a total of 23 current AT–CTI schools. We will continue to support and develop our partnership with all of the approved AT–CTI schools.

Question. Do AT–CTI program graduates receive preference over a so-called off-the-street applicant with no experience?

Answer. The FAA strives to consider all qualified applicants equally regardless of which hiring pool they apply from. In addition, FAA considers all qualified applicants regardless of political affiliation, race, color, religion, national origin, sex, sexual orientation, marital status, age, disability, or other non-merit factors.

Air Traffic Collegiate Training Initiative (AT–CTI) graduates are a valued hiring source for FAA and will continue to be.

Question. Does the time and cost of training increase for off-the-street applicants versus applicants who have graduated from an FAA-approved AT–CTI program?

Answer. Yes. General public announcement applicants must attend a 5 week basics training course at the FAA Academy in Oklahoma City, Oklahoma. Since the Air Traffic Collegiate Training Initiative (AT–CTI) graduates bypass this requirement, the Agency incurs this additional time and cost for general public applicants.

Question. Does a student from an AT–CTI program come to the FAA better prepared to succeed as an air traffic controller?

Answer. The FAA believes that applicants who meet the agency's qualification requirements are prepared for success as an air traffic controller regardless of the hiring source and does not take a position on whether some hiring sources are better qualified than others.

UAS ACCESS TO THE NATIONAL AIRSPACE

Question. The University of North Dakota Odegard School has a proposal pending at the FAA for the development of an unmanned aircraft system (UAS) test range in North Dakota that is controlled by a "Ganged Phased Array Radar System." This is a mitigation strategy for emerging onboard "Sense and Avoid" technology that would allow the test flights and certification of UASs without creating Restricted Airspace.

Please provide me with your assessment of the UND proposal.

Answer. The Department of Defense (DOD) is funding the project plan submitted by the University of North Dakota (UND). Although UND approached FAA with its proposal, FAA has made it clear that DOD must approve the project and that FAA could benefit by seeing the test plan. To date, no request for a test range has been filed with FAA, either from UND or DOD, for this test.

FAA currently does not have enough data to determine whether the phased array radar system proposed for this test will serve as a potential mitigation strategy for detect, sense and avoid technology requirements in the NAS. DOD testing may provide additional data to conduct a better assessment of the technology. FAA looks forward to working closely with UND in the development of this project.

QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

AIRSPACE REDESIGN PROJECT

Question. How did you arrive at 5.09 minute average departure delay reduction benefit at Philadelphia under the three departure heading proposal as compared to one departure heading for west flow departures on Runway 27L? Local elected officials in Delaware County have concluded that the benefit is much lower by dividing the FAA's estimated 290,000 annual minutes in delay reduction at Philadelphia under the Preferred Alternative by the airport's 255,000 annual departures.

Answer. An airspace design that works perfectly well on an average day may have serious flaws that are only evident under heavy traffic loads. Operational efficiency of a set of airspace designs is assessed by comparing systems on a day of heavy traffic. Environmental analysis is concerned with long-term influences, so it is done based on annual averages. The 290,000-minute figure is a product of the outcomes of the two analyses producing an annual total of an efficiency metric that was generated in response to a special request from Federal Aviation Administration leadership. It is not part of the usual analysis methodology.

Delay is nonlinear. It grows faster as demand approaches the capacity of the system, so a day with 710 departures will have far more delay than a day with 700. Airlines anticipate a certain amount of delay; the delay on the average day does not disrupt passengers' travel plans. As a result, dividing the annual delays by the annual number of operations will tell you nothing about the delays on heavy traffic days, which are the days when delay affects operations. The 5.09-minute figure is obtained from a 90 percentile day spent entirely in the highest capacity configuration and is not weighted to account for the times when the airport is not in that configuration or demand is different. The 290,000-minutes per year figure includes weekends, low demand days, and less important airport configurations.

Question. Section 17.5 of the operational analysis notes that because benefits analyses for airspace redesign projects must be referred to a large common denominator, airspace redesign benefits are often on the order of a few minutes. Further, section 17.5 notes that while these numbers appear small, a change of a few minutes per flight, over a large set of aircraft, "can have enormous economic consequences for the aviation industry and the flying public." Is section 17.5 implying that because the analyses included every flight in the study area, some of which are unaffected by the project, that the estimated benefit statistics are diluted? Would the benefits appear greater if unaffected flights were removed from the common denominator? Further, please expound on the "enormous economic consequences" which could be realized by a minute or two delay reduction.

Answer. Certainly, the benefits would appear greater if the unaffected flights were removed from the common denominator. That would make it impossible to decide whether a change to Philadelphia was better for overall system performance than a change to Newark.

"Enormous economic consequences" are described in section 17.2 of the Operational Analysis of Mitigation document. The most relevant part is excerpted here:

A nationwide study conducted by Logistics Management Institute in 1999 found that air traffic congestion nationwide could cost $46 billion to the Nation's economy in 2010 because of increased travel time. The nationwide change in travel time that was anticipated for 2010, converted to its equivalent in terms of the metrics used for this study, is approximately three minutes per flight. This includes costs to airlines, loss of service to people who wish to travel, and over 200,000 lost jobs in aviation and other industries. The New York/New Jersey/Philadelphia airspace will handle 15–20 percent of all the air traffic in the Nation in 2011, so this airspace redesign is concerned with removing inefficiencies that could yield benefits to airlines, passengers, and businesses of $7 to $9 billion in 2011. This is a crude estimate; congestion on the east coast is worse than average in the United States and airlines' high-revenue flights are concentrated here, so benefits in this area may be worth more than this simple average.

Question. What was the air traffic volume in the study area when the airspace system was originally designed in the 1960s and what is the current air traffic volume in the study area?

Answer. Based on data that have been collected over more than 40 years, it indicates approximately a doubling of the number of aircraft that transition the airspace on a daily basis. Because of larger aircraft being used, the number of passengers has increased almost six fold.

Question. What is the estimated average noise exposure range for Delaware County in 2011 if no action were taken compared to the estimated average noise exposure range for Delaware County in 2011 under the Preferred Alternative with mitigation?

Answer. Under the Preferred Alternative, the distribution of noise is changing, but there are no significant increases. The census block with the highest noise exposure sees a higher day/night noise level (DNL). The noise exposure of the median census block decreases, but again not by a significant amount. The following table is a total of all Delaware County census tracts taken from our noise exposure tables provided on our project Web site.

DNL

	Future No Action	Integrated Airspace with Mitigation
Highest noise exposure	66.1	67.3
99 percent of residents experience noise below	57.8	57.4
90 percent of residents experience noise below	49.3	51
50 percent of residents experience noise below	43.8	43.2

Question. It was noted at the public meeting that air traffic controllers at Philadelphia have not been briefed on this project. It would seem that consulting with the air traffic controllers who would be directly affected by this project would be in the public interest. Does the agency have plans to brief the air traffic controllers at Philadelphia or other facilities in the study area?

Answer. Representatives of the air traffic controllers' union formed the core of the design team that created all the alternatives in the Draft Environmental Impact Statement. As the parts of the redesign affecting Philadelphia were developed, Philadelphia controllers became involved. The air traffic controllers' union later withdrew from participating in the plan. Philadelphia managers and supervisors were present at the public meetings to explain the proposal. Before implementation, all facility personnel will be trained on the changes.

PHL AIR TRAFFIC CONTROLLER ISSUES

Question. Is the FAA considering a separation of the air traffic control tower and TRACON room at Philadelphia International? If so, what impacts will this have on Philadelphia's facility rating and air traffic controller salaries?

Answer. The FAA is considering separating the tower and TRACON functions at several facilities across the country, including Philadelphia International. No decisions have been made at this time

Question. In recent years, Philadelphia has consistently ranked at or near the bottom of major commercial airports in terms of on-time performance for both arrivals and departures. The latest statistics (Year-to-date through March 2007) place Philadelphia 28 out of 31 major airports in terms of on-time arrivals and 28 out of 31 in terms of on-time departures. Only 64.9 percent of flights arrive to Philadelphia on-time, and only 67.24 percent depart on-time. Has the FAA considered hiring more air traffic controllers at Philadelphia as a way to address the air traffic volume that leads to these chronic delays?

Answer. Yes, FAA is hiring more controllers for Philadelphia, but that will not solve the facility's delay issue. Most delays are a result of limited airport capacity, airline over-scheduling, and/or weather issues. Hiring more controllers will not fix any of those problems. Philadelphia's on-time performance rate is an indication of the need to modernize the air traffic control system.

QUESTIONS SUBMITTED BY SENATOR PETE V. DOMENICI

TAOS, NEW MEXICO AIRPORT

Question. Administrator Blakey, I have a local concern that needs your attention. I often hear from constituents in Taos, NM both opposed and in support of proposals to improve the airport. I recently met with the Town of Taos officials about the need for a new runway to improve safe access at the Taos Airport, and my staff recently met with leaders from the Taos Pueblo on the same issue. This is not a new issue, and I know it is also not a simple one. I understand that the FAA has released and received comments on a draft Environmental Impact Statement regarding the Taos Airport runway and the related expansion. The review process languished for several years, but now seems to be moving forward.

Would you please provide me with an update on the status of the Environmental Impact Statement and the public process associated with the study, so I can update my constituents in New Mexico?

Answer. A Draft Environmental Impact Statement (EIS) for the proposed new runway was issued in October 2006. A public hearing was held on November 14, 2006, in Taos. The public and agency comment period on the Draft EIS was scheduled to end November 26, 2006, but at the request of the Taos Pueblo, the comment period was extended to January 10, 2007.

Extensive comments on the Draft EIS have been received from the Taos Pueblo, the National Park Service, the Advisory Council on Historic Preservation, the County of Taos, and the Taos Coalition.

In order to address Pueblo concerns regarding potential audio and visual impacts of aircraft operations to and from the new runway, FAA proposed a flyover demonstration. After two attempts to schedule the flyover, it was held on June 26, 2007. A general aviation aircraft representative of the largest and noisiest type of aircraft currently using the airport performed the flyover. Current and future flight tracks associated with the new runway were flown, as were the flight tracks for one of the Pueblo's recommended alternative alignments for the new runway. An over flight of the Pueblo was also conducted at their request.

A meeting was held in Taos, NM, on October 19, 2007, with representatives of the Taos Pueblo, the Town of Taos, the National Park Service, the Advisory Council on Historic Preservation, the State Historic Preservation Officer, and other interested parties. The purpose of the meeting was to entertain recommendations from all parties on means to mitigate the adverse impacts the project will have on the Taos Pueblo and other identified cultural and historic resources.

The FAA is finalizing detailed responses to comments received on the Draft EIS. In addition, the FAA is nearing completion of its evaluation of the feasibility of a list of over 20 recommended measures to mitigate the projects forecasted impacts to cultural and historic resources. Once both of these efforts have been completed the FAA will coordinate a draft Final EIS with the Taos Pueblo and other consulting parties. At that time the FAA will also issue a draft Memorandum of Agreement for execution by the Pueblo and consulting parties in accordance with section 106 of the Historic Preservation Act. The agreement will address the adverse impacts to cultural and historic resources and proposed measures to lessen or mitigate those impacts. The estimated date for issuance of a Final EIS is by September 2008.

Question. I understand that the Pueblo of Taos has submitted recommendations to you regarding their concerns, and the FAA is currently evaluating those recommendations and the costs associated with them. Would you also update me on your work regarding the concerns of the Taos Pueblo?

Answer. The Taos Pueblo has provided very comprehensive comments on the Federal Aviation Administration (FAA's) Draft Environmental Impact Statement (EIS). Several comments, especially with regard to the feasibility of certain Pueblo recommended runway alignment alternatives, have required FAA to reexamine our earlier analysis and findings in the Draft EIS. Responses to those comments will be fully addressed as part of the Final EIS. A draft version of the Final EIS will be coordinated with the Pueblo for their review and comment before the FAA issues the Final EIS. The FAA proposes to provide the draft Final EIS to the Pueblo and other consulting and cooperating parties by February 2008.

As a result of our meeting with representatives of the Taos Pueblo and other parties in Taos, NM on October 19, 2007, we are examining the feasibility of a number of measures recommended by the Taos Pueblo and others for reducing or mitigating the adverse impacts of the proposed new runway on the Taos Pueblo and other identified cultural and historic resources. At the October 19, meeting, FAA encouraged the attending parties to engage in an open discussion on ways to address the adverse effects of this proposed project. As stated in the meeting, FAA is open to any and all recommendations; nothing is off the table at this point.

The FAA and the Taos Pueblo, along with the other interested parties, agreed to institute regular telephone meetings to discuss the status of FAA's work to address their mitigation recommendations as well as comments made on the Draft EIS. Telephone meetings were held on November 27, 2007, January 16, 2008, and February 22, 2008. A December 2007 meetings was not possible due to individual schedules and the holidays. The next meeting date has not been set since the Taos Pueblo is in a quiet period which we understand will end around the end of March or early

April 2008. The next meeting is expected be an on site meeting in Taos either in late April or May 2008 depending on participant's availability. Minutes of each meeting are prepared and sent to all participants.

ROSWELL, NEW MEXICO AIRPORT

Question. Administrator Blakey, a group of public and private entities in southeast New Mexico has worked together for over 2 years to arrange for nonstop regional jet service between Dallas, TX and Roswell, NM. One of the requirements to make regional jet service a reality is an upgrade of the Roswell Airport from a Class 2 to a Class 1 facility.

I believe that the FAA has received the application from Roswell officials for Class 1 certification. Would you please provide me with an update on Roswell Airport's review process and notify me if there is anything I can do to help you with regard to the Class 1 certification?

Answer. FAA issued Roswell a Class 1 certificate on May 4, 2007.

Question. When communities like Roswell determine that a class certification upgrade is needed to accommodate 44 or 50-passenger regional service, what tools or technical assistance is available through the FAA to help these communities comply with FAA requirements?

Answer. The FAA's Office of Airport Safety and Standards publishes a full series of Advisory Circulars that provide guidance on methods and procedures acceptable to the Administrator in meeting the requirements of 14 CFR part 139, Certification of Airports. In addition, personnel in FAA's Airports Regional and District Offices are available to help guide airport sponsors.

Finally, airport development necessary to meet the higher standards (e.g. airport rescue and fire fighting vehicles, runway safety areas) is generally eligible for funding under the Airport Improvement Program or Passenger Facility Charge Program.

CONCLUSION OF HEARINGS

Senator MURRAY. With that, the subcommittee stands in recess, subject to the call of the Chair.

[Whereupon, at 11:32 a.m., Thursday, May 10, the hearings were concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

DEPARTMENT OF TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2008

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

NONDEPARTMENTAL WITNESSES

[CLERK'S NOTE.—The following testimonies were received by the Subcommittee on Transportation and Housing and Urban Development, and Related Agencies for inclusion in the record. The submitted materials relate to the fiscal year 2008 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 THE NATIONAL ASSOCIATION OF MORTGAGE BROKERS

Chairwoman Murray, Senator Bond and members of the subcommittee, thank you for permitting the National Association of Mortgage Brokers ("NAMB") to submit this written testimony on Solvency and Reform Proposals for the Federal Housing Administration ("FHA"). In particular, we appreciate the opportunity to address: (1) the need to reform the FHA program to eliminate arbitrary and unnecessary barriers that restrict mortgage broker participation; (2) the positive effects on FHA's market share and profitability that will result from increased mortgage broker participation; (3) the need to develop risk-based pricing for mortgage insurance on FHA loans; and (4) the importance of adjusting the current FHA loan amounts for high-cost areas.

NAMB is the only national trade association exclusively devoted to representing the mortgage brokerage industry, and as the voice of the mortgage brokers, NAMB speaks on behalf of more than 25,000 members in all 50 States and the District of Columbia.

FHA MARKET SHARE & MORTGAGE BROKER PARTICIPATION

NAMB supports many of the proposed reforms to the FHA program, but believes we should first make certain that the FHA program is a real choice for prospective borrowers. Regardless of how beneficial a loan product may be, it requires an effective distribution channel to deliver it to the marketplace. The need to make the FHA loan product a viable option is even more acute today given recent developments in the subprime market, which is likely to lead to less liquidity and increased costs. Unfortunately, today many prospective borrowers are being denied access to the benefits of the FHA program because mortgage brokers—the most widely used distribution channel in the mortgage industry—are limited in their ability to offer FHA loan products to their customers.

As a prerequisite to originating FHA loans, mortgage brokers currently are required to satisfy cost prohibitive and time consuming annual audit and net worth requirements. These requirements place serious impediments in the origination process, and functionally bar mortgage brokers from delivering FHA loans into the marketplace.

As small businesses men and women, most mortgage brokers find the costs involved with producing audited financial statements an unbearable burden. FHA audits must meet government accounting standards and only a small percentage of certified public accountants ("CPAs") are qualified to conduct these audits. Moreover, because many auditors do not find it feasible to audit such small entities to government standards, many qualified CPA firms are reluctant to audit mortgage brokers. Cost however, is not the only factor. A mortgage broker can also lose valuable time—up to several weeks—preparing for and assisting in the audit process.

The net worth requirement for mortgage brokers is also limited to liquid assets because equipment and fixtures depreciate rapidly and loans to corporate officers and goodwill are not permitted to be included as assets. To compound this, a broker who greatly exceeds the net worth requirement is forced to keep cash or equivalents of 20 percent of their net worth up to $100,000. Because the net worth for brokers usually needs to be in cash, it tends to destabilize a small business by robbing it of needed operating funds. This makes the net worth requirement of little value for indemnification because a company in trouble can easily dissipate its net worth. Additionally, there is no evidence to demonstrate that loans originated by high net worth originators perform better than those with a lower net worth.

Because of the burdens imposed by the current financial audit and net worth requirements, many mortgage brokers do not engage in the FHA program. In this regard, the impediments stated herein have actually served to limit the utility and effectiveness of the FHA program and seriously restrict the range of choice available for prospective borrowers who can afford only a small down payment. At a minimum, NAMB believes annual bonding requirements offer a better way to ensure the safety and soundness of the FHA program than requiring originators to submit audited financial statements.

Moreover, annual audit and net worth requirements are unnecessary. Today, mortgage brokers participate in the FHA program typically through a large lender. Replacing net worth and audit requirements with a surety bond will not change the framework set to ensure responsibility and accountability, it will simply encourage brokers to participate thereby increasing the amount of FHA loans offered. The larger FHA-approved lenders will continue to submit to the standards deemed necessary by FHA (i.e. audits, net worth etc.) before being approved to offer FHA loans through retail or wholesale channels. This affords the U.S. Department of Housing & Urban Development's ("HUD") adequate protection against loss to the FHA program. Brokers who choose to offer FHA loan products will also continue to be governed by contract agreements with these respective FHA-approved lenders. Additionally, brokers who participate in the FHA-program will remain state-licensed entities subject to any state bond requirements, criminal background checks and education requirements in addition to any FHA-required surety bond. This, in effect, creates a dual-layer of protection for both the FHA program and the consumer. Last, the process of obtaining a surety bond itself involves stringent standards and review. Surety companies pre-qualify their customers to determine whether they are financially sound and have the baseline to conduct their business, i.e. ability to pay out upon a loss, before issuing a surety bond.

A stated objective of the FHA is to increase origination of FHA loan products and expand homeownership opportunities for first-time, minority and low to moderate-income families. NAMB supports increased access to FHA loans so that prospective borrowers who have blemished credit histories, or who can afford only minimal down payments, have increased choice of affordable loan products. These prospective borrowers should not be forced by default into the subprime market. A recent Inside Mortgage Finance publication estimated the current FHA market share at 2.7 percent.[1] NAMB believes the solution to increasing FHA loan origination and market share is increasing the number of origination sources responsible for delivering FHA loan products directly to consumers. Today, the most effective and efficient origination source is through mortgage brokers.

Mortgage brokers originate over 50 percent of all home loans, yet brokers are responsible for just 10 percent of FHA's origination volume, or .27 percent of all home loans. This is due, in large part, to the fact that mortgage brokers are discouraged from participating in the FHA program by the unnecessarily burdensome financial audit and net worth requirements. These requirements erect a formidable barrier and prevent a significant majority of mortgage brokers from participating in the program.

[1] See Inside Mortgage Finance, Mortgage Originations by Product, p.7 (March 2, 2007).

NAMB estimates that less than 18 percent of all mortgage brokers are approved to originate FHA loans under the current requirements; however, recent NAMB surveys indicate that roughly 80 percent of "non-participating" mortgage brokers would offer FHA loans to their customers if there were no financial audit or net worth requirement. NAMB predicts that such a change would increase mortgage broker participation in the FHA program from 18 percent to roughly 85 percent. This, in turn, would increase FHA's loan origination volume and market share by nearly 40 percent.

For example, in 2006, FHA's origination volume was roughly $80 billion.[1] All things being equal, the 67 percent increase in broker participation would increase FHA's origination volume to nearly $112 billion, and FHA's total market share from 2.7 percent to 3.78 percent. This increase of $32 billion and 1.08 percent total market share will be directly tied to an increase in mortgage broker participation in the FHA program.

FHA RISK-BASED PREMIUMS

The ability to match borrower characteristics with an appropriate mortgage insurance premium has been recognized as essential by every private mortgage insurer ("PMI"). PMI companies have established levels of credit quality, loan-to-value, and protection coverage to aid in this matching process. These companies also offer various programs that allow for upfront mortgage insurance premiums, monthly premiums, or combinations of both. This flexibility has enabled lenders to make conventional loans that are either not allowable under FHA or present a risk level that is currently unacceptable to FHA.

FHA is essentially a government mortgage insurance provider. Where FHA mortgage insurance is not available, PMI companies are free to increase premiums without fear of losing market share to a more competitively priced FHA loan product. FHA should be permitted to balance risk with premiums charged in order to increase competition and ultimately drive down costs for consumers. Since FHA is not required to make a suitable profit or demonstrate market growth to shareholders, it is likely that FHA can afford to assume greater risk levels than PMI companies can currently absorb. This increased capacity to assume and manage risk will allow FHA to not only serve borrowers who presently do not have PMI available as a choice, but also those borrowers whose premiums will be reduced because of the increased competition in the market.

FHA MORTGAGE AMOUNTS IN HIGH-COST AREAS

In an environment of rising interest rates, many first-time, minority, and low to moderate-income homebuyers need the safer and less-expensive financing options that the FHA program can provide. For this reason, NAMB uniformly and unequivocally supports increasing FHA loan limits in high-cost areas. The benefits of the FHA program should be available equally to all taxpayers; especially those residing in high-cost areas, where borrowers are most often in need of affordable mortgage financing options.

Congress must act to ensure that FHA loan programs continue to serve as a permanent backstop for all first-time homebuyer programs. We believe that Congress should allow for FHA loan limits to be adjusted up to 100 percent of the median home price, thereby establishing a logical loan limit that will benefit both the housing industry and consumers. Tying the FHA loan limit to the median home price for an individual county, and letting it float with the housing market, allows the FHA loan limits to respond to changes in home prices instead of an esoteric number derived from a complicated formula. In this fashion, the FHA loan limit will reflect a true home market economy.

FUTURE OF FHA

Changes must be made to the FHA program to sustain its viability and to fulfill its stated objective of increasing origination of FHA loan products and expanding homeownership opportunities for first-time, minority, and low and moderate-income families. Without substantial reform of the FHA program, PMI will continue to dominate the low down payment market with little competition, while the sub-prime mortgage market will meet the needs of those who are unable to obtain PMI insurance. Minority families and first-time homebuyers will find themselves underserved or even shut out of the housing market entirely. For this reason, NAMB also supports the ability of the FHA to control minimum borrower contribution to correspond to the levels deemed acceptable by the government-sponsored enterprises. Furthermore, it is possible that FHA's pool of loans will grow too small to effectively manage risk, and FHA could ultimately be unable to fulfill its function of being a helping hand for those who need it the most. The ripple effects could easily extend to the homebuilding industry and even to the economy at large.

Congress has the opportunity to revitalize the FHA program by increasing its profitability and ensuring that borrowers across the country have an equal opportunity to obtain a better loan at a lower interest rate.

NAMB appreciates this opportunity to offer our perspective on "Solvency and Reform Proposals for the Federal Housing Administration."

Prepared Statement of the American Association of Service Coordinators (AASC)

The American Association of Service Coordinators (AASC) urges the subcommittee to support the staffing of service coordinators in federally assisted and public housing, as part of the Transportation, HUD, and Related Agencies fiscal year 2008 Appropriations bill. AASC, a national nonprofit organization based in Columbus, Ohio, represents over 1,900 service coordinators and other housing professionals who serve low-income frail elderly, persons with disabilities, and families seeking self-sufficiency residing in public and federally assisted housing.

We understand that the committee and Congress face difficult choices with tight funding constraints. We are grateful for the leadership of this committee in the establishment and funding of service coordinators; and would urge your support for the full funding of service coordinators as a cost-effective investment. Service Coordinators not only give consumer choices, but also saves public funds by promoting economic self-sufficiency for low-income families and options for the delay or avoidance of elderly individuals moving into more costly settings, such as nursing homes.

Service coordinators have helped thousands of low-income elderly and persons with disabilities with their health and supportive service needs, allowing them to remain in their home while avoiding premature institutionalization. The concern for many persons is that the fragmentation, lack of awareness, and complexities of essential services available in the community, have hindered timely access. Without the benefit of well-trained service coordinators, many vulnerable persons have been forced to move to more costly settings. Service coordinators are increasingly recognized as a vital lynchpin in linking older persons with essential community services. They provide assistance allowing many families in public housing or using Housing Choice Vouchers to become more economically independent through employment and homeownership.

Service coordinators in federally assisted housing are funded primarily through national competitive grants through the section 202 program; through use of residual receipts; or incorporated into the project's operating budget. For public housing, service coordinators have been funded through competitive grants of the Resident Opportunities and Self-Sufficiency program (ROSS), the Housing Choice Vouchers Family Self-Sufficiency (HCV–FSS) program; or through PHA Operating Funds.

Yet, despite the critical need and cost-effectiveness of service coordinators in assisting frail elderly and others who seek to remain in their home or low-income families seeking to become more self-sufficient, funding for service coordinators remains very limited. While the administration's fiscal year 2008 budget provides a slight increase for service coordinators in section 202 and other federally assisted senior housing, but it significantly cuts funds for service coordinators assisting elderly and families residing in public housing. AASC would urge the committee's support for the following:

—$100 million in fiscal year 2008 for service coordinators in federally assisted housing, particularly to ensure adequate funds for expiring contracts of existing service coordinators;

—Full funding for Section 8, Project Rental Assistance Contracts (PRAC), other rent subsidies and project operating funds to permit the staffing of a service coordinator as a routine part of the project's operating budget;

—A separate add-on of $75 million in Public Housing Operating Funds for service coordinators; and

—$55 million for the Resident Opportunities for Self-Sufficiency (ROSS) program; and $85 million for the Housing Choice Voucher Family Self-Sufficiency program.

FEDERALLY ASSISTED HOUSING—$100 MILLION

The administration's fiscal year 2008 budget requests $71 million for service coordinators, a moderate increase over the $59.4 million requested in fiscal year 2007 and the $51.6 million provided in the fiscal year 2007 Continuing Resolution (H.J. Res. 20). Of this amount, only $10 million was provided in the HUD fiscal year 2007

SuperNOFA to expand the number of service coordinators to projects that currently do not have them. Most of the funds are necessary to extend the expiring contracts of existing service coordinators. While the initial competitive grants for service coordinators is for 3 years, extensions cover only 1 year. There is a potential of losing existing service coordinator positions if the administration's proposed budget is not increased. For the first time since Congress established the service coordinator program in 1990, there would be no additional funds available to hire new service coordinators. Currently, many federally assisted and public housing facilities do not have sufficient resources in their operating budgets to hire service coordinators; or due to limited funding, need to share service coordinators between several facilities, thus stretching their effectiveness. Additionally, some projects that need service coordinators, such as section 515 rural housing or Low-Income Housing Tax Credits, are currently ineligible to compete for service coordinator funds.

AASC would recommend funding the service coordinator program for federally assisted housing at $100 million in order to ensure renewal of existing contracts, as well as to fund service coordinators in federally assisted housing for elderly or persons with disabilities that currently do not have them. There is a need for a dual strategy for funding service coordinators that includes maintaining the service coordinator grant program, as well as routinely staffing service coordinators within the facility's operating budget. While statutory authority exists to allow HUD to fund coordinators, many senior housing facilities have not been able to secure the necessary rent adjustments to accommodate them. AASC would recommend that sufficient Section 8, PRAC, or other operating funds be increased to allow routine staffing of service coordinators, as well as to direct HUD and their field offices to provide necessary budget adjustments and regulatory relief to remove any barriers restricting the staffing of service coordinators though the project's operating budget.

PUBLIC HOUSING: OPERATING FUNDS, ROSS AND HCV/FSS

Residents of public housing and those using Housing Choice Vouchers have been denied full access to the valuable assistance that service coordinators can provide. Over one-third of residents in public housing are elderly residing in various settings such as senior housing, family housing, mixed-population housing with younger persons with physical and mental disabilities. Funding for service coordinators in public housing is very limited, complex, and has experienced a steady reduction in funds over the past few years.

A number of local housing authorities have funded service coordinators though competitive short-term grant programs, such as those under the Resident Opportunities and Self-Sufficiency (ROSS) program. Unfortunately, over the past few years, there have been funding cuts and a lack of program consistency. For example, the Elderly and Persons with Disabilities Service Coordinator program (EDSC) funded at over $15 million, was initially a part of the ROSS program. In fiscal year 2004, it was shifted to the Public Housing Operating Fund with no additional funding provided. HUD specified that only those public housing authorities that had received EDSC funds in 1995 were eligible for extension and that no new service coordinators would be funded. The existing EDSC coordinators need to compete with other critical operating budget priorities; and are subjected to the same proportional cuts with Public Housing Operating Funds. Because of funding cuts in their operating budgets and other competing needs, a number of public housing authorities have been forced to lay off or reduce their service coordinator program. This action, while necessary by local housing authorities given their funding limitations, is counterproductive for broader Federal long-term care policies that seek to allow frail elderly and persons with disabilities more independence while avoiding premature admission to more costly care.

AASC commends this committee for acknowledging in the fiscal year 2007 appropriations for public housing that operating funds covered only 76 percent of operating budget needs; and with the committee's action this year to provide additional funds in the final fiscal year 2007 Continuing Resolution for Public Housing Operating Funds. However, the projected shortfall for public housing operating funds this year is $1 billion. For fiscal year 2008, public housing service coordinators must be included in the PHA plan. Therefore, it is necessary to ensure that there are adequate funds available in the fiscal year 2008 Public Housing Operating funds to accommodate service coordinators. AASC would urge that $85 million be provided as a separate add-on to Public Housing Operating Funds to ensure they can include service coordinators within their operating budget as part of routine staffing.

RESIDENT OPPORTUNITIES AND SELF SUFFICIENCY (ROSS)—$55 MILLION

The Resident Opportunities and Self Sufficiency (ROSS) program provides grants to public housing agencies, tribal housing entities, resident associations, and nonprofit organizations for the delivery and coordination of supportive services and other activities designed to help public and Indian housing residents attain economic and housing self-sufficiency. There are several separate programs within the ROSS program that were appropriated at $38 million in fiscal year 2007, assuming some fiscal year 2006 carry-over funds. These include: (1) Family and Homeownership ($30 million in fiscal year 2007 NOFA) that links residents with services such as job training, and educational opportunities to facilitate economic and housing self-sufficiency; (2) Elderly and Persons with Disabilities ($20 million in fiscal year 2007 NOFA) that funds service coordinators and supportive services to assist elderly and persons with disabilities residing in public housing; and (3) Public Housing Family Self-Sufficiency ($12 million in fiscal year 2007 NOFA) promotes participating public housing families to increase their earned income, reduce or eliminate the need for welfare assistance, and to make progress toward achieving economic independence and housing self-sufficiency.

Prior to fiscal year 2004, PH/FSS was funded out of the public housing operating fund. However, with the switch to ROSS and technical problems encountered by a number of housing authorities with the NOFA, a number of service coordinators and PH/FSS programs were cut. Despite the demonstrated need and effective results, the administration's fiscal year 2008 budget seeks no funding for these three ROSS programs, and no additional funds for Neighborhood Networks (listed within ROSS that had received approximately $15 million over the past few years). AASC would urge that ROSS be funded at $55 million, as it had been prior to fiscal year 2005.

HOUSING CHOICE VOUCHER/FAMILY SELF-SUFFICIENCY (HCV/FSS)—$85 MILLION

The HCV/FSS program enables participants in the Section 8 Housing Choice Voucher program to increase their earned income, reduce or eliminate their need for welfare assistance, and promote their economic independence. Funds are used to provide for FSS program coordinators to link participants with supportive services they need to achieve self-sufficiency; and to develop 5-year self-sufficiency plans. In fiscal year 2004, HUD made major changes in the procedure to distribute HCV/FSS funds that led to a reduction of nearly one-third (256 of the 771 HAs) and shifted funds to HAs that had not previously been funded in the HCV/FSS program. The fiscal year 2007 appropriation for HVC/FSS was for $47 million compared to $72 million in the administration's fiscal year 2004 budget request. AASC urges for fiscal year 2008 an increase in HCV/FSS funding to $85 million in order to restore those HAs cut in fiscal year 2004 and to expand the number of FSS participants. In addition, we support administrative changes for up-front funding of escrow accounts, and to streamline the staffing of service coordinators to enable 1 coordinator per 25 FSS participants.

COLLABORATION BETWEEN HUD, HHS AND OTHER AGENCIES

Given the strong relationship between suitable and affordable housing with timely access to supportive services and health care needed by older residents, low income families and others, it is vital that there be effective collaboration between HUD, HHS, and other Federal agencies serving these populations. Policies, programs and funding requirements in one agency can contribute (or be counter productive) to consumer preferences and public savings in another Federal agency, including linking services with housing and mixed-financing developments (tax credits administered by IRS and States with various HUD programs). Last year, the Senate passed S. 705 to establish an Interagency Council on Housing and Service for the Elderly that was modified by the House and enacted (Public Law 109–365, section 203 of the Older Americans Act) as an Interagency Coordinating Committee on Aging within HHS. AASC would urge that the committee give directives to HHS for the prompt establishment of this interagency committee; and direct HUD, HHS and other Federal agencies to develop means to promote collaboration with their respective programs and policies involving affordable housing and services to assist the elderly, low income families and persons with disabilities residing in public and federally assisted housing. Thank you for your consideration.

FEDERALLY ASSISTED AND PUBLIC HOUSING

	Fiscal Year 2004		Fiscal Year 2005			Fiscal Year 2006				Fiscal Year 2007 Cont			Fiscal Year 2008 Budget
	Budget	Appro	Budget	Appro	Awards	Budget	Appro [10]	NOFA	Awards	Budget	Res [11]	NOFA [13]	
Federally Assisted SC/CHSP ..	$40 mil	$30 mil	$53 mil	$50 mil	$15.5 mil	$53 mil	$51.6 mil	$51.6 mil	[1] $12.1 mil	$59.4 mil	$51.6 mil	$51.6 mil	$71 mil
PHA CAPITAL FUND	2.6 bil	2.7 bil	2.76 bil	2.6 bil	n/a	2.3 bil	2.43 bil	n/a	n/a	2.17 bil	2.43 bil	....	$2.024 bil
ROSS total [2]	40 mil	55 mil	55 mil	53 mil	[3] 49.5 mil	24 mil	38 mil	38 mil (+$34 mil)	....	23.8 mil	38 mil	....	....
Family and Homeownership	....	....	....	....	27.8 mil	....	....	18 mil (+$25 mil)	29.46 mil	....	....	30 mil	....
Homeownership Sup. Services	....	....	....	....	3.1 mil	....	....	....	([4])	....	....	....	....
Elderly/Persons with Disabilities	....	....	....	....	9.5 mil	....	....	10 mil (+$6 mil)	[5] 8.79 mil	....	....	20 mil	....
PH/FSS Coordinators	....	....	....	....	9.1 mil	....	....	10 mil (+$3 mil)	[6] 9.67 mil	....	....	12 mil	....
PH Neighborhood Networks ...	15 mil	15 mil	....	15 mil	13.8 mil	....	7.5 mil	7.5 mil (+$9.5 mil)	[7] $13.73 mil	....	....	....	....
PHA OPERATING FUND: Elderly/Disabled SC [8]	3.6 bil	3.59 bil	3.6 bil	2.4 bil	n/a	3.4 bil	3.56 bil	n/a	n/a	3.56 bil	[12] 3.86 bil	....	4.0 bil
HCV/FSS Coordinators	72 mil	48 mil	48 mil	46 mil	45.5 mil	55 mil	48 mil	47 mil	[9] 47.49 mil	48 mil	47.5 mil	47 mil	48 mil

[1] Funded through the section 202 program; most fiscal year 2006 NOFA funds used to extend existing contracts.
[2] ROSS (Resident Opportunity and Self Sufficiency) moved from CDBG to PHA Capital fund in 2004, includes 4–5 separate programs.
[3] Additional funds awarded in fiscal year 2005 based on appeals.
[4] Fiscal year 2006 ROSS NOFA merges Family and Homeownership Support Services programs and $25 mil carryover funds; HUD awards announced Feb. 23,2007.
[5] Formerly Resident Services Delivery Model changed in fiscal year 2006 NOFA to Elderly/Persons with Disabilities and includes $6 mil carryover funds; HUD awards announced Jan. 18, 2007 to 32 PHAs.
[6] 1A Public Housing Family Self Sufficiency (PH/FSS) moved from PH Operating Fund to ROSS in fiscal year 2004; fiscal year 2006 NOFA includes $3 mil carryover funds; HUD announced Dec. 20, 2006 to 173 PHAs.
[7] 1AFunded as separate line item fiscal year 2004–fiscal year 2006 in PHA Capital Fund; moved to ROSS as a separate program not included in total funding; fiscal year 2006 NOFA includes $9.5 mil carryover funds; HUD announced 12/22/06 to 53 PHAs.
[8] Elderly/Disabled SC shifted in fiscal year 2004 from ROSS to PH Operating Fund; previously funded level $15.6 mil.
[9] Housing Certificate Voucher FSS Coordinators (self-sufficiency/homeownership); HUD announced Oct. 2006 to 623 public housing authorities.
[10] Defense fiscal year 2006 Appropriations bill cut most domestic programs 1 percent across the board, Dec 21, 2005.
[11] 3rd Continuing Resolution to Feb 15, 2007; H.J. Res 20 passed House Jan. 31, 2007.
[12] H.J. Res 20 increases fiscal year 2007 funding to $3.86 billion from House passed $3.56 billion; House Appropriations Committee acknowledges that fiscal year 2007 funding is $672 million short of the need and that HUD is funding PHAs at 76 percent of their operating level.
[13] HUD published in March 13, 2007 Federal Register the fiscal year 2007 SuperNOFA.

PREPARED STATEMENT OF THE NATIONAL AFFORDABLE HOUSING MANAGEMENT ASSOCIATION (NAHMA)

Thank you, Chairman Murray and Ranking Member Bond for providing me this opportunity to share NAHMA's perspectives on the fiscal year 2008 budget request for the U.S. Department of Housing and Urban Development.

NAHMA represents individuals involved with the management of privately-owned affordable multifamily housing regulated by the U.S. Department of Housing and Urban Development (HUD), the U.S. Rural Housing Service (RHS), the U.S. Internal Revenue Service (IRS), and State housing finance agencies. Our members provide quality affordable housing to more than 2 million Americans with very low and moderate incomes. Executives of property management companies, owners of affordable rental housing, public agencies and vendors that serve the affordable housing industry constitute NAHMA's membership.

Key HUD multifamily programs of interest to our members include: Project-based section 8; section 8 Housing Choice Vouchers; section 202 housing for the elderly; section 811 housing for the disabled; the Community Development Block Grant (CDBG) and the HOME program. The majority of my statement will focus on funding and administration of the project-based section 8 program.

It is imperative to fully fund all rental subsidy contract renewals in the project-based section 8 program. NAHMA is extremely concerned that the fiscal year 2008 budget request for project-based section 8 is seriously under-funded. The administration requested only $5.5 billion for project-based section 8 contract renewals in fiscal year 2008—a figure well below the $5.8 billion Congress appropriated for this purpose in fiscal year 2007. Such a serious shortfall in this account would further exacerbate the well-documented problem of late Housing Assistance Payments (HAPs) to owners of these properties.

As the subcommittee is well aware, the Government Accountability Office (GAO) released a report in November 2005, entitled "Project-Based Rental Assistance: HUD Should Streamline Its Processes to Ensure Timely Housing Assistance Payments." GAO recommended three key actions HUD should take to improve the timeliness of HAP payments to owners:

—Streamline and automate the contract renewal process to prevent errors and delays;

—Improve HUD's monitoring of contract funding levels; and

—Notify owners about late payments.

Although HUD agreed with GAO's recommendations, the Department pinned much of its plans for implementation on its planned Business Process Reengineering—which has since been cancelled due to its costs.

Much of this report confirmed what we believed about the problem of late HAP payments, including the close association between late HAPs and contract renewals. In the experience of our members, HUD will not execute a renewed contract until the funding is in place. Nevertheless, there are some aspects of the report which we hope the subcommittee will explore further. Near the end of the Federal fiscal years, and in periods funded by continuing resolutions, NAHMA receives many pleas for assistance from members who have not received their HAP payments, or were told by the HUD field office or PBCA that there was no funding available for their contract. Often, when a member does not receive their HAP payment on time, they will notice the code given in HUD's TRACS system for the contract is "R–26" (i.e. insufficient funding). While these requests for help are not limited to the end of the fiscal year or periods of continuing resolutions, they are generally expected around these times. Based on interviews with HUD budget officials, GAO dismissed continuing resolutions as a cause of late HAP payments. HUD told GAO a process was in place to deal with such situations. NAHMA strongly believes this claim requires further examination. When GAO released this report in late 2005, HUD would execute short-term, partial-year contracts in such situations. Recently, NAHMA was informed that HUD now frowns on partial-year contracts. The effect of HUD's policy reversal is that owners will remain unpaid for indefinite periods of time rather than receive a partial payment. Although GAO did not address whether lag-time between HUD's request for its funding allotment and release of funds from the Office of Management and Budget (OMB) caused late HAPs, we believe this matter should be explored.

Last year, in H. Rept. 109–495 to accompany the fiscal year 2007 Transportation, Treasury, HUD bill (H.R. 5576) the House Appropriations Committee directed HUD to report on its progress in implementing GAO's recommendations for improving timeliness of HAP rental subsidy payments to affordable housing owners. Language found under the Project-Based section 8 section noted the Committee's concern ". . . that the Department take adequate measures to avoid late or delayed payments to providers of Project Based section 8 rental housing." The committee repeated GAO's three specific recommendations and directed the Department, ". . . to provide the committee with a report on progress achieved in reducing the incidence of late payments to project-based providers and other measures to implement GAO's recommendations to accompany the Department's fiscal year 2007 Operating Plan submission. The report is to include a preliminary allocation plan for fiscal year 2007 funding requirements for both project-based contract renewal and amendment funding needs in fiscal year 2007. In addition, the report accompanying the Operating Plan is to address how the proposed fiscal year 2007 program for project based-based renewals and amendments, as reflected in the preliminary allocation plan, is to be funded using a combination of new budget authority and recaptures in fiscal year 2007."

Nearly 18 months after GAO released its report in 2005, late HAP payments to owners remain a serious problem. The House Financial Services Committee included the late HAP issue on its Oversight Plan for the 110th Congress. NAHMA believes continued oversight by the authorizers and appropriators will be necessary to resolve this problem.

In a new report released by GAO in April, 2007, "Project-Based Rental Assistance: HUD Should Update Its Policies and Procedures to Keep Pace with the Changing Housing Market," (GAO–07–290), GAO documented serious consequences of late HAP payments:

"Owners told us that when they did not receive payments on time, they often had to use reserve funds to cover critical operating expenses, leading to cash flow problems. During these periods, some owners delayed needed maintenance to make up for the budget shortfall. For example, we found in our work for this current report that in Baltimore, a nonprofit owner of a project-based section 8 property for elderly residents delayed critical repairs to the boiler system when the payments were delayed. The owner used reserve funds that should have been used for repairs to cover operating costs. This situation contributed to a lower physical REAC score for the owner because the boiler was in need of repair."

NAHMA has also come to the unfortunate conclusion that legislation will probably be necessary to solve the problem once and for all. Not surprisingly, we are unequivocal in our position that HAPs must be paid to owners on time and in full. Ideally, we believe HUD should pay a penalty to owners when HAPs are late, just as owners must pay late fees on missed mortgage and /or utility payments which result from the late HAP. We will seek legislation which requires HUD to implement GAO's late HAP recommendation to notify owners when payments will be late, requires HUD to automatically approve releases from reserves when the HAP is 10 days late, and penalizes HUD for late HAP payments to owners. Where HAP payments are not made in a timely manner, our members feel strongly that HUD should pay interest on the late HAP payments—just as the owners must pay a penalty for late mortgage payments. Moreover, when owners must use reserve for replacement funds to sustain the property until the HAP payment is received, interest earned on the reserves is lost.

We believe a precedent for penalizing late HAP payments exists in Treasury's Prompt Payment Rule, which ensures that Federal agencies pay vendors in a timely manner. Prompt Payment assesses late interest penalties against agencies that pay vendors after a payment due date. This rate was established under the Contract Disputes Act and is referred to as the "Renegotiation Board Interest Rate," the "Contract Disputes Act Interest Rate," and the "Prompt Payment Act Interest Rate." For more information, please see http://www.fms.treas...gov/prompt/index.html. While we understand that HAP payments are subject to annual appropriations, we do not believe the legislative intent of such policy was to delay payments from days to sometimes months at a time. I would welcome the opportunity to discuss our proposed solution with the subcommittee at length.

Finally, it is in the context of HUD's questionable funding request for project-based section 8 and chronic late payments of HAP contracts that I respectfully ask the subcommittee to consider NAHMA's request for assistance in implementing HUD's Limited English Proficiency (LEP) guidance. HUD published its final LEP guidance, "Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons," in the Federal Register on January 22, 2007. It became effective on March 7, 2007. The term "limited English proficiency" refers to inability to read, write, or speak English well. Among other things, the LEP guidance obligates affordable housing owners to provide translated "vital documents" and interpretation services to persons with limited English proficiency. It also places responsibility on the owners to ensure competency of translators/interpreters and accuracy of the translations. The guidance was issued pursuant to Executive Order 13166, which directed Federal agencies to issue guidance clarifying how recipients of Federal funds are supposed to satisfy their obligation under Title VI of the Civil Rights Act of 1964 to ensure meaningful access to their programs by persons with limited English proficiency (LEP).

NAHMA supports HUD's goal of ensuring that persons with LEP have access to Federal programs. In fact, many individuals with limited English proficiency already live in properties owned or managed by NAHMA members. It is the methods HUD has proposed to advance the goal we find highly problematic. For example, no additional funding has been proposed to offset the cost of complying with this guidance. Feedback from NAHMA members suggest translating documents could cost $10,000 per language per property. Many properties are already stretching funds just to meet the ever-increasing regulatory requirements and to maintain the physical condition of properties. Furthermore, HUD has resisted suggestions to issue a specific, definitive list of "vital documents." The owner is left to guess which property-specific documents could be considered vital in legal proceedings and then translate them at the project's expense. Likewise, the guidance says the owner is responsible for ensuring the accuracy of translations and competency of the translators or interpreters. Generally speaking, the management of affordable housing bears no relationship to linguistic abilities, translation services or the ability to differentiate between high quality interpretation and inadequate interpretation. To impose this requirement on housing providers is no less burdensome than asking them to become practitioners of some other profession requiring years of extensive training and specialized personal abilities. We strongly believe HUD should provide any necessary translations and/or oral interpretation services directly to LEP persons.

We urge the subcommittee to include language in the fiscal year 2008 HUD appropriations legislation which will provide funding (either through new appropriations or reprogramming from existing accounts) for standardized translations and a toll-free interpretation hotline service to assist persons with limited English proficiency. We believe the standardized translations should include both official HUD documents, as well as any unofficial documents used by a recipient of the agency's funding to support the HUD program. NAHMA strongly believes responsibility for producing the translations and providing interpreters should be shifted from housing providers to HUD. The suggested duplication of effort by small, medium and large housing providers will result in multiple translations of the same document with inconsistent quality. A reasonable compromise would make HUD responsible for identifying vital documents and producing standard translated versions of those documents. A single translation produced by HUD will better serve individuals with limited English proficiency. There would be more consistency and better control over the accuracy, which will provide LEP persons with quality translations. Standard translations produced by HUD represent a more cost-effective approach to satisfying the goal of ensuring persons with Limited English Proficiency have meaningful access to Federal housing programs. Furthermore, professional interpreters available through a HUD-provided hotline service and trained in HUD's programs would offer a win-win alternative to the current proposal.

In conclusion, NAHMA appreciates that the subcommittee has a very difficult task ahead in balancing many competing priorities in a climate of tightened budgets. As you make these difficult determinations, please continue to reject outright cuts to Federal multifamily housing programs. NAHMA respectfully requests that the subcommittee provide full funding for all authorized section 8 vouchers. Please also fully fund contract renewals for project-based section 8, and continue legislative oversight to end the problem of late HAP payments. Likewise, we urge the subcommittee to at the very least increase appropriations for the section 202, section 811, HOME and CDBG programs at the rate of inflation. Please resist any proposed cuts to these important programs.

Thank you for your consideration.

Prepared Statement of the National Council of State Housing Agencies

Chairman Murray, Ranking Member Bond, and members of the subcommittee, the National Council of State Housing (NCSHA) is pleased to provide you testimony on our fiscal year 2008 HUD funding priorities. NCSHA represents the Housing Finance Agencies (HFAs) of the 50 States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. We appreciate your continued commitment to affordable housing and consideration of our views.

State HFAs are full partners with HUD in the delivery of affordable housing programs. HFAs administer the HOME Investment Partnerships program (HOME) in

41 States. They administer the section 8 Housing Choice Voucher Program in 21 States and project-based section 8 contracts in 43 States. Many HFAs administer homeless assistance. Forty-three participate in FHA mortgage insurance programs.

In addition to administering HUD programs, HFAs allocate the Low Income Housing Tax Credit (Housing Credit) and issue tax-exempt private activity single-family Mortgage Revenue Bonds (MRBs) and multifamily housing bonds. HFAs often use HOME and other HUD programs in combination with the Housing Credit and Bonds to extend their reach to even lower income families.

NCSHA urges Congress to increase total HUD funding this year. In recent years, HUD has borne more than its share of budget cuts. Since 2001, HUD funding as a percentage of total discretionary spending has declined 20 percent.

Today's HUD budget is a fraction of what it would have been had it just kept pace with inflation since 1976. In the last 31 years, HUD's budget authority has barely grown from $29.2 billion in 1976 to $36.6 billion in 2007, despite the steady rise in the number of families needing affordable housing in this country. If HUD's budget authority had grown at the rate of inflation since 1976, today it would be $88.2 billion.

Increased funding is sorely needed. According to Harvard's Joint Center for Housing Studies, 15.8 million—nearly one in seven—American families spend more than half of their incomes on housing. Eighty percent of these families have incomes in the bottom fifth of the income distribution scale.

The country is losing more affordable rental housing than it is producing each year to deterioration, rent increases, and conversion to market-rate housing or commercial use. The threat of further losses looms as Federal subsidy contracts on hundreds of thousands of apartments expire each year, and mortgages on thousands more become eligible for prepayment.

Recognizing that budget constraints will prevent Congress from providing funding adequate to address all our housing needs, NCSHA urges Congress to prioritize increasing HOME formula grant and voucher funding.

INCREASE HOME FORMULA GRANT FUNDING

NCSHA appreciates the subcommittee's continued support of the HOME program. HOME enjoys strong bipartisan support throughout Congress.

Since Congress created the HOME program more than 15 years ago, it has financed more than 1 million affordable homes, helping nearly a half million homeowners and just as many renters. Every year, HOME funds are used to provide housing assistance to more than 100,000 additional families.

HOME continues to be a wise investment and one of the most successful HUD programs available to States and localities. According to HUD, HOME production last year exceeded 140,000 units nationwide. Still, HOME participating jurisdictions (PJ) need much more HOME funding than they receive to meet the demand for it.

The administration proposes to increase HOME funding to $1.97 billion in fiscal year 2008, a 12 percent increase over the fiscal year 2007 HOME appropriation. It recommends a 10 percent increase in the State and local HOME formula grant to $1.85 billion.

The administration's proposal does not make up for funding cuts HOME has suffered since 2004. In fiscal year 2006, Congress cut HOME funding overall by 7.5 percent and the HOME formula grant by 6 percent, even though the House and Senate provided higher funding levels. The fiscal year 2006 funding cut came on top of a 5.3 percent reduction in fiscal year 2005. fiscal year 2007 HOME funding remains frozen at the fiscal year 2006 levels, the lowest since fiscal year 2000.

NCSHA urges Congress to restore HOME funding to at least its fiscal year 2004 level of $2 billion, adjusted for inflation. Adjusted for inflation since fiscal year 2004, the fiscal year 2008 funding level for HOME would be $2.24 billion.

During tight budgetary times as these, HOME is a particularly sound investment. State HFAs are able to direct scarce HOME funds where they will have the greatest impact meeting the States' most pressing low-income housing needs. PJs may use HOME funds for rental production, tenant-based rental assistance, homeowner rehabilitation, and down payment assistance. HOME funds can also be targeted to the elderly, persons with disabilities, extremely low-income, and working families.

We also strongly urge Congress to put every available HOME dollar into the formula grant and not set-asides like the American Dream Downpayment Initiative (ADDI) or Housing Counseling. Such set-asides take away State flexibility and impose Washington dictates that may not address States' highest priority needs. Also, PJs already can and do use HOME formula grant funds for down payment assistance.

INCREASE HOUSING CHOICE VOUCHER FUNDING

NCSHA also calls on Congress to increase voucher funding to fully fund all authorized vouchers and provide for new incremental vouchers. The administration proposes to provide $16 billion for vouchers in fiscal year 2008, less than 1 percent more than the fiscal year 2007 appropriation of $15.9 billion.

This amount would not be enough to renew all vouchers already in use. At a minimum, Congress must fully fund all vouchers in use. We urge Congress also to fully fund all authorized vouchers.

Vouchers assist some of our neediest families. With the help of vouchers, other important housing programs such as HOME, the Housing Credit, and Bonds are able to reach more low-income families than they can independently. In fact, the financial viability of some HOME, Credit, and Bond developments depends on vouchers. Adequately funding all authorized vouchers will help ensure the stability and longevity of these developments.

In addition, we urge Congress to provide for new incremental vouchers so we can help some of the millions of families who qualify for voucher assistance, but do not receive it. According to the Joint Center for Housing Studies, more than 7 million low-income renters pay more than 50 percent of their income for housing. Three-quarters of all families eligible for housing assistance do not receive any. Yet, Congress has not funded any new incremental vouchers since 2002.

To make matters worse, HUD has distributed the voucher funding Congress has provided to PHAs under a formula based on limited and outdated utilization data from May, June, and July 2004. Under this so called "three-month snapshot" formula, some public housing authorities (PHAs) have received too little funding to renew all vouchers in use, and others have received more than they are authorized to use.

According to the Center on Budget and Policy Priorities, the funding shortages and misallocations have caused the number of families served since February 2004 to drop significantly. Over this period, HUD has provided vouchers to 150,000 fewer families than it would have if all authorized vouchers had been fully funded.

NCSHA thanks the subcommittee for recognizing the problems created by the outdated funding formula. The formula changes Congress made in the fiscal year 2007 joint funding resolution, with your support, were a step in the right direction. Under the resolution, HUD will calculate voucher funding allocations on the most recent 12-month utilization and cost data available, adjusted for cost increases, rather than the old 3-month snapshot.

It is essential that Congress ensure HUD allocate whatever voucher funds are available according to a fair formula. We recommend the subcommittee make permanent the 1-year funding formula changes that Congress called for in the fiscal year 2007 appropriations bill and make other important allocation improvements, including directing HUD to reallocate unused funds from low utilization PHAs to high utilization PHAs and giving PHAs access to up to 2 percent of their next year's allocation to absorb temporary overleasing costs.

SUPPORT INCREASED AFFORDABLE HOUSING PRODUCTION

To meet the country's ever-growing housing needs, we must devote more Federal resources to producing new affordable housing and preserving the current housing stock. Existing resources are simply not sufficient.

States administer a number of successful programs that produce affordable rental housing, including the Housing Credit, HOME, and multifamily tax-exempt bonds. While these programs are extremely effective, they were not designed to meet the needs of households at the bottom of the income spectrum without additional rental subsidies. At their current funding levels, they cannot adequately address our country's huge unmet affordable housing needs.

We urge you to work with your authorizing committee colleagues to authorize and fund a new resource for increasing affordable rental housing production. Such a resource could be combined cost-effectively with other existing production resources to extend their reach to even lower income families.

PREPARED STATEMENT OF THE NATIONAL LOW INCOME HOUSING COALITION

The National Low Income Housing Coalition (NLIHC) is pleased to submit testimony on the fiscal year 2008 Department of Housing and Urban Development. We would also like to thank the subcommittee for its series of hearings on the fiscal year 2008 HUD budget.

NLIHC is dedicated solely to ending the affordable housing crisis in the United States. Our members include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing agencies, private developers and property owners, housing researchers, local and State government agencies, faith-based organizations, residents of public and assisted housing and their organizations, and concerned citizens. NLIHC does not represent any sector of the housing industry. Rather, NLIHC works only on behalf of and with low income people who need safe, decent, and affordable housing, especially those with the most serious housing problems. NLIHC is entirely funded with private donations.

The need for more affordable housing is indisputable. The nationwide shortage of rental homes for extremely low income households, which are composed of elderly and disabled people on fixed incomes or people in the low wage workforce, is acute and getting worse. In the United States, there are 9,022,000 extremely low income renter households and only 6,746,000 homes renting at prices these households can afford, paying the standard of 30 percent of their income for housing. In Washington, there are only 31 affordable and available units to every 100 extremely low income renter households who could afford them. In Missouri, there are only 46 affordable and available units for every 100 extremely low income renter households.[1]

This lack of affordable housing forces 74 percent of extremely low income renters to pay more than half of their incomes toward their homes, compared to 26 percent of renters in any income group.[2]

NLIHC firmly believes in the potential for federal housing programs to address these types of housing affordability problems through a variety of housing programs targeted to the lowest income households.

NLIHC urges the subcommittee to provide full funding for the voucher program, including language that tenant protection vouchers must replace all units leaving the affordable housing inventory, not just for those units under lease. The Center on Budget and Policy Priorities estimates that the President has requested between $300 and $600 million less than what will actually be needed to renew existing vouchers in fiscal year 2008.[3]

We appreciate the many improvements made to the section 8 housing choice voucher program in the fiscal year 2007 funding resolution. NLIHC is encouraged by legislation in the House, H.R. 1851, which would also fix the voucher funding formula while providing other welcome reforms to the program. It is our hope that this legislation will be enacted before fiscal year 2008 begins. If not, we hope that funding formula fixes will be included in the HUD fiscal year 2008 bill.

NLIHC rejects the President's policy proposal to lift voucher agencies' authorized voucher caps. NLIHC firmly believes such action would be tantamount to creating a block grant and that no one, including Congress, HUD and advocates, would know the number of vouchers in use locally or nationally. It is also apparent that many housing authorities have not expended funds up to their authorized cap so we are very doubtful that lifting the cap would result in any significant increase, if we could even hope to measure it, of vouchers in use.

In addition to assuring the current voucher program is on solid ground to restore all vouchers lost since 2004, NLIHC urges the subcommittee to include funding for 100,000 new, incremental vouchers in fiscal year 2008. Such action would be a meaningful, much-needed step toward meeting the Nation's housing needs and would signal the subcommittee's belief that the reliability and credibility of the voucher program have been re-established.

NLIHC is concerned about the President's request for section 8 project-based contract renewals and urges the subcommittee to seek additional data from HUD to ensure that all section 8 project-based contracts are renewed in fiscal year 2008. Preliminary analysis shows 1,004,529 units with section 8 project-based contracts expiring in fiscal year 2008 at a cost of at least $5.92 billion. But, the President has only requested $5.52 billion for renewals, a shortfall of at least $400 million. This is potentially exasperated by a recent HUD general counsel decision that, counter to HUD's previous practices, HUD cannot renew project-based contracts for terms fewer than 12 months.

The Nation's 1.2 million units of public housing are in need of immediate attention and increased funding in fiscal year 2008. NLIHC urges the Subcommittee to increase both public housing operating and capital funding to levels that will restore

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[1] Pelletiere, D. (2007). American Community Survey estimate shows larger national, State affordable rental housing shortages. Research Note No. 07–01. Washington, DC: NLIHC.

[2] NLIHC tabulations of 2005 American Community Survey PUMS.

[3] Sard, B. and Rice, D. (2007) Memorandum to Interested Parties on administration's proposed housing budget for fiscal year 2008. Washington, DC: CBPP.

financial and physical stability to these homes. Adequate funding is the only way these homes can be preserved for their target population. NLIHC supports at least $4.7 billion for operating funds and at least $3.5 billion for capital funds in fiscal year 2008.

NLIHC supports Resident Opportunity and Self Sufficiency funding of at least $55 million in fiscal year 2008 to help ensure that residents are prepared to participate in the public participation opportunities available to them.

NLIHC continues to have serious concerns about the HOPE VI program. NLIHC is hopeful that forthcoming legislation in the House will require that each public housing unit revitalized with HOPE VI funds will be replaced with a public housing unit and that residents will have a universal right of return to the revitalized housing. Without these and other improvements to the HOPE VI program, NLIHC believes that, if the HOPE VI program continues to be authorized in fiscal year 2008, any public housing revitalization funds would be better appropriated through the public housing capital fund.

NLIHC also urges the subcommittee to adequately fund HUD's research functions, with particular attention to fully funding its core housing market and program data collection, research, and policy evaluation functions that are necessary to inform the public debate on the most effective solutions to housing affordability and quality problems.

NLIHC urges adequate funding for HUD's other core programs, including homeless assistance grants, Community Development Block Grants, HOME, section 202 supportive housing for the elderly, section 811 housing for persons with disabilities, Housing Opportunities for Persons with AIDS, fair housing and lead-based paint hazard reduction.

NLIHC urges the subcommittee to fund all provisions of H.R. 1227, the Gulf Coast Hurricane Housing Recovery Act. H.R. 1227, which passed the House on March 21 with a large bipartisan majority, would do much towards assuring the replacement of housing for low income people in the gulf coast and providing a long-term housing solution to the over 150,000 families that remain displaced. It is a concrete, long-term plan to address the critical housing needs of those displaced households that remain in trailer camps and other temporary housing arrangements, and must be funded through the fiscal year 2008 appropriations bill. It is our hope that similar legislation will be considered in the Senate and that enactment will occur very soon.

Thank you for considering our views.

Prepared Statement of the National Alliance to End Homelessness

The National Alliance to End Homelessness (the Alliance) is a nonpartisan, non-profit organization with several thousand partner agencies and organizations across the country. The Alliance supports the over 160 State and local entities who have completed 10 year plans to end homelessness. The Alliance represents a united effort to address the root causes of homelessness and challenge society's acceptance of homelessness as an inevitable by-product of American life.

OVERVIEW

The story of homelessness over the past decade has been one of communities innovating and improving their homeless assistance systems under the increasing strain of a worsening housing crisis. Reducing homelessness will require Congress to do two things:

- —Increase funding for Homeless Assistance Grants to $1.8 billion and support performance driven, cost-effective solutions to homelessness like permanent supportive housing and rapid re-housing programs.
- —Increase the supply of affordable housing for extremely low income households.

HOMELESSNESS

Widespread homelessness did not always exist. Between WWII and the 1980s, the sight of people living in shelters, cars, churches, on the streets, or in the woods was exceptionally rare. However, throughout the 60s, 70s, and 80s, deinstitutionalization, powerful new illegal drugs, a shifting economy, and, most importantly, a declining supply of affordable housing, caused the homelessness we see today.

Over the course of a year, as many as 3.5 million people will experience homelessness. The most recent nationwide estimate of the size of the homeless population found that at one point in January 2005, 744,000 people were homeless. Of those, 171,000 were chronically homeless. An additional 304,000 were in families with children. Despite the fact that the count was conducted during the coldest month of the year, 331,000 homeless people, 44 percent of the total, were unsheltered. Homelessness was prevalent in every region of the country, in urban, suburban, and rural areas.[1]

Though the problem is very large, and seems intractable, we know that homelessness can be ended. Indeed, a nationwide movement to end homelessness has begun. Nearly 300 communities have completed or are working on 10 year plans to end homelessness. Many places are already showing success. Here are just a few examples:

—Portland, Oregon—the number of people sleeping on the streets declined by over 40 percent from January 2005 to January 2007.

—San Francisco, California—Between 2002 and 2005, the city reduced the number of people sleeping on the streets by 40 percent, and the total number of homeless people by 28 percent.

—Columbus, Ohio—Between 1997 and 2005, the number of homeless families declined by 44 percent.

These remarkable results were accomplished because of two major shifts in the way communities serve homeless families and individuals—permanent supportive housing for chronically homeless individuals and rapid re-housing for homeless families.

PERMANENT SUPPORTIVE HOUSING

About 23 percent of homeless people experience chronic homelessness. They are homeless for years or even decades, or they cycle between homelessness, psychiatric hospitals, jails, prisons, detox programs and emergency rooms. For that group, most of whom have one or more severe disabilities, homelessness is extremely harmful and very costly to the public. Numerous studies have shown that providing permanent supportive housing to chronically homeless people ends their homelessness, improves their mental and physical health, and saves thousands of dollars per person by reducing the need for shelter, detoxification, hospitalization, emergency rooms, and incarceration.[2] In Denver, Colorado, permanent supportive housing saved $2,300 per person per year, and in Portland, Oregon, permanent supportive housing saved $15,000 per person per year.

Congress, the administration, the bipartisan Millennial Housing Commission and numerous researchers and advocacy organizations have identified a need for 150,000 units of permanent supportive housing over 10 years targeted to chronically homeless individuals. Combined with better prevention policies, these units would end chronic homelessness in the United States.

RAPID RE-HOUSING

While chronic homelessness has received more attention in recent years, communities have also been making great strides in serving homeless families. Most homeless families have very similar characteristics to other poor families with similar levels of education and similar rates of mental illness or depression. Most of these families struggled to pay for housing in an increasingly unaffordable rental market and then experienced some crisis, like domestic violence, a job loss, or a medical problem, that eventually led to their homelessness.

Recently, the Alliance studied some communities that had reduced family homelessness to identify the key ingredients to their success.[3] The success stories included the following:

—Hennepin County, Minnesota—From 2000 to 2004, the number of families experiencing homelessness declined by 43 percent.

—Westchester County, New York—The number of families needing shelter declined by 57 percent over a 2 year period.

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[1] Homelessness Counts. National Alliance to End Homelessness. January 2007. Washington, DC.

[2] The two studies compared the cost of health care, incarceration, emergency shelter, and other publicly funded care for chronically homeless individuals before and after entering permanent supportive housing. Denver source: Denver Housing First Collaborative: Cost Benefit Analysis and Program Outcomes Report, Jennifer Perlman, PsyD, and John Parvensky, Colorado Coalition for the Homeless. December 2006. Portland source: Estimated Cost Savings Following Enrollment In The Community Engagement Program: Findings From A Pilot Study Of Homeless Dually Diagnosed Adults. Thomas L. Moore, Ph.D. Central City Concern. June 2006. Portland, OR.

[3] Promising Strategies to End Family Homelessness. National Alliance to End Homelessness and Freddie Mac. June 2006. Washington, DC.

—Massachusetts—From 2002 through 2006, the number of families experiencing homelessness declined from 1,600 each night to 1,338.

The common ingredient in these and other successful communities is that they help families move back into permanent housing as rapidly as possible, and then provide services to help them stabilize and focus on their longer term needs. These rapid re-housing strategies reduce spells of homelessness from several months to several weeks, and when families at high risk of homelessness are identified early enough, they can prevent homelessness altogether.

FUNDING NEEDS FOR HOMELESS ASSISTANCE

To help communities make sufficient progress in their efforts to end homelessness, the Alliance recommends a funding level of $1.8 billion for Homeless Assistance Grants.

While some cities have already made remarkable progress reducing homelessness, all of them are at a critical juncture. They have developed 10 year plans to end homelessness, brought in new partners, identified cost-effective strategies, and located some potential sources of funding. Many have made significant commitments of State, local and private dollars. They are, however, counting on the Federal Government to be an active partner in their efforts.

The administration's fiscal year 2008 budget request calls for $1.586 billion for HUD homeless assistance funding, an increase of $144 million from 2007. The Alliance estimates that the request would be sufficient to continue existing homeless activities, yet it would fund fewer than 8,000 new units of permanent supportive housing. While this is slightly more than has been funded in the last 2 fiscal years, it is still well below the pace of new units funded between 2001 and 2004, and only a little over half the number needed to fund the 15,000 units needed each year to be on track to end chronic homelessness in 10 years. The administration's request would do nothing to help communities implement rapid re-housing programs for families, even as a growing body of research is showing that those programs are the best way to end homelessness for most families.

An appropriation of $1.8 billion would help communities make progress on their 10 year plans to end homelessness by accomplishing the following:

—Fund all expiring permanent housing renewals, which by themselves will increase by $65 million between 2007 and 2008.

—Provide $25 million to communities to set up cost-effective programs to help homeless families move into permanent housing.

—Fund 15,000 new units of permanent supportive housing, helping put communities on track to create the 150,000 units needed to end chronic homelessness.

POLICY NEEDS FOR HOMELESS ASSISTANCE PROGRAMS

For the past several years, Congress has implemented two policies that have helped make Homeless Assistance Grants a much more effective tool for ending homelessness:

—A 30 percent set-aside for permanent supportive housing for individuals and families with disabilities.

—Added funding for Shelter Plus Care renewals. Without the funding guarantee, people in permanent housing were in jeopardy of losing their housing.

The policies allowed communities to develop 50,000 units of permanent supportive housing over the past 6 years, and they should continue.

A similar initiative is needed to help end homelessness for the roughly 600,000 families who are homeless each year. The Alliance recommends that Congress provide an incentive within HUD's homeless assistance grants for rapid re-housing programs that focus on helping homeless families move into permanent housing as quickly as possible; provide flexible short-term housing assistance as needed; and provide follow up support to ensure stability and prevent future homelessness.

By increasing HUD's homeless assistance grants to $1.8 billion, continuing policies that create permanent supportive housing, and initiating policies to encourage rapid re-housing for homeless families, Congress will help communities take critical steps in their efforts to end homelessness.

INCREASING AFFORDABLE HOUSING

This Nation will continue to have homelessness until we address our affordable housing shortage. The link between affordable housing and homelessness can be summed up very simply. In 1970, there were 300,000 more affordable housing units available nationally than there were low-income households that needed to rent them.[4] As result, there was not widespread homelessness. Many people had mental illness, addictions, poor educations and low incomes, but they could still afford a place to live. Today, the situation is reversed. In 2003, there were 5.4 million more low-income households than there were affordable housing units available to them.[5] Although the problem exists for all low-income households, it is especially acute for those with extremely low incomes.

The new Congress faces an extremely difficult budget climate. Even so, investing in more affordable housing is economically sensible. Many of the challenges our Nation faces—homelessness, concentrated poverty, inefficiencies in health care and mental health, high rates of recidivism in the criminal justice system, failing schools, and others—are exacerbated by the lack of affordable housing. The Alliance joins many of our partners in the affordable housing community in recommending further strengthening and expanding the Housing Choice Voucher program, ensuring that public housing is fully funded and continues to be a valuable housing resource, and creating more affordable housing through a National Housing Trust Fund and other mechanisms, particularly for extremely low income households.

PREPARED STATEMENT OF THE AMERICAN ASSOCIATION OF HOMES AND SERVICES FOR THE AGING (AAHSA)

AAHSA members serve 2 million people every day through mission-driven, not-for-profit organizations dedicated to providing the services people need, when they need them, in the place they call home. Our members offer the continuum of aging services: assisted living residences, continuing care retirement communities, nursing homes, senior housing facilities, and home and community based services. AAHSA's mission is to create the future of aging services through quality the public can trust. Over half of our members develop, own or operate federally subsidized senior apartment buildings and AAHSA represents the majority of HUD section 202 senior housing providers.

GROWING NEED FOR AFFORDABLE SUPPORTIVE SENIOR HOUSING

The senior population in the United States is expected to double by 2030 to approximately 70 million seniors. The Commission on Housing and Health Facility Needs for Seniors in the 21st Century, in its report to Congress, estimated that an additional 730,000 assisted units would be needed by 2020 to meet the needs of low income seniors. Today more than 5.8 million of non-institutionalized people age 65 and older require assistance with everyday activities and about 1.2 million are severely impaired and require assistance with three or more activities of daily living (ADLs).

The HUD section 202 Supportive Housing for the Elderly program funds capital development grants, rental assistance contracts and other programs, directed to non-profit housing sponsors to develop and maintain safe, decent, affordable, supportive housing for seniors living on very-low incomes. Today more than 300,000 seniors rely on section 202 housing for an affordable, supportive living environment. The average section 202 resident is 79 years old and has less than $10,000 per year in income and needs some form of supportive assistance.

In a recent survey of section 202 property managers, AARP reported there are at least 10 seniors waiting for every unit of section 202 affordable elderly housing that becomes available. Furthermore, elderly residents comprise a growing segment of many of HUD's programs. Seniors make up one third of the public housing population and one half of section 8 voucher holders. With the average cost of assisted living more than $3,000 per month, low income seniors have few options beyond nursing home care for supportive housing outside of the HUD programs.

Level funding, across the board cuts and increased construction and rental assistance costs means that fewer section 202 units are being built each year. The section 202 program appropriations funded 5,819 units in fiscal year 2002, 5,689 in fiscal year 2003, 5,353 units in fiscal year 2004; 4,681 in 2005; 4,313 in 2006 and 3,667 in fiscal year 2007. Under the administration's proposed budget just 3,000 units will be built in fiscal year 2008.

To make matters worse, we are losing ground. Existing affordable housing units are being lost to market rate conversion and contract opt-outs. The Joint Center for Housing found that for every unit of affordable housing we build, two are lost. The

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[4] In Search of Shelter: The Growing Shortage of Affordable Rental Housing. Daskal, Jennifer. June 1998. Paper. Center on Budget and Policy Priorities, Washington, DC.

[5] The State of the Nation's Housing: 2006. Joint Center for Housing Studies for Harvard University. June 2005. Cambridge, MA.

National Housing Trust estimates that almost 15,000 federally-assisted elderly units have been lost to conversion and another 82,900 remain "at risk."

SUPPORTIVE HOUSING AS PART OF THE CONTINUUM OF CARE

Affordable senior housing, such as section 202, can serve as an integral part of the continuum of care and avoid premature, inappropriate, unnecessary and costly institutionalization for seniors that do not want to leave their communities. In addition, section 202 housing sites provide a proven and cost-effective infrastructure system for service delivery for residents, as well as the community at large. Sites often serve as a base for the delivery of home and community based services from meals to health screenings to Older Americans Act programs.

Failure to invest in the section 202 program will add to the ongoing crisis in our long-term care system, forcing low-income seniors into institutions if they want to have a roof over their heads and access to meals and services. The section 202 program is a model of a public-private partnership that maximizes efficiency and quality in Federal housing programs. The administration has called on faith and community based groups, such as AAHSA's members, to be more involved in providing essential services for low-income citizens. They cannot respond to this call with continuous funding cuts.

—On behalf of our members, their residents and families, AAHSA strongly urges Congress to fund 10,000 new section 202 units by providing $1.33 billion for fiscal year 2008. This amount would include funding for existing project rental assistance contract renewals and:
  —$1.18 billion for the development of 10,000 new section 202 units. This will not come close to meeting the existing, much less future housing needs, but it represents a first step to the unmet housing needs of thousands of seniors.
  —$20 million for section 202 Predevelopment Grants. If implemented properly, this program increases efficiency and streamlines the development process for not-for-profit organizations. These grants are needed to cover the costs of architectural and engineering work, site control and other planning relating to the development of section 202 housing.
  —$75 million for service coordinators grants so that there is staff to assist frail elderly residents with identifying and obtaining the services they need to aging in place and avoiding premature institutionalization.
  —$50 million for the Assisted Living Conversion Program (ALCP) to fund modernization and conversion of existing facilities to an "assisted living" level of care, facilitating residents' ability to age-in-place. AAHSA urges you to allocate $20 million of the amount to increase the number of affordable housing units with supportive services and $30 million for substantial and emergency capital repairs. Many of the properties are "aging in place" and recapitalization may not be feasible. This funding is essential to affordable housing preservation efforts.

In addition to funding the section 202 program, we urge Congress to fully fund all HUD programs and USDA housing programs that serve rural seniors. These housing facilities provide safe, decent, affordable options to our seniors and enable them to avoid homelessness or premature and more expensive placement in a nursing home.

—*Provide funding for additional section 8 Vouchers.*—Increased project basing of section 8 assistance will allow providers to house the lowest income seniors and preserve at risk properties with partial or no rental assistance. This cannot be done within the existing section 8 funding levels.

—*Fully fund the Community Development Block Grant Program (CDBG).*—This program provides crucial gap and infrastructure financing for section 202 developments, as well as paying for supportive services in section 202 properties.

—*Continue to fund the USDA section 515 Multifamily program and the HUD Rural Housing and Economic Development Program.*—These programs ensure that low income seniors and the disabled in rural communities have access to safe, decent housing and an infrastructure where supportive services can be delivered and thereby reduce premature nursing home admission.

—*Support increased project-basing of section 8 vouchers.*—Public housing authorities can provide up to 25 percent of their section 8 housing vouchers as project-based assistance to privately owned, new or rehabilitated housing that are otherwise without rental assistance. Public Housing Authorities should be encouraged to do so.

CONCLUSION

In light of the importance of affordable housing to low income seniors, we urge Congress to address the funding needs of section 202 and the entire HUD budget to guarantee all seniors have access to safe, decent, affordable housing. Last year the Senate Appropriations Committee took a monumental step to increase the funding for both the section 202 and 811 programs for the first time in years. Your leadership is crucial. The elderly and disabled populations need additional funding for supportive housing options outside of institutional settings. AAHSA and its members appreciate your continued support and look forward to working with you in the future throughout this process.

Prepared Statement of the Institute of Makers of Explosives

Dear Madam Chairwoman: On behalf of the Institute of Makers of Explosives (IME), I am submitting a statement for inclusion in the subcommittee's hearing record regarding the proposed fiscal year 2008 budget for the U.S. Department of Transportation (DOT).

INTEREST OF THE IME

The IME is the safety and security association of the commercial explosives industry. Our mission is to promote safety, security and the protection of employees, users, the public and the environment; and to encourage the adoption of uniform rules and regulations in the manufacture, transportation, storage, handling, use and disposal of explosive materials used in blasting and other essential operations. Commercial explosives are transported and used in every State. Additionally, our products are distributed worldwide, while some explosives, like TNT, must be imported because they are not manufactured in the United States. The ability to transport and distribute these products safely and securely is critical to this industry.

BACKGROUND

The production and distribution of hazardous materials is a trillion-dollar industry that employs millions of Americans. These products are indispensable to the American economy. In the explosives industry alone, the value of our shipments far exceeds the $1 billion in gross revenues credited to the industry. The transportation of hazardous materials involves producers and distributors of chemical and petroleum products and waste, transporters in all modes, and manufacturers of containers. DOT estimates that upward of 800,000 shipments and as many as 1.2 million regulated movements of hazardous materials occur each day in the United States. This represents over 10 percent of all freight tonnage transported. As a major export, the transportation of hazardous materials contributes positively to our trade balance. These products are pervasive in the transportation stream and in our society as a whole.

While these materials contribute to America's quality of life, unless handled properly, personal injury or death, property damage, and environmental consequences can result. The threat of intentional misuse of these materials also factors into public concern. To protect against these outcomes, the Secretary of Transportation (Secretary) is charged to "provide adequate protection against the risks to life and property inherent in the transportation of hazardous materials in commerce by improving" regulation and enforcement.[1] These regulations are to provide for the "safe transportation, including security," of hazardous materials in commerce.[2] The Secretary's authority to accomplish this mission is embodied in the Hazardous Materials Transportation Act (HMTA).[3] Beginning in the 1990s and most recently in 2005, the HMTA has been significantly amended. As a consequence of these amendments, Congress directed DOT to accomplish a number of tasks. How DOT has handled these responsibilities and how it proposes to handle them in the future is the focus of this statement.

The HMTA directs the Secretary to implement the law. In reality, the Secretary has dispersed authorities in the act to the various modal administrations, with primary regulatory authority resting in the Pipeline & Hazardous Materials Safety Administration's (PHMSA) Office of Hazardous Materials Safety (OHMS). OHMS issues the hazardous materials regulations (HMR). As noted above, the commerce of hazardous materials demands that OHMS have intermodal, as well as inter-

[1] 49 U.S.C. 5101.
[2] 49 U.S.C. 5103(b)(1).
[3] 49 U.S.C. Chapter 51.

national, expertise. It regulates a diverse community of interests and must constantly manage the tension between safety, security and efficiency in the transport of these materials in order to fulfill its mission to protect the public and the environment. The fiscal year 2008 budget presents challenges and opportunities to OHMS in accomplishing its mission.

Staff and Program Resources

We want to begin our comments with praise for the leadership team assigned PHMSA. We have seen palpable evidence of improved outreach, responsiveness, not present in prior years. We attribute the focus to the recent reorganization under the Norman Y. Mineta Research and Special Programs Improvement Act of 2004 and the management style of the current administration.[4] Administrator Thomas Barrett, VADM Ret., is committed to a ensuring a risk-based program that is developed in a manner that is inclusive and transparent to stakeholders.

As a result of the fiscal year 2007 continuing resolution, OHMS was denied a four FTE staff increase. The administration is again requesting these positions expand the number of field inspectors from 30 to 34.[5] We fully support Congress' approval of these new staff positions. This staff request is still below the number PHMSA estimates it would need to raise its inspection rate to the minimum it believes is necessary to maintain a credible enforcement presence. PHMSA's job is particularly challenging, compared to other modes, given the diversity of entities within the regulated community over which PHMSA has primary inspection responsibility.

We are concerned about a continuing high number of vacancies, over 15 percent of current FTP. Some of the vacancies can be attributed to end-of-year retirements and to inside promotions. The issue of staff vacancies is even more problematic given that "over one-third of hazmat employees will be eligible to retire within five years."[6] Every effort should be made to fill these necessary positions.

Performance Measures

We are delighted to see that the OHMS budget, including the Emergency Preparedness Grants Program, is credited with supporting the Secretary's "global connectivity" and "security", as well as the traditional "safety" strategic goal.[7] OHMS' international harmonization activities do contribute to "global connectivity," and we strongly advocated for recognition of OHMS' security mission since the enactment of the 2002 amendments to the HMTA. However, we are puzzled that the portion of the OHMS budget that is attributed to enhancing security is attributed to the emergency preparedness grants program (EPGP), rather than OHMS' rulemaking or enforcement accounts.[8] The EPGP program has nothing to do with security of hazmat shipments. The EPGP planning grants support a U.S. Environmental Protection Agency program concerning emergency releases of hazmat into the environment and the training grants are aimed at emergency responders.

To measure OHMS' progress to enhance safety, the agency sets as its primary measure to "reduce deaths, injuries, property damage and economic disruptions from hazardous materials transportation incidents."[9] In the past, we have been critical of PHMSA's budget submission because the only performance measure has been the reduction of serious incidents which we believe is influenced by the state of the economy as much as it is the quality, or lack thereof, of OHMS activities. We are pleased that OHMS has set some secondary measures of performance.[10] These include increasing response time to stakeholder requests for assistance, the number of exemptions to be issued in a timely manner, and the compliance rate for security plans.

In the past, there has been a dearth of information about the OHMS program output. We are pleased to see OHMS share statistics about compliance with security plans and reports of undeclared hazmat shipments, in addition to data about the number of serious hazardous materials incidents.[11] We hope that Congress will en-

[4] Public Law 108–426.
[5] Fiscal year 2008 PHMSA Budget Submission, page 42.
[6] Fiscal year 2008 PHMSA Budget Submission, page 44.
[7] Fiscal year 2008 PHMSA Budget Submission, pages 127–128.
[8] OHMS currently supports security rules concerning plans and training (see 49 CFR 172 subparts H and I) and has pending two security rulemakings concerning security-sensitive hazmats (HM–232F) and rail security (HM–232E).
[9] Fiscal year 2008 PHMSA Budget Submission, page 133.
[10] Fiscal year 2008 PHMSA Budget Submission, pages 40 & 42. "We will enhance the response time by 10 percent. . . . We will reduce the time for processing special permits and approvals by 10 percent. . . . It is our goal to have a non-compliance rate of less than 15 percent when [reinspecting] companies [for] security plan compliance. This will permit an estimated 7 percent increase in the regional [enforcement] level-of-effort."
[11] Fiscal year 2008 PHMSA Budget Submission, pages 42–3.

courage OHMS to baseline these data so that progress to meeting regulatory needs can be objectively measured over time.

PHMSA presents several output efforts under the aegis of the Emergency Preparedness Grants Program (EPGP).[12] Our concerns about the EPGP and these measures are discussed below.

Regulatory Backlog Reduction

OHMS should be commended for its efforts to reduce regulatory backlogs. Last year, OHMS had eight open dockets designated as "significant." This year only four from that list remain.[13] At the same time, OHMS has engaged in new rulemaking of significance to industry to better focus security plan requirements on security-sensitive hazardous materials that would be of interest to terrorists.

These rulemakings do not take into account rulemaking petitions, which OHMS has accepted but has not yet assigned to a specific rulemaking action. OHMS has pending 159 such rulemaking petitions, 53 more than last year at this time.[14] In addition, OHMS is in the ninth of a 10-year cycle to review the impact of the HMR on small entities and to determine, as a result of those impacts, which rules should be continued without change, amended, or rescinded, consistent with the objectives of applicable statutes. OHMS also takes this opportunity to receive comments to make the regulations easier to read and understand. These regulatory reviews were mandated by Congress pursuant to the Regulatory Flexibility Act (RFA).[15] OHMS has finalized two of its regulatory reform proposals based on RFA reviews, while one rulemaking is pending. We are still waiting to see how OHMS will use the information collected during other prior year reviews to improve the HMR.

While OHMS has historically processed over 200 hundred special permit requests annually—a commendable effort—the administration's budget request does not disclose information to assess the special permit workload. OHMS is under a statutory mandate to process special permits within 180 days. OHMS does periodically report in the Federal Register special permit requests it has received and those that it has failed to process within the statutory 180-day deadline. As an indicator of the effort OHMS has put forward in the last year to reduce backlogs, OHMS reported a monthly average of 56 special permit requests in process longer than 180 days during the first 3 months of 2006 and attributed over 87 percent of that delay to lack of staff resources given other priorities or volume of applications. In the first 3 months of this year, the monthly average of requests in process longer than 180 days fell to 13 and the percent attributed to lack of staff resources fell to 84 percent. While part of the backlog decline should be attributed to increased productivity, Congress extended the timeline for most special permit renewals from 2 to 4 years. CY 2006 was the first full year where the effect of this statutory change could be observed. A helpful workload indicator to the subcommittee may be the actual number of special permit requests received, the actual number processed, and of that number, the actual number processed within the statutory 180-day deadline set by Congress. As noted above, OHMS has set for itself a performance measure to "reduce the time for processing special permits and approvals by 10 percent."[16]

One aspect of the hazmat regulatory workload that continues to present concern is the processing of petitions for preemption. This activity is managed by the PHMSA Office of Chief Counsel. Two petitions for preemption determinations are currently pending. Neither these, nor any prior petition for preemption, have been processed within the congressionally mandated 180-day turnaround.[17] PHMSA' ability to swiftly deal with petitions for preemption is essential to the purpose Congress hoped to achieve in granting administrative preemption to DOT, namely that the preemption determination process would be an alternative to litigation.[18] A priority of the HMTA is to achieve greater regulatory uniformity. Essential to that objective is the ability to respond through the preemption determination process to inconsistent non-Federal requirements that "creat[e] the potential for unreasonable hazards in other jurisdictions and confound[] shippers and carriers which attempt to

[12] Fiscal year 2008 PHMSA Budget Submission, pages 121–2.
[13] 71 FR 73663–9 (December 11, 2006).
[14] http://dms.dot.gov/reports/PHMSA__report.cfin, March 19, 2007.
[15] Public Law 96–354, section 610 as amended.
[16] Fiscal year 2008 PHMSA Budget Submission, page 40.
[17] 49 U.S.C. 5125(d).
[18] In authorizing the preemption determination process, Congress found that "the current inconsistency ruling process has failed to provide a satisfactory resolution of preemption issues, thus encouraging delay, litigation, and confusion." H. Rept. 101–444, Part 1, page 21.

comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements." [19]

Hazmat Registration and Fees

We have appreciated the years of support and oversight the House and Senate Appropriations Committees have provided to ensure that fee collections have not been spent on activities above authorized amounts. The 2005 amendments to the HMTA have propelled us to a new era in the use and allocation of these fees. Over the objections of the regulated industry, the 2005 amendments to the HMTA nearly doubled the fees to be collected in support of the Emergency Preparedness Grant Program (EPGP) for States and Indian tribes, "train-the-trainer" grants for first responders, publication of the Emergency Response Guide (ERG), and, for the first time, grants to train hazmat employees. These fee increases will be effected in fiscal year 2008 for the 2008–09 registration year.

Current law requires that the fees be deposited into the Hazardous Materials Emergency Preparedness Fund (HMEPF) and allows OHMS to transfer these funds "without further appropriation." [20] The hazmat fee program was never intended nor could it be expected to generate the amount of funds necessary to meet the needs of communities or first responders for planning or training for transportation-related chemical, biological or radiological incidents. DOT's hazmat registration fees are not the only source of financial assistance available to States to support emergency preparedness and response and the safe and secure transportation of hazardous materials shipments. Congress has already provided more comprehensive, direct sources of funding for emergency response planning and training. Since 2001, the administration has provided nearly $37.5 billion to State, local, and tribal governments to enhance first responder preparedness of which $22 billion was allocated through DHS grant programs. This includes a total of $25.5 billion in support related to terrorism and catastrophic preparedness events, with $16.3 billion allocated through DHS. The fiscal year 2008 budget request proposes to add to these funds $2 billion in grants for first responder preparedness. These funds are in addition to the over $5 billion in funds that State, local, and tribal governments are raising and spending on their own. While these funds are not dedicated to hazardous materials planning and training, these activities are an allowable use of the assistance, and in fact, the majority of these funds are used to assist communities to address chemical, biological, and radioactive incidents. Planning and training to respond and recover from these hazardous materials releases, whether accidental or intentional, is the same. We do not believe that the hazmat registration program would ever generate the levels of revenue provided by other sources even if all subject to the OHMS fees were assessed the maximum amount authorized by law because smaller carriers would simply chose not to transport hazardous materials. For these reasons, it is important that the subcommittee continue to scrutinize the amount of hazmat fees that can be transferred from the HMEPF and to cap transfers at levels the subcommittee believes will be appropriately spent.

Thirty percent—$4 million—of the $13.5 million fee increase provided by the 2005 amendments is earmarked to train trainers of private sector hazmat employees or hazmat employees themselves. Prior to the 2005 amendments, this private sector training program was authorized only to train "trainers" and was funded from general revenues at $3 million per year. Hazmat employers have never advocated for a Federal appropriation for this training option. The HMTA is clear that hazmat employers are responsible for the training of hazmat employees. Yet, this program is of no benefit because the training provided is limited to that offered by non-profit hazmat employee organizations, organizations that are unlikely to be relied upon to provide the specific and specialized training each company is liable to provide to address its own unique hazmat environment. Any potential hazmat employee who availed themselves of such training from a third-party non-profit training organization would still have to be trained in his employer's hazmat operations. Furthermore, these funds are not needed to spur companies or organizations to get into the training business. There are a number of companies that offer hazmat training already. The real issue with private sector training is assessing the quality of the training that is available. Industry is already facing millions of dollars of additional fees for other aspects of the EPGP. This program amounts to a double taxation for hazmat employee training. Using industry fees for this purpose cannot be justified. If these funds will be made available for these purposes, we are pleased that OHMS has determined to make "the new grant program will be competitive." [21]

[19] Public Law 101–615, sec. 2.
[20] 49 U.S.C. 5116(i).
[21] Fiscal year 2008 PHMSA Budget Submission, page 123.

Emergency Planning and Training Grants

The purpose of the Emergency Preparedness Grants Program (EPGP) is to cover the "unfunded" Federal mandate that States develop emergency response plans and to contribute toward the training of emergency responders. Industry has contributed, through hazmat registration fees, nearly $183 million during the life of the grants program.[22] Since the events of September 11, 2001, we question whether or not the EPGP is the most efficient way to deliver hazmat training to the response community, especially in light of other viable alternatives to address these needs. Even OHMS admits that this program, at most, provides "funds that might not otherwise be available" to localities for training and planning for hazardous materials incidents.[23] Still, OHMS' characterization of the EPGP would have one believe that the funds are limited to planning and training to respond to transportation-related hazmat incidents only. There is no such limitation.[24]

We have, for a number of years, called for more accountability in the EPGP and more evidence of coordination among other similar Federal initiatives to ensure that all resources are used as efficiently and effectively as possible. We are not alone in our concern. In 2005, the Volpe Center issued a report making recommendations to better align grantee activities with program goals.[25] The 2005 amendments also directed OHMS to submit annual reports to Congress on the allocation and uses of the grants, identify the ultimate recipients and providing a detailed accounting of all grant expenditures as well as an evaluation of the efficacy of the programs carried out. OHMS was also directed to make this information available to the public.[26] However, no reports or information have been forthcoming.

The EPGP also restates the claim of the last several years that it will provide support to update and develop at least 3,000 emergency plans during fiscal year 2008.[27] The incredulity of this claim still warrants oversight. Using a productivity analysis alone, OHMS has not adjusted its workload output one iota since its request for funding this activity increased 63 percent.[28] Congress intended that the planning grants portion of the EPGP be used to "develop, improve, and carry out emergency plans under the Emergency Planning and Community Right-To-Know Act" (EPCRA).[29] EPCRA requires State coordinating commissions (SERC) to designate Local Emergency Planning Committees (LEPC) which were charged to develop localized plans for chemical emergencies, of which one type may be transportation-related hazmat incidents. So, it should come as no surprise that PHMSA sets as a measure of the impact of the EPGP a number of these emergency plans to be developed and updated. What is surprising is the target number of plans to be completed or updated. First, EPA estimates that the current number of LEPCs is about 3,500.[30] Each LEPC prepares one plan, so at most 3,500 plans would need support. Second, LEPCs were in existence before the inception of the EPGP. EPCRA was enacted in 1986 and has required LEPCs to have "complete" plans in place since the late 1980s. Once an LEPC's plan is "complete," based on acceptance by the LEPC's SERC, LEPCs are not required to "re-complete" these plans each year, although they are required to annually "review" their plans. Third, EPA last surveyed LEPC compliance in between October 1999 and February 2000.[31] At that time, the agency found that approximately 45 percent of responding LEPCs had completed plans and another 10 percent mostly complete. Furthermore, 24 percent of LEPCs had incorporated counterterrorism measures into their emergency response plans. Using these percentages, it would appear that 1,600 would be a more accurate projection

[22] Fiscal year 1992–2006, HMRP, DOT, October 6, 2006.
[23] Fiscal year 2008 PHMSA Budget Submission, page 121.
[24] 49 U.S.C. 5116(a) & (b).
[25] Hazardous Materials Emergency Preparedness Grants Program; Assessment of the alignment between local activities and program goals, John A. Volpe National Transportation Systems Center, for PHMSA, October 2005.
[26] 49 U.S.C. 5116(k).
[27] Fiscal year 2008 PHMSA Budget Submission, page 122.
[28] Prior to fiscal year 2007 when funding for the EPGP grants program was due to increase and, except for the fiscal year 2007 continuing resolution, would have, the project number of plans to be assisted was 3,000. With the funding increase, the number is still 3,000. [Inconsistencies in the budget submission, further underscore the need for oversight and accountability of this program. Compare page 122 (3,000 plans), with page 159 (5,000 plans) and page 160 (3,700 plans). Similar inconsistencies can be noted with regard to training first responders by comparing pages 159 and 160.]
[29] 49 U.S.C. 5116(a)(1)(A).
[30] http://yosemite.epa.gov/oswer/ceppoweb.nsf/content/epcraOverview.htm
[31] 1999 Nationwide LEPC Survey, George Washington University for EPA, May 17, 2000. http://yosemite.epa.gov/oswer/ceppoweb.nsf/vwResourcesByFilename/lepcsurv.pdf/$File/lepcsurv.pdf. EPA is preparing to update this survey with results available in the fall of 2007. 70 FR 54044 (September 13, 2005).

of the number of emergency plans to be completed, not 3,000.[32] Furthermore, it is unlikely, given EPA's assessment of "completed" and approved plans, that any significant portion of these plans are being reopened and revised.

Finally, OHMS claims that is will "plan and hold 15 annual, national monitoring and technical assistance sessions where grantees, responders and [LEPCs] members present program accomplishments and receive technical assistance from a team of Federal and non-Federal experts."[33] This ambitious schedule would require more than one "national" session per month, planned and supported for $13,333 per session. Irrespective of frequency or number of technical assistance meetings held, however, little is known about where the meetings are held, how many Federal and non-Federal personnel attend, for how long, exactly what is allowed to be reimbursed or spent with the $200,000 allotted for this purpose. As a fiduciary matter, the subcommittee may wish to explore this matter further.

OHMS' assertion that the training grants are "to ensure [that the LEPC] plans can be effectively implemented" is misleading.[34] There is no statutory limitation that these training funds can only be used to train on the implementation of the LEPC plans. No proof has ever been offered to this effect. Since the planning and training grantees are different entities, it would be highly unlikely that LEPC plan implementation would be the focus of the training first responders receive. In fact, local emergency preparedness training is based on an "all-hazards" approach. This approach requires communities to assure that emergency personnel have the training necessary to respond to a wide range of emergencies: intentional or naturally occurring infectious disease outbreaks; chemical, explosive or radiological accident or attack; weather-related disaster; or other emergency.

In contrast to the evidence that suggests the level of financial support needed for LEPC plans is waning, the needs of first responders for training significantly eclipse the amount available from the EPGP, which if funded at the level of the administration's request offers a grant package of only $13.7 million and, of that, only 75 percent is passed through to localities.[35] Given the plethora to other viable alternatives to address the needs of the response community, the EPGP is at best inconsequential, but more realistically, a program that has outlived its relevance and usefulness.

While the law provides that OHMS can expend industry's hazmat registration fees for the EPGP "without further appropriation,"[36] we would encourage the subcommittee to exercise its oversight to address these programmatic issues and concerns before handing over a blank check. The subcommittee has established congressional precedent in this area, setting caps on the amount of the fees that may be expended for the EPGP. As an indication of congressional concern that the LEPC set-aside may not be the best use of the new $9 million fee increase in the EPGP, the 2005 HMTA amendments provide discretion to DOT to limit or deny new funding. While allowing a 35/65 percent split of the new funds between the planning and training accounts, the law also provides that up to all of the increase may be allocated to the training portion of the EPGP.[37] Yet, the allocation proposed in the OHMS fiscal year 2008 budget submission does not reference the statutory latitude that the Secretary has to move funds from the planning to the training account nor does it describe any sort of analysis that would justify making no adjustment to the 35/65 split. OHMS should be asked to prioritize the needs and value of the planning and training portions of the EPGP to the safety and security of hazardous materials transportation.[38] The subcommittee should use this information to redirect the new $9 million allocation up to the maximum extent allowed.

Our efforts to address EPGP shortcomings with PHMSA have not been satisfactory. We believe that the subcommittee is best suited to demand a level of oversight that will continue annually and that will include a complete accounting of funds distributed and their use as know required by law, not the type of anecdotal "successes" that comprised so much of PHMSA's 1998 report to Congress on this program.

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[32] Not all LEPCs responded to the latest EPA survey. Even assuming that every one of the non-respondents had no plan, together with those known to have no plan or an incomplete plan, the number of plans needing completion would be 2,500, still under the 3,000 estimate provided for fiscal year 2008.

[33] Fiscal year 2008 PHMSA Budget Submission, page 121.

[34] Fiscal year 2008 PHMSA Budget Submission, page 121.

[35] Fiscal year 2008 PHMSA Budget Submission, page 23.

[36] 49 U.S.C. 5116(i).

[37] 49 U.S.C. 5128(b)(2).

[38] For example, how many first responders accessed their community's LEPC plan prior to responding to a recent hazmat transportation emergency?

Hazmat Intermodal Portal

PHMSA is proposing to increase funding to implement the Intermodal HAZMAT Portal. The Intermodal Portal is a DOT-wide data system that allows all modes to integrate "stovepiped date, to collaborate, and to monitor business processes."[39] This initiative was identified by DOT in 2000 and the OMB PART review.[40] We support this initiative. The transportation of hazardous materials is an intermodal enterprise. The Department cannot fully understand the issues facing this commerce without taking a systemwide view. Too often, modal responses to issues only shifts risk to other modes than may be less prepared to deal with them.

Program Funding Decreases

While we support the Hazmat Intermodal portal initiative, we are concerned about decreases in other OHMS operations. The budget request proposes to decrease funds for the research and analysis capacity necessary to support the development of new or the revision of existing regulations, to defer maintenance of and to defer the introduction of new features and enhancements to the Hazardous Materials Information System; and to scale back the package testing program.[41] We urge the subcommittee to restore these funding decreases.

Regulation is vital to the transport of hazardous materials. The HMR is structured so that hazardous materials do not move unless a department rule says it can move. Additionally, the industry is so large and diverse that the only way to ensure a level playing field is to hold industry to the same regulatory performance standards. These realities require that OHMS not only be heavily engaged in rulemaking, but the rulemaking process must be efficient. OHMS' research and analysis capability identifies safety and security gaps in the hazmat transportation system. In the risk analysis area, OHMS is heavily dependant on this capability to determine equivalent levels of safety in order to process what has been annually over 200 new special permit petitions.[42] If anything, OHMS rulemaking resources should be increased to ensure against regulatory backlogs.

We want to underscore the importance and necessity of the HMIS. This system supports PHMSA's key measurement of its goal to reduce deaths, injuries, property damage and economic disruptions from hazardous materials transportation incidents. The data collected and maintained in the database is not available from other sources. Not only does the HMIS allow OHMS to identify and analyze safety risks for regulatory purposes, it also (1) assists non-Federal governments to identify problematic routes; (2) can be used to focus enforcement efforts; (3) is used by industry in its risk management initiatives, and (4) can be used to defuse public concern about hazardous materials transportation by validating the extraordinary safety record of this industry, considering the potential of these materials to cause serious harm. If OHMS/PHMSA is to be a "data-driven" operation, this is not the account to cut.[43]

As noted, the transportation of hazardous materials is extensively regulated. A key component to the effectiveness of these regulatory schemes is credible enforcement. In order to determine what those needs may be, it is critical that the agency know who it is regulating. About 200,000 hazmat shippers, packaging manufacturers and testers are the focus of PHMSA's compliance efforts. This is a daunting universe to inspect with a cadre of 30, and hopefully soon 34, inspectors. However, key to credible enforcement is OHMS ability to test packagings. The packaging standards are the basis for the HMR. Packaging differs by the type and amount of material to be shipped. The packaging standards are DOT's assurance to the public that hazmat can move safely in transportation. In 1990, the PHMSA adopted internationally-recognized performance-based standards for the transportation of hazardous materials, in lieu of specification standards. The only way to ensure regulatory compliance is to test packagings. It is disingenuous for PHMSA to declare that one of the anticipated accomplishments for the 2008 fiscal year will be to "dedicate resources to testing new packagings against PHMSA's performance standard to

[39] Fiscal year 2008 PHMSA Budget Submission, page 46.

[40] "Departmentwide Program Evaluation of the Hazardous Materials Transportation Programs," Executive Summary, March 2000, pages xvi & xvii; and OMB PART recommendations No. 1 & 2, March 2005, fiscal year 2008 PHMSA Budget Submission, page 50.

[41] Fiscal year 2008 PHMSA Budget Submission, page 47.

[42] OMB Part Recommendation No. 4, March 2005, directs that PHMSA "develop a new efficiency measure that characterizes the time to issue special permits from the date of application," fiscal year 2008 PHMSA Budget Submission, page 50.

[43] Fiscal year 2008 PHMSA Budget Submission, page 6.

ensure that hazmat containers are adequate to meet safety requirements during transport," when the budget request cuts the agency's package testing program.[44]

CONCLUSION

The transport of hazardous materials is a multi-billion dollar industry that employs millions of Americans. This commerce has been accomplished with a remarkable degree of safety, in large part, because of the uniform regulatory framework authorized and demanded by the HMTA. Within the Federal Government, OHMS is the competent authority for matters concerning the transportation of these materials. Despite productivity that averages 40 administrative actions a day, this small agency still has a backlog of correspondence, rulemaking petitions, and technical applications for exemptions and approvals. We, therefore, strongly recommend full funding for OHMS.

Thank you for your attention to these issues.

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 2008 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 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 provide 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 2008 for four projects of importance to our Central Texas community:

[44] Fiscal year 2008 PHMSA Budget Submission, pages 39, 40 and 138.

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.

OAK HILL PARK AND RIDE FACILITY—$2 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 $2 million for this project.

URBAN COMMUTER RAIL CIRCULATOR VEHICLES—$2 MILLION

Capital Metro's 32-mile Urban Commuter Rail line will begin operations in 2008, serving 9 stations throughout Central Texas. Urban Commuter Rail circulator vehicles will serve each of the stations to transport passengers to and from their final destinations, connecting with the MetroRail. Capital Metro is seeking $2 million for this project.

PARATRANSIT SERVICE VEHICLES—$1 MILLION

Pursuant to, and in accordance with, the Americans with Disabilities Act, Capital Metro provides door-to-door van and sedan paratransit service throughout Central Texas for persons with disabilities and senior citizens. This $11.7 million (fiscal year 2007) program provides more than 500,000 rides each year. Capital Metro will be replacing many of the vans and sedans that serve this program, as they are retired during fiscal year 2008. This crucial funding will assist Capital Metro in ensuring the accessibility of transportation services for all Central Texans.

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 CITY OF 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 2008.

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 Infrastructure Development	$3,500,000
New Terminal Building	4,500,000
Fixed Base Operator (FBO) Facility	1,500,000
Total Request	9,500,000

The San Marcos Municipal Airport is a public general aviation airport classified as a reliever airport within the National Plan of Integrated Airport Systems. The airport is 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 U.S. 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 assistance to transform the airport into a modern, self-sustaining enterprise benefiting not only the local community but the region. 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 Infrastructure Development—$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 north side area consists of approximately 40 acres of very desirable airport land that fronts on Texas Highway 21 and borders an existing taxiway that will become the main taxiway for the entire north side development. Except for the absence of infrastructure, it is the "McDonald's" location on the airport. The area requires access roads including a main airport entrance, drainage improvements, aircraft ramps and aprons, existing taxiway pavement reconstruction, 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 2 or 3 city-owned buildings. Our planning estimate for the cost to implement this project is $3,500,000. We are also convinced that once this north side development ball starts to roll, the future of the new San Marcos Municipal Airport will shift from the current limited and constrained south side to the several hundred acres of prime 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 restaurants, retail shops, rental car facilities, and other aviation-related commercial activities.

An airport's facilities will be the first thing a business traveler will see, and it's those facilities which represent the city of San Marcos. These facilities are sorely lacking in our present airport configuration and the existing terminal building is undersized to meet existing demand, much less provide room for growth. 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, drainage 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 modern, state-of-the-art building of approximately 10,000 square feet 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 2008 cycle, and respectfully requests your support.

PREPARED STATEMENT OF THE UNIVERSITY CORPORATION FOR ATMOSPHERIC RESEARCH (UCAR)

On behalf of the University Corporation for Atmospheric Research (UCAR) and the university community involved in weather and climate research and related education, training and support activities, I submit this written testimony for the record of the Senate Committee on Appropriations, Subcommittee on Transportation, Housing and Urban Development, and Related Agencies.

UCAR is a consortium of 70 universities that manages and operates the National Center for Atmospheric Research (NCAR) and additional research, education, training, and research applications programs in the atmospheric and related sciences. The UCAR mission is to serve and provide leadership to the atmospheric sciences and related communities through research, computing and observational facilities, and education programs that contribute to betterment of life on Earth. In addition to its member universities, UCAR has formal relationships with approximately 100 additional undergraduate and graduate schools including several historically black and minority-serving institutions, and 40 international universities and laboratories. UCAR is supported by the National Science Foundation (NSF) and other Federal agencies including the Federal Highway Administration (FHWA), and the Federal Aviation Administration (FAA). I would like to comment on the fiscal year 2008 budgets for these agencies.

THE FEDERAL HIGHWAY ADMINISTRATION

The fiscal year 2008 budget request for the FHWA should support the administration's and the country's commitment to a safe, efficient, and modern surface transportation system. Weather research and intelligent transportation system (ITS) technology significantly contributes to this commitment. According to the National Academy of Sciences, adverse weather conditions obviously reduce roadway safety, capacity and efficiency, and are often the catalyst for triggering congestion. In the United States each year, approximately 7,000 highway deaths and 450,000 injuries are associated with poor weather-related driving conditions. This means that weather plays a role in approximately 28 percent of all crashes and accounts for 19 percent of all highway fatalities. The economic toll of these deaths and injuries is estimated at $42 billion per year. The societal and economic impacts of adverse weather on the highway system are obviously enormous.

Road Weather Research and Development Program

The Road Weather Research and Development Program funds the collaborative work of surface transportation weather researchers and stakeholders. This work is potentially life saving for the users of the national surface transportation system. Much has been accomplished already in understanding and developing decision support systems to address the impact of poor weather on the surface transportation system including congestion. However, it should be noted that according to the 2004 National Research Council's report titled, Where the Weather Meets the Road: A Research Agenda for Improving Road Weather Services, the investment required to satisfy the unmet needs for road weather information is $25 million per year for 15 years. An investment at this level would be focused on developing decision support systems for traveler information systems, winter road maintenance, traffic management, incident and emergency management, in-vehicle information systems through the vehicle infrastructure integration program, and ITS. Enhanced research on pavement condition prediction, snow and ice control, fog, road friction, flooding, thunderstorm forecasting, icing, sensor development, and other areas will result in significant savings in lives and dollars.

Only recently has the FHWA begun investing in road weather research and this investment level has been extremely low ($2.8 million per year), considering its impact on the transportation system. An adequately funded road weather research program will improve the safety, capacity, efficiency and mobility (by reducing congestion), of the national roadway system. It will benefit the general public, commercial trucking industry, State DOT traffic, incident and emergency managers, operators and maintenance personnel.

The 2006 Transportation Reauthorization bill, SAFETEA–LU (section 5308) contains language that establishes the Road Weather Research and Development Program within the FHWA ITS Research and Development Program, with annual funding at $4 million (significantly less than the NRC recommendation of $25 million). The fiscal year 2008 request is only $3 million and may be found within the FHWA Intelligent Transportation Systems account. This program is well supported by numerous organizations including the American Association of State Highway and Transportation Officials (AASHTO), the Intelligent Transportation Society of America (ITSA), the Transportation Research Board (TRB), the National Research Council (NRC), State Departments of Transportation (DOTs), and the American Meteorological Society (AMS). I urge the committee to fund the Road Weather Research and Development Program at $4 million, at a minimum, in fiscal year 2008.

FEDERAL AVIATION ADMINISTRATION (FAA)

> Our Nation's air transportation system has become a victim of its own success. We created the most effective, efficient and safest system in the world. But we now face a serious and impending problem . . . demand for air services is rising, and could as much as triple over the next 2 decades.
>
> FAA Administrator, Marion Blakey, July 2006

Research and Engineering Development Account (RE&D)

The following three programs can be found within the RE&D section of the fiscal year 2008 FAA budget request.

Weather Program

The FAA anticipates a three-fold increase in demand on the National Airspace System (NAS) by 2025; any air travel interruption, including weather problems, will result in overwhelming flight delays. The FAA and airlines have done a remarkable job of minimizing delays given the limited airport and system capacity. But major weather related delay events, such as the 2006 Denver blizzard over the holidays, have left thousands of travelers stranded and cost the industry many millions of dollars. This recent incident indicates existing vulnerabilities that must be addressed.

Research and development conducted today forms the basis for tomorrow's operational products. Enhanced weather forecasts as well as improved use of forecasts will contribute to a reduction in weather impacts. The FAA's Weather Program focuses on projects that address the current challenges of operating the safest, most efficient air transportation system in the world while building a foundation for the Next Generation Air Transportation System (NextGen). For fiscal year 2008 and beyond, FAA is focusing on capabilities to help stakeholders at all levels make better decisions and better react to avoidable weather situations, thus minimizing their impact.

To mitigate the effects of weather, the FAA's Weather Program conducts applied research in partnership with a broad spectrum of the weather research and user communities with a goal of transitioning advanced weather detection and forecasting technologies into operational use. Leveraging the work of the research community, the FAA has made tremendous strides in understanding and mitigating the impacts of severe weather on aviation. Enhanced research on turbulence, thunderstorm forecasting, oceanic weather, icing, and other areas can result in even more savings, in both lives and dollars. The fiscal year 2008 request for the Weather Program is $16.8 million, down from the fiscal year 2007 request of $19.5 million. This program continues to be severely under funded. To truly be responsive to the new weather research capabilities and national needs, the Weather Program needs to be doubled and funded at about $35 million. I urge the committee to fund the Weather Program at the fiscal year 2007 requested level of $19.5 million, at a minimum.

Joint Planning and Development Office (JPDO)

In preparation for a burgeoning National Airspace System, 4 years ago the President and Congress created the multi-agency Joint Planning and Development Office (JPDO) to oversee planning related to NextGen. The JPDO, in its brief existence, has already accomplished much, and has defined eight critical strategies to meet the goals and objectives for NextGen—one of which is focused on mitigating the impacts of weather on the air transportation system.

The President's fiscal year 2008 request of $14.3 million for JPDO is not an adequate level of funding, given the challenges of bringing the aviation system up to 21st Century needs. The request is down 21 percent from the fiscal year 2007 request of $18.1 million. To accomplish an initiative of this magnitude and complexity, JPDO should be doubled to $28 million. I urge the committee to fund the Joint Planning and Development Office at the fiscal year 2007 requested level of $18.1 million, at a minimum.

Wake Turbulence

Better detection and forecasting of wake turbulence, dangerous swirling air masses trailing from aircraft wingtips, is a key element in the FAA's safety program. Research results and technologies derived from the Wake Turbulence program will allow airports and airlines to operate more efficiently, increasing capacity and safety, by providing a better understanding of this phenomenon. I urge the committee to support the fiscal year 2008 request of $10.7 million for the wake turbulence program.

Facilities and Equipment Account

The following program can be found within the Facilities and Equipment Account on the FAA's fiscal year 2008 budget request.

Wind Profiling and Weather Research—Juneau

High wind and terrain-induced turbulence information can help airlines adjust their routes and schedules to optimize usage of the airport. Within the FAA's Facilities and Equipment Budget the program, Wind Profiling and Weather Research—Juneau, supports the Juneau Airport Wind System (JAWS), a developing operational system designed to detect and warn of wind and airport turbulence hazards. I urge the committee to support the administration's fiscal year 2008 request of $4.0 million for Wind Profiling and Weather Research—Juneau.

On behalf of UCAR, as well as all U.S. citizens who use the surface and air transportation systems, I want to thank the committee for the important work you do that supports the country's scientific research, training, and technology transfer. We understand and appreciate that the Nation is undergoing significant budget pressures at this time, but a strong Nation in the future depends on the investments we make in research and development today. We appreciate your attention to the recommendations of our community concerning the fiscal year 2008 FHWA and FAA budgets and we appreciate your concern for safety within the Nation's transportation systems.

PREPARED STATEMENT OF FOOTHILL TRANSIT

Mr. Chairman and members of the subcommittee, my name is Doran Barnes, and I serve as the Executive Director of Foothill Transit in West Covina, California. Thank you very much for the opportunity to submit testimony to this subcommittee.

Mr. Chairman, I recognize the difficult tasks before this subcommittee and commend your leadership in determining the allocation of available transportation resources during this congressional budget period. We are very appreciative of the strong support provided to Foothill Transit by this committee over the past 12 years. The support of your committee has enabled Foothill Transit to construct two operating and maintenance facilities and initiate replacement of our aging bus fleet with new compressed natural gas coaches, as well as embark upon providing commuter parking to encourage transit ridership. These initiatives will greatly enhance the service we provide to our customers.

WHY THIS BUS CAPITAL REQUEST?

Thanks to the unwavering support of our congressional delegation, Foothill Transit has been extremely successful in achieving its capital goals. Our fiscal year 2008 funding request is for $10 million in Discretionary Bus Capital funding to assist Foothill Transit in partnering with member cities by providing funding for commuter parking in transit-oriented neighborhood projects. This funding will be used for our innovative "Transit Oriented Neighborhood Program", which offers a win-win solution for commuters and communities in the San Gabriel and Pomona Valleys. Through this program, we will assist our member cities and the County of Los Angeles with the construction of facilities with 500 to 1,000 commuter parking spaces in neighborhood projects each year.

The program, begun in fiscal year 2004, provides an incentive for Foothill Transit's 21 member cities and unincorporated areas of Los Angeles County to include commuter parking in their plans for mixed-use, transit-oriented projects. Foothill Transit is working with our local cities by partnering to develop projects that meet our common goals. Projects are intended to serve the dual purpose of facilitating transit use during daytime commuter hours, and providing general public parking for dining, shopping, and other uses during evening hours and weekends

Over the past several years, commuter parking in Foothill Transit's service area has dwindled, culminating in the closure of a major park-and-ride lot in early 2003. At one time, the Eastland Park and Ride provided over 1,000 parking spaces for transit customers. With the revitalization of the Eastland Shopping Center, this park and ride facility has been eliminated. A second park and ride facility in the southern portion of our service area ceased operating in February 2004. This facility was provided by a regional shopping mall. As the shopping mall intensified its retail activities, it was no longer willing to provide its parking lot for park and ride activities. Under both of these scenarios, customers have found it more difficult to access Foothill Transit's commuter express services. Accordingly we have seen decreases in ridership on these express lines and we believe that a portion of these transit riders have returned to driving into downtown Los Angeles. This increases both traffic congestion and vehicle emissions.

The Transit Oriented Neighborhood Program enables Foothill Transit to continue its longstanding tradition of responding to customer needs by providing more convenient access to its high caliber bus service. By encouraging more transit use with the availability of park-and-ride facilities, Foothill Transit also helps mitigate the traffic congestion and poor air quality that plague the Los Angeles area.

We are pleased to report that our first project under this program has been completed. A ribbon cutting and dedication ceremony for the Claremont Transportation Center was held on August 31, 2006. The transit component of the project includes 477 parking spaces, with 200 spaces available for transit. In addition to supporting transit, this project is a key part of the expansion of the Claremont Transit Village.

The next phase of this program includes plans for parking structures in West Covina and Puente Hills. As noted above, for many years in these two areas, commuter parking was provided in regional shopping malls. However, as business improved at these malls, the parking spaces were reclaimed for shoppers. The return of commuter park and ride lots to West Covina and Puente Hills will greatly assist in maintaining and increasing transit ridership

ABOUT FOOTHILL TRANSIT

Foothill Transit was created in 1987 as an experiment to determine the effectiveness of competitively bidding for transit service operations. A public/private partnership, Foothill Transit is governed by an elected board comprised of mayors and council members representing the 21 cities and 3 appointees from the County of Los Angeles who are members of a Joint Exercise of Powers Authority. It provides public transit services over a 327 square-mile service area. Foothill Transit is one of the best investments of taxpayer dollars in these times of limited funds.

Foothill Transit has established a reputation of providing outstanding customer service. In five separate customer surveys, Foothill Transit drivers have consistently received ratings above average or greater by more than 80 percent of our customers. Customers also rate Foothill Transit buses very highly on their cleanliness, comfort and graffiti-free appearance.

Foothill Transit was initially established as a 3-year experiment to operate 14 bus lines at least 25 percent more efficiently and effectively than the former Southern California Rapid Transit District (now Metro), with those savings to be passed on to the community through increased service and/or lower fares. A 3-year evaluation completed by Ernst & Young in 1995 showed that Foothill Transit's public/private arrangement resulted in cost savings of 43 percent per revenue hour over the previous provider.

Recognized by Congress in 1996 as a "national model," the combination of public accountability and private sector efficiencies has allowed Foothill Transit to hold costs constant since its inception in 1987, while increasing ridership by 77 percent and more than doubling the amount of service on the street.

Foothill Transit has no employees. All management and operation of Foothill Transit service is provided through competitive procurement practices. The Foothill Executive Board has retained my employer, Veolia Transportation, to provide the day-to-day management and administration of the agency. The management contractor oversees the maintenance and operation contractors to ensure adherence to Foothill Transit's strict quality standards. We have two operating contracts for coach operators and vehicle maintenance. First Transit is currently the contractor under both of these operating contracts.

Mr. Chairman, thank you for this opportunity to provide testimony and your consideration of our request. Please feel free to contact me with any questions you may have or if I can be of any assistance.

PREPARED STATEMENT OF THE COALITION OF NORTHEASTERN GOVERNORS

The Coalition of Northeastern Governors (CONEG) is pleased to share with the subcommittee testimony on transportation and community development programs in the fiscal year 2008 Transportation, Housing and Urban Development, and Related Agencies Appropriations bill. The CONEG Governors appreciate the subcommittee's longstanding support of funding for the Nation's highway, transit, and rail systems, and we understand the difficult fiscal challenges and complex, interlocking issues that the subcommittee faces in crafting this appropriations measure. We urge the subcommittee to continue the strong Federal partnership so vital for the national, integrated transportation system that underpins the productivity of the Nation's economy and the security and well-being of its communities.

TRANSPORTATION

Surface Transportation

The Governors urge the subcommittee to fund the combined highway, public transit and safety programs at levels consistent with the fiscal year 2008 authorized levels, including the Revenue Aligned Budget Authority (RABA). This level of Federal investment in these infrastructure improvements is necessary if the Nation's surface transportation system—in both urban and rural areas—is to safely and efficiently move people and support the substantial growth in freight movement projected in the coming decade. Specifically, we urge the subcommittee to:

—support a Federal aid highway obligation limit at the authorized level of $39.585 billion, plus the Revenue Aligned Budget Authority (RABA);
—fund public transit at the authorized funding level of $9.423 billion, including full funding for the Small Starts Program; and
—provide sufficient funding for the Coordinated Border Infrastructure Program to enable investment in projects addressing both security and transportation needs at our Nation's borders.

Rail

The CONEG Governors also request that the fiscal year 2008 appropriations include $1.78 billion in Federal funding for intercity passenger rail as provided in the Senate fiscal year 2008 Budget Resolution, with specific funding levels provided for operations, capital and debt service. We particularly encourage the subcommittee to ensure that Amtrak can continue the critically needed bridge repair projects and life-safety work in the New York and Baltimore tunnels, and also initiate efforts to promptly upgrade the Northeast Corridor electric traction system capacity between Washington and New York to avoid major service disruptions. We also support the proposal for $100 million to fund a State capital investment program for intercity passenger rail.

This funding level for intercity passenger rail can ensure the stability of the national system, continue vital and on-going work to bring the Northeast Corridor to a state of good repair, and provide essential investment funds critical to the continued development of rail corridors across the country—even as reforms are undertaken through concerted and hopefully coordinated activities of the U.S. Congress, Amtrak, the U.S. Department of Transportation (USDOT), and the States. Since intercity passenger rail is a complex and interconnected system with significant capital requirements, it is essential that any operations reform be incremental and that the Federal Government continues to be a consistent partner in funding the capital needs of the Nation's intercity passenger rail system. We also believe that any reform of intercity passenger rail must be a data-driven, orderly and transparent process that includes meaningful collaboration with Amtrak's State funding partners.

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. We encourage the subcommittee to provide funding for both the Rail Relocation Program and the Swift High Speed Rail Development Program, both of which benefit passenger rail and freight rail systems.

The CONEG Governors also support a modest increase in funding for the Surface Transportation Board (STB) to $26.495 million. This funding level will allow the STB to provide the critical oversight services as the Nation's rail system assumes increasing importance for the timely, efficient, and environmentally sound movement of people and goods across the Nation.

COMMUNITY DEVELOPMENT

The CONEG Governors urge the subcommittee to provide $4.1 billion for the Community Development Block Grant (CDBG) program. The CDBG enables States to provide funding for infrastructure improvement, housing programs, and projects that attract businesses to urban and rural areas, creating new jobs and spurring 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 NEW YORK STATE DEPARTMENT OF TRANSPORTATION

The New York State Department of Transportation (NYSDOT) appreciates the opportunity to present testimony on the fiscal year 2008 transportation appropriations. New York has a truly multimodal transportation system and strives to allocate its financial resources accordingly. NYSDOT has responsibility for a $1.9 billion highway construction program in 2007–2008 and a $2.8 billion annual transit operating and capital assistance program. New York voters approved a $2.9 billion Transportation Bond Issue in 2005, which will help support New York's multi-year highway and mass transportation capital programs valued at nearly $36 billion, with each mode receiving nearly $18 billion in Federal and State funds. New York will invest $235 million in State funds for freight and passenger rail projects and will, over the next 5 years, provide over $116 million in State funds to advance general aviation security, business-use airport development, and capital improvement projects for public-use airports. In addition to highways and transit, New York State has invested $320 million in the State's passenger rail system in recent years. Clearly, New York State is committed to multimodal transportation systems.

In developing the fiscal year 2008 Transportation Appropriations legislation, we ask that you consider and endorse the following:

Support Funding for All Transportation Programs at the Levels Set in Authorizing Legislation

New York urges funding for transportation programs, at their maximum authorized funding levels. We are concerned with the President's fiscal year 2008 budget because it would reduce Federal funding for several programs to levels below authorized amounts, and we would particularly urge you to follow the path of SAFETEA–LU rather than that of the President's proposed budget in the following areas.

—The President's budget submission proposed the elimination of the distribution of an additional $631 million from Revenue Aligned Budget Authority (RABA) required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). New York strongly urges Congress to restore this mandated funding as promised by Congress just 2 years ago.

—A $300 million reduction is proposed in Transit New Starts funding below the level authorized by SAFETEA–LU. The demand for Transit New Starts funding far exceeds the level of funding available, even though SAFETEA–LU increased the authorized funding level for this program. In New York, the Long Island Rail Road East Side Access and the Second Avenue Subway projects are priority New Starts projects to relieve congestion on the busiest transit system in the Nation. At a time when gasoline prices are at a premium, Federal investment in mass transit is key to reducing the Nation's reliance on foreign oil.

—Zero funding is proposed for both Next Generation High Speed Rail program and the Railroad Rehabilitation and Improvement Financing (RRIF) program. There are few Federal financing tools available to States and railroads for investment in rail passenger or freight. Freight traffic nationwide is projected by USDOT to double in the next 20 years. Some experts say freight traffic will quadruple in the immediate vicinity of key international freight hubs such as the Port of New York and JFK Airport in New York City. SAFETEA–LU authorizes $100 million per year for the Next Generation High Speed Rail program and $35 billion per year for the RRIF program, a credit enhancement program for rail freight and passenger investments. Congress should provide the full funding at the levels authorized in SAFETEA–LU for both of these important Federal rail investment programs.

—New York State continues to believe that there is an urgent need for short-term funding stability while a long term solution for intercity rail passenger service is developed and implemented. Short-term funding should be sufficient to operate existing intercity passenger rail service, as well as enable critical maintenance and "state of good repair" capital investments to continue. To achieve this, intercity passenger rail should be funded at $1.78 billion, the level called for in Senate bill S. 294. The administration's budget request of $800 million is significantly below what Amtrak needs to meet its commitments for operations, service, and debt payments. We particularly encourage the subcommittee to ensure that Amtrak can continue the critically needed bridge repair projects and life-safety work in the New York and Baltimore tunnels.

—The administration also proposes a new $100 million State capital investment program, where States would apply to the Federal Railroad Administration (FRA) for grants for up to 50 percent of the cost of capital investments necessary to support improved intercity passenger rail service that either requires no operating subsidy or for which the State or States agree to provide any needed operating subsidy. This proposed Federal-State partnership should be modeled on the highway and transit programs, with 80/20 Federal-State funding, dedicated, stable Federal funding, and a strong role for States in decision-making. Further, while this proposal is a good start, it needs to be part of a larger national intercity passenger rail strategy which establishes a strong, ongoing Federal-State partnership, brings Amtrak assets up to a state of good repair, provides corporate transparency and accountability at Amtrak, and expands competition in the delivery of intercity passenger rail service.

—As the debate over the reauthorization of the aviation program proceeds through Congress, New York supports funding the aviation programs at the fiscal year 2007 level or higher. The President's budget proposal includes a significant restructuring of the aviation program in the absence of authorizing legislation. Aviation funding for fiscal year 2008 should be based on the existing program structure until reauthorizing legislation is complete.

Impending Insolvency of the Highway Trust Fund

Both the Government Accountability Office and the Congressional Budget Office project that the Highway Account of the Highway Trust Fund will not have adequate revenue to support fiscal year 2009 authorizations for highways and bridges. The Mass Transit Account is projected to remain solvent until 2011 or 2012.

At a recent hearing of the Highways and Transit Subcommittee of the Transportation and Infrastructure Committee, a proposal to use the Mass Transit Account to address the fiscal year 2009 shortfall in the Highway Account was discussed with hearing witnesses. New York is concerned that Congress may be tempted to use this quick-fix approach in fiscal year 2009 Transportation Appropriations and may consequently postpone the fundamental surface transportation funding issue until SAFETEA–LU is reauthorized (SAFETEA–LU expires on September 30, 2009).

New York emphatically urges Congress to leave the Mass Transit Account intact when searching for a solution to the fiscal year 2009 highway funding shortfall. With transit funding already reduced in the President's fiscal year 2008 budget, any further reductions of funding for this vital component of a multimodal transportation system would be disastrous.

Fixing the Highway Trust Fund shortfall will require significant effort by authorizing committees to examine, analyze, and select alternative funding mechanisms to meet the financial needs of the Nation's transportation systems into the foreseeable future. New York believes that a comprehensive, sustainable, diversified portfolio of Federal revenue is needed to address the diverse investment needs of the Nation's surface transportation system, i.e. its highways, transit systems, railroads, and ports. We urge the Transportation Appropriations Subcommittee to appeal to the Transportation and Infrastructure Committee to begin this work immediately.

NYSDOT thanks you for this opportunity to present testimony. We appreciate your dedication to and support of the Nation's transportation systems.

PREPARED STATEMENT OF EASTER SEALS

Chairman Murray, Ranking Member Bond and members of the subcommittee, Easter Seals appreciates this opportunity to share the successes and needs of Easter Seals Project ACTION and the National Center on Senior Transportation.

PROJECT ACTION OVERVIEW

Project ACTION was initiated during the appropriations process in 1988 by funding provided 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 and reauthorized the project in 1997 as part of TEA–21 and 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 2008.

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).

NATIONAL CENTER ON SENIOR TRANSPORTATION OVERVIEW

The National Center on Senior Transportation (NCST) was created in SAFETEA–LU to increase the capacity and use of person-centered transportation options that support community living for seniors in the communities they choose throughout the United States. The center is designed to meet the unique mobility needs of older adults and provide technical assistance and support to older adults and transit providers. The NCST is administered by Easter Seals in partnership with the National Association of Area Agencies on Aging (N4A) and involves several other partners including the National Association of State Units on Aging, The Community Transportation Association of America, The American Society on Aging, and The Beverly Foundation. The Cooperative agreement forming the NCST was developed in August of 2007 and the Center was officially launched in January of this year.

The expected outcomes of the project are:

—Greater cooperation between the aging community and transportation industry to increase the availability of more comprehensive, accessible, safe and coordinated transportation services;

—Increased integration of provisions for transportation in community living arrangements and long-term care for older adults;

—Enhanced capacity of public and private transportation providers to meet the mobility needs of seniors through available, accessible, safe and affordable transportation;

—Enhanced capacity of human service providers to help seniors and/or caregivers individually plan, create and use appropriate transportation alternatives;

—Increased knowledge about and independent use of community transportation alternatives by seniors through outreach, education and advocacy;

—Increased opportunities for older adults to obtain education and support services to enable the individuals to participate in local and State public and private transportation planning processes.

The tools and resources being developed to achieve these goals include:

—Technical assistance extended through cross-agency and public/private collaboration to improve and increase mobility management for older adults through new or existing local and State coalitions;

—Technical assistance and other supportive services extended to communities, seniors, transportation and professional agencies and organizations, government, and individuals so they can effectively address barriers and/or respond to opportunities related to senior transportation; and

—Creation and dissemination of products and training programs (e.g., brochures, workbooks, best-practice guides and self-assessments) to help transportation

providers, human service agencies and older adults and their caregivers understand their roles and/or opportunities for increasing senior mobility options;
—Use of an 800-telephone line, Web site, visual exhibit, newsletters and other communication tools;
—Implementation of communication strategies to increase the profile of senior transportation on topics such as emerging best practices, advances in public policy, success stories and more;
—Facilitation and testing of new ideas to increase and improve community mobility for seniors through the administration and management of demonstration projects.

In SAFETEA–LU, the NCST is authorized at $2 million for the first year of the project and $1 million for years after that. Easter Seals respectfully requests and appropriations of $2 million for the NCST in fiscal 2008. The additional $1 million included above the authorized level in this request would allow the center to fund local community's efforts to demonstrate creative, unduplicated and effective solutions to increasing mobility for older adults. This funding will allow us to support local communities' efforts to put the tools and resources developed by the NCST into practice.

SCOPE OF PROJECT ACTION AND THE NATIONAL CENTER ON SENIOR TRANSPORTATION

Both Project ACTION and the NCST are working at the State, local and national level to achieve the goal of greater mobility for all Americans. This includes everything from working with local communities to provide curriculum, resources, training and ongoing technical supports as they work to coordinate their local transportation resources, to working with States implementing the United We Ride Initiative activities, to hosting national level listening sessions and summits on issues of importance to the Nation's mobility.

FISCAL 2008 REQUEST

In order to continue the outstanding work of Easter Seals Project ACTION and the NCST, Easter Seals respectfully requests that $3 million be allocated for Project ACTION and $2 million be allocated for the National Center on Senior Transportation in fiscal 2008 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 older adults and the ability of the transportation community to provide good service to all Americans. Easter Seals looks forward to continuing to work with you toward the pursuit of these objectives.

PREPARED STATEMENT OF ALL ABOARD WASHINGTON

Thank you and many other members of this subcommittee for having supported basic investments in Amtrak intercity rail in past years. While understanding there are many competing needs for tax dollars, I believe the justification for an increased Federal role in rail investments is now higher than anytime during my 20+ years as representing rail advocates from our State of Washington. (We were long known as the Washington Association of Rail Passengers.)

Given the finite, increasingly high cost of petroleum motor fuels, general acknowledgement of the negative impacts of upon local and global environments of ever-increasing motor vehicle use, the multiple costs of vehicular congestion and airport congestion, coupled with the inherent safety and efficiency of the rail mode, it would seem appropriate for the United States to join virtually all other advanced industrial nations and such rapidly advancing nations as China, Taiwan and South Korea to add intercity rail to road and air as significant means of moving people.

Our State of Washington has done its part since the early 1990s, having made the majority of investments in our popular and successful Amtrak Cascades trains, which serve Amtrak's Northwest Corridor, between Vancouver BC south through the densely populated and rapidly-growing western Washington on to Eugene Oregon. Customer satisfaction by Cascades' passengers is, year after year, judged to be at or near the top within the Amtrak system.

Only two significant concerns have surfaced concerning the Amtrak Cascades: that on-time performance is below optimum, brought about by the generally good news that shipments by the freight railroads are considerably higher than was predicted and planned for, resulting in track congestion; and, the need for more Cascades' trips per day, particularly between the major Seattle-Portland markets. In both cases, additional investments, by the freight railroads, the States of Washington and Oregon, the province of British Columbia, local communities, other private sector entities, and the U.S. Government, would strongly address these concerns.

A Rail Capacity and System Needs Study funded through the Washington State Transportation Commission and completed in December of 2006 concludes that it is in our State's interest to continue State investment in both passenger and freight rail, in cooperation with other private and public interests. The Study also concludes with the caveat that Washington State's success at increasing the role of rail transportation, with its manifold benefits to the State, would be greatly increased with a greater Federal investment role in the rail mode, one which starts to approach the many decades of U.S. Government generosity to highway, air, and inland waterway modes. While Amtrak participated in the funding of our Amtrak Cascades trains, and our congressional delegation has in general been supportive of Amtrak funding (Chair Murray has been a leader in this regard!), the State Transportation Budget passed overwhelmingly by the Washington Legislature on 21 April 2007 includes proposed rail projects which await a significant Federal investment component before they could be fully realized.

Legislators, transportation commissioners, and WSDOT leadership have said in blunt terms, "We are doing our share; now it's the Feds' turn!"

S. 294, with excellent bipartisan co-sponsorship, is a potential funding vehicle that can move toward a source of rail investment that would serve our State and other States well. As an authorization bill it remains a "good set of ideas". The means by which these good ideas can be financed fall under your committee's jurisdiction.

Details of S. 294, its characteristics, benefits, and costs would be well-known to your committee's excellent staff; I need not repeat them here. But as I am this week visiting this Washington, the Nation's Capital, and may have the privilege of meeting with some of you or you staffs, I would hope next week to be able to report back to my Washington that "the Feds" are indeed progressing toward a greater inclusion of passenger rail as a safe, fuel-efficient and environmentally-sound means of travel for the American people and our many foreign visitors.

It is said the President of South Korea was asked by an American diplomat how his country could afford the multi-billion dollar investment in high-speed passenger rail between his country's booming industrial cities. The President politely answered, "How can we afford not to?"

The funding means found in S. 294 are a start for a greater Federal rail investment in our country. Given the realities of fuel supply and cost, environmental concerns, public safety, and economic and community well-being, "How can we afford not to ?"

Prepared Statement of the American Public Transportation Association

INTRODUCTION

Madam Chairman and members of the subcommittee, 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 2008.

The fiscal year 2008 Transportation, 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 $9.731 billion level authorized in the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU, Public Law 109–59).

In 2006, Americans took 10.1 billion trips on public transportation. Let me put the 10.1 billion number in perspective. This is more than the number of Americans who attended NFL games, MLB games, NBA games, NHL games, NASCAR races, went to the movies, and ate a hamburger from McDonald's, Burger King, and Wendy's combined. Transit ridership growth of 30 percent since 1995 is outpacing both the growth of our population—12 percent—and the growth in the use of the Nation's highways—24 percent—since then. Each weekday, 34 million trips are made on public transportation in our Nation. All across America, public transportation provides choice, freedom and opportunity.

Expanding access to public transportation is more important than ever. Transit plays a number of important roles. It reduces congestion and it provides mobility options. Its use decreases our dependence on foreign oil and improves air quality.

Increasing access to public transportation is clearly needed to create a stable, healthy and strong America. Forty years from now when America's population will exceed 400 million, we will be glad we had the foresight to discuss, plan and invest in the future of public transportation today. As we look to the future, we know there is no possible way that our roads can accommodate all the anticipated growth on their own. Transit is, and has to be, part of the solution.

FISCAL YEAR 2008 GOALS

APTA recognizes the need to invest limited Federal resources wisely, and we believe that investment in public transportation is an astute use of limited resources. To realize all of the benefits of public transportation, we urge Congress to follow the investment schedule in SAFETEA–LU. The law authorizes $9.731 billion for the Federal transit program in fiscal year 2008, including $7.766 billion in contract authority from the Mass Transit Account (MTA) of the Highway Trust Fund and $1.965 billion in new budget authority general fund spending.

We urge Congress to fund the Federal 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.

A new survey prepared by Cambridge Systematics as part of the Transit Cooperative Research Program finds that annual transit capital needs are greater than $45 billion a year. State and local governments cannot meet the expanding capital need requirements of public transportation while also providing for transit operating expenses. To help meet these needs, APTA believes that the Federal Government should invest no less in public transportation than the $9.731 billion level that was authorized and guaranteed by SAFETEA–LU.

PRESIDENT'S BUDGET PROPOSAL

The administration's fiscal year 2008 budget proposal would cut $309 million from the level authorized and guaranteed by the Congress for fiscal year 2008 in SAFETEA–LU. The administration's budget cuts some $300 million in investments in rail and other fixed guideway transit projects in the New Starts and Small Starts program that were authorized by Congress under SAFETEA–LU. This is a failure to fund nearly 18 percent of the investment authorized to build projects which are crucial to attracting new riders.

As this committee knows, there is overwhelming demand for New Starts and Small Starts projects, and SAFETEA–LU authorized 387 such 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. The effect of underfunding the New Starts/Small Starts program will be felt disproportionately in future years. Transit providers would fall further behind in the development of new projects due to the cuts in the administration proposal, depriving communities of the congestion relief and environmental benefits associated with the projects.

If New Starts project schedules are delayed, project costs also rise due to inflation. A recent study by the Associated General Contractors of America (AGC) finds that the cost of building surface transportation infrastructure has increased at a much faster rate than the Consumer Price Index. Transportation-related construction costs increased by more than 30 percent between 2003 and 2006, yet the consumer price index for urban areas grew by only 11 percent during that period. Looking ahead, the AGC's research predicts that transportation construction prices will increase at an annual rate of at least 6 percent, but increases could be much higher based on the experience of recent years. Prices spiked 10 percent and 14.1 percent in 2004 and 2005, respectively. If the New Starts/Small Starts program is cut by $300 million in fiscal year 2008, it will require $330 million in fiscal year 2009 to build equivalent projects if costs rise by only 10 percent. The administration's budget proposal is truly pennywise and pound foolish. In recent years the time required to develop and complete New Starts projects has also continued to grow. This adds further to project costs, and APTA urges the committee to work with FTA to expedite this process.

We want to make another point, Madam 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. Madam

Chairman, it is important to emphasize that this was done to improve the overall financing of the Federal transit program. The change was not meant to create funding uncertainty or program cuts, as the administration has proposed for the second year in a row.

While we understand the need to protect against spending the public's money on imprudent projects, we also believe FTA has effectively prevented the advance of viable projects by overemphasizing a limited number of benefits in the evaluation of potential New Starts projects, particularly travel time savings. Fixed guideway investment, particularly rail transit, is an alternative that requires long-term vision since the construction and expansion of systems takes time, but it is one of the most effective ways to reduce and prevent congestion in metropolitan areas and advance other national goals.

Finally, APTA urges this committee to consider providing New Starts projects with the same Federal share of project costs provided for other transit and highway investments. Both FTA and Congress have taken a number of actions that have prevented the advancement of New Starts projects that seek a Federal share of costs greater than 60 percent, and for most current projects, the local cost share exceeds 50 percent even though current law provides up to an 80 percent Federal share. APTA believes that at a time of growing concern about congestion, greenhouse gas emissions and weaning the country off foreign energy sources, the Federal Government should be encouraging communities to invest in new transit systems and the expansion of current systems. New Starts projects should be treated like other transportation projects and receive an 80/20 Federal match ratio.

TRANSIT FIGHTS CONGESTION

The U.S. Department of Transportation (USDOT) has recognized that system congestion is one of the single largest threats to our Nation's economic prosperity and way of life. In 2003, Americans lost 3.7 billion hours and 2.3 billion gallons of fuel sitting in traffic jams as a result of congestion. APTA strongly applauds the Department's efforts to focus national attention on our congested roads, rails and airways, but USDOT's efforts to fight congestion under its National Strategy to Reduce Congestion on America's Transportation Network (commonly referred to as the "Congestion Initiative") are simply incomplete. While our Nation's anti-congestion "blueprint" should incorporate new strategies such as innovative pricing, private sector investment, and urban partnership elements of the Department's Congestion Initiative, it must also call for a dramatic increase in the use of proven congestion fighting strategies like transit.

Thirty-four million trips are taken each weekday in the United States on public transportation, and each trip fights congestion. According to the 2005 Texas Transportation Institute Annual Urban Mobility Report, transit is successfully reducing traffic delays and costs in the 85 urban areas studied. Without transit delays in the 85 urban areas would have increased 27 percent, and residents in the urban areas studied would have lost an additional $18.2 billion in time and fuel as a result of increased congestion.

The impacts of congestion run deep. Good public transportation service allows all types of trips to be completed quickly and efficiently. Removing autos from congested urban freeways through transit use speeds truck-borne freight as surely as building highway capacity. In short, we must view the entire transportation network as a single system, one that can be planned managed and financed with a broad view to the overall good. Holes in the network through underinvestment result in degradation of performance for the entire system.

PUBLIC TRANSPORTATION AND ENERGY INDEPENDENCE

As our Nation revaluates our patterns of energy use, we must recognize the important energy savings that are derived from transit use. Earlier this year, a report by ICF International calculated that public transportation today reduces petroleum consumption by a total of 1.4 billion gallons of gasoline each year. This means:

—108 million fewer cars filling up—almost 300,000 every day;
—34 fewer supertankers leaving the Middle East—one every 11 days;
—over 140,000 fewer tanker truck deliveries to service stations per year;
—total savings as great as the entire amount of gasoline consumed in States the size of Nevada, Utah or New Mexico; and
—5 times greater savings than converting the entire 478,000 Federal light duty vehicle fleet to alternative fuels.

These savings result from the efficiency of carrying multiple passengers in each transit vehicle; the reduction in traffic congestion from fewer automobiles on the roads; and the varied sources of energy for public transportation.

All savings would be magnified with increased use of transit relative to the automobile. Savings would be magnified still further when we account for the energy efficiencies that are characteristic of cities highly reliant on transit which use much less energy per capita than auto dependent cities. According to research by sustainability experts Peter Newman and Jeff Kenworthy, U.S. cities use two and a half times more oil than comparable cities in Europe, and five times more oil than comparable cities in Asia.

CONCLUSION

Public transportation plays a key role in meeting the national 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 $9.731 billion level authorized and guaranteed by Congress for fiscal year 2008 in SAFETEA–LU if we are to advance these goals.

Madam Chairman, on behalf of APTA's more than 1500 member organizations, I thank you for this opportunity to express our views.

PREPARED STATEMENT OF THE CALIFORNIA INDUSTRY AND GOVERNMENT CENTRAL CALIFORNIA OZONE STUDY COALITION

Madam 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 2008 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 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 $PM_{10}/PM_{2.5}$ 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 2 studies is forming the basis for the 8-hour ozone, $PM_{2.5}$, and regional haze State Implementation Plans (SIPs) that are due in 2007 (ozone) and 2008 (particulate matter/haze). As with California's previous and current SIPs, all future SIPs will continue 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. SIPs are now more complex than they were in the past. The National Academy of Sciences (NAS) now recommends 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 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:

	Years
Performing SIP modeling analyses	2005–2011
Conducting weight-of-evidence data analyses	2006–2008
Making emission inventory improvements	2006–2010

	Years
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 $PM_{10}/PM_{2.5}$ 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 2008, 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 NO_X 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 funding 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

If we receive the funds requested this year to complete this research project, this will be our final request.

Thank you very much for your consideration of our request.

Prepared Statement of the Illinois Department of Transportation

Mr. Chairman and members of the subcommittee, we appreciate the opportunity to submit testimony concerning the fiscal year 2008 U.S. Department of Transportation (U.S. DOT) appropriations on behalf of the Illinois Department of Transportation (IDOT) to the Senate Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies. We thank Chairman Byrd and the members of the subcommittee for their past support of a strong Federal transportation program and for taking into consideration Illinois' unique needs.

IDOT is responsible for the planning, construction, maintenance and coordination of highways, public transit, aviation, intercity passenger rail and freight rail systems in the State of Illinois. IDOT also administers traffic safety programs. Our recommendation for overall funding priorities and our requests for transportation funding for projects of special interest to Illinois are discussed below.

HIGHWAY

Highway Obligation Limitation/RABA.—IDOT urges the subcommittee to set the obligation limitation for highway and highway safety programs at the guaranteed SAFETEA–LU level in fiscal year 2008 at $40.2 billion—a $1.1 billion increase over the fiscal year 2007 level of $39.1 billion. This recommendation consists of the obligation level of $39.585 billion authorized in SAFETEA–LU plus the $631 million expected from the upward Revenue Aligned Budget Authority (RABA) adjustment. IDOT is aware of the implications of supporting a RABA increase when the long-term viability of the trust fund is in question. However, IDOT is more concerned with the Federal funding needed to address immediate highway and bridge deficiencies as noted in the recent U.S. DOT publication, 2006 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance Report. Overall, IDOT continues to support the SAFETEA–LU guarantees and funding firewalls as do other transportation advocates such as the American Association of State Highway and Transportation Officials (AASHTO) and the American Road and Transportation Builders Association (ARTBA). The full utilization of the additional RABA funds will allow further improvements to highway and highway safety programs.

Rescission of Unobligated Highway Apportionments.—IDOT urges the subcommittee to suspend its practice of rescinding unobligated highway apportionments. Rescissions undermine the SAFETEA–LU principles of guaranteed funding and budgetary firewalls by withdrawing "promised" Federal funding to offset increased non-transportation funding elsewhere. Moreover, the accumulated impact of numerous rescissions since fiscal year 2002 has exacted unanticipated programmatic consequences. With large scale rescissions, such as the one implemented in fiscal year 2007 for $3.471 billion, a State has less flexibility to shift funding toward unique State needs and to meet individual highway program priorities. For example, to more equitably soften the impact of the most recent rescission on categories such as CMAQ and Enhancements, IDOT found it necessary to withdraw from categories with current-year apportionment. Additionally, State transportation departments are being unduly pressured by various transportation interests to make rescissions based on that group's particular preference. In total, Illinois has rescinded $326 million in unobligated apportionments since the first rescission in fiscal year 2002.

If the subcommittee finds the flexibility to earmark meritorious projects in existing discretionary SAFETEA–LU categories or outside the authorized categories, IDOT requests the following earmarks for highway, transit and rail funding:

—*I–55 Add Lanes Project.*—IDOT requests a fiscal year 2008 earmark of $16.4 million to provide additional lanes for 14.5 miles in each direction on I–55 from I–80 to Weber Road in an effort to reduce congestion and improve safety.

—*Illinois Statewide Intelligent Transportation Systems (ITS) projects.*—IDOT requests a fiscal year 2008 earmark of $14.5 million in ITS equipment/technology funds to implement 3 priority projects that will address congestion, improve safety, enhance security and improve the operating efficiencies of highway and transit systems.

—*Illinois Route 120 Corridor Initiative.*—IDOT requests a fiscal year 2008 earmark of $12.56 million for the planning and construction of a traffic facility to provide access and congestion relief for an east-west route in central Lake County. The facility would address future land use and economic development.

—*ITS Vehicle Infrastructure Integration Test Bed for NE IL (MOTODRIVE™).*—IDOT requests a fiscal year 2008 earmark of $2 million to utilize technology developed by Motorola to pursue the goals of the Vehicle Infrastructure Integration (VII) program and to assemble components and technologies that quickly, securely and reliably send large amounts of wireless data from transmitter devices, mounted on light poles along roadsides, to cars equipped with on-board devices.

—*Illinois Scenic Byways.*—IDOT requests a fiscal year 2008 earmark of $1 million for informational materials needed to promote and add signage to the two new byways in Illinois. These materials will promote travel and tourism and foster economic development.

Other IDOT Priorities—(to be earmarked under the: Subcommittee on Commerce, Justice and Science, and Related Agencies) Height Modernization.—IDOT requests a fiscal year 2008 earmark of $3.5 million to establish a Height Modernization (HM) program in Illinois. A HM program will establish a network of survey benchmarks and a statewide high-resolution digital elevation model of the earth's surface based upon the updated network. Illinois currently ranks alongside the bottom 10 states with regard to the quality of its elevation information.

TRANSIT

Transit Obligation Limitation.—IDOT urges the subcommittee to set the obligation limitation for transit programs at the guaranteed SAFETEA–LU level in fiscal year 2008 at $9.731 billion—a $756 million increase over the fiscal year 2007 level of $8.975 billion.

Bus and Bus Facilities.—IDOT, the Illinois Public Transportation Association and the Regional Transportation Authority (RTA) jointly request a Federal earmark of $31 million in fiscal year 2008 section 5309 bus capital funds for Illinois. This joint request is a demonstration of our mutual interest in securing funding for essential bus capital needs throughout the State.

The request will provide $5.3 million for downstate Illinois transit systems to purchase up to 36 buses and paratransit vehicles to replace overage vehicles and to comply with Federal mandates under the Americans with Disabilities Act. All of the vehicles scheduled for replacement are at or well beyond their design life. The request will also provide $12.6 million to undertake engineering, land acquisition or construction for five maintenance facilities and two transfer facilities that will enhance efficient operation of transit services.

In northeastern Illinois, $12.9 million will be used to purchase up to 40 heavy-duty buses, 10 for Pace, RTA's suburban bus operator, and 30 for the Chicago Transit Authority (CTA).

Illinois transit systems need discretionary bus capital funds since regular formula funding is inadequate to meet all bus capital needs. IDOT believes that Illinois' needs to justify a much larger amount of funds than the State has received in recent years. Under SAFETEA–LU Illinois is expected to receive nearly 6 percent of the needs-based formula funds but Illinois has only received between 1 and 3 percent of appropriated bus capital funds in the past. RTA ranks third in the Nation in bus passenger trips, yet Illinois' share of bus capital has been far below shares received by other States with much less bus use.

New Systems and Extensions—Chicago Transit Authority (CTA).—IDOT supports the CTA's request for an earmark totaling $40 million in New Starts funding to assist in upgrading the Ravenswood Brown Line. The match for these funds will be provided by IDOT.

The funding requested for upgrading the Ravenswood Brown Line would continue construction to extend station platforms to handle longer trains that are needed to serve the increasing demand along this line. Lengthening all platforms to handle longer, 8-car trains, straightening tight S-curves that slow operations and selected yard improvements will increase capacity by 25 to 30 percent. The CTA is seeking $40 million in New Starts funds for fiscal year 2008. A FFGA for $245.5 million was executed in January 2004 for the project.

New Systems and Extensions—MetroLink.—IDOT supports the Bi-State Development Agency's request for a Federal earmark of $50 million in fiscal year 2008 New Starts funding for extending the MetroLink light rail system in St. Clair County from Scott Air Force Base to MidAmerica Airport. The MetroLink system serves the St. Louis region in both Illinois and Missouri. MetroLink service has been a tremendous success and ridership has far exceeded projections. In addition, this new extension will provide employees the needed transportation to commute to a new industrial development that is to be located between Scott Air Force Base and MidAmerica Airport.

Formula Grants.—IDOT urges the subcommittee to set appropriations for transit formula grant programs at levels that will allow full use of the anticipated Highway Trust Fund Mass Transit Account revenues. IDOT also supports utilizing general funds to supplement transit needs.

In Illinois, Urbanized Area formula funds (section 5307) are distributed to the Regional Transportation Authority and its 3 service boards which provide approximately 600 million passenger trips per year. Downstate urbanized formula funds are distributed to 14 urbanized areas which provide approximately 30 million passenger trips per year.

The Rural and Small Urban formula funds (section 5311) play a vital role in meeting mobility needs in Illinois' small cities and rural areas. IDOT urges the subcommittee to fully fund section 5311 at the SAFETEA–LU authorized level. Many small urbanized areas have raised expectations under SAFETEA–LU and therefore the full appropriation is sought. In Illinois, such systems operate in 60 counties and 11 small cities, carrying approximately 2.9 million passengers annually.

RAIL

Amtrak Appropriation.—IDOT supports Amtrak's request of $1.53 billion in funding from general funds for fiscal year 2008 to cover capital, operating and debt service costs. Amtrak needs the full amount of their request to maintain existing nationwide operations. IDOT urges Congress to provide funds to continue current service until it develops a new national rail passenger policy and a clear plan for any changes to existing services as part of the congressional reauthorization of Amtrak. Chicago is a hub for Amtrak intercity service, and Amtrak operates 58 trains throughout Illinois as part of the Nation's passenger rail system, serving approximately 3.3 million passengers annually. Of the total, Illinois subsidizes 28 state-sponsored trains which provide service in 4 corridors from Chicago to Milwaukee, Quincy, St. Louis and Carbondale. Amtrak service in key travel corridors is an important component of Illinois' multimodal transportation network and continued Federal capital and operating support is needed.

CREATE—Chicagoland Region Environmental and Transportation Efficiency Program.—IDOT requests a fiscal year 2008 earmark of $10 million to support continued funding of the CREATE program that will improve the movement of freight through the Chicago region and will improve the overall efficiency of freight movements throughout the Nation.

—*Passenger Rail-Freight Congestion Relief.*—IDOT requests a fiscal year 2008 earmark of $1 million for engineering for selected capital infrastructure improvements necessary to relieve passenger and freight train congestion on the three state-supported downstate corridors.

AVIATION

Airport Improvement Program Obligation Limitation.—IDOT supports a fiscal year 2008 Airport Improvement Program (AIP) obligation limitation that, despite any programmatic restructuring as offered under the President's proposed plan, will net at least the same level of funding for airports as under VISION–100. In addition, IDOT supports a reauthorization bill that provides consistent increases to the AIP obligation funding levels in the out-years similar to the $100 million per year increases authorized during the 4 years of VISION–100.

Adequate AIP funding remains especially important for Small, Non-Hub, Non-primary, General Aviation and Reliever airports. While most Large/Medium Hub airports have been able to raise substantial amounts of funding with Passenger Facility Charges, the smaller airports are very dependent on the Federal AIP program. Airports must continue to make infrastructure improvements to safely and efficiently serve existing air traffic and the rapidly growing passenger demand. The most recent National Plan of Integrated Airport Systems (NPIAS) report identified $41.2 billion in airport development needs over a 5-year period (2007–2011), an annual average of $8.2 billion. More significantly, the Airports Council International-North America recently estimated that U.S. airport development costs (capital projects, terminal work, parking lots, etc.) will exceed $71.5 billion through 2009 (an annual average of $14.3 billion from 2005 through 2009). Lower AIP obligation levels will mean less Federal funds for airport projects, thereby exacerbating the existing capital project funding shortfall.

Essential Air Service Program (EAS).—IDOT supports an EAS program funded at a level that will enable the continuation of service at all current Illinois EAS points. Several Illinois airports, Decatur, Marion/Herrin and Quincy, currently receive annual EAS subsidies.

Small Community Air Service Program.—IDOT supports funding for the Small Community Air Service Development Program at the full authorized fiscal year 2008 level of $35 million. In fiscal year 2006, Abraham Lincoln Capital Airport in Springfield, Illinois received $390,000 under this program. Other airports in Illinois have received funding from this program in the past.

This concludes my testimony. I understand the difficulty you face trying to provide needed increases in transportation funding. However, an adequate and well-maintained transportation system is critical to the Nation's economic prosperity and future growth. Your ongoing recognition of that fact and your support for the nation's transportation needs are much appreciated. Again, thank you for the opportunity to discuss Illinois' federal transportation funding concerns.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

The National Association of Railroad Passengers strongly supports the Senate Budget Resolution level of $1.78 billion for Amtrak. This includes $100 million—likely to be administered by the Federal Railroad Administration—for a Federal matching program to support State corridor development work, and $50 million for station-related Americans with Disabilities Act work.

—This is the third straight year that an Amtrak board composed exclusively of President Bush's appointees has supported significantly greater Federal investment in the Nation's passenger train system than the administration has requested.

—The Bush Administration, like Amtrak and our Association, supports a Federal/State matching program for intercity passenger train service. But we oppose the administration's proposal to fund this by taking it from Amtrak's appropriation.

—The administration's proposed budget of $800 million for Amtrak is unrealistic. Not only would it make it impossible to implement the program the administration proposed and funded for Federal/State corridor development, but it likewise would make it impossible to continue existing services.

THERE IS A STRONG CASE FOR GROWING THE NATION'S PASSENGER TRAIN SYSTEM

The public wants more rail service, and is increasingly impatient with the extent to which Federal transportation spending remains focused on highways and aviation, the least energy-efficient, most environmentally damaging forms of transportation (see section II), and the most costly. Here are three omens worth noting:

—California A.B. 32 enacted last year imposes an economy-wide cap on greenhouse gas emissions, including from transportation, beginning in 2009.

—The Institute for Public Policy Research, which Reuters characterized as "a leading British think tank," urged requiring advertisements for flights or vacations that include flying to carry a tobacco-style health warning to remind people of the global warming crisis. "The evidence that aviation damages the atmosphere is just as clear as the evidence that smoking kills," said IPPR Climate Change Chief Simon Retallack.

—The long-term trend in the price of oil is up. "This year, the world is going to use about 86 million barrels of oil per day. And if every oil well in the world were running, assuming 1.2 percent production growth, we are producing around 88 million barrels a day. Reserves that we are putting on, in general, don't produce as fast as the reserves we are replacing . . . [The economies of India or China] may slow, but from a double-digit level to something that is still very high . . . The chance of demand going down for energy is remote to none."—John Segner, Portfolio Manager, AIM Energy Fund (interview in Barron's, March 19, 2007).

Current U.S. reliance on air transport for mass travel may well not be sustainable. We cannot assume the indefinite existence of "bargain" airlines or airfares, which depend heavily on cheap oil, given what we already know about oil supply and demand worldwide.

ENERGY EFFICIENCY

The Transportation Energy Data Book, published annually by Oak Ridge National Laboratory under contract to the U.S. Department of Energy, shows that Amtrak is 18 percent more energy efficient per passenger-mile than scheduled airlines and 17 percent more efficient than automobiles (2003 data, the most recent reported; a passenger-mile is one passenger transported one mile). These are actual figures based on total energy consumption by the systems, and load factors.

General aviation (including corporate aircraft) is even less energy efficient. Oak Ridge reports that general aviation was 2.6 times (162 percent) more energy intensive than certificated air carriers in 2001, the last year for which data are available; other modes are 2003 data:

BRITISH THERMAL UNITS PER PASSENGER-MILE

Commuter Railroads	2,751
Amtrak	2,935
Automobile	3,549
Certificated air carriers	3,587
Light trucks (2-axle, 4-tire)	7,004
General aviation (2001)	10,384

Lowest = most energy efficient.

Amtrak's showing would be even more favorable with the benefit of adequate investment in rail infrastructure and rolling stock. The results above compare highways and aviation which have benefited from decades of investment by all levels of government while Amtrak depends on a largely inadequate and outdated rail network that government has consistently ignored. (We appreciate that the neglect would have been even worse but for the efforts of Congress.)

ROUTE CUTTING IS NOT IN THE PUBLIC INTEREST

Pressure to downsize Amtrak's already shrunken, minimal system even more is contrary to the public's need for high quality mobility choices. It is appropriate to increase the cost-effectiveness and on-time performance of the system, but further downsizing will not do this. Efforts to increase service and expand the route network would drive economies of scale that would improve economic efficiency and better serve the public need for safe, reliable and energy efficient mobility.

None of the current routes is expendable. When considered in terms of the service Amtrak provides, the public makes heavy use of all existing routes; there are no "empty trains." The current trend is positive. Travel on overnight trains as a group rose 3 percent in the first half of fiscal 2007 and yield (revenue per passenger-mile) climbed 4 percent compared with year-earlier figures. Comparing the entire fiscal 2006 with fiscal 2005, yield jumped 10 percent while passenger-miles fell only 3 percent despite major service disruptions caused by Hurricane Katrina. Amtrak is not "giving away the store." Congress's oversight should focus on year-long averages and not get distracted by individual fares offered selectively on the internet.

Attempts to improve economic efficiency by forcing removal of the "weakest routes" have not been effective in the past and likely will continue to fail in the future because of "network interdependencies" that affect both cost and revenue:

—A significant proportion of passengers on overnight national network routes connect with other Amtrak routes. The elimination of one route takes revenue away from surviving routes;

—The elimination of one route doesn't eliminate all of the costs allocated to it; many of those costs are just transferred to remaining routes.

—Further tinkering with Amtrak's current route structure risks great damage to the system's usefulness to travelers both now and in the future, while doing little to reduce Amtrak's operating grant requirement (and possibly increasing it).

The purpose of identifying "weak" routes should be only to focus management's attention on improving the attractiveness of the service and raising fare box recovery.

It is important to measure performance with metrics that are both accurate and appropriate. For example, Amtrak reports separate financial results for the Sunset Limited and Texas Eagle. This creates the illusion that the Sunset has a loss per passenger mile nearly double that of the Eagle. In reality, the Sunset and Eagle run as a single combined train San Antonio-Los Angeles; it is impossible to segregate the revenue and cost into two separate trains. When treated as a single train, the "net cost" of operating Eagle/Sunset is in line with other overnight long distance routes. Elimination of the Sunset would significantly increase the "net cost" of the Eagle, producing either much higher Eagle costs or much lower revenue, depending on whether or not Amtrak continued the San Antonio-Los Angeles segment.

"Subsidy per passenger" is not a standard measure for intercity travel because it ignores wide variations in trip lengths of different passengers. Consequently, it is not an economic measure but a statement of prejudice against passengers taking long trips, and against rural America. More reasonable measures include revenue-to-cost ratio, operating ratio (opposite of revenue-to-cost; frequently used in the railroad industry, loss per seat-mile and loss per passenger-mile.

No matter how many routes get cut, there always will be another set of "worst performing routes" that become the next targets for elimination. The most effective strategy to improve Amtrak's utility and economic efficiency is for Amtrak to focus on increasing volume and revenues, not reducing or eliminating service.

OVERNIGHT TRAINS: A NATIONAL TREASURE

Here are some of the major reasons Congress should maintain and expand nationwide passenger train service. An expanded national network will provide:

—Mobility for the one of every three Americans who does not drive.

—Mobility for millions of Americans who cannot or do not want to fly, in major markets with affordable air fares and markets with little or no alternative public transportation.

—An essential link between underserved rural communities and metropolitan areas.

—A foundation for future rail development that facilitates start-up of shorter-distance intercity services and commuter rail operations into congested urban areas—both of which use some of the same tracks and/or facilities.

—The only intercity passenger train service for people in most States. If all long-distance trains disappeared, the surviving system would serve just 21 States, and the network would consist of only four, isolated mini-networks.

—Needed transportation capacity with minimum impact on the environment. Except in a few key corridors already at capacity, rail can increase its capacity at comparatively low cost by increasing train length or running more trains on existing infrastructure.

—Greater public safety; rail is far safer than highways.

—Enhanced national security both by increasing the energy efficiency of the Nation's transportation system and by giving travelers needed choices in emergencies.

—On many routes, the best way to see the Nation's natural beauty and the only practical way for those who can't take long automobile trips.

SHORTER CORRIDORS

The need for these services is increasingly well understood, helped most recently by strong ridership response to the frequencies Illinois added last fall on the lines linking Chicago with St. Louis, Quincy and Carbondale. For March, ridership on these lines was up 57 percent, 44 percent and 75 percent, respectively, over March, 2006.

States are eager to develop new passenger train services and will respond quickly when provided a Federal matching fund program. In some cases, like California, the need is for new equipment as ridership growth begins to exceed the capacity of available rolling stock. In other States, the issue is adding new lines. Thank you for considering our views.

LIST OF WITNESSES, COMMUNICATIONS, AND PREPARED STATEMENTS

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Federal Housing Administration

OFFICE OF THE SECRETARY

DEPARTMENT OF TRANSPORTATION

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