S. HRG. 110–820

TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2009

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

ON

S. 3261

AN ACT MAKING APPROPRIATIONS FOR THE DEPARTMENTS OF TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2009, 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 2009

THURSDAY, MARCH 6, 2008

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

The subcommittee met at 10 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

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

DEPARTMENT OF TRANSPORTATION

STATEMENT OF HON. MARY E. PETERS, SECRETARY

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. This subcommittee will come to order. Good morning. Today, the subcommittee holds its first hearing of the year and we're very pleased to welcome Transportation Secretary Mary Peters back before the body, and I also want to welcome Phyllis Scheinberg, who's the Department's Assistant Secretary for Budget and Programs and Chief Financial Officer.

You know, much earlier in my career, I was the first woman ever appointed to the Transportation Committee in my State senate and at the time some of my senate colleagues there in Olympia made it very clear to me that they didn't think it was a role for women doing transportation policy. So, I'm only sorry that they can't be here this morning to see this. It takes, as my friend Senator Mikulski says, a lot of women and a few good men to get anything done. So, Mr. Bond, I welcome you here as well.

Last year, the White House and the Democratic Congress went to battle over budget priorities. The majority in Congress believed we could not ignore our needs here at home, including transportation and housing, two areas where we have very grave needs. In the end, we were able to provide over $1 billion more for the Department of Transportation than the President requested. That was $2.3 billion more than the 2007 level.

I certainly hope we can do better this year, but we're starting off at a huge disadvantage. Last year, President Bush wanted to increase the level of spending for the Transportation Department. We just disagreed on how much transportation spending should grow.

This year, however, President Bush wants to take us backward and cut transportation funding by more than $2.1 billion. In fact, the President wants us to take back the $1 billion we added to his budget request last year and cut an additional $1.1 billion below that level.

The administration's deepest cuts would be to investments in highways and airports along with his usual request to slash Amtrak and throw the railroad into bankruptcy. These cuts would be devastating and his proposal is unacceptable.

In the last 15 months before the President unveiled his 2009 budget, the U.S. economy lost 284,000 construction jobs. Just this week, the Commerce Department reported that construction spending in January, which includes spending on highways and other municipal projects, took its biggest single month's drop in 14 years, but the President's response to the dismal economy and rising unemployment has been to send us a transportation budget that makes a bad situation worse.

By cutting highway and airport investments by a combined $2.6 billion, his budget would eliminate an additional 120,000 jobs. Each one of these jobs represents the difference between a family with some economic stability and a family staying up at night worrying about where they're going to find next month's rent and it would put off for yet another year the repairs and improvements our roads and airports already need very badly.

The President claims that his proposals would return the budget to surplus by the year 2012, but when you dig into the details, you find that the President has to rely on a series of unrealistic and irresponsible gimmicks to get there. One of those proposals should frighten every member of this subcommittee. He wants to cut federally-funded transportation services by 25 percent by 2012. His budget would have the Federal Government just give up its responsibility for funding our highways, airports and maintaining critical safety programs. I guess he expects a quarter of the Department of Transportation to simply disappear in the next 4 years.

Thankfully, five floors above us right now, the Senate Budget Committee is marking up a budget with realistic and responsible priorities for our Nation. I am a long-time member of that committee and I can assure you the budget we will report this evening puts Transportation on a very different path than the one proposed by President Bush.

Under our budget, Transportation would grow by almost $4 billion above the levels requested by the President for next year and Transportation funding will continue to grow above the level of inflation into the future.

The President's budget would effectively slash transportation funding by about $45 million over the next 5 years. The administration has defended its proposals to cut highway funding by $1.8 billion next year because the Highway Trust Fund is rapidly running out of money.

I've been warning Congress and the administration for years about the problem we face with the Trust Fund. We discussed that problem at last year's hearing. This year, I've worked with the Finance Committee to ensure that at least for 2009, we won't have to cut highway funding next year. That bill is awaiting action on the Senate Floor.

The Bush administration has offered an alternative: cut highway funding by $1.18 billion and steal from the Transit Account of the Trust Fund to bail out the Highway Account, and while the DOT maintains this loan from the Transit Account would be paid back once the Highway Account has sufficient resources, there's absolutely nothing in the administration budget projections to indicate whether repaying that loan would actually be possible.

By stealing from Transit to pay for highways, all we do is speed up the time it will take for the Transit Account to be as bankrupt as the Highway Account and that is just not a solution.

So, as we face looming shortfalls in highway funds, the only other idea being proposed by the administration is a sea of new tolls to be paid by the driving public. Secretary Peters recently advocated this new system of road pricing in a speech to the National Governors Association and her testimony addresses this today.

Road pricing basically requires drivers to pay steep new tolls and these new tolls are not just for traveling over brand-new highways and bridges, they'd be levied on the network of roads that have already been built with taxpayer funds. So, the administration is advocating now that working families who are already paying almost $4 a gallon for gas and who are barely making ends meet should pay brand-new tolls on highways they already paid for.

Now I believe new tolls have a place, especially for expensive projects, new projects, like a brand-new bridge, but the administration's plan is simply unrealistic for most Americans. Our families struggle enough to keep their cars on the roads so they can travel between their jobs, their kids' schools, their childcare centers and their homes.

I also believe the Federal Government should be cautious about the idea of leasing major transportation assets, including toll roads, to private investment banks. This idea is popular among mayors and governors. Here's how it works. Banks pay a huge amount of cash upfront, allowing cities and States to spend it immediately, but when the money's gone, their successors in office watch the toll revenues roll directly to the investment bank for as long as 99 years. If the money's used on transportation, this could be a good idea, but I think we have to be very careful if we're talking about leveraging transportation assets to get quick cash to pay down debt or to spend on other things.

So, as we discuss this today, I look forward to hearing the Secretary's views on whether governors and mayors, when they lease out transportation assets, should be required to invest their windfalls on transportation needs, and I also want to hear whether she believes this toll revenue is really a substitute for the Federal Aid Highway Program that has served to unify our communities and our country for the last half century.

Senator Bond?

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you very much, Senator Murray. I thank you for being such a good working partner, look forward to working with you on this year's THUD bill and we welcome Secretary Peters for appearing before us today to testify on the Department's budget submission for 2009.

Not that I need to add anything to encourage your gambit about woman power but 35 years ago when I started appointing the first women as heads of departments in the State of Missouri Government, one of them very humbly told me, you know, with the trouble that women face today, to take on a job she has to be twice as good, twice as effective and twice as efficient as a man. Fortunately, that's not at all hard, but that is not my quote. That's from a department head woman who is a great friend of mine.

Madam Secretary, this will potentially be the last time that you appear before us. We have appreciated your service in the Department as Administrator of the Federal Highway Administration and now as Secretary overseeing all of DOT, and I look forward to your comments on the overall dismal budget picture for all of the modes of transportation within the Department.

As the chair has noted, the 2009 budget proposes $68.2 billion in gross budgetary resources which is a decrease of $2.13 billion from the level enacted in our recent omnibus appropriations package. That level of reduction in spending for transportation is a nonstarter.

Madam Secretary, during this final year of SAFETEA, I would have hoped that the administration would have remained committed to meeting the guaranteed funding levels for highways and transit as authorized. I understand from your testimony you believe you've lived up to the terms of SAFETEA by providing $286.4 billion over the life of the bill, thereby fulfilling your commitment to the spending agreement made with Congress when the president signed SAFETEA.

I have to disagree respectfully with that assessment and I believe that the chair and I will continue to try to honor our commitment to highways and transit.

Last year on the Senate Floor, I did not support the additional $1 billion for bridges that was included in the final omnibus appropriations bill. As you know, a majority of my colleagues felt that in light of the Minnesota bridge collapse, additional funding for bridges was necessary not only for Minnesota but for all 50 States. For this reason, an additional $1 billion was provided in obligation limitations for bridges in the final omnibus which I call ominous because they always turn out bad things for those of us who work on the individual appropriations bill.

That negotiation was separate and apart from the deal that was agreed to by the administration when SAFETEA funding levels were agreed to and the guarantees under SAFETEA should be met.

SAFETEA guaranteed the States $41.2 billion for highways. However, this budget only provides $39.4 billion. This reduction comes in part from a projected negative revenue aligned budget authority of $1 billion, plus another $800 million in reductions.

Similarly, this budget proposes to fund the Federal Transit Programs at a level which is $200 million below the SAFETEA authorized levels for new starts. These funds allowed an increased investment in key highway and transportation projects which will compliment and assist the continued growth of the U.S. economy.

I stated before and I'll go on record again that these large rescissions of contract authority on the States cannot continue. For the last several appropriations cycles, we have increasingly used the practice of rescinding unobligated highway contract authority to make the overall size of transportation funding in our bill appear smaller.

The Department's budget submission regrettably joins us once again in using this budget gimmick to mask overall spending. Last year, regrettably, we included a rescission of over $4 billion in contract authority which was much higher than I was able to comfortably accept. Your budget submission now includes a rescission of almost $3.9 billion in contract authority and also does not reflect the $8.5 billion rescission in contract authority which will take place on September 30, 2009, the final day of SAFETEA, making the total rescission proposed for 2009 $12.39 billion.

There are real world consequences to these rescissions that are beginning to materialize from our actions. According to the individuals who run State departments of transportation, rescinding contract authority can limit our State departments of transportation ability to fund the priorities and operate their programs as efficiently as possible.

Our States need the flexibility to identify the Federal Aid Program categories to which these rescissions should apply, assuming we should continue to rescind these large amounts of contract authority. Last year, in exchange for agreeing to this high rescission in the THUD bill, I was able to convince my colleagues that rescission decisions should be made and remain in the hands of the States who know best where they should be made.

However, the Energy Bill passed and mandated in statute that proportional rescissions out of all the core funding categories are required, thereby severely limiting the ability of our States to set our spending priorities.

For example, if these high rescissions continue to be made and Missouri is forced to apply the categorical rescission, Missouri will be forced to cancel projects on their State implementation plan. Missouri has some categories with zero unobligated balances and would be forced to cancel projects currently on the STIP in interstate maintenance, national highway system, and Surface Transportation Program categories.

I've been told by our colleagues from Nevada that they have no remaining balances and our rescission decisions are starting to impact actual capital programming. The same is becoming true in Tennessee and Alaska and maybe many other States. Proportional rescissions of contract authority will hamper Missouri's program as well as many other States.

Madam Chair, this is an area where I think we need to work together to correct. I hope we can find a way to reduce the level of rescissions and, if necessary, at least give them the flexibility so that they don't incur the cost, the expense and the waste of canceling contracts already underway.

I also hope we can work with the Senate Finance Committee to fix the current shortfall in the Highway Trust Fund to get us through 2009 and beyond. It appears to me that no one can really get a handle on the Highway Trust Fund shortfall that we will face this year.

Last August, Madam Secretary, our staffs were briefed on the midyear projection of revenue into the Highway Trust Fund and we were told that a $4.3 billion gap would occur at the beginning of 2009. Lower than anticipated tax receipts, which fund the Highway Trust Fund, were due in part to a sharp downturn in vehicle miles traveled, VMT, and truck sales being down 20 percent.

It would appear then that high gas prices were having a major impact on the traveling public and their willingness to drive long distances. I expect these issues to continue to limit the availability of funds for the Highway Trust Fund.

The budget you have before us today re-estimates that shortfall in the Highway Trust Fund to $3.3 billion, based upon slower than expected outlays on earmarks and projected negative RABA. To make up for this shortfall, your budget calls for another budget gimmick, allowing the HTF to borrow up to $3.3 billion from the Mass Transit Account to cover the shortfall in the Highway Account. This is what I would call at best a bandage for a bleeding wound, but it's taking a bandage off of another area that will be bleeding just as badly.

What we really need is a solution from the Senate Finance Committee to get us through 2009 and into 2010 until a comprehensive reauthorization proposal can be passed and signed into law.

Madam Secretary, in this year's budget, you've proposed once again a Congestion Reduction Initiative redirecting a $175 million in debt earmarks from ISTEA. Given the fact that $848 million was awarded or is conditionally awarded for five communities using 2007 funds and only one of the five has met all of the terms of its urban partnership agreement, one might ask why do you feel you need more money?

I understand that Minnesota, at $133 million, is close, but New York with $345 million and San Francisco with almost $159 million are not going to know from the State legislatures until March 31, of this year and Seattle is not to be decided until September 2009. No one at this point really knows if any of the three undecided urban partners will meet their deadlines or if their proposals will have any real effectiveness in reducing congestion.

Once again, on another subject, we have a non-starter for Amtrak. Last year, we gave Amtrak $1.3 + billion, $850 million for capital and debt service, $475 million in operations. The budget we have before us proposes to reduce this level by 40 percent.

Beyond the issue of what's the right number for Amtrak lays the recent Presidential Emergency labor board settlement which is not included whatsoever in the budget that we have before us.

As for aviation and, of course, the bad news keeps getting worse, the administration again attempts to slash funding from the Airport Improvement Program by $765 million. This is the third year in a row that the administration has attempted to reduce substantially this critical account beyond acceptable levels.

I look forward to working with the chair and fellow members of this committee to restore these cuts and to ensure that the Nation's airport infrastructure receives the appropriate Federal investment.

Nevertheless, Madam Secretary, you know the importance of airport infrastructure in regards to solving our aviation congestion problems. We applaud you for acknowledging that many of our Nation's major congestion choke points need to develop and improve secondary airports to handle traffic.

I talked last night with several pilots who said that they were very much concerned because we've got a lot more resources up in the air than we have places to land them and it's not just air traffic control, its actual facilities.

Madam Secretary, you deserve credit for seeking to change the landing fee structure to incentivize moving operations to off-peak hours and secondary airports in congested areas and to change the way airport projects are financed both at major hubs and at secondaries. We need to ensure proper investment in these secondaries if we're truly serious about battling congestion and properly funding the AIP Program goes a long way towards that goal.

In closing, I would only say that healthy investment in highway, transit and aviation programs, including safety, improves America's quality of life and is the lifeblood of our Nation's economic growth.

Thank you, Madam Chair.

Senator MURRAY. Senator Lautenberg.

STATEMENT OF SENATOR FRANK R. LAUTENBERG

Senator LAUTENBERG. Thank you, Madam Chair, and Secretary Peters, we wish you well in your next endeavors and I know how hard you worked to put things together. Unfortunately, they did not come together, whether it was the President's choice or whether we didn't bite hard enough to make him aware of the fact that the Nation's suffering terribly as a result of insufficient investment.

If we want to strengthen and grow our economy, the one thing we must do is invest in our transportation infrastructure now. The President isn't willing to make these critical investments. That's kind of obvious. He wants to cut funding for bridges, highways, repairs by almost $2 billion. He also wants to fund transit programs at $200 million below the level that Congress authorized.

Now these cuts hurt States like mine, like New Jersey and its working families that need transit options the most, and airline passengers will fare no better under this budget. The delays will continue. As a matter of fact, the projections are that they'll get substantially worse in the years ahead.

President Bush wants to raise airline taxes, cut funding for our Nation's airports and runways by $765 million. Our air traffic control system is already dangerously understaffed and the FAA has done far too little to prevent runway incidents.

President Bush once again is trying to bankrupt Amtrak and it's really shocking when we see that whether it's out of desperation or choice that Amtrak ridership is substantially higher than it's been. In the year 2006, we had 24,300,000 passengers. In the year 2007, we had 25,800,000 passengers, and the revenues also have showed substantial increases, whether or not the choice was made out of, as I said earlier, desperation or convenience, but the revenues were up almost $200 million in those 2 years.

So, when we look at reductions in funding for Amtrak, it really makes one wonder why. At a time of record high gas prices, record airport delays, we should not be taking away this popular energy efficient and convenient travel option which people are using in record numbers, as I just described.

Our economy depends on our transportation infrastructure. It demands a greater investment and commitment from the Federal Government and I look forward to working with my colleagues on this subcommittee to provide the leadership that we need for us to provide the critical factors to enable our Nation to function more efficiently, creating less toxic emissions, and to be able to search for new technologies and innovations, remembering that population growth in America in 1970, we had 200 million people, 37 years later, we have 300 million, and the transportation system was certainly not built for that kind of growth and we have to make adjustments and make them rapidly because it doesn't look like we're leveling off in population growth.

Thank you, Madam Secretary.

Senator MURRAY. Thank you. Secretary Specter.

Senator SPECTER. Madam Chairman, Senator Stevens has asked for 30 seconds.

Senator MURRAY. Senator Stevens.

STATEMENT OF SENATOR TED STEVENS

Senator STEVENS. Madam Chairman, I greet the Secretary, but I ask unanimous consent to make my statement appear in the record and the questions submitted for me. I have to go on the Floor.

Senator MURRAY. Without objection.

Senator STEVENS. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF SENATOR TED STEVENS

Madam Secretary, I understand the challenges that the Department faces to provide funding for our Nation's aging transportation systems, with growing congestion and the continued need to continue to prioritize safety.

It is important that, as we work with the Department of Transportation to address these challenges, we must continue our commitment to increase aviation safety and rural community access.

The FAA has made great strides in aviation modernization and safety. As we move forward, it is important that we understand the challenges faced in Alaska. We're a State that's one-fifth of the United States in size, as you know. We have very few roads. Our taxis, our buses, and our ambulances are almost all aircraft. Seventy percent of our communities are not connected to the outside world or to each other by roads. They are accessible only by air and in some instances by water.

Because of our reliance on air travel, the hazardous weather conditions, and diverse terrain, (AK has 17 of the 20 highest peaks in the United States), Alaska has served a critical role in the development and implementation of aviation safety technology, which will be implemented nationwide as the ADS–B system. (Known as capstone in AK).

In last weeks Commerce Committee hearing, we discussed some of the shortfalls of this years proposed budget, specifically cuts to the essential air service program which provides a lifeline for isolated communities in my State and across the Nation.

Despite the many shortfalls of this years proposed budget, I look forward to working together to address the needs of our Nations' transportation systems, as well as the needs of Alaska.

I appreciate the funding provided in the proposed budget for Alaska Flight Service Modernization ($14.6 million). As the FAA considers the final investment analysis of how to modernize the Alaska Flight Service Stations, I want the Department to understand that the flight stations in Alaska provide services beyond the functions provided by stations in the rest of the Nation, as many facilities do not have towers.

I hope that the Department recognizes that reality, and continues to make safety as primary concern as we move forward.

STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Thank you, Madam Chairwoman. I will be brief. I left the Judiciary Committee where I'm ranking and I'm needed there for a quorum.

I wanted to raise some issues which are very, very serious to Pennsylvania. Secretary Peters, I know you're aware of them, but I've not had any responses from the Department. So, I repeat them here.

There had been a commitment that the flight routing over Delaware County in Pennsylvania would not be done between 9 a.m. and 11 a.m., and 2 p.m. to 7 p.m., unless there is a significant backlog, and that commitment was made by a representative from your Department named Steve Kelley and the planes are being routed over Delaware County when there is no backlog at all, which has created an enormous and justifiable local furor and other approaches are not being used, such as a river approach, and we would like to know the details.

I've been trying very hard to get Mr. Sturgell to come for a hearing so we could deal with these issues and I would appreciate your assistance on that.

On another matter, the scheduling of flights at the Philadelphia International Airport is intolerable. You don't have to look at the schedules to know it. I can give you lots of personal experience on the subject, and I had written to you back on November 8, of last year and December 18, of last year and I would very much appreciate responses to those letters, and I've asked to have a meeting convened among the carriers, similar to the one which you held in New York. That meeting impacted on Pennsylvania and the Philadelphia International Airport because there are analogous routes. So these are matters of enormous importance to my State and to me personally.

There has been an application pending in your Department regarding MAGLEV, a high-speed line which we're trying to move ahead in Pennsylvania, and it has been pending for more than a year and I personally called the key official and got assurances that something would be done and a long time has passed since then.

So again I would appreciate it if you would give that your personal attention.

In conclusion, let me associate myself with the remarks of Senator Lautenberg about Amtrak. It's enormously vital in this country and Congress has had to intervene consistently and I think that a more realistic approach needs to be taken by the administration on the subject.

Thank you, Madam Chairwomen.

PREPARED STATEMENT OF SENATOR ROBERT C. BYRD

Senator MURRAY. Thank you. The subcommittee has received a statement from Senator Byrd which we will insert into the record.

[The statement follows:]

PREPARED STATEMENT OF SENATOR ROBERT C. BYRD

Madame Chairman, In May 1829, President Andrew Jackson vetoed the Maysville Road bill. The measure would have funded a section of the national highway running through Maysville, Kentucky, across the Ohio River, into Cincinnati. Failing to comprehend or acknowledge the benefits to the national economy, the Jackson administration derided the funding for the Maysville Road as local, pork-barrel spending. But U.S. Senator Daniel Webster, who understood that local projects often have national implications, especially investments in transportation infrastructure, opposed the President's veto. He remarked, "There is no road leaving everywhere, except the road to ruin. And that's an administration road."

I often think about that quote—the administration's "road to ruin." President Bush's budget included lots of bombast against State and local infrastructure projects, derisively dismissing them as special interest earmarks. Once again, a presidential administration is failing to recognize that inadequate infrastructure in one State affects the economies of other States. It affects the Nation as a whole. Therefore, it is the Federal Government's unquestionable role to do something about it.

Let's consider the statistics. According to the American Society of Civil Engineers, our Nation has 590,000 bridges, and one out of every four is structurally deficient or functionally obsolete. One of those bridges was the I–35 bridge that collapsed in Minnesota last year. Because of congested roads, Americans sit in traffic for 3.5 billion hours annually, at a cost of $63 billion to the economy. Our airways are not much better. Airports are struggling to accommodate an increasing number of airplanes and jumbo jets, and passengers are forced to wait interminably on runways. Rail capacity is limited. Intercity passenger rail service is routinely attacked by this administration, leaving it in a precarious state of near-bankruptcy. Commuter rail and transit infrastructure is aging, and budgets are shrinking, as fares increase and services are reduced.

Our Nation's deteriorating infrastructure expands well beyond the Transportation Department. There are 3,500 deficient and unsafe dams posing a direct risk to human life if they should fail. Of the 257 locks on the more than 12,000 miles of inland waterways operated by the U.S. Army Corps of Engineers, nearly half of them are functionally obsolete. For every barge that is affected, it is the equivalent of disrupting 58 semi-trucks carrying cargo across the country.

Aging water facilities fail to comply with safe drinking water regulations. Outdated wastewater management systems discharge billions of gallons of untreated sewage into surface waters each year. Existing transmission facilities within the national power grid are overwhelmed by bottlenecks, which elevates the risk of regional blackouts. Our public parks, beaches, and recreational harbors need attention because they are falling into disrepair. These facilities are anchors for tourism and economic development in many States.

Congested roads and long commutes, crowded airlines and delayed flights, vulnerable bridges, energy blackouts, failing dams, dirty water and waste mismanagement—these are the festering signs of a Nation's infrastructure which is slowly starving. And it's happening on this administration's watch. It's happening because the Bush administration refuses to fund our country's basic infrastructure—the bones on which the muscles of a sound economy depend.

This is Mr. Bush's "road to ruin."

An editorial in The Washington Post in 2005 described the situation this way: "[We] have let the Nation's plumbing rust, its wiring fray, its floor joists warp and its walkways crumble . . . Sooner or later, though, we're going to have to pony up . . . If you continue to ignore that drip, drip, drip in the upstairs bedroom, pretty soon you're going to be pricing a new roof."

This editorial appeared only weeks before Hurricane Katrina. The investments we delayed and postponed in New Orleans cost lives. The investments we delay in transportation infrastructure cost lives, and undermine our economic prosperity. When it comes time to pay, it costs tens of billions of dollars in repairs and new building, much more than would have been necessary had we not ignored the problem. These are painful lessons that this administration is stubbornly refusing to acknowledge. Our constituents expect us to have the vision to look down the road and put policies in place that ensure productivity and prosperity. But instead, some have chosen the rocky road to ruination. One thing is certain. If we allow the drip, drip, drip to continue, we will one day suffer the crushing costs that come when the roof falls in.

Senator MURRAY. Secretary Peters, we will now turn to you for your testimony.

STATEMENT OF HON. MARY E. PETERS

Secretary PETERS. Madam Chairman, thank you very much. I know that Senator Specter has to leave. My apologies that we have not been responsive; we will ensure that we respond right away, sir. I am aware that there is a hearing scheduled in Philadelphia for April 7, on the Philadelphia air routings.

Chairman Murray, members of the committee, thank you for the opportunity to appear before you today to discuss the administration's fiscal year 2009 budget request for the U.S. Department of Transportation.

President Bush is requesting $68.2 billion for America's transportation network in the next fiscal year, including funding for the Department's mandatory programs.

We are working with the President to hold the line on spending, while giving travelers and taxpayers the best possible value for their transportation dollars by transforming the way our transportation system works and is funded.

Our focus is on real transportation solutions that make travel safer, improve the performance of our transportation systems so that they operate more efficiently and serve us better, and apply technologies and contemporary approaches to today's transportation challenges.

For the first time since the creation of the interstate highway system, we have an incredible opportunity to come together and completely reassess our approach to financing and managing the surface transportation systems. Because gas and diesel taxes are levied regardless of when, where or how someone drives, a misperception has been created that the highways are free.

As with any scarce resource that is perceived to be free, demand will chronically exceed supply. In the case of highways, the peak demand is serious and it's growing worse in every medium or large city in the United States today.

While highway spending at all levels of government has increased by 100 percent in real dollar terms since 1980, the hours of delay during peak travel periods experienced by drivers has increased by over 200 percent during the same period of time. Nationwide, congestion imposes delay and wasted fuel costs on the economy of at least $78 billion a year.

The true costs of congestion, however, are much higher. Consider the significant costs of unreliability to drivers and businesses, the environmental impacts of idle-related auto emissions, increased gasoline prices and the immobility of labor markets that result from congestion. All of these costs substantially affect interstate commerce and our ability as a Nation to compete in a global economy.

The President's budget includes $14.6 billion for the Federal Aviation Administration (FAA). The budget request assumes passage of the President's reauthorization proposal for FAA programs and revenue streams associated with that reform package.

With the more efficient revenue structure, we will be able to build on our exemplary safety record in aviation while expanding the number of aircraft that the Nation's airspace can safely handle at any given time.

The key to achieving higher levels of safety and efficiency is to move to 21st century technologies to guide air traffic. The fiscal year 2009 budget request would more than double the investment in these NextGen technologies, providing $688 billion for key research and technologies, including the transformation from radar-based to satellite-based navigation systems.

Without these reforms to help finance increased air traffic control capacity and modernization, we can all expect, unfortunately, to spend more time waiting in airports or strapped in an airplane seat sitting at the end of a runway.

Nearly 31 percent of the funds requested for fiscal year 2009 support safety programs and activities. The budget allows us to build on our successes in delivering safer transportation systems by focusing on problem areas, such as runway incursions, as well as motorcycle crashes and pedestrian injuries on the road.

It is important that we continue a data-driven safety focus that allows us to target our resources more effectively to save lives. Last week, the Department announced a new national strategy that will bring new focus, including resources and new technology, to reducing deaths on the Nation's rural roadways. Our Rural Safety Initiative will help States and communities develop ways to eliminate the risks drivers face on America's rural roads and highlight the available solutions and resources.

The President's fiscal year 2009 budget builds on the exciting things that we're doing at the Department of Transportation, things that will help move America forward on a new course, a course that delivers high levels of safety, takes advantage of modern technology and financing mechanisms, and mitigates congestion with efficient and reliable transportation systems.

Madam Chairman, as I mentioned, I believe that we are at an important crossroads in terms of our Nation's transportation system. I have put some ideas out there, but I am anxious to work with you and to hear your ideas, and those of this committee, as we move forward to meet these challenges.

PREPARED STATEMENT

Thank you for the opportunity to appear before you today. I look forward to working with Congress and with the transportation community so that together we can ensure that America continues to have the best transportation system in the world.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF HON. MARY E. PETERS

Chairman Murray and members of the subcommittee, thank you for the opportunity to appear before you today to discuss the administration's fiscal year 2009 budget request for the U.S. Department of Transportation.

President Bush is requesting $68.2 billion for America's transportation network in the next fiscal year, including funding for the Department's mandatory programs. We are working with the President to hold the line on spending, while giving travelers and taxpayers the best possible value for their transportation dollars by transforming the way our transportation system works and is funded. At the Department of Transportation, our focus is on finding real transportation solutions that make travel safer, improve the performance of our transportation systems so that they operate more efficiently and serve us better, and apply advanced technologies and contemporary approaches to today's transportation challenges.

Consistent with these priorities, nearly 31 percent of the funds requested for fiscal year 2009 support safety programs and activities. The budget allows us to build on our successes in delivering safer transportation systems by focusing on problem areas like runway incursions, as well as motorcycle crashes and pedestrian injuries on the road. It is important that we continue a data-driven safety focus that allows us to target resources more effectively.

Just as the budget supports continued strong progress on the safety front, it also builds on our comprehensive efforts to identify new partners, new financing, and new approaches to reduce congestion. One example is the New York region where the Bush administration has moved aggressively to alleviate congestion in the air and on the ground. The administration recently announced short-term measures to bring passengers relief from chronic flight delays and we have been supporting Mayor Bloomberg's efforts to reduce the crippling congestion on the streets of Manhattan. If last year's record traffic jams and flight delays taught us anything, it is that traditional financial approaches are not capable of producing the results we need to keep America's economy growing and America's families connected.

Fiscal year 2009 is the final year of the current surface transportation authorization—the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The President's budget fulfills the President's commitment to provide the 6-year, $286.4 billion investment authorized by SAFETEA–LU. For 2009, the budget provides $51.7 billion in 2009 for highways, highway safety, and public transportation.

To honor that commitment, even with an anticipated shortfall in the Highway Account balance of the Highway Trust Fund, the President is requesting temporary authority to allow "repayable advances" between the Highway Account and the Mass Transit Account in the Highway Trust Fund. This flexibility will get us through the current authorization without any impact on transit funding in 2009; however, unreliable Trust Fund revenues are another sign that we need to more aggressively begin moving away from our reliance on fuel taxes by partnering with State and local governments willing to develop more effective means to finance our surface transportation infrastructure.

It is increasingly clear that America's transportation systems are at a crossroads. Even as we continue to make substantial investments in our Nation's transportation systems, we realize that a business-as-usual approach to funding transportation programs is no longer effective. We need serious reform of our approaches to both financing and managing our transportation networks.

For the first time since the creation of the Interstate Highway System, we have an amazing opportunity to come together and completely re-assess our approach to financing and managing surface transportation systems. For too long, we have tolerated exploding highway congestion, unsustainable revenue mechanisms and spending decisions based on political influence as opposed to merit.

Now, thanks to technological breakthroughs, changing public opinion and highly successful real-world demonstrations around the world, it is clear that a new path is imminently achievable if we have the political will to forge it. That path must start with an honest assessment of how we pay for transportation. In fact, our continued transportation financing challenges are in many ways a symptom of these underlying policy failures, not the cause.

Because gas and diesel taxes are levied regardless of when, where or how someone drives, a misperception has been created that highways are "free." As with any scarce resource that is perceived to be free, demand will chronically exceed supply. In the case of highways, this peak demand problem is serious and growing worse in every medium or large city in the United States. While highway spending at all levels of government has increased 100 percent in real dollar terms since 1980, the hours of delay during peak travel periods has increased almost 200 percent over the same time period.

Traffic congestion affects people in nearly every aspect of their daily lives—where they live, where they work, where they shop, and how much they pay for goods and services. According to 2005 figures, in certain metropolitan areas the average rush hour driver loses as many as 60 hours per year to travel delay—the equivalent of one and a half full work weeks, amounting annually to a "congestion tax" of approximately $1,200 per rush hour traveler in wasted time and fuel.

Nationwide, congestion imposes delay and wasted fuel costs on the economy of at least $78 billion per year. The true costs of congestion are much higher, however, after taking into account the significant cost of unreliability to drivers and businesses, the environmental impacts of idle-related auto emissions, increased gasoline prices and the immobility of labor markets that result from congestion, all of which substantially affect interstate commerce.

Traffic congestion also has an increasingly negative impact upon the quality of life of many American families. In a 2005 survey, for example, 52 percent of Northern Virginia commuters reported that their travel times to work had increased in the past year, leading 70 percent of working parents to report having insufficient time to spend with their children and 63 percent of respondents to report having insufficient time to spend with their spouses.

Nationally, in a 2005 survey conducted by the National League of Cities, 35 percent of U.S. citizens reported traffic congestion as the most deteriorated living condition in their cities over the past 5 years; 85 percent responded that traffic congestion was as bad as, or worse than, it was in the previous year. Similarly, in a 2001 survey conducted by the U.S. Conference of Mayors, 79 percent of Americans from 10 metropolitan areas reported that congestion had worsened in the prior 5 years; 50 percent believe it has become "much worse."

Around the country, a growing number of public opinion polls reflect the unpopularity of gas and diesel taxes, particularly when compared to open road electronic tolling. Most recently, in a King County, Washington survey conducted in December 2007, respondents preferred financing the reconstruction of a major bridge with electronic tolling instead of gas taxes by a margin of 77 to 17 percent. In addition, the concept of variable tolling using new technologies in which prices vary regularly based on demand levels received support from 76 percent of respondents and opposition from only 22 percent.

A survey of public opinion surveys conducted in November 2007 for the Transportation Research Board by the research firm NuStats found that "in many parts of the United States, a wide gap exists between elected officials' perceptions of what the public thinks about tolling and road pricing and what public opinion actually is." Summarizing their findings, the report said, "in the aggregate there is clear majority support for tolling and road pricing. Among all surveys, 56 percent showed support for tolling or road pricing concepts. Opposition was encountered in 31 percent of the surveys. Mixed results (i.e., no majority support or opposition) occurred in 13 percent of them."

In the 2007 edition of their Annual Survey of U.S. Attitudes on Tax and Wealth, the Tax Foundation wrote, "the one surprise this year was at the State and local level, where gas taxes were viewed as the least fair tax. That's the first time any State-local tax has edged famously-disliked local property taxes out for the honor of most unfair tax."

Virtually every economist who has studied transportation says that direct pricing of road use, similar to how people pay for other utilities, holds far more promise in addressing congestion and generating sustainable revenues for re-investment than do traditional gas taxes. And thanks to new technologies that have eliminated the need for toll booths, the concept of road pricing is spreading rapidly around the world. The brilliance of road pricing is that it achieves three major policy objectives simultaneously.

First, it will immediately reduce congestion and deliver substantial economic benefits. Drivers have proven in a growing array of road pricing examples in the United States and around the world that prices can work to significantly increase highway speed and reliability, encourage efficient spreading of traffic across all periods of the day, encourage shifts to public transportation and encourage the combining of trips. In fact, the National Household Travel Survey shows on an average workday, 56 percent of trips during the morning peak travel period and 69 percent of trips during the evening peak travel period are non-work related, and 23 percent of peak travelers are retired.

Second, it will generate revenues for re-investment precisely in the locations that need investment the most. Recent estimates in a forthcoming paper, "Toward a Comprehensive Assessment of Road Pricing Accounting for Land Use" by economists Clifford Winston and Ashley Langer at the Brookings Institute conclude that utilizing congestion pricing in ONLY the largest 98 metropolitan areas would generate approximately $120 billion a year in revenues while simultaneously solving the recurring congestion problem in those areas. Implementation of a broader road pricing strategy tied to wear and tear and reconstruction costs would obviously produce even higher revenue. In 2006, as a Nation, we spent approximately $150 billion on all of our highways. State and local officials would even gain additional flexibility to reduce the wide array of taxes currently going into transportation that have nothing to do with use of the system.

Third, direct pricing will reduce carbon emissions and the emissions of traditional pollutants. According to Environmental Defense, a nonprofit environmental organization, congestion pricing in the city of London reduced emissions of particulate matter and nitrogen oxides by 12 percent and fossil fuel consumption and CO_2 emissions by 20 percent; a comprehensive electronic road pricing system in Singapore has prevented the emission of an estimated 175,000 lbs of CO_2; and Stockholm's congestion pricing system has led to a 10–14 percent drop in CO_2 emissions.

Technology must play an important role in relieving traffic on our Nation's highways. Through programs like our Urban Partnerships and Corridors of the Future initiatives, we have been aggressively pursuing effective new strategies to reverse the growing traffic congestion crisis. The interest around the country has proven quite strong—over 30 major U.S. cities responded to our call for innovative plans to actually reduce congestion, not simply to slow its growth.

The fiscal year 2009 budget would encourage new approaches in fighting gridlock by proposing to use $175 million in inactive earmarks and 75 percent of certain discretionary highway and transit program funds to fight congestion, giving priority to projects that combine a mix of pricing, transit, and technology solutions. While State and local leaders across the country are aggressively moving forward, congressional support and leadership is critical. These projects will help us find a new way forward as we approach reauthorization of our surface transportation programs.

Through the Urban Partnership initiative, communities submitted innovative transportation plans that would not just slow the growth of congestion, but would reduce it. The Department promised to allocate the Federal contribution in a lump sum, not in bits and pieces over several years. This initiative is part of a national dialogue about how transportation should be funded in the future. Congestion pricing is being talked about in major newspapers and cutting-edge traffic-fighting packages are combining technology and tolling, using the revenues to expand highway and transit capacity.

In August 2007, the Department awarded $850 million in Federal grants to five cities—Miami, Minneapolis, San Francisco, Seattle, and New York—to support their bold and innovative strategies to reduce gridlock and raise new funds for transportation. The Department's discretionary grant awards under the Congestion Initiative in fiscal year 2007 were awarded in accordance with the statutory criteria of the applicable Federal-aid programs and Federal appropriations law.

Local leaders in Minneapolis, for example, are tackling congestion there by converting HOV lanes to HOT lanes, congestion pricing new capacity on the shoulders of I-35 West, and deploying high-end bus rapid transit service and intelligent transportation technologies.

San Francisco, meanwhile, plans to charge variable tolls on its most congested roadway into the city, implement a comprehensive smart parking system and institute traffic signal coordination at 500 key intersections throughout the city.

And, New York City Mayor Bloomberg—together with key members of the New York State legislature, environmental leaders, and city business leaders—is advancing the most comprehensive congestion solution yet seen in the United States: "cordon pricing" of Manhattan south of 86th Street, supported by new bus rapid transit service to the city center.

Accessible and cost-effective transit projects also help fight congestion, and the President's budget includes over $10 billion for transit programs. The President's budget includes $6.2 billion to help meet the capital replacement, rehabilitation, and refurbishment needs of existing transit systems. Also included is $1.4 billion for major New Starts projects, which will provide full funding for 15 commuter rail projects that are currently under construction, as well as proposing new funding for 2 additional projects. Another $200 million will be used to fund 13 projects under the Small Starts program.

The President's budget includes $14.6 billion for the Federal Aviation Administration (FAA). In addition to critical new technology, the budget includes sufficient resources to hire and train an additional 306 air traffic controllers—people who are key to keeping the system safe.

The budget request assumes Congressional passage of the President's reauthorization proposal for FAA programs and revenue streams. With a more efficient revenue structure, we will be able to build on our exemplary aviation safety record while expanding the number of aircraft that the Nation's airspace can safely handle at any given time. Also, our proposal would modernize how we pay for airport infrastructure projects and allow us to overhaul the Nation's air traffic control system.

Key to achieving higher levels of safety and efficiency is the move to 21st century technologies to guide air traffic. 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. The fiscal year 2009 budget request would more than double investment in these Next Generation Air Transportation System (NextGen) technologies, providing $688 million for key research and technologies including the transformation from radar-based to satellite-based navigation systems.

The fiscal year 2009 budget once again provides the framework of the Next Generation Air Transportation System Financing Reform Act, a new proposal that will make flying more convenient for millions of travelers. As air traffic is expected to nearly triple by 2025, our aviation system requires a more reliable and responsive source of revenue to fund the modern technology required to manage this expanded capacity. The investment in NextGen will allow the FAA to not only handle more aircraft, but also to maintain high levels of safety, reduce flight delays, and reduce noise near airports.

From a finance perspective, our proposal replaces the decades-old system of collecting ticket taxes with a stable, cost-based funding program. Based on a combination of user-fees, taxes and general funds, it creates a stronger correlation between what users pay to what it costs the FAA to provide them with air traffic control and other services. The incentives our plan puts in place 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. There has already been a vigorous debate about the structure of the system, and we ask Congress to support our substantial aviation reform.

We also urge action on making needed reforms to the Nation's Intercity Passenger Rail system. The President's fiscal year 2009 budget provides a total funding level of $900 million for intercity passenger rail. Included in this total is $100 million for a 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 budget request would increase funding for pipeline safety programs to over $93 million by funding eight new inspectors to increase oversight of poor performing pipeline operators and increasing State pipeline safety grants by $11.3 million.

Last week, the Department announced a new national strategy that will bring new focus, including resources and new technology, to reducing deaths on the Nation's rural roads. The Department's Rural Safety Initiative will help States and communities develop ways to eliminate the risks drivers face on America's rural roads and highlight available solutions and resources. The new endeavor addresses five key goals: safer drivers, better roads, smarter roads, better-trained emergency responders, and improved outreach and partnerships.

We are also requesting $174 million to support a fleet of 60 vessels in the Maritime Security Program to assure the viability of a U.S.-flag merchant marine capable of maintaining a role in international commercial shipping and of meeting the sea lift needs of the Department of Defense.

Finally, the President's budget includes $17.6 million to support the first year of a $165 million, 10-year asset renewal program for the Saint Lawrence Seaway Development Corporation. After 50 years of continuous U.S. Seaway operations, this federally-owned and operated infrastructure is approaching the end of its original "design" life. Coordinated large scale capital reinvestment is now required to assure continuous, safe and efficient flow of maritime commerce.

The President's fiscal year 2009 budget builds on the exciting things we are doing at the Department of Transportation to help America move forward on a new course—a course that delivers high levels of safety, takes advantage of modern technology and financing mechanisms, and mitigates congestion with efficient and reliable transportation systems.

Thank you for the opportunity to appear before you today. I look forward to working with the Congress and the transportation community to ensure that America continues to have the best transportation system in the world.

FUNDING FOR INFRASTRUCTURE INVESTMENTS

Senator MURRAY. Thank you very much, Secretary Peters. As I mentioned in my opening statement, few areas of our economy have deteriorated as badly as employment in the construction sector. By far and away, the two biggest cuts in the transportation budget are your proposals to slash highway funding by almost $2 billion and airport funding by more than $750 million.

Together, those cuts represent a potential loss of about a 120,000 well-paying jobs.

Given the state of the economy, why does the President right now feel that it's the right time to cut back on infrastructure investments and really worsen the job losses in our construction sector?

Secretary PETERS. Madam Chairman, we understand that there's some disagreement with this body in terms of what the President has proposed in those areas.

As I have mentioned, the President asked us to use great care in spending our taxpayers' dollars and to tighten our budget wherever we could.

In terms of highway, highway safety, and public transportation programs, we are meeting the commitment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) legislation in terms of the full $286.4 billion authorized. We are reducing the request for the Federal Highway Administration based on the $1 billion of Revenue Aligned Budget Authority (RABA) that would take place this year, $800 million in highways, and $200 million in transit for a total of $2 billion.

Madam Chairman, we understand that these reductions are going to cause some concern with State leaders, but we believe that we can help them bring new resources to bear that will help them meet their needs, and as you mentioned, create the jobs that are associated with them.

In terms of the Airport Improvement Program, our proposal funds all important safety projects. We also included in the administration's FAA reauthorization proposal other new mechanisms that would allow airports to bring more money to bear to meet infrastructure at our airports.

I think Senator Bond made a very good point. The challenge that we have in aviation is not just in the sky, but it's also on the ground. Improving the efficiency of the capacity that we have today, and expanding that capacity in the future, is going to be crucial if we're able to meet the growing demand for aviation.

AIRPORT INFRASTRUCTURE INVESTMENT

Senator MURRAY. Well, I've heard you justify highway cuts in the past by talking about the precarious situation of the Highway Trust Fund, but in terms of the huge cuts to the Airport Program, there is still a lot of money in the Aviation Trust Fund to maintain the current level of spending.

Your proposed cut in airport investment might cause the loss of more than 30,000 construction jobs.

Can you tell this committee why you're proposing to cut airport infrastructure when we know that airport congestion is worsening and there are adequate funds in the Trust Fund today to cover that?

Secretary PETERS. Certainly, Madam Chairman. The balance, as you indicated, in the Aviation account is about $1.5 billion. Unfortunately, it's only approximately 2 months worth of operations, down substantially from what it has been in the past.

But back to your question about why we are not proposing more for the Airport Improvement Program. Madam Chairman, we included $2.75 billion, which would cover all essential safety projects and those projects that are on deck and ready to go right now.

Last year when we sent the administration's aviation reauthorization proposal to Congress, we proposed new mechanisms that would allow airports to use new ways to bring money to bear for these important capital improvement projects.

Senator MURRAY. And you're waiting for Congress on that?

Secretary PETERS. We have been, Madam Chairman. We understand that there may be some difficulty in reaching that goal.

HIGHWAY TOLLING

Senator MURRAY. Well, let me go back to the highways. You know the condition of the Highway Trust Fund and the Revenue Study Commission that you chaired issued a report and put a lot of options on the table as far as fuel taxes, user fees, public-private partnerships, freight fees, streamlined funding categories, a number of things.

You dissented from that report and instead you are here in front of this committee today advocating a $1.8 billion funding cut which is by using a raid on the Mass Transit Trust Fund of expanded tolling.

Can you talk to us about how you see tolling to be a near-term solution to the crisis that we're facing?

Secretary PETERS. Madam Chairman, I would be pleased to do that. I think the goal that we together have is to move the solutions to transportation challenges that our Nation faces into 21st century solutions.

We, as a Nation, have depended on fossil-based fuel taxes for most of our surface transportation funding on a Federal level since the mid-1950s when the interstate highway system was first authorized. That mechanism served us well to deal with the challenges that we had at the time in terms of connecting major cities in the United States. But because it bears no direct relationship to the use of the system, and because those revenues, as you said, are dropping off substantially at this point in time, it no longer is adequate, responsive, or sustainable. In fact, it's not a popular taxing mechanism with the public as well.

The Energy Independence and Security Act, and other important reforms that this Congress passed and the President signed, will move us into more fuel efficient vehicles, which is very good and very important. It will help our environment. We'll also move away from burning fossil-based fuels and use more alternative and renewable fuels.

All of those things point to the way that we need to do something different in the future, Madam Chairman, and that is why I dissented from the committee majority recommendation to increase by some 40 cents a gallon fuel taxes——

Senator MURRAY. In favor of tolls, but tell us how, if you think the cities and States are ready to collect an additional $1.8 billion by this coming October to fill the hole in this.

Secretary PETERS. Madam Chairman, I will do that. There is conservatively right now about $400 billion available in private sector investment funds that could be brought to bear not only to meet that $1.8 billion, but to meet substantially more than that if we create the proper environment. Many States have done so already, where these funds can be used.

In fact, Madam Chairman, I think you mentioned earlier a new SR520 bridge in your home State.

Senator MURRAY. For a new bridge?

Secretary PETERS. For a new bridge. Yes, ma'am. A new bridge for SR520 has enjoyed popular support in Seattle and in Washington State, and I think Governor Gregoire has properly targeted use of private sector funds for an important and, you said, new project like that.

Senator MURRAY. But your proposal is on existing highways. You're asking taxpayers to pay tolling on roads that are already paid for, and I know in your testimony, you talked about New York and London as innovative approaches to financing our highway system.

Most of America doesn't look like London or New York and I know this committee has become well aware of public concern about tolling. Last year, the Texas delegation on a broad bipartisan basis insisted on a provision in our bill to prohibit Governor Perry from implementing a toll plan.

So, based on that Texas experience, do you really think America is ready for widespread tolling?

Secretary PETERS. Madam Chairman, if I may correct, I am not advocating tolling on existing highways. Some of the local and State governments did for five urban partnership proposals, but it is not something that we're driving.

I wouldn't necessarily take it off the table, but I would say it has to be up to State and local elected officials to make a decision about where and how they would provide tolling and bring these new revenue sources to bear.

Again, I believe, Madam Chairman, that we have an opportunity to bring substantial new revenues into the system. That is my goal. My goal is to make more money available to us on a Federal level, and on a State and local level without imposing new taxes on our citizens, which several of you have mentioned with the high fuel prices today places a very great burden on those of limited income.

Senator MURRAY. Well, tolling is a burden on those with limited income, too, and you mentioned King County in my State. I just want you to know that a survey was conducted by the Washington State DOT and it found that 57 percent of those in King County oppose tolls on our major freeways. So that's not an easy route to this decision either.

Senator Bond?

SAFETEA–LU RESCISSIONS

Senator BOND. Thank you very much, Madam Chair, and let me go back to the questions on rescissions, if you don't mind, Secretary.

SAFETEA–LU requires an $8.5 billion rescission. How much contract authority would be available for future rescissions if we were to include the $3.89 billion that is in your budget, along with the $8.5 billion rescission for SAFETEA–LU? I've heard it's only about $4.5 billion, is that correct?

Secretary PETERS. Senator Bond, I'm going to refer to our Assistant Secretary for Budget and Programs, so I hopefully can give you the correct and right answer on that.

Ms. SCHEINBERG. Senator, I don't have the exact number that would be left, but as you know, SAFETEA–LU itself authorized the rescission of the $8.5 billion.

Senator BOND. I know.

Ms. SCHEINBERG. So that was——

Senator BOND. How much is left if you take another $3.89 billion out?

Ms. SCHEINBERG. I don't have that number.

Senator BOND. I'm going to guess its $4.5 billion. So, let me know if I'm wrong.

Ms. SCHEINBERG. Okay.

[The information follows:]

The Federal-aid highway program currently has $16.8 billion in excess contract authority. Under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), $8.6 billion in contract authority will be rescinded in fiscal year 2009. If Congress were to also enact the $3.2 billion in rescissions proposed in the fiscal year 2009 President's budget request, approximately $5 billion in excess contract authority would remain at the end of the current authorization.

AVAILABLE CONTRACT AUTHORITY

Senator BOND. But in any event, the point is we're scraping the bottom of the barrel.

And my second question, Madam Secretary, would be what would be the practical effect on State DOTs of having to utilize their annual Federal highway funds without excess contract authority?

Secretary PETERS. Senator Bond, the effect would be that they would not be able to let certain contracts if they hit up against the limit of their contract authority. It's a little like requiring a minimum balance be kept in an account. Even though funds are there, they would not be able to spend it absent sufficient contract authority.

Senator BOND. So, this would be another major roadblock, to mix a metaphor, in construction, is that correct?

Secretary PETERS. Senator, it certainly could be limiting and I think it's indicative of what we're facing right now. The system has supported our surface transportation needs for over 50 years, but will not be able to do so in the future.

URBAN PARTNERSHIPS

Senator BOND. Well, that's my major worry. Madam Secretary, you come from State government. I was in State government. One of the things that I really didn't appreciate in State government, when the Federal Government told us that we could get some money or they'd take some money away, when we made decisions that normally are appropriate for the people in the State through their elected officials to make in the State government.

Now it looks to me that this urban partners effort which gobbled up $844 million in 2007 is designed to provide, pick one of them, you can call it an incentive or you can call it a bribe to State legislatures to pass bills authorizing tolling and it may or may not work, but now you come back and you proposed 75 percent of the funds for discretionary programs be made available for critical congestion relief projects.

Well, just as you did today, I suffer from congestion problems as well, but when you look across the country, we kill people in areas outside of—when traffic is going very slowly, you don't kill so many people.

Now I'm one who got hit by a car in the congestion, so I know that's bad, but I survived it, but in many of our States, the real need is to keep people safe on the highways and I really question the judgments going into this urban partnership and, No. 2, I'd like to know if the States involved, King County, Washington, New York, California, Minnesota, don't go along with the incentive or bribe, what's going to happen to all that money?

Why is it necessary to have $175 million more for congestion pricing when there's still potentially huge 2007 dollars that have not been awarded and we are facing drastic shortfalls elsewhere?

Secretary PETERS. Senator Bond, I'm to start with my apologies for being a little bit late this morning. I would have happily paid a toll to get on an express lane and be here on time this morning, but I didn't have that option.

That said,——

Senator BOND. Maybe when enough people see congestion, they can make up their own minds in their areas whether they want to use tolls while we use some of the other money, some of the money to keep people off of crowded highways and rural efforts.

Anyhow, excuse me. Pardon the interruption.

RURAL AREA ROAD SAFETY

Secretary PETERS. Senator, let me first speak to the rural areas. You are correct. We're very concerned about rural area road safety. That is precisely why we designed a program to bring resources available from all across the Department to complement and supplement those revenues already available in safety programs.

It is a huge concern of mine and one that I've been devoting personal resources to and have asked, in fact, our Deputy Secretary to stay on top of as well.

Let me go back to the cities that you asked about, the urban partner cities.

Senator BOND. Thank you.

URBAN PARTNERSHIPS

Secretary PETERS. As you mentioned, several of them have to get enabling legislation in order to go forward and spend the money that we allocated from the 2007 budget for them. They have until March 31, 2008 to do that, the one exception being Seattle which has until September 2009.

If they fail and are not able to get the legislation they need to move forward with those projects, then we will take back the funds and redistribute them to other cities.

Why other cities, sir? We received 26 applications from cities who had put together very comprehensive plans to reduce congestion in their cities. If we are not able to go forward with New York or San Francisco or some of the other cities, then we will move to other cities who have good plans.

Cities like Los Angeles who wish they had been in the opportunity the first time, cities like Houston, St. Louis, Atlanta, Denver, and many other cities at the ready to give us a very strong proposal to spend this money in their areas. That is why we have requested an additional allocation of money in the President's 2009 budget because there is a tremendous pent-up demand in our urban areas.

Senator Bond, if we were able to fix some of these problems in urban areas, then we would improve air quality substantially, as well as congestion. We're going to use technology and learn tools that will help us to reduce congestion in other areas.

Where we are able to bring private sector revenues to bear, as would be the case in supplementing what we have allocated to these cities in many areas, then that frees up money that we can spend on other important priorities, like our rural roads.

STATUS OF THE DULLES RAIL PROJECT

Senator BOND. Jumping over to mass transit, what's the status of the Dulles project? I understand you're reviewing it. When's there a final determination? If the money doesn't go forward, I understand there will be considerable funds lapsing. How would you handle them should that project not go forward?

Secretary PETERS. Senator Bond, we're in continuous discussions with the project sponsors about the Dulles Rail Project. It's been emphasized to me by many people how important that project is to this region.

Our responsibility, of course, based on statutes that govern the program, is to ensure that we are allocating the money in a manner that gives the public, whose money it is, the best opportunity for investment. So, we're working very hard with the project sponsors to try to work out details on that project.

Senator BOND. I understand from the head of that division that there are significant problems with that in your initial analysis.

Secretary PETERS. Senator Bond, that is correct. In January we put in writing for the project sponsors some of our significant concerns about the project. They have been back in touch with us and we are working to obtain additional information from them, but we have not yet reached a final decision.

Senator BOND. Thank you very much, Madam Secretary. Senator Lautenberg?

AMTRAK

Senator LAUTENBERG. Thank you. Madam Secretary, you were careful to suggest that the President wants us to be responsible to the taxpayer dollars and as a consequence guards them very carefully.

But is that without concern for the convenience of our—the reliability, the innovations that we desperately need on our transportation systems?

I don't understand why, for instance, that when we look at Amtrak, Amtrak said it needs more than twice the $800 million that President Bush asked for in order to operate safely and reliably next year, and when I look at the President's budget requests over the years, there's no contact with reality.

In 2002, the President requested $521 million. The appropriation came out to $826 million. The scene was repeated the next year,

$520 million from the Bush office and the Amtrak request was $1.2 billion. It wound up over a billion. There's this constant reduction in offers to help Amtrak get to where it has to be to accommodate the rush and the interest for passenger loads.

So, by law, you're granted a seat on the Amtrak Board along with six more of the President's appointees. Does the President know what the railroad's actual funding needs are when he makes these; you'll forgive me, ridiculous requests?

Secretary PETERS. Senator Lautenberg, as you mentioned, I have a seat on the Amtrak Board and I am represented on a regular basis by Administrator Boardman, the head of our Federal Railroad Administration (FRA). He works with the Board in terms of establishing their budget.

We believe that Amtrak can operate more efficiently. You mentioned earlier the significant increase in ridership that Amtrak is experiencing. In fact, they generate about $2 billion in revenue annually. I have to say it is confusing to me how ridership can go up substantially but requests for subsidies also go up substantially. It would seem that there ought to be some economies with substantially increased ridership, that Amtrak would be able to operate more efficiently.

That said, the President's budget proposes $900 million in funding, including $100 million that could be State matching grants. The reason for that, Senator, is that we see substantially increased ridership and efficiency in circumstances where States support routes. In fact, ridership was up 88 percent in those circumstances as opposed to 17 percent overall.

And finally, we believe that Amtrak management must continue the reforms and make strong business decisions——

Senator LAUTENBERG. That recommendation is so hollow; you'll forgive me, Madam Secretary. You say that because the ridership has gone up on this antiquated system, it can't stand it. There are constant calls for better maintenance. There are constant calls for better trackage. There are constant calls for better equipment.

So, why the needs are less is for me unfathomable. The fact of the matter is that the system is overworked just like our highways are overworked and our skyways are overworked. There's too much demand, and you cannot take profits out of these things and expect it to be realistic.

It surprises me that the logic that you produced suggests that you're doing less and expecting more from the railroad. The railroad has never been funded properly, never, and as a consequence, they're ricketing along with equipment that long since should be off the tracks. I use Amtrak a lot and I see it. You can't ride on the best line that Amtrak has, the Acela line, and you can't write with a steady hand there because the ride is so bumpy and the thrusts right and left are so sharp. I saw one of the cabin attendants fall down the other day and that's the way the system is.

Do you think it ought to be better than it is? Are you satisfied with what we've got out there?

Secretary PETERS. Senator, we think it would be better for the Government to invest in capital for Amtrak, and to reduce substantially over time the operating subsidies being paid to the railroad.

Senator LAUTENBERG. Do you know of any system, any commuting system where they're able to cover their costs from ticket revenues?

Secretary PETERS. Senator, as you know, most do not. However, most——

Senator LAUTENBERG. Most don't. I can't think of any that do.

Secretary PETERS. But most do not substantially continue to increase subsidies over time.

AIRLINE CONSUMER RIGHTS

Senator LAUTENBERG. If they don't increase the subsidies, then the quality of the operation deteriorates rapidly.

Last year I worked with leaders on this subcommittee to include a $2.5 million program for enforcement of airline consumer rights. Why did the President cut this funding level by $1.4 million in the 2009 budget? Shouldn't we be increasing funding during a time of more frequent delays and a rising number of consumer complaints, and don't you look at the—the Department look at what the prospects are that by 2014, delays are going to be 60 percent higher than they are now?

Where do we deal with the customer complaints, learn from them and make the appropriate adjustments?

Secretary PETERS. Senator, you're right. Consumer complaints are a problem and we need to do something to fix the root cause so that people don't have unhappy experiences.

That said, the 2008 appropriation includes $2.5 million for the Office of the General Counsel's Aviation Consumer Protection Enforcement Program. We are spending the money that was provided by Congress in December when the Consolidation Appropriations Act passed.

We're increasing staffing levels so that we can pursue investigations and enforcement actions. We are also using the funding to enhance the Aviation Enforcement and Consumer Protection Program, including updating the Consumer Complaint Application System, and updating the Aviation Consumer Protection Web site so that flyers have access to information.

Senator LAUTENBERG. But it all boils down to one thing. I don't mean to be rude. That is, we're not able to maintain the kind of service reliability that we need, and I point out here to you that since fiscal year 2004 till fiscal year 2007, that the subsidy per passenger mile on Amtrak has gone down over 20 percent.

So, it doesn't wash and we can go ahead with this unspecified response to these things by talking about what we ought to be doing and how we ought to make this adjustment and it doesn't wash.

Madam Secretary, what we're doing today is not only a serious impairment to our functioning as a society but what it's doing is setting a trap for much worse things in the future and it's too bad.

Thank you very much.

AVIATION DELAYS

Senator BOND. Thank you very much, Senator Lautenberg. Madam Secretary, as those of us who try to fly know, delays in our aviation system were some of the worst on record last year with flights arriving on time only 73 percent of the time.

Aside from the caps on operations for the New York-New Jersey area, what else is your Department doing to ensure what some of the folks who fly the airplanes see as being not just a repeat of last year but even a bigger problem?

Secretary PETERS. Well, Senator, we're working very hard to hopefully not let that happen. First of all, the caps that have been imposed already at JFK International Airport will be very quickly announced for Newark. LaGuardia, of course, is already operating under some limitations and we're looking at what we may need to do to refine that.

Also, as Senator Specter indicated, Philadelphia is in the airspace. We want to make sure that we don't push in one place and have that pop out and overburden another airport.

That said, a substantial redesign of the airspace in the New York region will give us operating efficiencies. We also put forth a change in what we call the airport rates and charges policy to allow airports more flexibility by varying charges by time of day. This hopefully, would help spread out the peak demand for those flights. As was just mentioned with Senator Lautenberg, substantially beefing up the Consumer Complaint Office would enable us to know what those complaints are and to respond to them.

In fact just last week I met with a task force that deals with tarmac delays so that we can work with the airlines and the airports to find better ways not to have planes sitting out on the tarmac for lengthy periods of time in the event of weather system delays.

We're working with the Department of Defense to establish "holiday express" lanes. These are flight lines that the military normally uses along the Atlantic seaboard, but would be made available to commercial flights on a more frequent basis should the weather systems require that.

We believe that if we can relieve congestion in the New York City region, where about 40 percent of the delays nationally emanate, then we can make a big difference. But I promise you, Senator, that the airlines, the airports, our air traffic controllers, and I, all of us are doing everything we can not to have a repeat of the Summer of 2007.

AIRLINE SERVICE TO SMALL AND RURAL COMMUNITIES

Senator BOND. As I believe I mentioned to you last year, I was one who experienced one of those tarmac delays. Not only was the 2½ hours I sat on Reagan runway unproductive, we landed from St. Louis and the airline said that the FAA won't let us move, the FAA said it's the airline's problem. So, I sat there for 2½ hours as the NFC playoff game was finished on television and that was brought back to mind as I was watching some recent football playoff games and I do hope that there are some common sense solutions. I would be happy to share ideas but something has to go be done.

Now you mention pushing in one place and causing a problem in another place. I know that there's aviation congestion initiatives to charge higher rates during peak hours has some appeal, but let me ask you about how this could impact service to small and rural communities.

Some of the carriers are telling us that feeder flights—if they're moved to off-peak hours—will not be profitable for a lot of carriers and small communities can lose service. You've got a one hand and the other hand. How are you going to balance that?

Secretary PETERS. Senator, that is an excellent question. We negotiated with the airlines when putting the caps in place. We did not want to cut out feeder flights that feed into other line-haul flights, and in the case of a number of airlines, international flights, which provide greater profitability than many domestic flights. That is why we negotiated with individual airlines in setting caps and in monitoring the situation so that we don't disadvantage certain areas from having flights meet at the feeder airport, if you will, at the right time.

Senator BOND. Well, as one who sometimes uses those feeder flights, if you're maybe going a half hour earlier, if that would allow you to get the small planes in so you can meet with the larger plane and delaying the outbound feeder flight from the incoming plane, but that's going to require a lot of negotiations and I'll look forward to seeing that.

Secretary PETERS. And Senator, let me apologize to you and to all other passengers who had such miserable experiences. My youngest daughter spent the better part of a day in one of those delays with a then 8-month-old baby. So, it is unacceptable and I do——

Senator BOND. I think that 8-month-old baby may have been on the plane on which I was delayed.

Secretary PETERS. Was she beautiful and quiet?

Senator BOND. You talk about instant consumer feedback, that young passenger expressed him or herself very, very vocally and very firmly.

Secretary PETERS. You would have recognized her, sir. She is the most beautiful grandchild in the world with the exception of yours.

FEDERAL ROLE IN TRANSPORTATION FUNDING

Senator BOND. Fortunately or unfortunately, I don't have one yet.

Madam Chair, for the record, I think I better go vote, but I would ask the Secretary as chair of the National Commission Report to describe either in your testimony here or for the record what you believe the Federal role in transportation funding should be, and I thank you very much for your service and for your kind work in attempting to answer very difficult questions, and I wish you well and I'm happy to return it to the chair.

[The information follows:]

Our country is at a transportation policy crossroads. For the first time since the creation of the Interstate Highway System, we have an amazing opportunity to come together and completely re-assess our approach to financing and managing surface transportation systems. For too long, we have tolerated exploding highway congestion, unsustainable revenue mechanisms and spending decisions based on political influence as opposed to merit.

Now, thanks to technological breakthroughs, changing public opinion and highly successful real-world demonstrations around the world, it is clear that a new path is imminently achievable if we have the political will to forge it. That path must start with an honest assessment of how we pay for transportation, not simply how much (our current focus). In fact, our continued transportation financing challenges are in many ways a symptom of these underlying policy failures, not the cause.

Until we decide what our national transportation priorities are, and what roles are appropriate for Federal, State and local government as well as the private sector, we will be unable to adequately address our Nation's infrastructure needs. Trying to be all things to all people has proven to be an unsuccessful strategy.

The Department believes that the Federal role in transportation should be completely re-focused on truly national imperatives. In our view those include:

—Improving and maintaining the condition and performance of the Interstate Highway System. Roughly one quarter of all highway miles traveled in the United States takes place on the Interstate System;

—Reducing congestion in major metropolitan areas and increasing incentive funds to State and local officials that pursue more effective congestion relief strategies. A more effective integration of public transportation and highway investment strategies is central to this challenge;

—Investing in and fostering a data-driven approach to reducing highway fatalities;

—Using Federal dollars to leverage non-Federal resources;

—Focusing on cutting edge, breakthrough research areas like technologies to improve vehicle-to-infrastructure communications; and

—Establishing quality and performance standards.

To better prioritize funding, earmarks should be eliminated. In a September 2007 report by the DOT Inspector General, a review was done of 8,056 earmarked projects within the Department's programs that received more than $8.54 billion for fiscal year 2006. Ninety-nine percent of the earmarks studied "either were not subject to the agencies' review and selection process or bypassed the States' normal planning and programming processes."

Beyond earmark proliferation, there are a wide array of special interest programs that have been created to provide funding for projects that may or may not be a State and local priority. While it is true that not all earmarks or special interest investments are wasteful, it is also true that virtually no comparative economic analysis is conducted to support these spending decisions. No business could survive for any meaningful period of time using a similar investment strategy. Recent studies have shown that the economic return on highway capital investments has declined into the low single digits.

Virtually every economist who has studied transportation says that direct pricing of road use, similar to how people pay for other utilities, holds far more promise in addressing congestion and generating sustainable revenues for re-investment than do traditional gas taxes. And thanks to new technologies that have eliminated the need for toll booths, the concept of road pricing is spreading rapidly around the world. The brilliance of road pricing is that it achieves three major policy objectives simultaneously.

First, it will immediately reduce congestion and deliver substantial economic benefits. Drivers have proven in a growing array of road pricing examples in the United States and around the world that prices can work to significantly increase highway speed and reliability, encourage efficient spreading of traffic across all periods of the day, encourage shifts to public transportation, and encourage the combining of trips. In fact, the National Household Travel Survey shows on an average workday, 56 percent of trips during the morning peak travel period and 69 percent of trips during the evening peak travel period are non-work related, and 23 percent of peak travelers are retired.

Second, it will generate revenues for re-investment precisely in the locations that need investment the most. Recent estimates in a forthcoming paper, "Toward a Comprehensive Assessment of Road Pricing Accounting for Land Use" by economists Clifford Winston and Ashley Langer at the Brookings Institution conclude that utilizing congestion pricing in ONLY the largest 98 metropolitan areas would generate approximately $120 billion a year in revenues while simultaneously solving the recurring congestion problem in those areas. Implementation of a broader road pricing strategy tied to wear and tear and reconstruction costs would obviously produce even higher revenue. In 2006, as a Nation, we spent approximately $150 billion on all of our highways. State and local officials would even gain additional flexibility to reduce the wide array of taxes currently going into transportation that have nothing to do with use of the system.

Third, direct pricing will reduce carbon emissions and the emissions of traditional pollutants. According to Environmental Defense, a nonprofit environmental organization, congestion pricing in the city of London reduced emissions of particulate matter and nitrogen oxides by 12 percent and fossil fuel consumption and carbon dioxide (CO_2) emissions by 20 percent; a comprehensive electronic road pricing system in Singapore has prevented the emission of an estimated 175,000 pounds of

CO_2; and Stockholm's congestion pricing system has led to a 10–14 percent drop in CO_2 emissions.

AIRLINE CONSUMER COMPLAINTS

Senator MURRAY. All right. Thank you very much, Senator Bond. Madam Secretary, it seems that every couple years or so when passenger conditions get really bad, the airlines provide improvements for awhile and then things get worse again and the DOT Inspector General has said that your Department should take a more active role in overseeing some of the customer service and he made several recommendations, some of which date back to 2001, asking that your Department conduct incident investigations of long onboard delays, oversee the airlines policies for dealing with these onboard delays and improving the airlines performance reporting.

Can you tell us what progress you have made on any of those recommendations?

Secretary PETERS. Senator, I would be happy to. I want to go back to what you said about this being a recurring theme. In the summer of 2001, there were some pretty miserable circumstances. Tragically when 9/11 happened, that wasn't the case again.

It is my goal and the goal of the Department not to have recurring delays. The Inspector General's report has been very important to us and we are following each recommendation very carefully. For example, I just mentioned the Tarmac Delay Task Force that we convened last week. It includes representatives of the airlines, airports, and passenger groups. Kate Hanna, for example, who by virtue of having had a miserable experience, started a passenger group to look at aviation delays.

As I mentioned earlier, we are beefing up the Airline Enforcement Office to make sure that we are more responsive to consumers when they have complaints. We are categorizing delays and in the case of chronically delayed flights, we're going back to the airlines and putting them on notice that they will face substantial penalties if they continue to misrepresent to the public that a plane will take off at a certain time when in fact more than 70 percent of the time it does not take off on time.

Each of the recommendations that the Inspector General made are very important to me. We're following up on those and I am taking this very seriously.

Senator MURRAY. Okay. Well, one of the things the IG complained about was that your office was issuing enforcement orders to airlines and then just letting the airlines certify in writing that they'd complied, no onsite follow-up occurred.

Do you really trust the airlines to police themselves when complying with your enforcement orders?

Secretary PETERS. Senator Murray, we're going to be able to do random checks to ensure that they have complied.

Senator MURRAY. Are you doing random checks now?

Secretary PETERS. I don't—Madam Chairman, I will get back to you if they've started yet. I believe they have, but let me confirm that for you.

Senator MURRAY. Okay. I'd appreciate an answer back on that.

[The information follows:]

The adoption of or compliance with voluntary airline customer service commitments is not required by statute or Department of Transportation regulation. Neither are carriers required to track their compliance with their commitments. In fact, only a limited number of air carriers have adopted such commitments and the commitments that have been adopted are couched in terms that would, in general, make them unenforceable. The Department is currently conducting a rulemaking to enhance airline passenger protections, 72 Federal Register 65233 (November 20, 2007), which, in part, proposes to require carriers to conduct self audits of compliance with their customer service commitments.

PRIVATIZATION OF PUBLIC TRANSPORTATION FACILITIES

Senator MURRAY. Let me change the topic a little bit. You've been an advocate for the privatization of public transportation facilities and in my opening remarks, I talked about an increasing number of mayors and governors who've enjoyed huge cash windfalls by privatizing transportation projects, Indiana Toll Road, Chicago Skyway.

However, in many cases, these cash windfalls have not been used to pay for transportation improvements. Now the city of Chicago wants to privatize Midway Airport which is one of the 30 busiest airports in the country, over 300,000 flights a year.

Do you believe that a mayor or a Governor that privatizes a transportation facility, be it an airport, a highway, should use their cash windfalls strictly for transportation?

Secretary PETERS. Senator Murray, ideally I think it should be spent on transportation. I will caveat whether or not I should substitute my judgment for that of Mayor Daley or someone else, if they believe that a higher public good can be served by spending the money elsewhere. I believe that it would break trust with people if that money were spent elsewhere, absent a thorough and open dialogue with the public and with elected officials before decisions are made.

Senator MURRAY. Well, in terms of that, Midway Airport has received $370 million in direct airport grants from the FAA for infrastructure improvements and several million dollars more in direct investments to modernize its navigation air traffic control systems.

Right now, there are a variety of financial institutions that are preparing bids to pay the city of Chicago a huge cash windfall in exchange for the right to lease that airport for a period as long as 99 years.

Given that the Nation's airline passengers have provided hundreds of millions of dollars in grants to that airport, do you think the city should be required to spend their cash windfalls specifically on transportation needs?

Secretary PETERS. Senator, we're looking at that as the process moves forward on Midway Airport and on privatization. I hear what you're saying and will take another look at the decisions that we may be making in that light.

Senator MURRAY. Well, since that city is moving to privatize the Midway Airport, the law does require the airport to pay back a portion of Federal grants that they've received over the years. However, we know that you as Secretary do have the authority to waive that requirement if the city requests it.

Do you expect to grant Chicago an exemption from repaying its Federal grants?

Secretary PETERS. Senator, it would be premature for me to respond right now, absent knowing more about it, but I will look at the arrangements and the negotiations that are ongoing and get back to you specifically with an answer on that point.

Senator MURRAY. Have you talked about that situation at all?

Secretary PETERS. We've talked about it, Madam Chairman. We have talked about it, but I don't—not to the level of detail that I would be comfortable giving you a definitive response to that question today.

Senator MURRAY. Okay. Well, I would like to hear back from you on that question.

[The information follows:]

Under title 49 United States Code section 47134, "Pilot program on private ownership of airports," a public-use airport that has received Federal assistance may apply to the Secretary of Transportation, and through delegation the FAA Administrator, for certain exemptions to allow for the sale or lease of an airport. In the case of Midway, for example, the city of Chicago may only apply for exemptions to lease the airport because the statute only permits the sale of general aviation airports. The FAA's decision to grant exemptions is permissive under 49 U.S.C. 47134(b). The statute provides that the Secretary "may" grant an exemption. An exemption is neither automatic nor required by the statute.

Two exemptions may be granted under the statute to a sponsor of a public-use airport. First, the statute permits the FAA to exempt a sponsor from the requirement to use proceeds from the sale or lease of the airport for airport purposes only. However, FAA may grant this exemption only if the amount is approved by at least 65 percent of the air carriers serving the airport, and by the air carriers that account for at least 65 percent of the total landed weight of all aircraft landing at the airport in the preceding year. Second, the FAA is permitted to exempt the sponsor of a public use airport from any obligation to repay to the Federal Government any grants, or to return to the Federal Government any property.

The FAA accepted Midway's preliminary application to the FAA for participation in the Airport Privatization Pilot Program, established pursuant to 49 U.S.C. 47134. The city of Chicago states, on page 18 of its preliminary application for privatization of Midway, "As part of its application to the FAA for approval of the proposed transaction the city will request that the FAA grant exemptions from otherwise applicable regulatory requirements, including the prohibition on use of airport revenues for non-airport purposes by the city and the private operator; and the requirement to repay Federal grant funds." However, this is only a preliminary application. If the city of Chicago applies for these exemptions in its final application, the FAA will apply, at a minimum, the statutory and policy requirements necessary for the FAA to evaluate an application, including any exemptions requested by the sponsor. The FAA may consider an application for an exemption only if the FAA finds the sale or lease agreement includes provisions to ensure the following:

—The airport will continue to be available for public use on reasonable terms and conditions without unjust discrimination;
—The operation of the airport will not be interrupted in the event lessee becomes insolvent or files bankruptcy;
—The lessee will maintain, improve, and modernize the facilities of the airport through capital investments;
—Every fee of the airport imposed on an air carrier the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved by at least 65 percent of the air carriers serving the airport, and by air carriers who had a total landed weight during the preceding year of at least 65 percent of the total landed weight at the airport;
—The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport;
—Safety and security at the airport will be maintained at the highest possible levels;
—The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport;
—Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport;

—Any collective bargaining agreement that covers employees of the airport and is in effect on the date of the sale or lease of the airport will not be abrogated by the sale of the lease; and
—he approval will not result in unfair and deceptive practices or unfair methods of competition.

The FAA will need a final application from the city of Chicago before FAA can apply these provisions.

AIR TRAFFIC CONTROLLERS

At the end of 2004, the Department of Transportation published its first Workforce Plan for Air Traffic Controllers. That plan showed that the number of air traffic controllers the Department expected to lose and how many it planned to hire over the following 10 years. That plan has now, I believe, been updated twice and the record shows the FAA has gotten it wrong each and every year. They have consistently underestimated the number of controllers who leave the Department every year, and I continue to hear reports that the air traffic control facilities are understaffed, new air traffic controllers are not adequately trained, experienced air traffic controllers are too busy doing their own job to train new hires and experienced controllers will retire before your Department will be able to bring on fully trained replacements.

Can you tell this committee if you are confident that the FAA management really has a handle on how to manage this workforce?

Secretary PETERS. Madam Chairman, we may have underestimated in some cases, but the differences are not as large as I think some folks have been led to believe. I'll give you the specific numbers.

But before I do that, let me say how important the air traffic controllers are to the fact that we are enjoying the safest period ever in aviation safety. I think a great deal of the credit goes to air traffic controllers who do a magnificent job managing the planes with an antiquated system.

We're facing a substantial increase in the number of retirements because, after the Professional Air Traffic Controllers Organization strike back in the 1980s, significant numbers of new air traffic controllers were hired to replace the controllers who were fired. Many of the new controllers who were hired back then are reaching retirement age. So, we're going to have a need for new controllers.

Last year we planned to hire 1,386 controllers. We actually hired 1,815. We planned for 700 controllers to retire. The actual number of retirements was 828. There is other "leakage" of air traffic controllers, such as resignations, removals and, tragically, deaths. We had assumed 243. There were actually 264.

Transfers and promotions, this is an area where a number of the air traffic controllers are promoted into management. We had estimated 185 and the actual number that moved up was 407. There are also academy failures; we had estimated 69, and the actual number was 60.

Based on the first quarter of this year, Madam Chairman, we are within the range of accuracy for the number of retirements we had forecast. We continue to monitor and modify the Workforce Planning document so that it can be as accurate as possible.

I can tell you that we are meeting the controller hiring goals. We are also meeting the goals of getting those controllers through their training. The simulators that we have allow us to get the training done a little quicker without taking an experienced controller off terminal——

Senator MURRAY. Yes.

Secretary PETERS [continuing]. And to assist them.

Senator MURRAY. I'm well aware of that earmark that provided those simulators and I have heard you in the past say we don't—we shouldn't be doing earmarks and I just have to comment as you say that, that is one of those earmarks that's making a huge difference out there.

Secretary PETERS. Yes. The simulators are doing a great job.

Madam Chairman, we never put an air traffic controller that isn't fully certified for a task on terminal to do that task. As air traffic controllers complete their training program, and prior to full certification on the tasks that they're certified to handle, we are mindful of not taking our more experienced controllers off terminal to assist others.

Senator MURRAY. Well, I guess the larger question is do you feel confident that the FAA is managing its workforce well? I know now that bonuses are being paid to retain experienced controllers, there was no request for or money budgeted or planned for those bonuses. You're just paying them to keep experience levels there.

So, I'm just asking you a confidence question. Do you think the FAA is managing its workforce? Are you confident in that?

Secretary PETERS. Madam Chairman, I am more confident today than I was 15 months ago. I have worked with Acting Administrator Sturgell very carefully on this issue.

As you know, our Inspector General and others in the Department of Transportation, including our Assistant Secretary for Budget and Programs, have looked at the management of the FAA workforce. I am more comfortable today than I was when I first came to this position that we are managing the workforce correctly, but it is something we're going to have to stay on top of because, as I said, we're hitting a big retirement wave.

Senator MURRAY. Well, you should know that we are very concerned. We're hearing a lot across the country, as I told you, about understaffing and not adequately trained and experienced air traffic controllers who are having a very hard time trying to train because of inadequate staffing. So, I would hope that you'd stay on it and get back to this committee throughout the next several months as we follow this.

Secretary PETERS. Madam Chairman, I will do that.

MOTORCYCLE FATALITIES

Senator MURRAY. Okay. Let me turn to a topic that I know is near and dear to your heart and that is an issue about motorcycles.

At last year's hearing, I complained about the fact that your agency was delaying by 3 years your very own deadline for reaching your highway safety goal of one fatality per 100 million vehicle miles traveled.

Now when you dig into the data as to why you are not reaching that goal, you discover that there's a big problem in the rising number of motorcycle fatalities. They have increased every year now for 9 years in a row and I know you're a motorcyclist yourself. You know the issue.

Your own Department maintains that helmets are estimated to be 37 percent effective in preventing fatal injuries to motorists. However, over the last 5 years, helmet use has actually declined by 20 percent and now today there only 20 States, the District of Columbia, and Puerto Rico, that actually require helmet use by all motorcycle operators.

Do you support the mandatory enactment of motorcycle helmet laws?

Secretary PETERS. Madam Chairman, I support giving the information to States so that they can act on helmet laws. I have also made myself available to a number of States and, in fact, have called governors when I see substantial increases in the number of motorcycle deaths in a State, especially a State that has repealed its helmet law.

I think it's very important. We could have saved easily 700 lives last year if all motorcyclists wore helmets. So, I am very interested in pursuing this. In fact, we have recently sent out a letter asking that we have the ability to use some of our safety money for education on the importance of helmet use. We got some pushback, frankly, on that, but we think it's that important that we've stepped out to do that.

Also, following our discussion last year, I filmed a public service announcement on motorcycle safety, including a hard push on helmet use, and reiterated the fact that had I not had a helmet on when I had a crash, I think that I would be a brain injury patient today.

Senator MURRAY. I was aware of that.

Secretary PETERS. I keep that helmet in my office to remind me of how important that is.

Senator MURRAY. Well, I understand that there are restrictions on DOT's lobbying efforts on behalf of specific laws, such as motorcycle helmet laws. However, as part of the last reauthorization law, DOT was given an exception that allows you to lobby on behalf of the enactment of primary seatbelt laws.

Would you support a similar exception that would allow DOT to lobby on behalf of motorcycle helmet laws?

Secretary PETERS. Madam Chairman, yes, I would.

Senator MURRAY. Very good.

Secretary PETERS. Maybe I should be careful with the use of the word "lobby." There's been some concern about that term, but yes, I would support our ability to——

Senator MURRAY. An exemption similar to the seatbelt law. Would you use that authority, if you had it, to go out and talk to States?

Secretary PETERS. Madam Chairman, yes, I would.

ALCOHOL-RELATED FATALITIES

Senator MURRAY. Okay. Great. Let me ask you about another safety issue. Your staff has explained that another factor in missing your highway fatality reduction goal has been your failure to make progress in reducing the number of fatalities resulting from drunk driving.

In 2006, the most recent year for which we have data, there are over 17,500 alcohol-related fatalities and 50 percent of those had a blood alcohol level that was at least twice the legal limit. I think we've got to start taking bolder steps to prevent drunk drivers from getting behind the wheel and this summer, the NHTSA Administrator urged increased use of ignition interlocks for our repeat drunk driving offenders.

Given that we have not made any measurable progress in reducing the alcohol-related fatalities, haven't we moved past the point of merely urging, just asking for these ignition interlocks? Shouldn't we be looking at some requirements?

Secretary PETERS. Madam Chairman, as I mentioned earlier, generally speaking, we would prefer to use education and let State officials make these decisions.

Governor Richardson in New Mexico, for example, was one of the first States to help pass a law for mandatory ignition interlocking devices for those convicted of drunk driving. The requirement has been very effective in that State and has since been replicated in a number of other States.

So if one State shares with another what's been effective, then we believe that more States will adopt laws like this. Arizona, my home State, recently adopted very strict penalties for repeat offenders, especially for repeat DUI offenders.

We're also aiming more of the money that you have made available to us for what we call "high visibility enforcement" DUI checkpoints, especially around holidays. Every holiday, I go out and meet with officers who are doing these kinds of checkpoints to reassure them that they're doing the right thing.

Another problem we're having, Madam Chairman, is substance abuse. We haven't always provided the tools that law enforcement officials could use to distinguish someone who doesn't register a blood alcohol level in excess of the legal limit, but is obviously impaired. So, we're supporting law enforcement in terms of more tools to identify impaired drivers, and that's been very successful. More often, that requires a blood test instead of a breathalyzer test. But again, we are working with States to educate and make resources available to them to use to detect impaired drivers.

Continued advertising campaigns such as, "You Drink and Drive, You Lose" help to push more information out there. Governor Napolitano in Arizona has been very effective in saying that if you drink and you drive, then you will go to jail. Make no mistake about it. They have worked with the judicial branch on adjudication. Too often, someone who is caught driving drunk pays a lawyer, gets a plea bargain, and the offense never appears on their driving record. Governor Napolitano has done a very good job of working with the judicial community to make sure that when drivers are caught drunk, then they're not allowed to plea bargain.

Senator MURRAY. Okay. All right, well, thank you. I appreciate your aggressive efforts on that.

Secretary PETERS. Thank you.

CROSS-BORDER TRUCKING PILOT PROGRAM

Senator MURRAY. Let me turn to one of your favorite topics. There has been a lot of discussion over the Department's interpretation of the language that was included last year in the Consolidated Appropriations Act on the Cross-Border Trucking Pilot Program.

I understand the Commerce Committee is going to have a special hearing on the question and it may be that the courts will have to make the final decision, but I want to focus on a different question about this demonstration program. It's a question that I first asked you when you appeared before this subcommittee last March and I didn't get a very clear answer.

And I wanted to know if your Cross-Border Program continues precisely what happens at the end of the 1-year pilot period in September?

Secretary PETERS. Chairman Murray, we will evaluate the pilot at the end of the year, and report back to you on the results. It would not be my intent to continue the program past that time, absent learning something different. We would certainly come back and talk with you about that.

Senator MURRAY. So, we will expect that program to cease in September?

Secretary PETERS. Madam Chairman, that is my understanding because there is a prohibition in the 2008 appropriation against establishing a program. Our interpretation, as you're aware, is different than others. We are continuing to implement a program that has already been established.

If we were to move forward at the end of our pilot program, I believe we would be in violation of the 2008 appropriation.

Senator MURRAY. So, will the Cross-Border Trucking stop then in September?

Secretary PETERS. Madam Chairman, that would be my intent, absent something changing in the law prior to that time.

Senator MURRAY. Okay, all right. Well, I will then assume you will come back to us with your exact intent at that time and if you want to continue any Cross-Border Trucking after that point, you will have to get our authority to do so?

Secretary PETERS. Madam Chairman, that is my understanding, based on the language in the 2008 appropriation. I will ask our Counsel's Office to follow up with you and be more precise. I am not an attorney, but that is my understanding, yes.

[The information follows:]

In clarification, as announced in February 2007, the Cross Border Demonstration Project was intended to last a period of 12 months. However, section 6901 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007 (the Supplemental Appropriations Act) required the Department to undertake the Demonstration Project in accordance with the pilot program statute found at 49 U.S.C. § 31315(c). The latter provision authorizes the Department to extend the Project to a maximum period of 3 years. As the Department noted in its brief in the 9th Circuit case challenging the Project, the Department has the discretion to extend the project up to 3 years pursuant to that provision.

Section 135 of the Consolidated Appropriations Act, 2008, division K, provides that "[f]unds appropriated or limited" in that act for transportation into the United States by Mexico-domiciled motor carriers would be subject to the terms and conditions of section 6901 of the 2007 Supplemental Appropriations Act. The 2008 Appropriations Act also prohibited the expenditure of funds "to establish" a cross border motor carrier demonstration program. The Department read that language as prohibiting the funding of any new programs, but not as prohibiting the funding of the ongoing Project, which was established in September 2007. The continued implementation or extension of an existing program, by definition, does not constitute the establishment of a new program and, therefore, would not be barred by the 2008 Appropriations Act. At this time, although this extension authority is available, the Department has made no decision whether to extend the time frame for the Demonstration Project.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. Okay. Well, I will submit some other questions on that and we will look forward to what your response is at that time.

I do have some other committee members and myself included that do have some questions that will be submitted for the record and your prompt reply would be very much appreciated.

[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

AIRLINE CUSTOMER SERVICE

Question. Domestic airline delays last year were the second-worst ever recorded. In fiscal year 2008, this committee provided an additional $2.5 million for your General Counsel's office to increase its enforcement activities and better protect airline consumers.

What specific activities are you funding with these additional funds?

Answer. Our Aviation Enforcement Office is increasing its staffing levels in fiscal year 2008 to pursue investigations and enforcement action with respect to many areas of public concern, such as unrealistic scheduling, failing to provide timely refunds, and failing to provide flight delay information. A portion of the requested funds has been and will be used to pay the salaries and expenses of the new hires.

The office is also using the additional funding for start-up costs to enhance the aviation enforcement and consumer protection program, including: (1) upgrading the consumer complaint application system and computerized tracking and monitoring system; (2) upgrading the DOT aviation consumer protection Web site to make it more consumer friendly and useful; (3) contractor support for drafting a regulatory evaluation to accompany a consumer protection rulemaking and a task force on tarmac delays; and (4) hosting "listening" forums to hear the problems that air travelers are encountering, and a disability forum concerning a new disability regulation. We have also put aside travel funds for on-site investigations and compliance reviews and trips related to carrier compliance education and consumer information and assistance. Further, the additional funds will be used by the Aviation Enforcement Office to print consumer brochures (e.g., Fly Rights) and widely distribute them to help consumers understand their rights and responsibilities as an air traveler. It would also enable the office to translate into Spanish new consumer protection-related materials developed by the office.

Question. Do you believe your agency's enforcement actions have any meaningful impact on the airlines' behavior when it comes to customer service?

Answer. Enforcement is one of the best ways to effect change. For example, the U.S. Department of Transportation's Aviation Enforcement Office has had significant success in reducing the number of chronically delayed flights as a result of its on-going investigations of chronically delayed flights operated by the airlines that are required to report on-time performance data to the Department. The office considers any flight that is late by 15 minutes or more at least 70 percent of the time it operates during a calendar quarter to be chronically late. There were 183 chronically delayed flights in the first quarter of 2007. This was reduced to 79 chronically delayed flights in the first quarter of 2008. Moreover, during the first two consecutive quarters we reviewed (the first and second quarters of calendar year 2007), there were 27 chronically delayed flights in both quarters. This was reduced to 3 chronically delayed flights in both the fourth quarter of calendar year 2007 and the first quarter of calendar year 2008. No flights remained chronically delayed during three consecutive quarters.

The Aviation Enforcement Office has been encouraged by the results of its investigation. In addition, based on carrier correspondence and meetings with the majority of the reporting carriers, the Aviation Enforcement Office has observed that carriers are now monitoring chronically delayed flights more closely. Moreover, the office is aware that the carriers are now taking concrete steps to correct chronically delayed flights, such as adding more flight time, moving departure times, changing aircraft routings, and providing spare aircraft and crews.

NEW STARTS PIPELINE

Question. Madam Secretary, your budget proposal would fund the Federal Transit Administration at a level that is $200 million less than what is authorized by SAFETEA–LU. Your budget would fully fund the Small Starts program, but it would take the full $200 million cut out of the New Starts program. According to your staff, this is because a larger pipeline of projects is developing for the Small Starts program, while there is less demand for the New Starts program.

From where I sit, there seems to be a great demand for the New Starts program. I hear all the time from metropolitan areas trying to compete for a New Starts full funding grant agreement, or "FFGA."

Please tell me why the pipeline of projects competing for a New Starts FFGA is shrinking at the same time that there seems to be a great demand for Small Starts funding?

Answer. Several factors likely contribute to the smaller New Starts pipeline, which the Federal Transit Administration (FTA) defines as the list of projects in the preliminary engineering and final design phases of project development.

First, the reduction of the number of projects in the pipeline reflects FTA's improved management of the New Starts program. FTA is more actively managing the New Starts pipeline, approving into preliminary engineering only projects that FTA believes have a very strong likelihood of receiving a Full Funding Grant Agreement (FFGA). Many projects do not meet the criteria, so they never make it into the pipeline or drop out along the way.

Second, project development delays sometimes reduce the New Starts pipeline. Such delays can be attributed to the lack of local funding commitments, unforeseen environmental impacts and concerns, and local decisions to make significant changes in the scope of the project under development to meet revised priorities, goals, and objectives. When these situations occur, project sponsors withdraw from the pipeline until such time as they can resolve local issues.

Last, the simplified and streamlined Small Starts process created by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) is causing metropolitan areas to reconsider major capital investments in favor of less costly, smaller scaled projects.

In summary, local decisionmakers determine whether they want to pursue funding under the rigorous New Starts program. The need for considerable technical resources and strong political and financial support can affect those decisions.

PROMOTION OF THE NEW STARTS PROGRAM

Question. At a time when oil prices reach over $100 per barrel, and the President is learning that prices at the gas tank may pass $4 per gallon this spring, I do not believe that this administration is doing enough to invest in transit alternatives. Americans need another option than sitting in traffic congestion and burning gasoline.

Madam Secretary, what are you doing to promote the New Starts program and ensure that metropolitan areas are able to compete for these valuable grants?

Answer. During the past year, FTA has offered numerous training courses, attended conferences, and issued guidance pertaining to the New Starts program. The following table lists training courses sponsored by FTA and conferences at which FTA made presentations on the New Starts program.

RECENTLY SPONSORED FTA NEW STARTS TRAINING

Training or Conference	Location	Month and Year
Alternatives Analysis	Washington, DC	April 2007.
APTA Bus and Paratransit Conference	Nashville	May 2008.
Association of Public Transportation Association (APTA) Legislative Conference.	Toronto, Canada	June 2007.
Transportation Research Board: Transportation and Land Use	Denver	August 2007.
Travel Forecasting	St. Louis	September 2007.
Alternatives Analysis	San Francisco	November 2007.
Alternatives Analysis	San Diego	February 2008.
APTA Legislative Conference	Washington, DC	March 2008.
Small Starts Workshop	Pittsburgh	April 2008.

RECENTLY SPONSORED FTA NEW STARTS TRAINING—Continued

Training or Conference	Location	Month and Year
New Starts Roundtable	Pittsburgh	April 2008.
Alternatives Analysis	New York	April–May 2008.
Small Starts Workshop	Phoenix	May 2008.
New Starts Roundtable	Phoenix	May 2008.
World Bank	Washington, DC	June 2008.
TRB-Innovations in Travel Forecasting	Portland, OR	June 2008.

FTA plans to sponsor an alternatives analysis course in Seattle in July 2008, and an alternatives analysis course in Washington, DC during the fall.

FTA has also issued several guidance documents, which can be found on FTA's public Web site at http://www.fta.dot.gov, including: (1) New Starts, Small Starts, and Very Small Starts Fact Sheets—Spring 2007; (2) Reporting Instructions and Templates—May 2007; (3) Guidance on New Starts Policies and Procedures—June 2007; (4) Preliminary Engineering Checklist—August 2007; and (5) Proposed Guidance on New Starts Policies and Procedures—April 2008.

In addition to promoting New Starts, FTA has been actively involved with the following other programs: (1) Public Transportation Participation Pilot Program; (2) Transit-Oriented Development & Joint Development; (3) Transportation Planning Capacity Building Program; (4) Public-Private Partnership Pilot Program (also known as Penta-P); and (5) Urban Partnership Agreement Program.

OVERSIGHT OF THE NATION'S BRIDGES

Question. Recent news reports have highlighted some problems with your Department's National Bridge Inventory. While these stories may not have told the whole story, it seems that the best case scenario is that this database needs to be greatly improved in order to be a useful tool for overseeing bridge conditions. The worst case scenario is that States are neglecting to inspect thousands of bridges within a 2-year time frame as required by Federal regulations.

Madam Secretary, other than collecting data from each State, please describe to me exactly what your Department does to ensure the safety of the Nation's bridges.

Answer. The National Bridge Inventory (NBI) database contains more than 90 individual data items on nearly 600,000 highway bridges. Information in the NBI is used for apportioning Highway Bridge Program funds to the States, preparing the biennial Conditions and Performance Report to Congress and the annual report on bridge materials required under SAFETEA–LU, monitoring bridge conditions and compliance with the National Bridge Inspection Standards (NBIS), research, and other reporting.

The collection and maintenance of bridge inspection data by the Federal Highway Administration (FHWA) does not, by itself, ensure bridge safety. However, this information is of critical importance to States, localities, and Federal bridge owners as they carry out their inspection responsibilities under the NBIS. Based on these inspections, safety is enhanced through timely maintenance, repair, and rehabilitation conducted as a result of these inspections, along with proper load posting and enforcement of load restrictions.

FHWA monitors compliance with the NBIS regulation through various oversight activities. FHWA Division Offices oversee each State's bridge inspection program. The primary means of monitoring the State program is through a comprehensive annual review. The review includes assessing overall compliance with the NBIS as well as the quality of bridge inspection.

A typical review involves a field check of a sampling of bridges to compare inspection reports for quality and accuracy; interviews with bridge inspection staff to review procedures; and a review of various inventory data reports to assess compliance with such things as frequencies, load posting, and data accuracy. Annual reviews are supplemented with periodic in-depth reviews of specific program areas such as bridge load capacity rating and posting practices.

The FHWA Resource Center assists in oversight by providing expert technical assistance to Division Offices and partners; assisting in development and deployment of policies, advanced technologies, and techniques; and deploying market-ready technologies. Also, the FHWA Resource Center assists in coordinating and conducting bridge inspection reviews and program exchanges, as well as delivering and updating training.

FHWA Headquarters' oversight responsibilities include issuing bridge inspection policies and guidance; maintaining the NBI; monitoring and updating an array of bridge inspection training courses; collecting, reviewing, and summarizing the Division Office annual program review reports; and monitoring overall NBIS compliance.

FHWA also works with the States at Technical Committee Meetings of the American Association of State Highway and Transportation Officials Highway Subcommittee on Bridges and Structures to assure that the States and local agencies apply the state-of-the-knowledge in bridge design, construction, maintenance, and inspection practices to assure bridge safety and durability.

Question. Are there additional tools that you need to be more effective in overseeing bridge safety?

Answer. Bridge safety is ensured by the States, localities, and Federal bridge owners as they carry out their responsibilities under the NBIS. Various tools are used during bridge inspections as appropriate based on the type of inspection being performed. These tools include basic items such as hammers, binoculars, tape measures, and laptop computers, as well as more sophisticated non-destructive evaluation tools such as ultrasonic testing, eddy current, and infrared thermography equipment.

With respect to FHWA oversight of the national bridge inspection program, the need for the types of tools described above is limited as FHWA does not conduct the physical inspections. FHWA relies on computers to assist in analyzing, summarizing, and maintaining data as part of its compliance monitoring activities. There have been advances in computing and software technology that have the potential to improve the effectiveness of FHWA oversight as well as general program administration, and those advances are currently being explored.

Question. According to the news reports and staff at your Department, field offices of the Federal Highway Administration are not required to make a thorough review a State's bridge database to ensure that its inspections are up-to-date. I am disconcerted to hear that your staff may be doing "spot checks" of this important data.

Madam Secretary, are "spot-checks" an adequate method for overseeing a State's bridge inventory?

Answer. The NBI contains more than 90 individual items of data for nearly 600,000 highway bridges. More than half of the bridges are owned by localities. With such a large and complex database, spot checks and sampling of data are considered effective means of strategically utilizing limited resources to monitor a very large program; however, they do not guarantee 100 percent compliance with NBIS regulation provisions nor complete data accuracy.

It is important that the NBI data be accurate and up-to-date. There are provisions in the NBIS regulation to ensure that States and Federal bridge owning agencies are keeping their data up-to-date (refer to 23 CFR 650.315). There are also provisions within the regulation pertaining to the need for quality control and quality assurance procedures, in part, to maintain a high degree of accuracy and consistency in bridge inspection data (refer to 23 CFR 650.313(g)).

The "spot checks" of data do not represent the entirety of FHWA's oversight. FHWA oversight of the National Bridge Inspection Program includes the following major components:

—An annual review of each State's bridge inspection program with a sampling of bridge site visits;

—Resolution of any issues resulting from the annual reviews;

—Preparation of an annual NBIS summary report for submittal to Headquarters; and

—Ensuring that the State submits their annual NBI data to Headquarters.

Procedures and guidelines for conducting the annual reviews are documented in the FHWA Bridge Program Manual. The reviews typically involve interviews with inspection personnel, bridge site visits, and data review and analysis using standardized and ad-hoc reports from the NBI along with data from specific inspection records. As an additional check on quality, individual NBI data submittals from the States and Federal agencies are checked for errors and inconsistencies prior to loading into the NBI.

Inspection frequency is one of the NBIS provisions that are evaluated during each annual review, per FHWA policy. This evaluation most often requires the analysis of data; however, it may involve only a sample population of an individual State's total bridge stock. Since the NBI contains a snapshot of data at a given point in time, an analysis of inspection frequency often requires use of more up-to-date data from the individual State's inventory.

Question. States can negotiate with your Department on a set of criteria for putting some bridges on a 4-year schedule for inspection, instead of the usual 2-year schedule required by highway regulations. The criteria for putting bridges on a slower schedule vary from one State to another, and your Department has set no overall standard for setting these schedules. Yet, on its own Web site, the Federal Highway Administration promises "to work with our partners to ensure quality and uniformity in signs, signals, and design standards on the Nation's major highways."

Madam Secretary, can you explain to me why the Highway Administration should not also promote uniformity in bridge inspections?

Answer. FHWA promotes uniformity in the national bridge inspection program. By definition, the National Bridge Inspection Standards developed by the FHWA establish national uniformity in inspection procedures, inspector qualifications, inspection frequency, inventory data, and organizational responsibilities.

With respect to extended inspection intervals, the National Bridge Inspection Program statute, 23 U.S.C. 151, requires the establishment of minimum standards, including the maximum time period between inspections.

Effective October 12, 1993, FHWA adopted as final the interim final rule that introduced a provision for adjusting the frequency of routine inspection for certain types or groups of bridges to better conform with their inspection needs. The provision allowed States to develop an alternative inspection program which specifies bridges that may be inspected at intervals longer than 2 years, not to exceed 4 years; however, FHWA approval was required to go beyond the normal 2-year interval. This provision was retained in the 2005 NBIS regulation update, but the intervals were revised to be stated in terms of months instead of years.

The baseline requirements for FHWA approval of a 48-month inspection frequency policy are described in the Technical Advisory T 5140.21, dated September 16, 1988. The Technical Advisory defines uniform basic criteria for identifying classes of bridges that, in general, would not be considered for routine inspection at intervals longer than 24 months. The basic criteria that apply to all State requests include:

—Bridges with any condition rating of five or less.
—Bridges that have inventory ratings less than the State's legal load.
—Structures with spans greater than 100 feet in length.
—Structures without load path redundancy.
—Structures that are very susceptible to vehicular damage, e.g., structures with vertical over- or under-clearances less than 14 feet, narrow thru or pony trusses.
—Uncommon or unusual designs or designs where there is little performance history, such as segmental, cable stayed, etc.

The Technical Advisory further states that the criteria developed for establishing the interval between inspections, if greater than 24 months, shall include the following:

—Structure type and description.
—Structure age.
—Structure load rating.
—Structure condition and appraisal ratings.
—Volume of traffic carried.
—Average daily truck traffic.
—Major maintenance or structural repairs performed within the last 2 years.
—An assessment of the frequency and degree of overload that is anticipated on the structure.

The basic criteria are not negotiable; however, individual States may add to this list or establish more stringent criteria.

Once the criteria for extended intervals have been approved by the FHWA, monitoring is required to ensure continued compliance with the criteria. FHWA has recognized the need to improve monitoring in this area and will focus on reviewing this during future annual compliance reviews.

ADA COMPLIANCE OF COMMERCIAL BUSES

Question. Madam Secretary, access to transportation is critical to ensuring our Nation's disabled citizens can lead full and independent lives. Since the passage of the Americans with Disabilities Act (ADA), great strides have been made in making transportation more accessible to the disabled, yet work remains. As you know, DOT has its own ADA regulations, yet one agency—the Federal Motor Carrier Safety Administration (FMCSA)—contends that it lacks the authority to enforce the Department's own ADA regulations.

This issue has already been litigated in court and the D.C. Circuit Court disagreed with FMCSA's claim that it lacked the authority to deny or revoke operating authority to commercial buses that are unwilling or unable to comply with DOT's own ADA regulations and remanded the case back to FMCSA. Yet, notwithstanding these reports of disabled travelers being denied access to transportation and the court's ruling, FMCSA's position has not changed. In response to the court, the agency reasserted its position that it lacks the authority to enforce compliance with DOT's ADA regulations.

Can you explain to me why FMCSA—the sole Federal agency responsible for granting or denying operating authority to commercial buses—does not have the authority to enforce the Department's own ADA regulations?

Answer. The U.S. Department of Transportation (DOT) is mindful of its responsibilities for ensuring access to transportation services for all travelers, including those with disabilities, and its multi-year Strategic Plan emphasizes the importance of enhanced access to transportation services by travelers with disabilities. The Federal Motor Carrier Safety Administration (FMCSA) also works to ensure access to transportation services by individuals with disabilities within the limits of its legal authority.

In the D.C. Circuit decision that addressed FMCSA's authority to consider alleged violations of the Americans with Disabilities Act of 1990 (ADA) in determining whether a passenger carrier is fit to receive operating authority, *Peter Pan Bus Lines, Inc. and Bonanza Acquisition, LLC* v. *Federal Motor Carrier Safety Administration,* 471 F.3d 1350 (2006), it was the position of FMCSA that it did not have such authority. The court remanded the case to the agency because it disagreed with the FMCSA's determination that the relevant statutory language clearly did not permit the agency to deny operating authority for a carrier's failure to comply with ADA requirements. The court did not support FMCSA's interpretation that the statutory language was clear and unambiguous. It determined that the text of the statute was ambiguous, instructed FMCSA to re-examine the statute, and emphasized that remanding the case to the agency did not mean that FMCSA's interpretation of the statutory language was necessarily incorrect. The court further stated that after the agency revisits the issue, its decision will be entitled to deference by the court, as long as the agency's reading of the statute is reasonable.

In a decision issued October 26, 2007, after thoroughly re-examining the governing statute, FMCSA reaffirmed its earlier finding that it lacks statutory authority to enforce the ADA through the agency's licensing procedures. Peter Pan Bus Lines, Inc. and Bonanza Acquisition, LLC have sought review of this decision in the D.C. Circuit Court of Appeals and the parties will be filing their respective briefs with the court later this year.

Question. While I disagree with your assessment that FMCSA lacks the authority to enforce the Department's own regulations, have you requested the specific authority that you think you need to begin enforcing these regulations?

Answer. While this case is under consideration by the D.C. Circuit Court of Appeals, FMCSA has not sought specific authority to enforce ADA requirements when reviewing passenger carriers' requests for operating authority. However, FMCSA is closely monitoring the status of the pending legislation entitled the "Over-the-Road Bus Transportation Accessibility Act of 2007," H.R. 3985. H.R. 3985 was passed by the U.S. House of Representatives on December 12, 2007, and was reported by the Committee on Commerce, Science, and Transportation, U.S. Senate, on April 24, 2008.

FUNDING FOR PIPELINE SAFETY OFFICE

Question. I want to take a moment to discuss your budget request for the Office of Pipeline Safety. This office is seeing an increase of nearly $14 million, or 17 percent. I want to applaud you for recognizing the needs in that area. Just this past year alone, we saw pipeline-related fatalities in Mississippi, Louisiana and Minnesota.

Last year, the Congress added 15 new inspection positions and your budget request for 2009 proposes to add 8 additional positions.

Given the importance that we both see in this area, can we expect to see these positions filled promptly?

Answer. The Pipeline and Hazardous Materials Safety Administration (PHMSA) has launched an aggressive recruitment strategy to promptly fill vacant inspection and enforcement positions. PHMSA's strategy is a three pronged approach: (1) entry level—outreach to colleges and universities training future inspectors; (2) mid-level—offer current industry inspectors recruitment bonuses; and, (3) senior level—recruit retiring senior inspectors that are industry experts.

PHMSA offers a variety of Federal incentives such as remote deployment from home and recruitment incentives. Recent legislative proposals with regard to pay setting in Alaska (as well as other non-foreign areas) will, if passed, also assist in the longer term attractiveness of employment in that location and should aid in recruitment in that State. Since the Consolidated Appropriations Act of 2008 was enacted, PHMSA has recruited 13 inspection and enforcement personnel.

Question. Do you expect to have problems recruiting the right candidates for these positions? We would like to ask you to keep us regularly updated as to the progress you are making at bringing these people on board.

Answer. The expertise required to maintain and expand any safety program is specialized, constituting inherent challenges to recruiting the "right" candidates. However, PHMSA's recruitment strategy is predicated on those challenges and the agency expects to address and overcome them. For example, qualified candidates are interviewed by an expert panel. In an effort to ensure that PHMSA is meeting its recruitment goals, the agency is monitoring the process and will provide the committee with monthly updates; the most recent is provided below.

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

PIPELINE SAFETY—FISCAL YEAR 2008 INSPECTION/ENFORCEMENT POSITIONS AS OF 5/31/2008

Location	Number of Inspection/Enforcement Positions	Actual On-Board	Accepted Offers	Vacancies	Percent of Positions Filled
Headquarters	12	9	....	3	75
Eastern Region	13	11	....	2	85
Southern Region	14	11	1	2	79
Central Region	20	16	1	3	80
Southwest Region	25	22	1	2	88
Western Region	25	22	1	2	88
TOTAL	109	91	4	14	82

FEDERAL INVESTMENT IN TRANSPORTATION

Question. Secretary Peters, you have argued that tolling and privatization can translate into a greatly reduced role for the Federal Government in financing transportation infrastructure. In fact, the President's out-year projections for the Department of Transportation call for a major reduction in the Federal investment transportation.

How would tolling and the private sector support a national transportation system that includes building infrastructure in disadvantaged areas? For example, would the private sector and tolling have built the Appalachian Development Highway System?

Answer. Public private partnerships are a valuable supplement to, not a replacement for, the national highway system and networks of local streets and roads. In some parts of the country tolling could certainly be considered one of the options by States that can not afford desired improvements with the existing mix of Federal and State highway taxes to replace bridges or expand capacity of existing highways running through disadvantaged areas.

Question. If certain States choose to toll, does that mean that the Federal Government should be spending less in those areas? Or put another way, will the citizens in those States be financing their own transportation while other places receive a greater share of Federal resources?

Answer. Under current law, the amount of Federal funding that is distributed to States is not affected by whether or not a State has toll roads.

Question. The details of your proposal are not part of your budget request; when will we see the specifics? Are you working on a legislative proposal?

Answer. The authorization for current Federal surface transportation programs does not expire until the end of fiscal year 2009. Reauthorization will be a major factor in the fiscal year 2010 budget deliberations.

Question. Most Federal oversight over the highway system consists of requiring State and local governments to meet Federal standards before receiving their highway grants.

How would your Department continue to oversee the safety and performance of the transportation system when it no longer plays as critical a role in highway financing?

Answer. Even if support from the private sector significantly enhances our transportation capacity, the Federal Government will continue to play a critical role in both highway financing and safety. The U.S. Department of Transportation has a proven ability to oversee the safety and performance of both transportation systems that it helps finance, such as highways and transit, as well as those that are predominantly controlled by the private sector, such as trucks, pipelines and railroads.

NATIONWIDE DIFFERENTIAL GLOBAL POSITION SYSTEM (NDGPS)

Question. The fiscal year 2009 budget requests funding at $4.6 million for the NDGPS, which is consistent with the requests in prior years. However, the cost of this program is likely to increase in fiscal year 2009 by as much as $800,000.

Is the budget request sufficient funding to maintain all current services and keep NDGPS equipment in good repair?

Answer. The U.S. Department of Transportation (DOT) is committed to maintaining current inland (terrestrial) NDGPS services to the many and varied users of these services, as identified by the Research and Innovative Technology Administration (RITA) in its recently completed NDGPS Assessment. President Bush's fiscal year 2009 budget includes $4.6 million to continue inland NDGPS operations.

In March 2008 DOT approved, and the interagency National Space-Based Positioning, Navigation and Timing (PNT) Executive Committee (EXCOM) endorsed, a decision to continue inland NDGPS services as a national utility in support of America's surface transportation, precision agriculture, natural resources and environmental management, and surveying communities. (See: http://www.dot.gov/affairs/dot5508.htm).

Question. If NDGPS costs were to increase in 2009, where would the additional funds come from? Alternatively, in what way and to what extent might service be reduced?

Answer. As part of its decision to continue inland NDGPS operations, DOT is seeking a cost-share mechanism with other Federal agencies that use NDGPS. DOT is still developing this mechanism through the interagency NDGPS team, and is examining if there are any changes that may be made to the near-term costs of operating and maintaining the NDGPS system.

Question. The NDGPS has deferred maintenance requirements and also needs an upgrade to catch up with the Coast Guard's DGPS technology. It is reported that these could be completed in 2009 for $3.5 million, but will grow more expensive in the future.

Does RITA expect to complete this refresh? If so, when, and what is the cost expected to be at that time?

Answer. The 2009 budget includes $4.6 million for annual operating costs of the NDGPS system. The U.S. Coast Guard is expected to complete the Maritime DGPS refresh by second quarter fiscal year 2009. As is prepares the fiscal year 2010 budget and develops a cost share methodology, DOT and its partners are evaluating the costs of deferred maintenance, and of upgrading the inland component of NDGPS to be equivalent with the Coast Guard maritime component.

QUESTIONS SUBMITTED BY SENATOR PATRICK J. LEAHY

INFRASTRUCTURE MAINTENANCE

Question. On your congestion initiative, which I do not believe has been authorized by Congress. There are vast areas of the country with transportation funding needs that have more to do with aging infrastructure than overcrowded roads. In Vermont, for instance, 453 of our 2,675 State- and town-owned bridges (nearly 20 percent) are structurally deficient.

In fiscal year 2007, DOT was granted full authority to make spending decisions with all of its discretionary funding. Instead of using this opportunity to show fairness and evenhandedness nationwide, modal agencies across the DOT decided to give away all of their money to a few big cities. You should have seen the letters I received from my constituents back home. They ranged the gamut from disappointment to frustration to infuriation. And I agreed with every one of them.

While the Minnesota bridge tragedy last year refocused Congress in the fiscal year 2008 appropriations process on the need to repair deficient bridges and roads, it is disappointing to look at the DOT's budget request for the coming year and again see a proposal that emphasizes congestion mitigation and kicks essential infrastructure maintenance further down the road.

How will you ensure that rural areas around the country will be treated fairly and equitably under this budget proposal?

Answer. The foremost transportation goal of Federal, State and local governments no longer is establishing connectivity, but rather ensuring that people and commerce are able to move efficiently. The Department is deeply concerned about the massive problem of traffic congestion, which presents significant challenges to this goal and affects millions of people across the Nation every day. Hence, we have proactively established the congestion initiative under the Department's existing authorities. It also bears mentioning that the Government Accountability Office has testified favorably before Congress regarding the Congestion Initiative, highlighting our efforts as "encouraging" and stating that "successfully addressing the Nation's mobility needs [will require] strategic and intermodal approaches and solutions." [1]

When implementing programs, I have been consistent throughout my tenure as Secretary in attempting to focus the Department's limited discretionary resources on projects that yield the greatest possible benefits. With this in mind, fiscal year 2007 discretionary funding decisions focused not on a big city "give-away," but rather on the results of a competitive and comprehensive application and review process. This was Congress's intended role for the Department when Congress established various "discretionary" grant-making programs in SAFETEA–LU and in prior authorizations.

With respect to the question of highway spending in rural areas of the Nation, I can assure you that the Department is concerned with the condition, safety, and performance of rural roads. The latest information published in the 2006 Conditions and Performance report notes that the percentage of travel in rural areas on roads of good pavement quality has steadily increased from 46 percent in 1995 to 58.3 percent in 2004. Further, over this same time the condition of bridges in rural areas has also improved from year-to-year, with the percent in deficient condition at their lowest levels in the most recent year for which we have data. Safety levels on rural highways have also shown considerable improvement over the last decade.

The steady improvements we have witnessed on the condition of rural highway and an safety performance nationwide is commensurate with the level of spending on these roads. Highway capital outlays in 2004 on arterial and collector roads in rural areas amounted to $22.9 billion, as contrasted with $36.2 billion for the same class of roads in urban areas. When looked at on a per vehicle-mile of travel (VMT) basis, outlays were 2.4 cents per VMT for rural roads and 2.2 cents per VMT for urban roads.

In summary, highways in rural areas of the Nation are being improved at a steady pace, and their condition and performance reflect the fact that highway funds are being directed to these road systems at an appropriate level.

INFRASTRUCTURE MAINTENANCE

Question. You recently chaired a national commission on transportation financing that concluded we are not spending nearly enough to build and maintain our transportation infrastructure. While a majority on that panel agreed that we must keep open the option of increasing the Federal gas tax in order to upgrade our existing transportation system, you dissented and said the Federal Government should instead pursue "a different kind of investment," like tolling, congestion pricing, and public-private partnerships. I am not sure if you have been to Vermont before, but I am afraid that the traffic volume on our roads will not even pay for the tollbooth operators, much less the huge backlog in deferred maintenance projects piling up at the Vermont Agency of Transportation. On top of that, I do not foresee many private equity firms being interested in getting a piece of the action on I–89, I–91, or I–93 in Vermont—except maybe during leaf peeping season.

Has your Department developed any specific financing proposals that would be ready to implement as part of this year's appropriations bill or next year's reauthorization bill to address the over $225 billion in new investment that the national commission said we need annually to upgrade our transportation system?

Answer. The Department disputes the validity of the Commission's assertion of $225 billion in annual needs. First, this figure represents simply an estimate of projects whose benefits slightly outweigh their costs—a criterion that does not take into account the fact that resources are limited, and on which we do not base investment decisions in any other sector of the economy. Raising the fuel tax reduces disposable incomes available for private sector expenditures—many of which may have benefits in excess of their costs. Second, several of the investment assumptions used in the Commission analyses include unjustifiable investments, and are not based on a strict benefit-cost analysis. Finally, the Commission Report gives inadequate consideration to the potential for controlling demand for investment and increasing the efficiency of the current system, including through the use of congestion pricing to increase the performance of existing roads.

Regarding congestion pricing, this is one tool available to States and localities for improving the performance of transportation systems. We do not suggest it is a blanket solution for addressing all highway funding needs. Where there is consider-

[1] Statement of Patricia A. Dalton, Managing Director, Physical Infrastructure Issues, GAO. Testimony before the Subcommittee on Transportation, Housing and Urban Development & Related Agencies; Committee on Appropriations; House of Representatives; March 7, 2007.

able congestion, pricing can be an effective strategy for managing traffic and producing revenues that can support local transportation systems. Where there is not congestion, local governments will likely continue to rely on conventional financing mechanisms, at least for the near term. As technologies develop Federal, State, and local governments will have growing opportunities to use innovative means to raise transportation funds, regardless of the level congestion.

The Department is currently developing financing proposals to address the Nation's surface transportation infrastructure needs, which we hope to present to Congress later this year as part of a broader surface transportation reauthorization proposal.

ESSENTIAL AIR SERVICE

Question. I am disappointed that the administration once again has proposed such a significant cut in the Essential Air Service program and a new general provision that would lead to considerable reductions in service to rural communities across the country. Specifically, the President's budget requests only $50 million for the EAS program—far less than half of the $125 million that Congress appropriated last year. The $50 million funding level is clearly insufficient to meet the needs of EAS communities around the country, as over 60 would be dropped from the program immediately under the administration's proposal.

While this is not the first time that this administration has tried to kill the EAS program, as its chief administrator, how do you expect small communities around the country, like Rutland, Vermont, to maintain their Essential Air Service with only $50 million in direct funding?

Answer. The Essential Air Service 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 airline 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.

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.

QUESTIONS SUBMITTED BY SENATOR DIANNE FEINSTEIN

SMALL STARTS

Question. The fiscal year 2009 budget proposal included funding for five projects in California through the "small starts" program. These projects will allow a number of California communities to expand their public transit offerings. I have worked to secure past funding for this project, and I appreciate the administration's support.

Can you describe for us the rigorous review that "small starts" proposals undergo? Am I correct that these projects are some of the most cost effective transportation projects in the Country?

Answer. The Small Starts evaluation and rating process is a simplified version of the process used for New Starts projects. Small Starts projects must meet the criteria specified in law, which include: project justification (cost-effectiveness, transit supportive land use, and other factors such as economic development) and local financial commitment. The rigorousness of the Federal Transit Administration's (FTA) review depends on the estimated capital and operating costs of the Small Starts project. Those projects which qualify as Very Small Starts (under $50 million total capital cost, less than $3 million per-mile capital cost, and more than 3,000 riders in the corridor today) essentially qualify automatically as meeting the project justification criteria specified in law. Therefore, FTA performs little review other than to ensure the project qualifies.

For projects that do not qualify as Very Small Starts, FTA reviews and evaluates their estimates of ridership, cost-effectiveness, and transit supportive land use. Those projects with estimated operating costs totaling less than 5 percent of system-wide operating costs automatically qualify as meeting the local financial commitment criteria, so FTA again performs little review. If the project's operating costs are greater than 5 percent of system wide-expenses, then FTA reviews and evaluates a detailed financial plan submitted by the project sponsor.

There are seven projects in California approved for project development and these are included in the Annual Report on Funding Recommendations (the "New Starts Report"). Four are Very Small Starts (limited review and evaluation by FTA) and three are Small Starts (subject to more rigorous FTA review/evaluation). The Very Small Starts are automatically "warranted" as being cost-effective based on the aforementioned qualifying criteria. The three Small Starts projects are cost-effective (San Francisco received a High rating for cost-effectiveness, San Bernardino received a Medium-High rating for cost-effectiveness, and Riverside received a Medium rating for cost-effectiveness.) Of these seven projects approved for project development, five were recommended for funding in the fiscal year 2009 President's Budget. The other two projects, San Bernardino E Street Corridor and Van Ness Avenue BRT, were not ready for a funding recommendation.

CORPORATE AVERAGE FUEL ECONOMY (CAFE) STANDARDS

Question. The fiscal year 2009 Department of Transportation budget proposal requests $855 million for the National Highway Traffic Safety Administration (NHTSA), an increase of only $17 million for the agency that administers Corporate Average Fuel Economy (CAFE) Standards. Considering that NHTSA has to write a whole new set of CAFE standards to comply with the Ten-in-Ten Fuel Economy Act, I am concerned that this increase is insufficient. What assurance can you provide the Senate that this budget request will allow NHTSA to put out new CAFE regulations on time?

Answer. On April 22, 2008, NHTSA issued a notice of rulemaking proposing standards for Model Years 2011 through 2015 passenger cars and light trucks. The CAFE program was appropriated $1.88 million in fiscal year 2008 as part of the $12.8 million provided by Congress for NHTSA's rulemaking activities. NHTSA estimates that it will require an additional $3.8 million in fiscal year 2008 to support expanded CAFE activities, and submitted a reprogramming request to the committee on June 2, 2008. The fiscal year 2009 budget request is $3.88 million.

Question. The law requires NHTSA to issue draft CAFE regulations at least 30 months before they go into effect. Therefore, NHTSA must issue draft CAFE regulations for Model Year 2011 this year. Is NHTSA on track to issue draft CAFE regulations on time? In what month do you expect NHTSA to issue draft regulations?

Answer. On April 22, 2008, NHTSA announced a notice of proposed rulemaking for CAFE standards applying to model years 2011–2015. After a 60-day comment period that ends July 1, 2008, NHTSA will begin work to finalize CAFE standards for those years. NHTSA expects to publish the final rule before the end of this year. This rule must be published by April 1, 2009, to be effective for the 2011 model year.

Question. The Ten-in-Ten Fuel Economy Act requires a fleet-wide average of at least 35 miles per gallon by 2020. Between now and 2020, NHTSA must increase fuel economy "ratably" and issue the regulations in 5 year increments. Will the draft rule, for the first 5 years, accomplish at least a 5 mile per gallon increase, so that NHTSA maintains steady progress towards 35 mpg in 2020?

Answer. Overall proposed CAFE standards for the entire light duty fleet would increase by approximately 25 percent over 2011–2015, as shown the table below. This is a 4.5 percent average annual rate of growth and exceeds the 3.3 percent annual average increase required in the Energy Independence and Security Act of 2007 (EISA). The overall proposed fuel economy requirement in 2015 is 31.6 miles per gallon (mpg). This is 6.3 mpg higher than the combined standard in 2010. If these standards were finalized, the agency would only need to increase CAFE standards by 2.1 percent per year from 2016–2020 to achieve a combined standard of exactly 35.0 mpg in 2020 (as required by EISA).

PROPOSED PASSENGER CAR AND LIGHT TRUCK CAFE STANDARDS

Year	Car Standard	Truck Standard	Combined Standard
2011	31.2	25.0	27.8
2012	32.8	26.4	29.2

PROPOSED PASSENGER CAR AND LIGHT TRUCK CAFE STANDARDS—Continued

Year	Car Standard	Truck Standard	Combined Standard
2013	34.0	27.8	30.5
2014	34.8	28.2	31.0
2015	35.7	28.6	31.6

Question. Last year the 9th Circuit Court of Appeals struck down NHTSA's new fuel economy standard for light trucks and SUVs, in part because NHTSA refused to quantify the benefits of reducing greenhouse gas emissions as part of its cost effectiveness analysis. Has NHTSA now developed a valuation method to quantify the benefits of reducing emissions of gases that cause global warming?

Answer. In its April 22nd notice of proposed rulemaking, NHTSA proposed placing a value on reductions in carbon dioxide emissions. NHTSA reviewed the literature and proposed a value based on information from Working Group II's contribution to the Fourth Assessment Report of the United Nations Intergovernmental Panel on Climate Change (IPCC). The IPCC report tentatively concluded that the most likely value for the global benefits was $14 per metric ton of carbon dioxide. However, the value for benefits to the United States could be as low as $0 per metric ton of carbon dioxide. The IPCC conclusion was derived from a peer-reviewed study that examined 103 estimates of the social cost of carbon from 28 published studies. While NHTSA used the midpoint of the $0–$14 range ($7 per ton) as a value for the analysis in our notice, it also conducted sensitivity analyses around the upper and lower boundaries. NHTSA realizes that substantial variability exists in estimates of the domestic and global values of carbon dioxide reductions. The agency consulted with the Environmental Protection Agency and the Department of Energy on this issue and will continue to do so for the final rule. The agency also requested and anticipates receiving comments during its rulemaking process on how to estimate properly the value of reducing carbon dioxide emissions.

Question. The fine for failing to meet CAFE standards equals $55 per mile per gallon, per vehicle below the standard, which is below the cost effective price of improving fuel economy. As a result, some European firms choose to pay CAFE fines year after year instead of improving fuel economy. Historically the big three U.S. automakers have complied with the standards because paying fines would have led to stockholder lawsuits. But now one of these firms is privately held, creating the possibility of increasing fuel economy violations. Should Congress consider increasing CAFE fines so that it is in the economic interest of automakers to comply with the standards?

Answer. NHTSA is committed to achieving the fuel savings sought in EISA, and will continue to work with Congress to achieve the goals of EISA. Historically, most manufacturers have met fuel economy standards. Should we see a reversal of this trend, NHTSA will examine all options, including a provision to double the fine and/or additional legislative authority.

Question. According to an investigation conducted by the House Oversight Committee, Secretary Peters and numerous other staffers contacted the Environmental Protection Agency and Members of Congress to "solicit comments against the California waiver," as a Department of Transportation official put it. Did Secretary Peters call Governors and urge them to oppose the California waiver? According to internal DOT e-mails, Secretary Peters spoke with Steve Johnson about the California waiver on June 6, 2007. Did Secretary Peters encourage him to deny the waiver?

Answer. To repeat a clarification that we have made in response to previous Congressional inquires on this subject, the Department of Transportation (DOT) did not under take any improper "lobbying", as that term is used in the anti-lobbying restrictions found in 18 U.S.C. 1913, or provisions routinely contained in annual appropriations acts restricting the use of appropriated funds for "publicity or propaganda purposes" to support or defeat pending legislation. As we have previously acknowledged, however, DOT undertook an effort to contact Governors and Members of Congress to inform them of California's waiver petition and of its possible implications.

As I have previously indicated, I spoke with EPA Administrator Stephen Johnson concerning the California waiver petition. I recall a conversation in which he indicated that the docket would benefit from a wider array of commenters, including State Governors or other elected officials who represent stakeholders. We discussed the possibility that such potential commenters might need an extension to the comment period on order to submit comments. We also discussed DOT's longstanding position in favor of a uniform national fuel economy regulatory scheme.

CALIFORNIA MARITIME INDUSTRY

Question. On February 11, I wrote to Maritime Administration Administrator Sean T. Connaughton:

". . . to express my concern that the actions of the U.S. Department of Transportation Maritime Administration (MARAD) are causing harm to the maritime industry in the State of California. This industry, which I have worked to expand for more than three decades, employs thousands of Californians on board ships, in ports, and in our shipyards. I request that you explain why MARAD has pursued an effort that may significantly decrease cruise ship visits, cruise ship turn-around operations, and cruise ship maintenance in California."

In order to better understand how MARAD's recent efforts conformed to its mission, I asked a series of questions, but I have received no response. Please answer the following questions, first asked in my letter nearly one month ago:

If CBP finalizes its draft "Hawaiian Coastwise Cruises" rule, does MARAD estimate that any U.S. flagged cruise ships will begin servicing Californian ports of call? If so, how many annual ports of call will result?

Answer. Based on information available to the Maritime Administration, operators of large U.S.-flag cruise ships do not appear to currently have plans to offer services from ports in California to Hawaii, regardless of the final outcome of the Customs and Border Protection (CBP) rule. Whether U.S.-flag cruise ships service California ports of call is a market decision, so it is not possible to provide at this time a specific number of annual ports of call that will result.

Question. If CBP finalizes its draft "Hawaiian Coastwise Cruises" rule, does MARAD estimate that total cruise ship visits to California ports will decrease? If so, how many annual ports of call will be lost as a result?

Answer. Under the CBP proposal, foreign-flag ships could alter itineraries and still call in Hawaii in order to provide a cruise experience similar to what is currently offered, resulting in little or no decrease in calls to California ports. However, it is far more likely that poor economic conditions and highly elastic demand for leisure travel will reduce the total number of cruise ships visits to California ports in the short term. The Maritime Administration has not received specific information from cruise ship operators on the projected effects of the CBP draft rule. Therefore, the Maritime Administration has not developed estimates of the potential reduction in the number of port calls in California.

Question. Have you or any other MARAD officials visited cruise ship operating companies to discuss their round-trip cruise itineraries that depart from California ports and visit ports of call in Hawaii?

Answer. The Maritime Administration regularly meets with ship operating companies. Some companies have identified some aspects of their plans to reduce round-trip cruise voyages from California to Hawaii based on operating economics and poor demand. These business decisions, however, were based on the industry market assessment made prior to the November 2007 announcement of the CBP to reinterpret Passenger Vessel Services Act (PVSA) rules.

Question. If so, have you or any other MARAD officials encouraged cruise ship operating firms to reduce their total number of annual round-trip cruises that depart from California ports and visit ports of call in Hawaii?

Answer. The Maritime Administration has not encouraged any operator to reduce any legal vessel operations in any trade. On the contrary, in pursuit of its mission to improve and strengthen the U.S. marine transportation system, the Maritime Administration supports the cruise industry, operating in compliance with the PVSA.

Question. Do you believe that advocating for decreased cruise ship activity in California's ports is consistent with the mission of MARAD if no increase in U.S. flagged service in Californian ports is expected to result?

Answer. The Maritime Administration has not advocated for decreased cruise ship activity in California's ports. Rather, the Maritime Administration strongly supports cruise industry operations that are in compliance with the PVSA.

Question. Approximately 40 percent of all container traffic enters the United States through the ports of Los Angeles and Long Beach. Moving the goods out of the ports has severe economic consequences and human health impacts. What does this budget proposal do to address these impacts?

Answer. One of the primary objectives of the Maritime Administration is to ensure the continued success of our Nation's Marine Transportation System. This includes not only the ports and near-port intermodal connectors, but also ensuring water access and the interstate road, rail and Marine Highway corridors that move the freight into and out of the ports.

Nowhere is this more important than the ports of Los Angeles and Long Beach. Included in this budget are the resources necessary to staff our Southern California Gateway Office, located in the port of Long Beach. This Gateway Office, as in the other nine Gateway Offices in our Nation's major ports, works to identify bottlenecks and ways to improve freight movement, as well as work on environmental and community challenges in the ports and their intermodal connectors.

This office also supports the broader Department of Transportation National Strategy to Reduce Congestion and one of its key elements, the initiative to reduce Southern California freight congestion. The Maritime Administration led the development of a Southern California National Freight Gateway Cooperation Agreement, signed in October 2007, among Federal, State and local entities to achieve an agreed agenda to seek improvements in freight throughput capacity in Southern California, balanced with environmental and community concerns. The team is actively assessing issues and potential solutions that are compatible with California's Goods Movement Action Plan. The Maritime Administrator and Deputy Administrator have met frequently with port, environmental, and community stakeholders to identify solutions that improve the environment, health and community while sustaining international trade.

For example, the Maritime Administration is actively working with the Port of Los Angeles and Pacific Rim ports to transfer emissions reduction and energy efficiency technology. The Maritime Administration continues to participate in the International Maritime Organization and the International Standards Organization to develop international regulations standards that address marine emissions from vessels and ports. At the same time, the Maritime Administration continues to collaborate with academia to develop unique and groundbreaking tools that assess optimal crossmodal freight routing in an effort to reduce energy consumption and emissions.

NATIONAL GOODS MOVEMENT STRATEGY

Question. California has identified $48 billion in transportation infrastructure needs directly related to goods movements. In November 2006, Californians passed Proposition 1B, agreeing to tax themselves to pay for a $20 billion transportation bond, $2 billion of which are about to go towards goods movement projects. What is the status of the Department of Transportation's efforts to develop a national goods movement strategy and what revenue sources do you intend to seek to finance a national system?

Answer. The Department of Transportation commends the State of California for its vision and planning to improve freight flows, both through individual efforts at the local level as well as through the comprehensive Goods Movement Action Plan released in 2005 and the follow-on Multi-County Goods Movement Action Plan. The continued efficient flow of freight through Southern California to and from factories and consumers across the Nation is a vital component of the national economy. The port complex of Los Angeles/Long Beach is the busiest container seaport in the Nation and the fifth busiest in the world. The rapid increase in freight volumes through the complex has strained existing infrastructure and has raised the urgency of environmental concerns surrounding this activity that is so essential to our Nation's economic growth.

The Department of Transportation is addressing the need to improve freight movement nationwide through our comprehensive National Strategy to Reduce Congestion. Transportation system congestion is one of the single largest threats to our Nation's economic prosperity and way of life. Whether it takes the form of cars and trucks stalled in traffic, cargo stuck at overwhelmed seaports, or airplanes circling over crowded airports, congestion costs America almost an estimated $200 billion a year.

In 2006, the Department of Transportation announced a major initiative to reduce transportation system congestion. This plan provides a blueprint for Federal, State, and local officials to consider as we work together to reverse the alarming trends of congestion, which is critical to improving freight flows through our transportation system. Several components of the initiative are directly addressing goods movement. They include congestion relief programs, public-private partnerships, national road and rail corridors, and technological and operational improvements to the transportation system and its business processes.

A recent example of the actions taking place to improve freight flows is the plan announced by Secretary Peters on April 25, 2008, to cut traffic jams, provide better bus service, and clean the air in Los Angeles. The area is eligible for more than

$213 million in Federal Congestion Reduction grants. The funds would also finance the creation of new High-Occupancy Toll (HOT) lanes, which single-occupancy vehicles can use by paying a variable toll. Through the concept of "congestion pricing," these tolls would vary with travel demand and real-time traffic conditions throughout the day so that transportation authorities can better manage the number of cars in the lanes to keep them free of congestion, even during rush hour. As congestion is reduced, freight velocity will improve.

The Department is implementing other congestion pricing demonstrations in areas of extreme congestion in order to reduce gridlock and clear the air. These demonstrations can be replicated in other cities and regions to improve the efficiency of the transportation system across the Nation. The initial demonstrations are being funded with grants from the Department of Transportation, including $495.1 million through the Urban Partnership Program and $366.7 million through the Congestion Reduction Demonstration Program. In addition, the Department is advocating that metropolitan planning organizations designate freight projects as funding priorities in their transportation planning.

The Department also recognizes the potential for private sector participation in national, regional and local transportation projects. A major element of the National Strategy to Reduce Congestion is the potential for public-private partnerships (PPPs) to jointly finance transportation projects. PPPs provide benefits by allocating the responsibilities to the party—either public or private—that is best positioned to control the activity that will produce the desired result. With PPPs, this is accomplished by specifying the roles, risks and rewards contractually, so as to provide incentives for maximum performance and the flexibility necessary to achieve the desired results.

CONTAINER FEES

Question. There seems to be a growing consensus that container fees are likely to be the most significant source of funds to pay for the billions of dollars necessary to move goods through Southern California, if not the Nation. For example, there are now bills both in Congress (Rep. Rohrabacher) and the California legislature (State Sen. Lowenthal) proposing container fees. The ports of Los Angeles and Long Beach have already approved, but not yet implemented, their own container fee plans. Has the Department of Transportation explored the feasibility of a national container fee system at water, land and air ports of entry as a means to finance goods movement infrastructure specifically? What is the department's position on container fees?

Answer. The Department of Transportation has not explored the feasibility or desirability of a national container fee system to finance goods movement infrastructure. There are several approaches and alternatives to the implementation of container fees that the Department is evaluating. Direct assessments on shipments is an approach that has been presented to Congress and to the California legislature. Other approaches, such as the successful PierPass program at the ports of Los Angeles and Long Beach, uses a congestion pricing model that provides an incentive for cargo owners to move shipments at night and on weekends. Cargo owners moving containers at the two ports during peak daytime hours are required to pay a Traffic Mitigation Fee, which helps fund the cost of operating five new shifts per week at marine terminals. Another approach is the use of public-private partnerships as a means to finance infrastructure growth and congestion mitigation.

The Department has consistently heard from shippers, carriers and the transportation industry that the acceptability of the concept of a fee depends upon how the fee is structured and collected, the amount of the fee, and how the funds are used. Of particular concern is that an assessment be clearly tied to specific transportation improvement projects that will improve freight flows, and that it be clear from the outset whether the fee is permanent or would sunset after the specific projects are completed. Another key issue is whether non-containerized cargoes using port facilities and rail and road connectors would also be included in the assessment.

SUPPORT FOR S. 406

Question. Public Transportation Systems serving urbanized areas exceeding 200,000 in population may not use funds received through section 5307 of the United States Code to pay for operating expenses. However, some very small systems—with fewer than 100 buses—exist in urbanized areas. I have cosponsored a bill (S. 406) that would allow a system with fewer than 100 buses to use these funds for operating expenses, as other small bus systems are allowed to do.

Does the Secretary of Transportation support S. 406? If not, please explain why.

Answer. Currently, the Federal Transit Administration's (FTA) urbanized area formula program is focused on capital assistance; during the remaining time under the current authorization—SAFTEEA–LU—the agency is not prepared to support operating assistance in areas over 200,000 in population. FTA believes a proposal based on fleet numbers is not appropriate for at least three reasons:

—The urbanized area formula program is based on urbanized area populations. The manner in which public transit is organized in an urbanized area is a local decision, which FTA is prohibited from regulating.

—FTA also believes good public policy should not include any feature in the urbanized area formula program that could be viewed as discriminating between transit agencies in a single urbanized area.

—A proposal based on fleet numbers would discourage agencies from expanding bus service for fear of losing operating assistance.

QUESTIONS SUBMITTED BY SENATOR TED STEVENS

ALASKA FLIGHT SERVICE STATION NETWORK

Question. The FAA is currently reviewing how to modernize the Alaska Flight Service Station network. As part of the FAA fiscal year 2009 budget request, the FAA intends to conduct a final investment analysis of how to modernize the Alaska flight service stations. Could you provide the committee with an analysis of the alternatives the FAA is considering? Does the FAA intend to consolidate any current facilities? Will any new technologies be approved for new sites?

Answer. The Federal Aviation Administration (FAA) has laid out a plan to modernize Alaska flight services in an evolutionary manner. FAA plans to modernize the current technology while maintaining existing operational flight services. The Alaska Flight Service Modernization (AFSM) plan is divided into two segments. Segment 1 is defined as the one-for-one replacement of the current automation system by February 2010 when the current automation system's (Operational and Supportability Implementation System) period of performance on the contract will expire. Segment 2 is composed of two parts—the deployment of a new technology voice switch and the modernization of facilities (infrastructure).

FAA is looking for ways to expedite the deployment of the voice switch (part of segment 2) by the end of 2011. After the automation and voice switch technologies are delivered with remote user access capability, FAA will have implemented the new flight services concept of operations.

The strategy for the modernization of the facilities will be determined by what is required to support the new concept of operations in Alaska flight services. After approximately a 2-year period of demonstration and analysis, FAA will determine whether projected user benefits are being achieved and adjust our plan as necessary. Generally, FAA does not support the consolidation of Alaska flight services facilities, but does support expansion of flight services delivery. FAA has not completed the investment analysis work for facility modernization but expects to do so by 2014.

FAA has an ongoing program to sustain Alaska flight service facilities that will continue to operate while the system is modernized. FAA will not consider implementing any strategies to consolidate facilities in Alaska until the technology has proven itself efficient, and full coordination has been completed with users and primary stakeholders, including congressional oversight authorities.

SMALL SHIPYARDS

Question. The shipbuilding industry is vital to our Nation's commerce and security. In 2006 the Congress enacted legislation establishing a program within the Maritime Administration that provided financial assistance to small shipyards throughout the Nation. This program is especially beneficial to shipping communities in my State of Alaska. Small shipyards received $10 million in assistance last year, but the administration's 2009 Budget proposes no funding for this program. What do you plan to do to ensure the viability of our nation's shipping industry and small shipyards specifically?

Answer. The Maritime Administration's (MARAD) fiscal year 2009 budget proposal was developed well in advance of the enactment of the fiscal year 2008 appropriation for the small shipyard grants program, the first time this program has been funded. On April 22, 2008, MARAD awarded $9.8 million in grants to 19 shipyards throughout the United States. These funds will be expended for projects over the next 2 years, which will enhance the viability of small shipyards.

PIPELINE AND HAZARDOUS MATERIALS SAFETY

Question. Why is the President's budget request for Pipeline Safety $10 million below what this committee authorized in the Pipeline Inspection, Protection, Enforcement and Safety Act of 2006?

Answer. The Pipeline and Hazardous Materials Safety Administration (PHMSA) is making good progress toward achieving the goals of the Pipeline Inspection, Protection, Enforcement and Safety (PIPES) Act of 2006. In its first budget submission since the PIPES Act, the Department is requesting a significant increase in funding of PHMSA's Pipeline Safety Program in order to continue implementation of the PIPES Act. The $93.3 million request, a $13.5 million increase over the fiscal year 2008 enacted level, supports the top three PIPES Act priorities: (1) increasing financial support for State pipeline safety programs; (2) preventing excavation-related damage to pipelines; and, (3) increasing Federal inspection and enforcement personnel. The administration has kept its commitment to help States with increased financial support, up to an average of 60 percent of program costs and closer to our shared goal of funding 80 percent of costs. We are supporting stronger damage prevention programs by providing incentives to States to develop more effective programs and to expand the use of civil enforcement authority against anyone who violates "one-call" laws. We are increasing PHMSA's pipeline safety inspection and enforcement personnel to 123 full-time positions. The national pipeline safety program has been successful in driving down risk by targeting safety areas of greatest concern. This budget will allow PHMSA to continue to sharpen its focus while maintaining the gains it has made over 20 years.

Senator MURRAY. We thank you for taking your time today and your testimony as well as all your staff I know who have worked very hard for this as well.

Secretary PETERS. And again my apologies for being late this morning.

Senator MURRAY. All right. Well, it was a transportation issue, I understand?

Secretary PETERS. Yes, it was.

Senator MURRAY. That's under your jurisdiction.

Secretary PETERS. Indeed.

SUBCOMMITTEE RECESS

Senator MURRAY. With that, this subcommittee is recessed, subject to the call of the Chair till next Thursday.

[Whereupon, at 11:29 a.m., Thursday, March 6, 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 2009

THURSDAY, MARCH 13, 2008

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, and Allard.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF THE SECRETARY

STATEMENT OF HON. ALPHONSO JACKSON, SECRETARY

ACCOMPANIED BY:

BRIAN MONTGOMERY, COMMISSIONER, FEDERAL HOUSING ADMINISTRATION

PAULA BLUNT, GENERAL DEPUTY ASSISTANT SECRETARY, OFFICE OF PUBLIC AND INDIAN HOUSING

NELSON R. BREGON, GENERAL DEPUTY ASSISTANT SECRETARY, OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT

MILAN M. OZDINEC, DEPUTY ASSISTANT SECRETARY FOR PUBLIC HOUSING INVESTMENTS

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. This subcommittee will get to order, and I want to thank the Secretary for coming a half-hour early and I apologize. We had votes early this morning, so we had to move up the time. I know Senator Bond will be here as well, so I'll go ahead and start my opening statement and we'll start moving in that order so we can get to some questions in a few minutes.

Today we are going to hear testimony from the Secretary of Housing and Urban Development, Alphonso Jackson. The principal mission of Secretary Jackson's agency is to address the housing needs of our most vulnerable citizens. My colleagues on this subcommittee and I take our responsibilities towards these citizens, as well as all taxpayers, very seriously. We believe it is our duty to protect and expand the opportunities for the neediest in our society, provide hope for people struggling to keep a roof over their heads, and redevelop blighted neighborhoods in partnership with our mayors and our Governors.

But in recent months the mortgage crisis has really tested HUD's ability to keep people in their homes and carry out its mission, and its performance has been totally inadequate. The mortgage crisis threatens the housing and credit markets throughout the economy. Millions of families are at risk for foreclosure. The administration has the responsibility to do everything in its power to prevent this crisis from spinning further out of control. Yet its solutions, such as the FHA Secure program and the HOPE Now Alliance, will help just a few hundred thousand borrowers at most.

Today, as I usually do, I reviewed in advance the formal testimony that Secretary Jackson submitted for this hearing. I have to say that I agree with some observations and I disagree with most of the rest. I agree wholeheartedly with the Secretary when he says that his 2009 budget request, quote, "is measured in more than dollars; it is measured in the lives we touch." But as I read the President's budget request for HUD, I'm very concerned because it doesn't touch nearly enough lives, and even while the number of people in need is growing quickly every day.

This budget proposes to cut Housing for the Elderly by more than a third and it proposes to cut Housing for Persons with Disabilities by almost the same amount. The President's budget proposes to completely eliminate funding for the HOPE VI program, which tears down the most decrepit public housing facilities and replaces them with modern, safe mixed income housing.

It proposes to cut the Public Housing Capital Fund by almost a fifth, which would reduce our efforts to keep public housing sanitary and safe for tenants. It proposes to slash Housing Counseling for distressed homeowners by 60 percent, even though there is an unprecedented demand for help. And its budget proposes to cut Community Development Block Grants by 18 percent, more than $650 million, at a time when the economic downturn is forcing our cities and towns to slash their own local budgets and slow down their own community investments.

The cuts to just these six programs total $1.6 billion. So yes, I agree with Secretary Jackson that we should measure this budget, as he says, by the lives we touch. But in the midst of a national housing crisis the effect of this budget will be to hurt those most in need, rather than to provide a helping hand to a more stable and secure future.

Secretary Jackson will tell us in his opening statement that his budget proposal reflects America's compassion and commitment. Well, I think the American people feel compassion and they are committed to helping needy senior citizens, disabled, and people at risk of losing their homes. But that's exactly what this budget does not do. This budget reflects a lack of compassion and commitment demonstrated by the Bush Administration and its misguided budget priorities.

Perhaps to me the most egregious statement in the Secretary's testimony is his observation that "The President has been a strong proponent of funding for housing counseling," and that's a quote. The reality is the President has fought our efforts to increase this funding every step of the way. Almost every observer of the mortgage foreclosure crisis in both the public and the private sectors has emphasized the urgent need to expand housing counseling resources. At a time when the threat of foreclosure looms over the heads of literally millions of families, it is essential that we get the word out that they do have options. Too many families are ignoring their lender's calls. Too many families fear that nothing can be done, and too many families are left at home, hoping and praying that things will just work themselves out.

This committee recognized that problem last year, even while the Bush administration complained about our efforts and issued veto threats. The fact is this committee on a bipartisan basis had to fight the administration even to provide an additional $180 million to expand housing counseling through the NeighborWorks America. When the committee added this money, we got letters from OMB that threatened to veto our appropriations bill, and those veto threats specifically cited the counseling money as an example of excessive and unnecessary spending.

OMB Director Nussle told us that our expanded effort could, and I quote, "produce adverse consequences, including interfering with existing efforts by private and public entities to address mortgage foreclosures."

And the White House opposition has continued since then. Just a few weeks ago, our majority leader introduced an amendment to the stimulus bill that would boost our housing counseling resources by another $200 million.

Now, the reality is we are still not meeting the needs that are out there today. Even our historic funding increase last year will only reach 450,000 families when we know as many as 2 million families need this help. But what was the White House's response to Senator Reid's proposal? Another veto threat, saying it's excessive funding.

As I said earlier, the administration's 2009 budget request actually cuts total resources for Housing Counseling by more than 60 percent in the coming year. So I don't see how anyone can say the President has supported that effort. And this, as I said, is not just a partisan fight. In the last 7 years, this subcommittee has consistently had to rewrite the HUD budget to ensure that critical programs serving our citizens and communities are not slashed or dismantled. That's been true under the leadership of Senator Bond and of myself. And it is an example of the administration's lack of dedication to helping low-income and working families and its failure to invest in our communities.

Now, an equally important responsibility of this subcommittee is to keep an eye on how our tax dollars are being spent, so I want to turn to that. Earlier I said I agreed with Secretary Jackson that his budget should be measured in the lives it touches. Unfortunately, allegations have surfaced recently that HUD funds have in fact touched the lives of some of Secretary Jackson's personal friends. We have read the allegations of cronyism by Secretary Jackson. We have read allegations that he inappropriately interfered in hiring and contracting, and we have read allegations that he tried to dictate the spending decisions of public housing authorities to benefit his acquaintances.

I know Secretary Jackson has grown tired of reading those allegations questioning his character. I've grown tired of reading them, too. I believe they've taken a real toll on the morale of HUD employees and the credibility of HUD's leadership.

Many of these allegations are currently being investigated by the HUD Inspector General and the Department of Justice. I want to point out that Secretary Jackson has been charged with absolutely nothing. Our system of governance and justice presumes innocence and Secretary Jackson is owed that presumption.

That said, as part of this hearing I do intend to ask Secretary Jackson some direct questions regarding his conduct as Secretary, how he has administered funds provided by the subcommittee, and how he has interacted with other HUD staff whose salaries are paid for by this subcommittee. I expect the Secretary to provide direct answers. Our oversight responsibilities require no less and I appreciate the Secretary's cooperation.

With that, I will turn to Senator Allard for his opening comments.

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Madam Chairman, I want to thank you and Ranking Member Bond for providing a hearing to hear the fiscal year 2009 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, especially since this is your second morning in a row testifying before the Senate.

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 and now Secretary Martinez, who was there before him, for his progress on this point. Last 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, and I would encourage Secretary Jackson, all the dedicated staff at HUD to remain focused on maintaining the positive 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 a 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 for 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. The budget is evidence of these 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 meetings, but I believe bears repeating: 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 by the PART analysis. Forty-five percent of HUD's funds are spent on programs we either know 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 the other side? I for one intend to keep looking at both sides of the equation.

I appreciate the opportunity to do this, to do so at this hearing. Mr. Secretary, your testimony will be helpful to this subcommittee and it will be helpful as we begin the appropriation process.

Thank you, and thank you, Madam Chairman.

Senator MURRAY. Senator Lautenberg?

STATEMENT OF SENATOR FRANK R. LAUTENBERG

Senator LAUTENBERG. Thank you, Madam Chairman, for holding this hearing. We welcome Secretary Jackson here. We have to ask questions about why it is, when one of the most difficult things for young people growing up and ultimately winding up often in difficult situations out on our streets, while we spend over $3 billion each and every week on the war in Iraq and supplementals to support that in addition to that, and we turn our backs on the housing needs for people who lack the income to get themselves into normal routine housing.

So these are tough times for families struggling to keep their homes now. Thousands of families may lose their homes because they were sold risky subprime mortgages. And instead of realizing the American dream, more than 35,000 households in New Jersey may have their homes taken away.

That's why I co-sponsored the Foreclosure Prevention Act to help homeowners refinance their loans and to be able to afford their payments and keep in their homes. Our bill would also provide an additional $4 billion in community development block grants, known as CDBG, for local governments to purchase foreclosed properties and to renovate them to improve neighborhoods. CDBG invested more than $98 million into New Jersey's neighborhoods last year, creating vibrant and safe communities, new homes and shops, new jobs, and more opportunities, and a better atmosphere totally.

But while we were trying to do our part in the Congress, the American people are not getting enough help from the other side of Pennsylvania Avenue, where the housing for President Bush is more than adequate. Despite the acknowledged success, President Bush wants to cut funding for CDBG by nearly $1 billion, and he also wants to cut funding for public housing. New Jersey has more than 38,000 public housing units and the average income of those residents is $12,000 a year, $250 a week. How can you afford decent housing with that? You've got to have help from our Government. Without these public housing units, these men, women, and children would literally be out on the streets.

We're spending billions and billions, almost into the trillions, on housing and restructuring Baghdad and other cities in Iraq, and yet we're willing to turn loose young people on the streets who are so demoralized by the places they're forced to live in. And yet the President's budget request is nearly $900 million short of what our housing authorities need to patch leaky roofs, fix heating systems, and to make other repairs to their residents' homes.

Finally, Madam Chairman, the President's budget falls short when it comes to the section 8 program, a program that's worked very well over the years. Section 8 is the Federal Government's most important program for low-income families trying to find decent and safe homes in the private market by making up the difference between what the resident can afford to pay and the actual rent.

Once again, the President's budget is more than $1 billion less than what America's families need to succeed in their goals for life. In New Jersey alone, these cuts would cost 3,000 people their housing assistance and possibly their homes. Every child, every individual, and every family deserves a safe and affordable place to call home, and if the President wants to see America's homeowners and public housing residents through these tough economic times, his budget doesn't reflect that interest.

I look forward to working with this committee to make sure our public housing residents, the section 8 program, and our housing authorities get the resources they need to succeed. Mr. Secretary, I hope that you'll communicate your concerns for public housing, for affordable housing, to the White House and to the President and let them know that this is something that must be done to help keep stability and reasonable fairness in our society.

So we welcome you here, Mr. Secretary. But there are a lot of questions that are going to have to be answered.

Thank you.

Senator MURRAY. Thank you, Senator.

Senator Specter, do you have an opening statement?

STATEMENT OF SENATOR ARLEN SPECTER

Senator SPECTER. Yes. Thank you, Madam Chairman.

I join the subcommittee in welcoming Secretary Jackson here today. He has a job of enormous importance, housing and urban development, which has a very, very heavy impact on my city. Public housing is a matter of the utmost importance as it seeks to provide decent accommodations for people, a very important factor, providing a home, providing a basis for family, for school.

We have a very high crime rate in Pennsylvania, especially in Philadelphia, and adequate and affordable housing is very important. Beyond the overall concern I have for the housing issues, there has been a matter that's very contentious between the Department of Housing and Urban Development and the Philadelphia Housing Authority, something that the Secretary and I have discussed personally. There is an issue which could cost Philadelphia $50 million at the end of this month unless it is resolved.

Senator Casey and I undertook to try to mediate the dispute, spent a little more than an hour on November 1, in my office, a very rancorous, cantankerous, bitter meeting, which perplexed me. And I asked the parties to go get it worked out, but if they didn't I would try again.

On December 11, I sat down with them again for an hour, and there have been some very sharp accusations in that matter, which I hope we do not have to go into. What I want to do is I want to see the matter resolved. There is litigation now. It's costing the United States Government a lot of money to hire a lot of expensive lawyers, and taking up the time of the United States District Court for the Eastern District of Pennsylvania. And we're all on the same team.

I was very much concerned to read in the Washington Post yesterday some e-mails which pertain to this matter between two of the Assistant Secretaries of HUD. This is what they said, "Would you like me to make his life less happy?"—I think referring to Carl Greene, the head of the Philadelphia Housing Authority. "If so, how?", Orlando J. Cabrera, then Assistant Secretary at the U.S. Department of Housing and Urban Development, wrote about Philadelphia Housing Director Carl Greene. Kim Kendrick, an Assistant Secretary who oversaw accessible housing responded, "Take away all his Federal dollars." She typed symbols for a smiley face at the end of her January 2, 2007 note. Cabrera then wrote back a few minutes later, "Let me look into that possibility."

The Philadelphia Housing Authority Director Greene says that this is in retaliation for his refusal to comply with a request, or really a demand, made by the Secretary, and there are alleged calls from the mayor.

I hope we don't have to get into the details of it, and I hope we're able to get it worked out. But I have some important questions. I noticed in your statement, Mr. Secretary, that you will only take written questions. Well, that's not satisfactory. This is a subcommittee of the United States Senate, charged with putting up billions of dollars for your Department, and there are some very important questions that have to be answered. And I say that in a context that I don't like. You and I have worked very closely together, and when I wrote to you yesterday I scratched off "Mr. Secretary" and put "Al" and signed it "Arlen" because you and I have an Al and Arlen relationship.

But when $50 million is at stake and the kind of allegations that are involved here, I hope we don't have to get to the bottom of it. What I hope is we can settle it.

Thank you, Madam Chairman.

Senator MURRAY. Senator Bond, I apologize for starting ahead of time with the votes going on. Do you want to make your opening statement?

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. I might as well, and begin by apologizing to you, my colleagues, the Secretary, and those here. This morning a wreck on North Capitol of a school bus put me about 45 minutes behind. So this is the day when I could least afford to be 45 minutes behind, but I appreciate your going ahead, and again my sincere apologies.

I thank you, Madam Chairman, for having this hearing. I believe Senator Murray has already noted this is likely the last time we will have the pleasure of receiving testimony from Al Jackson, the Secretary of HUD. I would say also, the Secretary's a good friend.

We worked together in previous transmogrifications and I hope that he will be able to provide closure for a number of HUD programs, most especially public housing reform, lead-based paint, as well as providing demonstrated leadership on the subprime mortgage crisis.

These are no small challenges that have to be resolved. Nevertheless, I hope that this hearing will assist us in crafting an appropriations bill that will assist in meeting at a minimum the housing and community development needs of the Nation.

HUD continues to face a slew of funding and programmatic issues which are not likely to be resolved for a number of years into the future. This statement is not intended to detract from any accomplishments of the Secretary, but it is an honest assessment of HUD as it continues to have problems, many of which are long-term and, to be quite frank, require a lot more funding than the administration is willing to commit.

Unfortunately, many of HUD's programs are part of a safety net to assist many low- and very low-income families with greatest needs, including seniors and persons with disabilities. In many cases these are persons who are unable to help themselves, through no fault of their own. These are the people we all want to help.

Unfortunately, HUD's problems are not just a question of inadequate funding. I believe strongly that HUD does not have adequate staffing or expertise to ensure that its programs can work effectively. This coupled with the risk of many impending retirements from the senior ranks also means that HUD will have difficulty conducting the necessary oversight to prevent fraud, abuse, and negligence in its programs.

On top of these problems, HUD has admitted that its IT systems are antiquated, underfunded, flat-out do not work as expected. That's a real hat trick, and that is a serious problem, which not only compounds HUD's program failures, but it further enhances the risk of fraud, abuse, and loss of program income.

Nevertheless, I congratulate Senator Murray for her aggressive efforts to ensure that the final fiscal year 2008 appropriations bill included language that provides a separate appropriation for each of HUD's primary offices. Frankly, I think that was an excellent move. With HUD's assistance and this information, our subcommittee should be able to make constructive funding decisions on staffing requirements once we understand which offices are overfunded and which are underfunded. The bottom line is that we need to help ensure that HUD staff is allocated to the office with the most needs, where they can provide the best expertise.

I also expect HUD to make personnel recommendations for HUD offices consistent with staffing needs within the next 2 months to the House and Senate Committee on Appropriations.

For another year, I must express extreme disappointment with the proposed administration HUD budget for fiscal year 2009. For example, the administration has increased overall funding by some $600 million in fiscal year 2009, with an advanced appropriation of $400 million, for 2010 project-based assistance. Unfortunately, HUD has been short-changing its long-term rental contracts to preserve and pay existing section 8 project-based needs and now we find ourselves in a $2.4 billion hole. That's unacceptable. HUD's approach is to fund 2009 needs through bits and pieces despite a legal obligation to fund fully all housing for the entire term of the contract, many of which begin in 2009, but stretch into 2010.

Not only is this approach of dubious legality, but it creates a financial burden of $2.4 billion from 2009 into 2010 without any clear way to pay for the obligation without short-funding other important programs or possible shortfalls in long-term contracts.

Public housing has its concerns, but I'm pleased that the Public Housing Operating Fund received an increase. I assume these funds will operate to assist PHAs in meeting their asset-based management requirements. More funds are needed, but this is a start. Nevertheless, cutting the Public Housing Capital Fund by some $400 million is counterproductive, especially since public housing will only result in higher costs later by failing to address deteriorating needs, which will only get worse.

The administration wrong-headedly continues to request the elimination of HOPE VI. While I would support certain reforms to expedite demolition and streamline construction with HOPE VI, I do support HOPE VI, which has transformed communities throughout the Nation, building mixed housing that has leveraged new investments, economic development, stable communities, from which hospitals, schools, and jobs have grown, often resulting in an increase in the tax base and a reduction in crime.

I know, Mr. Secretary, you're quite familiar with Murphy Park and the King Louis Developments in St. Louis, which took some of the most uninhabitable, dangerous high rises and converted them into mixed use viable communities with decent housing on a mixed income basis.

I think we should look at HUD through a gestalt process whereby we take public housing as a whole, with a goal to fix all PHA problems as a totality, and we're going to have to do that regardless of costs.

Even more drastic, section 811 housing for persons with disabilities would be gutted, from $237 million in fiscal year 2008 to a meager $65 million under the 2009 budget request. These are people who rely on this program and in many cases this housing represents the primary focus around which services and related programs are provided.

Equally serious, the administration seeks significant reductions to the section 202 elderly housing program. In the section 202 program, the administration proposes a cut of $195 million from a 2008 funding level of $730 million. People are getting older. Our population's getting older. The demand and the need for this housing are growing, not contracting.

For the sake of time, I will highlight only several other important issues and leave other issues for later resolution. But in particular, HUD's FHA Single Family Mortgage Insurance program has always been a concern of mine, especially since homeownership appears to be a bigger priority to the administration than affordability and foreclosure. To some extent, I will tell you quite frankly I think the emphasis on homeownership helped to drive the foreclosure crisis we're now in. We were warned about it. Zero down payments, all these wonderful ideas to give people who couldn't afford housing the opportunity to get into the housing didn't do them any good when we put them in housing they couldn't afford, no matter how many gimmicks up front, whether it was seller financed Nehemiah or no down payments provisions.

I think we all need to recognize that homeownership is a great goal, but it's not achievable for everyone. Rental housing has its place and in many cases it's more affordable and realistic for people and families in this country. I've lived in rental housing and there is nothing wrong with that if you are not in the position to buy a house and ruin your credit when you can't make the payments.

In addition, I emphasize an agreement I have with FHA. Namely, FHA is not intended to bail out either homeowners or lenders regardless of negligence, predatory lending, or whatever. In other words, FHA is not permitted to refinance mortgages at mortgage costs that are above the current value of the property. FHA could obviously refinance mortgages at the actual appraised value and I would urge FHA to do so.

My real concern here is the appraisal system is flawed and to some extent to blame for the housing crisis we're now facing. It's certainly a worthwhile discussion that may result in the need for legislation or State action. I'd be very interested to see how FHA plans to deal with appraisals.

In particular, FHA needs to report quarterly to the House and Senate Committees on Appropriations on appraisal reforms. I do expect people guilty of fraud to be barred from the appraisal program, perhaps even including fines and jail sentences.

If we do not see action and FHA losses actually increase, it might be time for a new FHA corporation or a new housing GSE. If that sounds harsh, just talk with families who've lost their homes.

One of the major problems facing HUD and FHA is seller down payments. In general, this is where seller-funded nonprofits provide down payment assistance to families in order to qualify for FHA mortgage insurance. Unfortunately, this practice, while it's done well for the sellers, allowing them to sell the property, but if it results in inflated real estate prices and the risk of default then the FHA winds up holding the bag.

In fact, the costs to the FHA have been dramatic. From 2000 to 2004, these loans as a percentage of FHA's business grew from 6 to 30 percent, with approximately a 35 percent default rate. In fact, without some change in the law or HUD practice, seller down payments will cost as much as $1.4 billion in appropriations to pay for losses in 2009. Unfortunately, courts have not been receptive to HUD's attempt to ban the practice, justifying the most recent decision on procedural grounds.

Finally, there is a local issue where three relevant Federal agencies are required to meet the basic requirements of legislation that identifies and makes unutilized and underutilized public lands available on preference to homeless providers. HUD conducts the initial analysis; Health and Human Services provides the application with a preference to any homeless provider. The biggest problem in Missouri is a certain homeless provider who repeatedly appears to have gotten priority for HUD excess properties. The provider has no relation to any other homeless provider in Missouri, never participated in the Federal homeless funding or local continuum of care. There has never been any comprehensive attempt to administer these facilities in a professional manner.

Among the troubling issues, there have been reports of rapes committed by employees, theft, as well as a recent knife and chain saw attack by a psychiatric patient. Equally troubling, the Springfield facility is near a school, which clearly poses some risk to the students.

Unfortunately, the Government appears unable to implement its responsibilities as to excess properties for the homeless. I know any major change would cause concern. My suggestion and compromise is not to eliminate the program, but to tie the program, this program, to homeless participants and the Federal continuum of care to ensure the excess property will be used effectively and appropriately.

I initially supported the law because of the past bias against housing the homeless in almost any community. Nevertheless, not all Federal properties are appropriate. We almost ended up with a homeless shelter in St. Louis that was an obsolete Social Security building in the downtown district, which was going through revitalization, and if they made that the largest homeless shelter in the Nation it would have doomed the revitalization efforts of downtown St. Louis. That's only one example of property decisions made under a poorly administered law.

Madam Chairman, I apologize for the length of my statement, but, as you may have noted, I have a lot of concerns dealing with HUD. I thank you and my colleagues and the Secretary for the indulgence.

Senator MURRAY. Thank you very much, Senator.

Secretary Jackson, if you will give your opening statement.

STATEMENT OF HON. ALPHONSO JACKSON

Secretary JACKSON. Thank you very much, Chairwoman Murray. And I want to thank Ranking Member Bond and the members of the committee for the opportunity to appear before you today.

Madam Chairman, I am here to present the fiscal year 2009 HUD budget. But before I do that, I want to thank you, Madam Chairman and the entire subcommittee, for priority given to FHA Modernization. We need the legislation right away. As you and your colleagues finish work on this important legislation, I should mention the administration's remaining priorities with respect to what's in the final bill.

First, the legislation must allow HUD to address the recent explosion in loans where the seller provided buyers with down payment assistance and then add the price into the home. These loans have a foreclosure rate three times the norm. They are costing hard-working Americans their homes, and these types of loans have pushed FHA to the brink of insolvency.

Second, Congress should allow FHA to proceed later this year with some flexibility in setting premiums. I assure you we have no intentions of increasing premiums on our bread and butter customers, but a few modest changes will strengthen FHA's ability to offer safe alternates to home owners who want to refinance out of high-cost subprime loans and will actually allow us to reduce the premium for our potential home owners with low income.

Such legislation would fit well into the general direction of the President's budget. We need actions that are positive, solutions to complex problems that confront home owners in the housing market, like FHA modernization and the Government-sponsored enterprises.

The proposed budget is fiscally sound, representing a historical investment of $38.5 billion for programs at HUD. This is an increase of more than $3 billion, or 9 percent over last year's budget. The budget is almost $1 billion more than our current budget authority. This funding will be timely and on target for people served by this Department. We need this budget to maintain the current home ownership and to stimulate new purchases. It will help us expand our current effort.

Let me put the budget in context. Last year President Bush and I introduced FHA Secure to help more Americans facing foreclosure refinance into safer, more secure FHA loans. We did this using the current regulatory authority. As we have been able to make the FHA available to more qualified families, there has been a noticeable increase in the number of closings. We believe that FHA Secure will help about 300,000 families refinance into affordable FHA-insured mortgages. FHA Secure has proved to be extremely valuable.

Madam Chairman, you should also know that only in 5 months, from September 2007 through January 2008, FHA has pumped more than $37.5 billion of much-needed mortgage activities into the housing market. More than $14.7 billion of that investment came from FHA Secure.

FHA modernization would greatly assist our effort. As you know, the economic stimulus package provided a temporary 10-month window. We announced the new loan limits last week when I was in California. This will help hundreds of thousands of people nationwide, perhaps as many as 250,000. But this is no substitute for the FHA modernization, which would raise appropriate loan limits permanently and also provide other important changes that would benefit American home owners.

At a time of high foreclosure, FHA is helpful in other ways, such as a strong loan loss mitigation program which has saved hundreds of thousands of homes from going into foreclosure.

In addition to FHA-related actions, we are also taking steps to ensure it is easy for home owners to understand the fine print when they do sign on the dotted line. That's why we are committed to RESPA reform. We're in the process of publishing a new Real Estate Settlement Procedure Act rule and hope it will bring much-needed transparency to the home buying process.

Now, the budget will work in concert with other actions that we must take. For instance, the proposed budget appropriately increases funding for housing counseling. America needs the present request for $65 million in the budget for housing counseling. Those funds, in addition to the $180 million provided to NeighborWorks, will serve our constituents very well.

Many Americans are facing foreclosure. We know that we can stop these foreclosures and housing counseling works very well. This funding will help partially address the crisis and prevent such a situation in the future. It will get the job done. We want to make sure that housing counseling services get the funds they need, now and in the future, and can manage the funds they get.

We also need to continue Government efforts to partner with the private sector to help build back the housing market. The Hope Now allowance is a good example. Hope Now is a private sector voluntary industry effort to address foreclosure through freezing mortgage interest rates and working directly with financially troubled home owners.

I also commend a recent effort by six Hope Now Alliance members to provide a temporary pause for home owners in the foreclosure process. These actions provide direct assistance to those in need right now. These are the sort of responses that provide quick help for home owners.

As in the past, Madam Chairman, the largest part of our budget is for affordable rental housing. Combined, this budget seeks more than $29 billion for the rental assistance program, which is expected to help more than 4.8 million households. We are mindful of the continuing need for more affordable rental housing. Especially low- and middle-income workers still find themselves priced out of the real estate market. We need to maintain the units currently available and expand their numbers. This budget will help us do that.

Finally, the homeless must not be forgotten. We are making strides to cut the number of chronic homeless within our continuum of care approach. For the first time ever, we saw a decrease in the number of chronic homeless last year, a drop of 12 percent. We must continue that process. Our budget once again seeks an increase for homeless programs to continue this good work.

PREPARED STATEMENT

Madam Chairman, I know that you are mindful of the need to help our Nation's homeless veterans. Americans are deeply, profoundly grateful for the service and sacrifice of our Nation's veterans. In this proposed budget there is a request for $75 million for our Veterans Affairs supportive housing program. Prior to 2008, this program has not been funded since 1993. Working with the Veterans Administration, we will create an additional 9,800 vouchers for fiscal year 2009. This will bring the total of approximately 20,000 homeless veterans to be able to be served through social service and housing.

Overall, I believe that this is a good budget and I look forward to working with you to carry out this. Thank you very much.

[The statement follows:]

PREPARED STATEMENT OF HON. ALPHONSO JACKSON

INTRODUCTION

Thank you, Chairwoman Murray, Ranking Member Bond, and the members of the subcommittee for this opportunity to appear today.

Madam Chairwoman, the budget for the Department of Housing and Urban Development (HUD) represents an investment in the American people by the American people. This investment is measured in more than dollars. It is measured in the lives we touch, whether in creating and protecting sustainable homeownership, preserving affordable rental housing, helping the homeless, or revitalizing our cities.

The budget reflects America's compassion and commitment. The President's budget will ensure housing assistance for those in need, preserve and promote homeownership by addressing subprime mortgages, strengthen communities by sustaining homeownership gains, make further progress towards ending chronic homelessness, and continue the trend of improving HUD's management and performance.

Almost every American is touched by our programs, directly or indirectly. And there are few things more personal or cherished as the house or apartment where we live, watch our children grow up, and where we grow old. Our budget is about promoting new homeownership and making the American dream possible. The budget is about protecting families already in homes. It is about expanding affordable rental housing. It extends funding and services to those in need, including the disabled, veterans, the homeless, people with HIV/AIDS, and elderly and disabled people affected by hurricanes Katrina and Rita. Further, it continues to support and encourage community growth and revitalization.

I believe we have a good budget. It is fiscally sound, supports our mission, and fits in well with the overall vision for the President's entire fiscal year request. My Department would receive an historic investment, $38.5 billion. This is an increase of more than $3 billion, or 9 percent, over last year's proposal. The budget is almost $1 billion more than our current budget authority.

Let me break this down in more detail.

ENSURING HOUSING ASSISTANCE

I am pleased that the budget strongly ensures housing assistance for those in need. As in the past, the largest part of our budget is for affordable rental housing. Combined, this budget seeks more than $29 billion for our rental assistance programs which we expect will help more than 4.8 million households. We are mindful of the continued need for more affordable rental housing, especially as some low-and-middle-income workers find themselves priced out of the real estate market in many cities. We need to maintain the units currently available and this budget will help us do that.

The budget increases primary housing programs by providing $7 billion to renew all project-based rental contracts and $400 million for an advance appropriation to bridge renewal funding into 2010. This will help provide housing assistance for nearly 1.3 million low-income tenants.

We also increase housing choice vouchers, reaching over 2 million low-income families, while removing the cap on the number of housing units that Public Housing Authorities may assist.

The budget also supports public housing operations with a request for $4.3 billion, the highest proposed funding level in history. This will cover the necessary operating expenses for 1.2 million public housing units.

The proposed budget also seeks $300 million for persons living with HIV/AIDS. This funding would provide housing and care for 70,500 people.

The proposed budget also contains $3 billion in Community Development Block Grant (CDBG) funding for States and local governments. We have once again asked Congress to revise the outdated funding formula for this program. With appropriate revisions, we can distribute resources more efficiently and fairly, making this funding more effective and helpful.

Madam Chairwoman, let me also add some comments about the recovery effort from Hurricanes Katrina, Rita, and Wilma. The disaster was unprecedented. Recovery will take many years. We have been deeply involved in these recovery efforts.

You should know that HUD has funds available of nearly $20 billion throughout the gulf coast region to assist in recovery. States have spent approximately $8.5 billion to date. So far, more than 110,000 homeowners in Louisiana and Mississippi have received financial assistance from HUD. We know that there is more to do—much more. We have learned much and worked through some enormous difficulties. But progress is noticeable.

The American people should be proud of their investment and their compassion. If anyone wants to see America's heart, they should go to the gulf coast, where so many people have given generously of their time, their love, their patience, and their courage.

The gulf coast is coming back, and one important reason is a fundamentally sound approach to recovery.

When Hurricanes Katrina, Rita, and Wilma devastated the gulf coast, many of our most vulnerable citizens lost the only homes they had known. We recognized last year that some of those families affected by the storm needed additional time to recover, which is why the administration transferred the responsibility for housing these families from Federal Emergency Management Agency (FEMA) to HUD under the Disaster Housing Assistance Program (DHAP) and extended Government housing assistance another 18 months to 30,000 families.

The President is also requesting $39 million to ensure that the elderly and disabled families displaced by the 2005 gulf coast hurricanes remain protected at the conclusion of DHAP. These Disaster Displacement Assistance vouchers will provide permanent affordable housing to eligible elderly and disabled families, while the remaining storm victims who are not on fixed incomes continue on the path to self-sufficiency.

The Department will administer these vouchers as part of the section 8 Housing Choice Voucher Program. We will make rental assistance payments on behalf of these families, whether they have relocated or returned home.

PRESERVING AND PROMOTING HOMEOWNERSHIP

Promoting homeownership remains one of the central goals of this administration. We have to get the housing market back on track. We know that homeownership is good for families, the community, the Nation, and the world. Homeownership equals empowerment, wealth creation, independence, and fulfillment of the American Dream. It gives the family a stake in the community. Homeownership is a source of pride. It is particularly important for America's minority communities, which historically have lower rates of homeownership.

Clearly, the housing crisis is a powerful challenge. After the unprecedented, historic gains in homeownership between the start of the decade and 2005, there has been a downward trend in homeownership. The troubling rates of foreclosure and other housing indices reveal more than a statistical drop or figurative decline. They tell us of families losing their homes, of people losing their investments, and of dreams stolen away.

The causes are many. But the subprime situation is often the reason. But not all subprime loans are bad. Subprime loans broadened the availability of credit and led to housing investment for those who previously had less than perfect credit. And the majority of subprime loans are still being paid on time. About 20 percent of subprime loans are problematic. This means that many families cannot afford their subprime loans. Some families are on the edge of a financial abyss. The rapid rate of foreclosure threatens to continue unless appropriate actions are taken.

This budget will help HUD in its efforts to address the housing crisis. It will give us the tools we need to continue our work. We must reverse the downward trend in housing indices and homeownership. We must help homeowners retain their homes. We must also look to the future because we must increase the number of families who own their own homes. And we must retain the sizable increase in minority homeownership. As you may recall, in 2002, the President challenged the Nation to create 5.5 million new minority homeowners by the end of this decade. And we have made substantial progress: 3 million more minority families have become homeowners since 2002. We must build on that progress.

Of course, the President's stimulus package will help. I'm grateful Congress has given this package its support. By temporarily increasing FHA loan limits, we can back more safe, sound mortgages in high-cost States and help homeowners trapped in exotic subprime loans to hold on to their houses.

We also need the President's request for $65 million in this budget for housing counseling. Why? Well, we have learned that housing counseling makes a powerful difference in homeownership and foreclosure avoidance. You see, many of the failed loans were a surprise because the homeowner didn't read the fine print and didn't understand the contract. Housing counselors could have helped the homeowner gain a better perspective about affordability and balanced expectations. Families must buy homes they can afford. They must understand the contracts—have an especially clear idea of the features of financing and the ramifications of resets, and the terms and the timelines. Prospective homeowners must have a prudent mortgage, not a "suicide loan." We must remove the mystery, confusion, and vagueness from the process. There must be full disclosure, understandable information, and a transparent process.

That's why we need housing counselors to be fully engaged in the process. Housing counselors are an important line of defense against foreclosure. They can enlighten homeowners and help prospective owners determine the affordability and appropriateness of a mortgage. They can explain the contract and answer questions.

The President has been a strong proponent of funding for housing counseling, and has worked with you to more than double the funding for housing counselors since the start of this administration. Now, given the magnitude of the crisis we face, it is important to expand funding for housing counseling. The President's request in this area is paramount to prevent future foreclosures.

These funds, in addition to the President's request of $180 million for the Neighborhood Reinvestment Corporation, provide great services to those in need. And we now know that spending in this area is a sound investment, saving the Nation from expenses related to foreclosures, lost revenues, slowdowns in business spending and new housing construction, and declining home values.

The administration is also taking steps to ensure it isn't as hard for homeowners to read the fine print when they do sign on the dotted line. That's why we are committed to reform of the Real Estate Settlement Procedures Act (RESPA). We hope to publish a new RESPA rule in the coming days. Our goal is to bring much needed transparency to the home-buying process.

STRENGTHENING COMMUNITIES BY SUSTAINING HOMEOWNERSHIP GAINS

The President has also requested a substantial increase of $263 million for our HOME program. This would bring the funding level up to nearly $2 billion for the Nation's largest block grant program specifically designed to produce affordable housing. This request includes $50 million for the American Dream Downpayment Initiative, which provides flexible housing assistance, and increases affordable housing and minority homeownership. Since the inception of the HOME program 16 years ago, almost 812,000 units of affordable housing have been created.

We also need to support other efforts to maintain current homeownership and stimulate new purchases. In August 2007, the President and I introduced an effort, FHASecure, to help more Americans facing foreclosure refinance into a safer, more secure Federal Housing Administration (FHA) loan. We did this using current regulatory and I am pleased to report that the program is helping many families avoid foreclosure. There has been a noticeable increase in the number of closings with FHA. Two months ago, there were 2,500 closings a month with FHA. Now, there are 4,500 closings a week! By year's end, we expect FHA will be able to help more than 300,000 families refinance into affordable FHA-insured mortgages.

Madam Chairwoman, you should also know that FHA has mailed letters to hundreds of thousands of at-risk homeowners to urge them to refinance with safer, more affordable FHA-backed mortgages. These letters are being sent to homeowners who already have or soon will confront the first reset of their adjustable rate mortgage, and are currently living in locations subject to FHA loan limits. We will be sending these letters out to about 850,000 at-risk homeowners.

But we could do so much more with legislation to modernize the FHA. Congress needs to quickly complete work on a bill that will immediately give us authority to expand FHA's ability to serve the very type of borrowers who were lured into high-cost, high-risk loans. We need to make the minimum down payment more flexible, create a fairer insurance premium structure, and permanently increase FHA's loan limits. This will allow more families to use FHA, perhaps hundreds of thousands of families. We need FHA modernization as soon as possible. Every day of delay places qualifying homeowners at unnecessary risk. Our estimates indicate that FHA modernization could help as many as 250,000 more families by the end of 2008.

We asked for this bill 2 years ago to help us avoid the mortgage crisis. But now we need it to help address the crisis.

I am also pleased that the mortgage industry has stepped forward to help. Treasury Secretary Paulson and I have worked closely with the mortgage industry to address the housing crisis in another way: enlist proactive industry cooperation. The industry worked with the administration to develop a program called the HOPE NOW Alliance to help homeowners at risk of foreclosure. The Alliance has implemented a plan that could help up to 1.2 million homeowners avoid foreclosure over the next 2 years by providing systematic relief that includes modifying or refinancing existing loans, moving borrowers into FHASecure loans, and implementing a 5-year freeze on interest rate resets for subprime loans. The industry has already assisted 370,000 homeowners. HOPE NOW has contacted more than half a million borrowers in the second half of 2007.

There are other actions that will help. So, you'll see the budget has a sharp increase for our Self-Help Homeownership Opportunity Program (SHOP) that works with organizations like Habitat for Humanity and others to build housing through sweat equity.

Fair housing practices are an important aspect of homeownership. This year marks the 40th anniversary of passage of the Fair Housing Act. Our budget provides $51 million to protect the right of all Americans to be free from housing discrimination based on race, religion, gender, sexual orientation, family status, or disability. This is an increase of $1 million over the current appropriated level.

I also hope you will notice our new Fair Lending Division. This office will examine questionable mortgage practices and investment complaints from homebuyers. It is an important addition—a new way to directly address unfair practices.

This new division has already made an impact. Recently, HUD awarded grants totaling approximately $1 million for the development of strategies to address lending discrimination. These grants were awarded to State agencies in Ohio, Massachusetts, Colorado, and Pennsylvania, States with some of the highest rates of foreclosure in the Nation. The agencies in these four States are developing "best practices" for intake procedures, investigation techniques, and education and outreach activities for their mortgage lending enforcement programs. These "best practices" will be made available to all State and local agencies in the Fair Housing Assistance Program (FHAP).

ENDING CHRONIC HOMELESSNESS

And the homeless must not be forgotten. We are making strides in reducing chronic homelessness with our "continuum of care" approach. We are working to provide assistance across the entire spectrum of homelessness. This continuum of care is vital because homelessness is a complex, difficult, multi-dimensional problem, both for those who are homeless and for those who are working to meet the needs of the homeless.

Our national effort to end homelessness has been steadfast, with strong commitment and investment. Since 2001, HUD has awarded approximately $10 billion in funding to support the housing and service needs of the homeless.

We are working especially hard to stop the revolving door for the chronically homeless. Early on in this administration, President Bush set a goal to end chronic homelessness in America. If we are to be successful, we must help break a cycle of circumstances and behaviors that consistently place the chronically homeless on the streets.

And there is evidence that we are making progress. The investment by HUD and local communities is working. In November, HUD announced that, across the country, local communities saw a nearly 12 percent drop in the number of individuals who literally call the streets their home, nearly 20,000 fewer persons living on our streets. This was good news. It shows that the hard work of thousands of people is paying off, that our efforts can make a powerful, positive difference.

Of course, we still have a long way to go before ending chronic homelessness. There are still people living on the streets, many of them are mentally ill, addicted to alcohol and/or drugs, or physically disabled. These are the most vulnerable among us, the hardest-to-house and the hardest-to-serve. The chronically homeless are people who are homeless for more than a year or who continue to cycle back into homelessness. They are people who need serious, sustained assistance to overcome their homelessness.

Madam Chairwoman, I know you are mindful of the need to help our Nation's homeless veterans. Americans are deeply, profoundly grateful for the service and sacrifice of our Nation's veterans. In the proposed budget, there is a request for $75 million for our Veterans Affairs Supportive Housing Program (VASH). Prior to fiscal year 2008, this program had not been funded since 1993. Working with the Veterans Administration, we will create an additional 9,800 vouchers for fiscal year 2009, bringing the total to approximately 20,000 homeless veterans being served through housing and social services and double the number of available housing vouchers.

CONTINUING HUD'S IMPROVED MANAGEMENT AND PERFORMANCE

Finally, I would like to discuss the management of the Department. For the first time since 1994, the Government Accountability Office (GAO) removed HUD's single-family housing mortgage insurance and rental housing assistance programs from the list of High-Risk Federal programs. I am very proud of that fact.

I am also very pleased that HUD achieved a clean opinion in its 2007 financial statements, continuing a multi-year trend.

We need to build upon this progress. So, Madam Chairwoman, I also want to mention that the $313 million included in the request for our Working Capital Fund will enable the Department to make critical upgrades to our aging information technology (IT) systems. If we want to improve the delivery and control of the Department's significant program resources for the benefit of the people and communities we serve, then it is imperative that we have sufficient funding for IT systems modernization efforts. The $65 million reduction of our 2008 request for IT funding was devastating. That reduction has stopped practically all HUD systems modernization efforts.

Madam Chairwoman, this subcommittee should know that without sufficient funding, we will be unable to modernize FHA's 25 year old mainframe systems to effectively support FHA program reforms. We will be unable to improve the automation of the section 8 Project-Based Assistance contract renewal and payment processes. We will be unable to effectively implement asset management improvements over the public housing stock. We will continue to manage our $16 billion a year Housing Choice Voucher Program through a cumbersome spreadsheet process rather than an automated database that can provide timely information for HUD and Congressional oversight. HUD has demonstrated the ability to successfully use its limited IT funding. I urge you to support the budget request for IT funding.

CONCLUSION

Overall, this is a good budget for the Department . . . balanced, reasonable, appropriate, and workable. It allows us to operate within a framework of cooperation and partnership with other Federal agencies, State and local governments, and nonprofit initiatives. The American people count on HUD . . . count on us for direct assistance, grants, professional administration, and high-quality public service. With this budget we meet those expectations. With this budget we can get the job done.

I also want to thank the employees at HUD for their extraordinary service during a very trying and difficult period. Madam Chairwoman and members of the subcommittee, I am sure that you would be extremely impressed by the day-to-day work product of our employees. I am very proud of my colleagues at HUD.

Madam Chairwoman, as we proceed through the budget process, I look forward to working with you. I thank you and the subcommittee for your consideration of this budget request.

SELLER DOWN PAYMENT PROGRAM

Senator MURRAY. Thank you very much, Mr. Secretary.

We will have 5-minute rounds, and I'm told that we may start voting as early as 10:30, so I will try and make mine short so we can get to everybody.

Mr. Secretary, HUD's budget assumes that there will be major reforms to the FHA Single Family Housing program and I'm told that if these reforms are not enacted this year the MMI Fund could potentially face a $1.4 billion shortfall. We're also told this is largely the result of the defaults of the seller down payment program. What are your views on the seller down payment program and its impact on the solvency of the FHA fund?

Secretary JACKSON. Chairlady, we really believe that the seller down payment program, if we are still forced to carry it, will create severe problems for us, on the brink of insolvency for this year. We have heavy reserves, but this year it's creating a problem. As I said when I was reading the statement, it's three times higher than our default rate. We're about two and one-half and they're three times higher. It is presenting serious problems.

Senator MURRAY. What is the default rate for the program?

Secretary JACKSON. What is that?

Mr. MONTGOMERY. The foreclosure rate is 2.3 percent and the default is about 6.3 percent.

Secretary JACKSON. Foreclosures—well, come and tell the chairlady.

Mr. MONTGOMERY. Brian Montgomery, FHA Commissioner.

Our overall foreclosure rate the last quarter of 2007 is 2.3 percent. The default rate is about 6.3 percent.

Senator MURRAY. What is it costing the taxpayer to run this program compared to the standard FHA mortgage program?

Mr. MONTGOMERY. The Secretary is exactly right. These loans that have seller-funded down payment assistance are two and one-half, three times more likely to default. As you know, part of what we've been trying to do is to sound the alarm on just how volatile these loans are. We proposed a rule, too, that would eliminate that type of assistance, but were stopped, sued and stopped in two court decisions last week.

Senator MURRAY. Let me ask you, Mr. Secretary. Last week the U.S. District Court for the District of Columbia vacated the HUD final rule that prohibited the Seller Down Payment Assistance Program you're referring to from acquiring an FHA guarantee. How does that court decision affect HUD's ability to ensure the solvency of the FHA Fund?

Secretary JACKSON. Chairlady, I'm not sure that I can answer that because the judge in his opinion said exclusively I was not to deal with the process. He excluded me out of the process. Brian can answer it for you, but I cannot.

Senator MURRAY. Well, let me get an answer in writing from you, because I do want to ask one more question on my time and turn it to Senator Bond.

[The information follows:]

SELLER DOWNPAYMENT PROGRAM

The Department is re-publishing the Notice of proposed rulemaking in order to allow for additional comment on information that further explains and supports HUD's proposal to prohibit seller-funded down payment assistance. In its proposal, HUD is advising the public that the current practice that allows for seller-funded down payment assistance is having a serious negative impact upon the overall financial health of the FHA Fund. The Senate's FHA modernization bill also prohibits this type of assistance.

HECM

Senator MURRAY. HUD's Housing Equity Conversion Mortgage, the HECM program, provides elderly home owners the option of taking out a reverse mortgage on their home in order to meet their financial needs today, providing them with the flexibility to use that equity in their homes for what they need, health care, home repairs. As we're watching our elderly population struggle with this economic downturn, this program has become increasingly important to them. In fact, it is the fastest growing loan program within FHA.

We are seeing some pretty distressing news reports, including one by AARP, of unscrupulous sales agents who are selling older home owners annuities, long-term care insurance, investments, home repairs, that are very high in cost and low in value to the consumers, and sometimes these schemes are done with the collaboration of lenders participating in the HECM program.

What steps is your Department taking, Mr. Secretary, to crack down on these abusive practices directed at HECM borrowers by sales agents and lenders?

Secretary JACKSON. You're absolutely correct, chairlady, and we are doing everything with the Office of Housing to seek out these persons. We're very, very concerned about this process because we do a large number of HECM loans. And I am very, very committed to senior citizens that they don't lose their homes. So we are making every——

Senator MURRAY. Are you taking any action against any of the lenders?

Secretary JACKSON. I can get that information for you. I know that our Assistant Secretary has taken some action. I'm just not sure how much action we took.

Senator MURRAY. Okay. I'd like that back in writing, then.

Secretary JACKSON. I will make sure I get that for you.

[The information follows:]

HOUSING EQUITY CONVERSION MORTGAGE (HECM)

Over the past 2 years, FHA has taken major steps to mitigate risk in its Home Equity Conversion Mortgage program. During fiscal year 2007, FHA reviewed 90 mortgages and a total of 4,572 HECM loan files, uncovering findings in half of the loans examined. FHA issued findings letters to these mortgagees notifying them of the deficiencies.

PUBLIC HOUSING CAPITAL FUNDS

Senator MURRAY. Senator Bond?

Senator BOND. Thank you very much, Madam Chairman.

I'm very much concerned about the Capital Funds for public housing. Apparently a 2000 ABT study estimated the annual accrual needs of capital. When you inflate them to 2009, it looks like they are being budgeted at about 79 percent of the need, which I understand to be about $20 billion. There are multi-billion dollar backlogs existing.

Do we have an adequate estimate or a reasonable estimate of what those needs are, and how do you plan to maintain this large inventory of housing into the future if we're not meeting the ongoing needs?

Secretary JACKSON. Senator Bond, I really believe that we do, and I will give you the overview and I will have Paula come and give you the depth.

As you know, when we created the Commission on Severely Distressed Public Housing back in the late 1980s, early 1990s, we said that there were about 88,000 severely distressed public housing units in this country. As of to date, we have demolished 150,000. We've built back some 60 or 70,000.

Senator BOND. Thanks in large part to HOPE VI in some areas.

Secretary JACKSON. No question. And you know you will not get an argument with me about HOPE VI.

Senator BOND. Just because I set it up, I appreciate your willingness to agree.

Secretary JACKSON. You won't get an argument.

But I will let Paula give you the details.

Senator MURRAY. Please. We're concerned about it.

Ms. BLUNT. Just to add to that, I would like to say that we're still using the figures from the 1998 study that you were talking about, and we are in the process of procuring services to do a new capital needs study and that will be under contract by next month. So we will have a real more current estimate of what those modernization needs are.

Senator BOND. Based on that previous estimate, what is the general range of the needs and how much of that is funded in this budget?

Ms. BLUNT. I'm not sure. I guess we would have to get back to you on that. I'm not sure of the exact dollar amount in terms of those needs right now.

Senator BOND. That's what I'm very worried about. Frankly, until OMB understands these needs are a critical investment, we're going to see the stock decline and we're going to face even greater costs in the future.

Secretary JACKSON. What we've done, Senator, is given the housing authorities permission to use their bond authority in many cases, to use their reserves to make sure that they do the capital replacement.

PUBLIC HOUSING OPERATING FUND

Senator BOND. That's a band aid. That's a band aid but it isn't curing the underlying infection.

Let me turn to the Operating Fund. There is $4.3 billion in the request. How much of these funds will be dedicated to ensure proper training of asset-based management and how ready are the PHAs to take it on? Is this something they have the ability to do?

Secretary JACKSON. I think so. As you know, Senator, even before we moved to asset-based management, when I was in St. Louis and Washington, DC and Dallas, I basically practiced asset management. Those assets that were not viable we got rid of and only managed those that were viable. That's all we're asking again for the housing authorities around the country to do.

I think they have the ability to do that, and we will assess that process.

Ms. BLUNT. If I could just add to that, as you mentioned the technical assistance and training, we have $5.9 million that we're suggesting for that. Just as early as yesterday, we sent out invitations to the industry to come meet with us in order to talk about what they feel the best use of that money is in terms of what kind of technical assistance that the housing authorities need in this transition to asset management. We're in the first stages of that, as you know.

HOPE VI

Senator BOND. I will have a bunch of questions on section 8 and FHA, but I'm not going to pass up HOPE VI without asking you how we can keep it alive, how we can facilitate development. Have you considered new bonding authority, continued redevelopment through an alternative program? How do we get rid of the distressed housing?

Secretary JACKSON. Senator, let me say this. Of the 270-so grants that we have made on the HOPE VI, 75 have been completed to date since 1990. We have outstanding right now about $1.4 billion. I would love to somehow recapture the money and send it to cities that have performed well.

Senator BOND. Well, I would agree——

Secretary JACKSON. I just think that——

Senator BOND [continuing]. But if they're not doing the job——

Secretary JACKSON. We have some cities with HOPE VI moneys that are 10 years old that have not been spent. If we could just capture those between 5 and 10, we could probably get $600 million out of this process or more. So I think that the money is there and we should utilize it for those cities that are performing well.

Senator BOND. I believe we've tried to get that done, but your staff has been resisting because it's a difficult choice. But we need to continue to talk about that.

Secretary JACKSON. I'll be happy to.

Senator BOND. If you'll support it, maybe you can pass that word down to some of the folks who work for you.

Secretary JACKSON. I will do that.

Senator BOND. Thank you very much, Mr. Secretary, Madam Chairman.

Senator MURRAY. Senator Specter?

PHILADELPHIA, PA/UNIVERSAL COMMUNITY HOMES DISPUTE

Senator SPECTER. Thank you, Madam Chairman.

Mr. Secretary, did you call Mayor Street about the dispute that Philadelphia Housing Authority was having with Universal Community Homebuilders?

Secretary JACKSON. Senator, I did speak to the Mayor, but not about any dispute.

Senator SPECTER. What did you speak to the Mayor about?

Secretary JACKSON. Just the completion of the HOPE VI project, that's all.

Senator SPECTER. But you're saying that you did not talk to him about the dispute PHA was having with Universal Community Homes?

Secretary JACKSON. Senator, I've said to you that I spoke to him about the completion of the project, that's all.

Senator SPECTER. Nothing about Universal's unhappiness with having this piece of property not turned over to them?

Secretary JACKSON. Senator, I've just told you the truth.

Senator SPECTER. So you're saying that didn't enter into your conversation at all with Mayor Street?

Secretary JACKSON. Senator, I have told you the truth and I think that the person who spoke to him mostly was our staff member, Dominic Bloom, who spoke to him.

Senator SPECTER. Do you know what your staff member told Mayor Street?

Secretary JACKSON. Just we were concerned about the completion of the project.

Senator SPECTER. Anything about Universal Community Homes being unhappy that the land wasn't turned over?

Secretary JACKSON. Senator, I have told you the truth, and I think you and I have a relationship. I have not lied to you and I'm not lying to you now.

Senator SPECTER. Did anyone from Universal contact you concerning PHA's refusal to turn over that ground?

Secretary JACKSON. If they did, I mean, I can't remember, I really can't. I don't think—I can't remember. I don't want to say no, I just can't remember.

Senator SPECTER. A possibility that they did?

Secretary JACKSON. I can't remember.

Senator SPECTER. Mr. Secretary, you have these e-mails, three e-mails on January 12, 2007. The e-mails are "Would you like"—this is Mr. Cabrera: "Would you like me to make his life less happy," referring to Carl Greene. What reason would Mr. Cabrera have for wanting to make Carl Greene's life less happy?

Secretary JACKSON. I think you would have to ask Mr. Cabrera.

Senator SPECTER. Well, I will.

When you saw these e-mails, albeit only 2 days ago, didn't they arouse some concern or suspicion on your part that something was amiss if they're out to make Carl Greene's life unhappy?

Secretary JACKSON. I think if you look at what I said, what I submitted to you last evening, Senator, it said I think it was made out of frustration, and I made that very clear to you. I think that you and I have had lots of discussion on this matter and we had not come to a resolution, and I was working directly with you to try to get a resolution. And I think that many of our staff people, as I said, were operating on a very frustrated level.

Senator SPECTER. Well, what were the frustrations if not retaliation?

Secretary JACKSON. I can't answer that, sir. I just think that, as I said to you before, we had been trying to work the accessibility out, as in my memorandum to you; work it out, that's all we are trying to do, to make sure that the civil rights of the disabled are covered. That's all we're talking about.

Senator SPECTER. Well, Mr. Secretary, you have these e-mails, "Would you like me to make his life less happy? If so, how?" on January 12. You have a response, "Take away all of his Federal dollars," on January 12. A response to that, "Let me look into that possibility," on January 12. Then on January 12 your Department tells PHA that they might be in danger of losing a lot of money.

Isn't that an extraordinary coincidence——

Secretary JACKSON. Senator——

Senator SPECTER [continuing]. If not causally connected?

Secretary JACKSON. Senator, as I stated to you earlier, I will make every endeavor to answer the questions, but I don't know the intricacies. That's why when I—it was not there to insult you. That's why I said that if there were questions, please, if you can tell me what they are I will go back and have the staff answer those questions for you. I really don't know all of the intricacies.

As I said to you in the memo, I saw this as of Tuesday. Am I concerned? Yes. But I don't know all the intricacies.

Senator SPECTER. You say you are concerned, yes, and what?

Secretary JACKSON. I don't know all the intricacies of what occurred. That's why I'm saying that's why I'd like to get back to you, to find out what occurred, why it occurred, and have the staff answer your questions.

Senator SPECTER. Well, Mr. Secretary, I will pursue that with you. But on this state of the record, the question is what were these Assistant Secretaries doing? And when you have this exchange of e-mail about making his life unhappy and taking away the funding and "I'll look into that," and then the same day they take action which now is amounting to a potential loss of $50 million, that's just too much of a coincidence. It all happens on the same day.

These aren't collateral frustrations or something else. This is simultaneous. That kind of timing is very, very forceful evidence that they're taking action to take away the money, making his life unhappy, and they're doing it for this reason.

Secretary JACKSON. Senator, again, as I stated to you earlier, I will be happy to get back to you. As I stated in the memorandum to you, I saw this for the first time on Tuesday, and I am making every effort to get to the bottom of it.

When you sent me the letter—and I really appreciate it because you did say "Al"—that's why I responded so quickly, because I thought that, to try to get to the bottom of it. I don't know all the answers at this point.

Senator SPECTER. Well, Mr. Secretary—just another minute, Madam Chairman—I will take you up on your offer. Then you're willing to sit down with me and Mr. Cabrera and Ms. Kendrick and get to the bottom——

Secretary JACKSON. Mr. Cabrera's no longer with us.

Senator SPECTER. Well, I know he's no longer with you. I will invite him. Will you encourage him to come?

Secretary JACKSON. I have no problems at all.

Senator SPECTER. Thank you very much.

One addendum, what I would really like to do at the meeting is to spend our time to see if we can't solve the controversy. I would a lot rather deal with the substance of this issue and get $50 million for housing for the poor in Philadelphia than air a lot of laundry.

Secretary JACKSON. Senator, we have been trying to resolve that. I think the staff has been working very hard to resolve that. But I would tell you this. I'll do whatever you ask because I have a great deal of respect, but I don't think we can sit down and resolve the problem when a lawsuit was brought against us. It would be very difficult.

Senator SPECTER. No, no, you're not right about it. The case can be settled. The parties can come together. The judge would be delighted.

Thank you very much, Mr. Secretary. Thank you, Madam Chairman.

Senator MURRAY. Thank you very much, Senator.

Senator Lautenberg.

PUBLIC HOUSING MAINTENANCE

Senator LAUTENBERG. Thank you very much, Madam Chairman.

Mr. Secretary, we're all upset, frustrated, if I may use your own terminology, with what's happened in the funding needs for the maintenance of public housing. What we see is technology gone awry.

And despite the housing authorities' alarm about public housing in crisis, especially with rising utility and operational costs, despite that, President Bush's budget falls $850 million short of what is needed just for the maintenance needs of public housing. How can these authorities provide decent affordable housing that thousands of people depend on when they don't have the money to make the basic repairs? What should they do?

Secretary JACKSON. I think, Senator Lautenberg, that's a very fair question. I believe that since we have demolished almost 150,000 units in this country since 1990, we believe that we still have enough capital funds, with the bonding authority, with the reserve, and, as Mrs. Blunt said a few minutes ago, with we're doing the second portion of the study for the capital needs. If this study comes out that there's more capital needs, I will be the first to defend that process and come before you.

Right now, I think we have enough capital needs, and if I'm wrong I'll be the first to admit I'm wrong.

Senator LAUTENBERG. Why is that taking review now? Shouldn't it have taken place before the budget was presented? Were you consulted before you got your budget for the year?

Secretary JACKSON. We do this on a, I think it's about every 8 or 10 years we do the study. What is it?

Every 10 years, and this is the time for us to do it and so we're doing it again.

Senator LAUTENBERG. Now, what happens every 10 years?

Secretary JACKSON. We do a study, Senator, to decide what the capital needs are for all of the housing authorities, the 2,300 housing authorities around the country.

Senator LAUTENBERG. For a 10-year cycle?

Secretary JACKSON. Yes, for a 10-year cycle.

Senator LAUTENBERG. Anybody hear about inflation or growth in population or any of those things?

Secretary JACKSON. Yes, sir.

Senator LAUTENBERG. I'm not sure what a 10-year cycle does, a 10-year review does.

And this has been reviewed by my colleagues. Last April in front of this committee you said to me that you hadn't touched one contract, and that was after the IG, Inspector General, looked into allegations that you injected political favoritism into Government contract awards. Now an investigation is taking place for asking a housing authority official in New Orleans to provide a contract to a friend. And there are new questions about your involvement in a controversy involving a friend and the transfer of property in Philadelphia. I think Senator Specter covered that.

How do you feel about those comments now?

Secretary JACKSON. Senator, I will say that I think it is best, with all the misinformation that has been put out right now, to simply let the investigators do their job quickly and expeditiously as possible. Therefore, I am going to let the investigators complete their work before I make any public comment.

I am confident that when the dust settles and the investigators finish their work, the allegations will be put to rest. But I would like to just continue to try to do the work that I've done to provide decent and affordable housing. That's really where I am.

Senator LAUTENBERG. Your statement, Mr. Secretary, doesn't match with the budget that's being sent here now to us. We can't get the job done. We can't provide decent, affordable housing. You say that you support it, but how can we do that without the funds necessary?

Secretary JACKSON. I really think, Senator, that the funds are sufficient to carry out this responsibility. I guess I'm in a very unique situation, having been the only HUD Secretary to run a housing authority. I ran three housing authorities. And I truly believe that the funds are sufficient, and that I have worked with the people in the industry to make sure that the funds are.

You know, the question is can you always use more? The average person will say yes, there's no question about it. But I think that clearly sir, they have enough tools to work with to carry out and produce safe, decent, sanitary housing for low and moderate-income people.

Senator LAUTENBERG. You suggest—and I'll take just a moment more, Madam Chairman, if I may. You suggest that there's a lot of misinformation out there. You—I quoted you here. Are you saying that these were—this was not your statement that you haven't touched a contract, and this was after the Inspector General looked into allegations? Is that the misinformation you're——

Secretary JACKSON. No, sir, that's not. When I said that to you, I specifically said that—I think it's a quote—"I have not touched a contract," which means that I cannot originate a contract, I cannot cancel a contract. Those are handled by the contract review board and others in the agency. I will be happy, if you want to, to show you the process that is used.

Senator LAUTENBERG. Well, I would hope, Mr. Secretary, you knew what was coming at this hearing. You knew the questions that were going to be asked. And to be able to defend what took place at the same time insufficient funds to carry out a serious responsibility to provide safe and affordable housing is very disappointing.

Thank you, Madam Chairman.

Secretary JACKSON. Thank you.

Senator MURRAY. Senator Allard.

SELLER FINANCING

Senator ALLARD. Thank you, Madam Chairman.

I want to follow up a little bit on what Madam Chairman had asked you about, seller finance. I think it's important that we draw a distinction between seller financed down payment and what would be referred to as legitimate gift down payment assistance, which creates real equity, the latter creating real equity in the home. Can you say a few words on the beneficial forms of down payment assistance? And then I'd like to have you comment a little bit about the American Dream Down Payment Act that we both worked on.

Secretary JACKSON. Surely. I'd like Brian to do that for you if it's okay with you, Senator.

Senator ALLARD. Yes.

Mr. MONTGOMERY. Yes, sir. Brian Montgomery, the FHA Commissioner.

Sir, are you talking about the volatility of the seller-funded, or——

Senator ALLARD. Well, there are two down payment assistance categories. There's the seller finance, where you have your problems, and then there's what we call sort of gift down payment assistance——

Mr. MONTGOMERY. Yes, sir.

Senator ALLARD [continuing]. Which is the kind of assistance that's promoted by the American Dream Down Payment Act. I think that it's important that the committee understand the difference between those two types of down payment assistance.

Mr. MONTGOMERY. Yes, sir. Thank you. There are several groups of borrowers that use FHA. There are those families that tend to save the money themselves, sock it away; when they have enough money for a down payment they apply for an FHA loan. There are others who use the seller-funded down payment assistance, which I think we've addressed that issue. And then there are those that use assistance from units of local government, State and local housing finance agencies.

It's no surprise that the lowest claim rates are those that save their own money and then purchase a home. Those that use assistance from local housing finance agencies and others; the claim rate is about one and one-half times larger than it is for those who use their own funds. But it jumps up to two and one-half, almost three times more likely to go to claim, when families use the seller-funded down payment assistance.

Senator ALLARD. Okay. On the American Dream Down Payment Act, what are you proposing for that program in your budget?

Mr. MONTGOMERY. That is under a different office in HUD, sir, but I believe its $25 million.

ADDI

Mr. BREGON. Good morning, sir. My name is Nelson Bregon. I'm the General Deputy Assistant Secretary in the Office of Community Planning and Development. We administer the American Dream Down Payment Initiative under the HOME program.

For that program, originally the administration had requested $200 million. It has been funded at $50 million. Now, for 2008 we received $10 million in funding for that program. That money is distributed by formula. It goes to participating jurisdictions. There are about 600 of them, and those participating jurisdictions use the moneys as down payment assistance for low income residents.

Senator ALLARD. I see.

Mr. BREGON. Of that portfolio, I think about 12 percent are FHA-guaranteed. Then Mr. Montgomery has the numbers as to the default rate on the ADDI program is similar to the regular portfolio of the FHA.

Senator ALLARD. I see, okay. Thank you.

Secretary JACKSON. Thank you.

RESPA

Senator ALLARD. I want to move to RESPA if I might.

Secretary JACKSON. Yes, sir.

Senator ALLARD. I understand that the proposal that you're working on now is close to 270 pages—I guess this is a rumor on the street—and that the good faith estimate, which was previously proposed would be one page long, is now somewhere around four pages, another rumor on the street.

Further, a new form of comparing GFE and HUD is apparently being introduced and real estate closings will now have to have a script read explaining aloud loan terms and fees.

It doesn't sound like simplification to me. I know that's what one of your goals was. And I wondered if you might explain those rumors.

Secretary JACKSON. Well, let me say this, Senator. It is simplification, but I will let Commissioner Brian go into depth with it.

Senator ALLARD. Okay.

Mr. MONTGOMERY. Thank you, sir. The 278-page preamble will be published tomorrow in the Federal Register. However, today it is available for public viewing at the offices of the Federal Register, so I can discuss it in some instance.

While the preamble is long, we are updating a 34-year-old statute, the Real Estate Settlement Procedures Act. We think that it's implicit from what we've seen the last several years, that there's better disclosure to the borrower, there's greater certainty of costs, so we avoid the sticker shock between the good faith estimate today and what ends up on the HUD–1 statement. You can talk to some of the consumer groups, as I'm sure you have, and they will share multiple instances of families who witnessed and experienced that sticker shock first-hand.

So our guiding principle is that we wanted to develop a good faith estimate, a standardized form that takes some of the best of what other organizations have proposed, from what we've seen in best practices, and make it a document that not only fully articulates to the borrower what they're getting into, but also provides them a document that they can now do what very few borrowers do, and that is shop for the best deal that they can get.

Senator ALLARD. Was the process simplified?

Mr. MONTGOMERY. Yes, sir, absolutely. And I want to say——

Senator ALLARD. Less paperwork, so when you're closing, instead of it being this, it's more like this?

Mr. MONTGOMERY. We are doing our best to do that, sir. It may shorten by a quarter of an inch. I can't promise you much more than that. But I will say this: We've conducted extensive consumer testing and the consumers have been telling us that they like the standardized form. They like the fact—none of us—very few of us have degrees in finance, and when you see terms in a closing document, we've all experienced that process in our life and I don't think any of us when we leave that closing table feel 100 percent good about what we've just done. Now, the euphoria of owning your home may overtake that. But you put your best faith into the system.

We are trying to get to the heart, where consumers leave that settlement table where they've had it explained to them and they say, you know, I feel good about what I've just done. The closing script that would be read along with the HUD–1 statement is the single most item that consumers told us they like the most, because now it's being explained to them in plain, simple English what they were doing.

Senator ALLARD. Thank you, Madam Chairman.

HUD OVERSIGHT

Senator MURRAY. Thank you, Senator.

Mr. Secretary, obviously there are a number of issues in front of this committee regarding the budget that are extremely important.

However, as I said in my opening statement, this subcommittee has a tremendously important oversight role for every dollar appropriated by it. And as you have heard, your agency is operating under a cloud right now. I know, as I said in my statement, you're tired of the allegations, we're tired of them. I think it's important that we clean up some of that and want you to answer a series of questions that I have as openly and as honestly as you can. Our committee has the responsibility for taxpayer dollars and I would like you to answer in the spirit of that.

Mr. Secretary, you did testify before us last year that you have never involved yourself in any contracts with HUD. You said: "I have not touched one contract, not one." I would like you to address the allegations regarding your involvement in the hiring of William Harrison to serve as a construction manager at the Housing Authority of New Orleans. Since 2002 your agency does run that authority in receivership.

Mr. Harrison reportedly is a personal friend of yours and received between $400,000 and $500,000 through a no-bid contract for 18 months of work. That's a good bit more money than you make as the Nation's top housing official. Mr. Harrison has told the press that he believes he was hired for this position because of your involvement.

It's alleged that you personally involved yourself in seeing to it that Mr. Harrison was paid on a timely basis. Finally, it has been alleged that members of your senior staff slapped the wrist of certain officials at the Housing Authority of New Orleans that questioned the hiring of Mr. Harrison.

Mr. Secretary, did you personally recommend Mr. Harrison to be employed by the Housing Authority of New Orleans, as he asserts?

Secretary JACKSON. Chairwoman, I think it is best, with all the misinformation being put out there right now, to simply let the investigators do their job quickly and expeditiously as possible. Therefore——

Senator MURRAY. You have an opportunity to——

Secretary JACKSON. Therefore——

Senator MURRAY. You have an opportunity to set the record straight here and I'm asking you a direct question.

Secretary JACKSON. Therefore, I'm going to let the investigators complete their work before I make any public comment.

Senator MURRAY. Well, it is alleged that you personally called one of your employees, Mr. Donald Babers, to complain that Mr. Harrison was not getting paid in a timely way by the Housing Authority of New Orleans. He is your appointee on the HANO board of directors. Have you personally complained to Mr. Babers, to any HUD contractor, or to any other individual currently or formerly employed by HUD regarding whether Mr. Harrison was getting paid or the pace at which he was getting paid?

Secretary JACKSON. Again, chairlady, I think it is best, with all the misinformation that is being put out there right now, to simply let the investigators do their job quickly and expeditiously as possible.

Senator MURRAY. Mr. Secretary, you have an opportunity before this committee that has oversight of your agency and the tax dollars that we appropriate, to clean this up, and I would ask you to answer honestly if you could for us this morning.

Secretary JACKSON. Therefore, I'm going to let the investigators complete their work before I make any public comment.

Senator MURRAY. Well, did you ever discuss with Mr. Thorson any HUD contractor or any other individual currently or formerly employed by HUD the matter pertaining to Mr. Harrison's contract and whether or not it should be signed?

Secretary JACKSON. I think it is best to let the investigators complete their work, and I will say again that I think it is important that they complete that work and I will let them do that before I make any public comment.

Senator MURRAY. So it is clear you'll not answer any questions about New Orleans. Let me ask you about the Housing Authority of the Virgin Islands. It's had a very troubled history and it's also operated by your agency in receivership. It's alleged that you personally advocated the hiring of a friend of yours, Mr. Michael Hollis, by a company called Smith Real Estate Services, which was a HUD contractor on the Virgin Islands. Mr. Hollis reportedly had no experience in public housing, but a short time following his employment as the HUD contractor Mr. Hollis was hired directly by HUD to be executive director of the Virgin Islands Housing Authority, at a compensation level that is reported to have exceeded a million dollars.

Mr. Secretary, did you ever have a conversation with any HUD contractor or any individual currently or formerly employed at HUD regarding the merits of hiring Mr. Hollis for either the position at Smith Real Estate Services or the position with the Virgin Islands Housing Authority?

Secretary JACKSON. Again, chairlady, I think it's best, with all the misinformation that's being put out there right now, to simply let the investigators do their job as quickly and expeditiously as possible. Therefore, I'm going to let the investigators complete their work before I make any public comment.

Senator MURRAY. Did you have any conversations with your Assistant Secretary, Orlando Cabrera, or anyone else currently or formerly employed, or any HUD contractor, regarding the compensation level that Mr. Hollis would receive?

Secretary JACKSON. I think it is best, with all the misinformation being put out there right now, to simply let the investigators do their job——

Senator MURRAY. You won't comment on any conversations regarding Mr. Hollis's contract?

Secretary JACKSON [continuing]. Investigators do their job as quickly and expeditiously as possible. Therefore I'm not going to comment, any public comment, until they finish their work.

Senator MURRAY. Well, Mr. Secretary, as you can imagine, it's very difficult for this subcommittee. We have responsibility to take care of our responsibility of oversight. You control an agency that spends millions of taxpayer dollars. Your agency's operating under a cloud at this point. I think that it is imperative that you clear up these questions as quickly as possible so that we can continue to serve our taxpayers, and I hope that by submitting these to the record that you will reconsider and answer the questions to the committee.

Secretary JACKSON. Thank you very much, chairlady.

Senator MURRAY. Thank you, Mr. Secretary.

Senator Bond?

Senator BOND. Madam Chairman, I would only say that with an ongoing investigation, we sought to get information from the IG about it. They told us this was an ongoing investigation and they would not comment with it. When there is an ongoing investigation, I would have to say that if potentially serious charges may come out of it, was I representing someone in Secretary Jackson's position I would have to tell him, instruct him not to answer questions, to allow the investigation to be finished.

Having said that, we will be, obviously, following very closely the results of that investigation and what comes out. When that investigation closes, then, if appropriate, I think once that is resolved then we should have answers to all of these questions. But given the circumstances, I, as an attorney who's represented some people who were in trouble, I'd have to tell you that I would have a strong edict not to get out ahead of it.

Now——

Senator MURRAY. Senator, I totally understand your statement. However, the IG has not told this committee that we can't conduct our oversight.

SECTION 8

Senator BOND. Oh, no question about it, we can conduct our oversight. But all I said was the IG, when we asked about it, the IG said it's an ongoing investigation. The IG's office would not tell us about this investigation. We have oversight responsibilities and I have a whole bunch of serious questions that go, not to these particular allegations.

For example, I am concerned about section 8. With $14.3 billion budgeted, what percent of the authorized vouchers will this amount pay for? And how many section 8 funds are available, but are unused because of the caps in place? If you could prepare us a map showing where there has been more money made available above the caps, that we can work with you to figure out how to help you allocate those funds to make sure in a shortfall of section 8 funds that they go where they are most needed?

What's the situation with the caps, where some PHAs have more money available than the caps?

Secretary JACKSON. I will let Milan Ozdinec, who controls the program, Senator, discuss that with you.

Mr. OZDINEC. Good afternoon, Senator. How are you? It's an honor to be here.

As you may know, there is about $2.2 billion today sitting in accounts called net restricted assets. These are funds that were previously appropriated by this body as well as the House to provide housing authorities with HAP payments as well as administrative fees. Of that $2.2 billion, approximately $800 million of that are funds that are above the caps, that is funds that housing authorities may not use because they're at their authorized amounts of units.

We, as you may know, have advocated for the past 3 years to having the caps removed and to allow housing authorities that, for example, had done all the right things, reduced payment standards, improved their utility allowances, provided minimum rents, to reduce their costs so that they could serve more families.

As you may also know, in last year's budget, in 2008, the Congress instructed the Department to offset the appropriation by $723 million of that unusable cap money. So housing authorities that had been at their caps and have money in their net restricted assets we will in fact offset in 2008.

FHA SECURE

Senator BOND. Well, it would be nice to be able to let the PHAs have all the section 8 money they need. But given the budget we've been presented, there is such a squeeze that we may not have that luxury. It would be great to have the well-performing PHAs rewarded, but the shortfalls we have are serious.

Let me turn very quickly, Mr. Secretary, to the FHA, and you may want to call up the FHA Commissioner. Number one, I assume you'll be refinancing mortgages at their current value only. What steps are you going to take to assure the appraisals are accurate? Do you have the staff and expertise for FHA to ensure that this program runs efficiency?

This is a big concern.

Mr. MONTGOMERY. Absolutely, Senator, and we share in that concern. With the FHA Secure product, again these are conventional FHA refinances we're talking about here. Probably 95, 97 percent of those are subprime, subprime ARMs. We are very aware of the declining housing markets in this country. Therefore we require a new appraisal prior to the transaction occurring to ensure that we have the best snapshot in time of what that home is worth.

Moreover, in markets that are weak, that are called declining markets, severely declining markets, we require two appraisals, two appraisals, to make sure again that some of what you see is happening in the subprime market does not occur in FHA.

Senator BOND. Thank you, Madam Chairman.

ADMINISTRATIVE AND JUDICIAL RECEIVERSHIPS

Senator MURRAY. Mr. Secretary, the President's budget includes $10 million to fund administrative and judicial receiverships. HUD currently has six public housing agencies under administrative receivership, in other words under your control, complete control. The Department often uses these funds to contract with outside vendors that, according to your budget justification, have the specialized knowledge and expertise needed to address specific deficiencies in housing authority performance.

Can you give me examples of the types of contractors you're looking for to assist a public housing authority under receivership?

Secretary JACKSON. Ms. Blunt will answer that for you.

Ms. BLUNT. I'm sorry, the last time I did not identify myself. I'm Paula Blunt, the General Deputy Assistant Secretary for Public and Indian Housing.

When we go into, when we take over a housing authority that goes into receivership, we usually do an assessment to see where the needs are. Many times they vary from housing authority to housing authority. The financial-related matters is a big one, so usually many times we may have a contractor come in that can provide financial assistance. Section 8 is one. Many times if the housing authority is having severe problems with their section 8 program, we may bring someone in there to help with that.

But when we bring the contractors in, not only do they help to fix the problem, but they train the staff also so that they can eventually have those skills, be able to do that, so we can return the housing authority to local control.

Senator MURRAY. Okay. Mr. Secretary, when you hire those contractors do you set specific performance measures or milestones, and how do you establish the value for the services that they provide?

Secretary JACKSON. That is done out of Public and Indian Housing.

Ms. BLUNT. Yes, we do establish standards——

Senator MURRAY. But it is under your control, correct, Mr. Secretary?

Secretary JACKSON. All of HUD is under my control.

Senator MURRAY. Right. So can you tell us how those specific milestones are met?

Secretary JACKSON. I think that Ms. Blunt can tell you, because they're the persons who carry out the program.

Ms. BLUNT. Yes. They are—when the contract is set, there are specific standards, milestones that must be met. They are part of the contract, and they will vary according to what the needs of that housing authority and the expertise that we need.

Senator MURRAY. What safeguards do you have in place so that those contractors actually have the experience?

Ms. BLUNT. We do a review. We go through our Office of Procurement and Contracts, which has review of the experience. There are panels that review the applications that come in and the panels actually make those decisions and they are forwarded for signature, approval.

Senator MURRAY. So they are required to have experience within the work frame of——

Ms. BLUNT. Yes.

Senator MURRAY [continuing]. What you're contracting them for?

Ms. BLUNT. Definitely.

Senator MURRAY. Did you do that for the Virgin Islands?

Ms. BLUNT. We do that for all of our contracts.

Senator MURRAY. Did you do it for the Virgin Islands?

Ms. BLUNT. I specifically didn't, but yes, they are done for all contracts. There's an established process in the Department through our Office of Procurement and Contracts where there are certain things that have to be met. If you could look, think of it in terms of a job application. When someone applies for a job, there are certain things, criteria——

Senator MURRAY. Did your Department do that for the Virgin Islands?

Ms. BLUNT. Yes, we did.

Senator MURRAY. Mr. Secretary, you have PHAs that have been under HUD's control for years and years, a few of them for over a decade. If a PHA has been under HUD's control for several years, what would be the rationale for an emergency-based non-competitive sole source contract?

Secretary JACKSON. I think you'll have to ask, have to ask the entity that gave the contract.

Ms. BLUNT. Many times we may run—from time to time we run into a situation like that, and it could be the emergency situation. Without calling names, we have a situation that recently came about where there was no staff left at a housing authority to perform the functions and it was necessary to get someone in there right away to take care of the needs of those residents and that housing authority. So in that case you don't have the time to go out for the long, lengthy contract process in terms of bringing in competitive bids or whatever. We take them off one of the lists that we have and give them, award the contract to someone that has the expertise.

Senator MURRAY. And was that the case in the Virgin Islands as well?

Ms. BLUNT. I'm sorry?

Senator MURRAY. Was that the case in the Virgin Islands as well?

Ms. BLUNT. I'm not definitely sure. I would have to check on that. I think it was a sole source contract, so that probably is. If it was that kind of contract, that is what would have happened.

MIAMI-DADE HOUSING AGENCY

Senator MURRAY. The Miami-Dade Housing Agency, Mr. Secretary, has recently come under your control and we're seeing news reports related to the mismanagement and wide scale potential fraud of HUD funds. Can you tell us HUD's actions to date with Miami, including what HUD staff you've placed on the ground and who you've contracted with to assist in this effort?

Secretary JACKSON. I can't tell you that. I'm sure Ms. Blunt can.

Ms. BLUNT. Yes. We've been working with the local government there in Miami-Dade and others to take care of the situation. That happened to be one of the ones I was referring to where the staff had been pulled from the housing authority and we had to do an emergency contract to get someone in there that could take care of those needs. We're still in the process of doing the things that need to be done to bring everything together, but we do have a contract there, a contractor there. We have HUD staff there. We have a HUD person there working diligently on a day to day basis to do what needs to be done to work with that housing authority.

Senator MURRAY. Senator Bond.

HOMELESS FACILITIES

Senator BOND. Thank you, Madam Chairman.

I have just three questions that I want to wind up my formal questions, the rest for the record. I mentioned, Mr. Secretary, the problem we were having with the underutilized and unutilized public lands and buildings for the homeless. I'd be interested to know what criteria you have for making these, this housing available to the homeless or rejecting it. Do you have standards about putting homeless shelters next to schools, and how many people on your staff are responsible for implementing this program?

Mr. BREGON. Good afternoon, sir.

Senator BOND. Good afternoon. It has not quite turned into afternoon. We've been at this, but it's getting there.

Mr. BREGON. It seems like a long time.

Sir, the Department of Housing and Urban Development under the McKinney-Vento Act, is responsible for looking at, under the BRAC program, any military bases, any military properties that are surplus properties, or any other Federal land that becomes available.

What we do first is we publish a list in the Federal Register, a notice that indicates to the public which sites are available.

Senator BOND. Do you make any judgment about whether those sites would be suitable before you publish the list?

Mr. BREGON. We do not. We just publish the list and then we request proposals. Usually the local communities create a local redevelopment authority and those agencies are the ones that submit proposals to us saying, that land, we would like to use it for a park, we would like to use it for a public facility.

In that process, the homeless providers also have an opportunity to look at that facility. What we do is we look at the need of the homeless in that particular area and make a determination whether in fact there is a homeless need.

Senator BOND. Well, one of the things in the instances I cited, this was something that the local authorities were very dead set against, and they pointed out the lack of continuum of care.

How many people are implementing that program?

Mr. BREGON. That is serviced out of our Special Needs Office. We have one individual that looks at the plans and they look at the data that we have available to determine what are the housing needs for that jurisdiction.

Senator BOND. Do they look at whether that is an appropriate selection, site for homeless?

Mr. BREGON. What they do is they work with the local redevelopment authority and say, there is a housing need and perhaps you can negotiate with that group.

Secretary JACKSON. Let me say this, Nelson. I see what the Senator is getting to.

Senator, let me go back and see how we can——

Senator BOND. I think on this one there's a little disconnect between what I'm hearing and what we saw.

Secretary JACKSON. I understand. I remember the incident that was in the papers.

HECMS

Senator BOND. There are several incidents now. The incidents are multiplying.

Let me jump to HECMs. I understand Australia is a year ahead of us. They've addressed a number of predatory lending issues. What are the key issues facing HECMs? HECM fees are high. It seems to be perhaps unduly lucrative. Has HUD taken any steps to reduce the cost of HECMs?

Mr. MONTGOMERY. Brian Montgomery again, sir.

We've been working diligently with AARP, with the National Reverse Mortgage Lenders Association, I daresay refereeing in some cases those discussions about how we can bring down the origination costs for reverse mortgages. While this product has been around 20 years and it has seen its growth rise dramatically of late, it is still a niche product by and large. That may change in 5, 10, 15 years. So they are certainly more time-consuming than a forward mortgage product.

I think there are some legislative remedies. We just want to be mindful, though, that lenders—if you do low origination costs, we don't want to make sure they try to make it up somewhere else. So those discussions continue, and I think we are in agreement that we need to bring those origination fees down.

Senator BOND. Do you need legislation? Do you have legislative recommendations, or do you have recommendations against legislation that's being considered? Should we act? What should we not do?

Mr. MONTGOMERY. I just think we need to be mindful of the teeter-totter effect, that if we lower the origination cost lender, as they do, and that's the way business is, that they'll drive up costs somewhere else.

But I do agree going forward as this product continues to grow in popularity, this issue needs to be addressed, as it is now. But I would like to share later on some requests and some suggestions with this committee and how we could do that.

Senator BOND. I would hope you will. My cohort is—the folks who are still alive at my reunions are all becoming more and more interested in HECMs, and I wanted to make sure my classmates are well served.

Thank you very much.

Mr. MONTGOMERY. Thank you, sir.

Senator BOND. Mr. Secretary.

Secretary JACKSON. Thank you.

HUD OVERSIGHT

Senator MURRAY. We all share that concern, Senator Bond. Thank you.

Mr. Secretary, I do want to go back because again I do believe this committee has oversight. I do have a question I want to ask you regarding Philadelphia. You did answer Senator Specter's question. It has been alleged that you personally intervened on several levels to try to get a certain parcel of land that's been controlled by the Philadelphia Housing Authority to be sold to Mr. Kenny Gamble, an acquaintance of yours. It's alleged you not only instructed your regional staff to look into the matter, but you personally called Mayor Street of Philadelphia to encourage him to force the Philadelphia Housing Authority to sell that parcel to Mr. Gamble.

I want to ask you a separate question: What conversations have you had with any HUD contractors or any individuals currently or formerly employed at HUD regarding Mr. Gamble's issues with the Philadelphia Housing Authority and whether or not this parcel of land should be sold to Mr. Gamble?

Secretary JACKSON. You know, chairlady, I think it's best, with all this misinformation that's being put out right now, to simply let the investigators do their job as quickly and expeditiously as possible.

Senator MURRAY. I think I've heard that response, Mr. Secretary.

Secretary JACKSON. Therefore—therefore, I am——

Senator MURRAY. But I have to tell you, it is very frustrating to me that you sat here and answered Secretary Specter's question regarding the phone call forthrightly and honestly. I have given you the opportunity to do that now on a number of questions as well. Yet you refuse to answer me on those questions. It's very frustrating when you did answer Senator Specter.

Secretary JACKSON. I think it is—I think it is very frustrating to me. There's an ongoing investigation.

Senator MURRAY. Yet you answered Senator Specter's question.

Secretary JACKSON. And I think that we should simply let them do their job, and once that's done——

Senator MURRAY. But this committee does have a responsibility of oversight. We are responsible for doing that. It's frustrating to hear no responses.

Secretary JACKSON. And I respect you, chairlady, but I don't think I can answer.

Senator MURRAY. Thank you, Mr. Secretary.

ADDITIONAL SUBMITTED STATEMENTS

The following statements from the National Association of Housing and Redevelopment Officials and Hector Pinero before the Committee on Banking, Housing, and Urban Affairs have been submitted for inclusion in the record.

[The statements follow:]

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS

Thank you for holding an oversight hearing on HUD's fiscal year 2009 budget. The 23,000 members of the National Association of Housing and Redevelopment Officials (NAHRO) look forward to working with you and the committee to ensure that our Nation's housing and community development needs are adequately addressed as part of the fiscal year 2009 budget and appropriations process.

Following a detailed review of the administration's 2009 budget presentation, we believe the request not only calls into question the underlying justification for critical program funding cuts in fiscal year 2009, but also raises a more fundamental question regarding the administration's plans to address well-documented and long-deferred housing and community development needs. A full listing of NAHRO's funding recommendations to help address current needs is attached to this letter. We have also attached several charts demonstrating the impact of the president's budget on HUD programs. We hope you find this information to be helpful.

Housing has taken center stage of late as many families face foreclosure resulting from questionable, sub-prime lending practices. As the "first responders" to local housing needs, local housing agencies have already been called upon to assist families caught up in this crisis. Community development agencies are already searching for ways to help devastated neighborhoods to recover. Our members stand ready to continue to assist families and communities in need. Going forward, we welcome the opportunity to work with the committee to design and later implement pragmatic responses to this crisis.

However, as the committee is also well aware, the Nation's housing and community development needs are much larger than the mortgage crisis we now face. Consider the fact that nearly 14 million American families face severe housing needs, paying over 50 percent of their incomes toward housing costs or living in substandard housing. In communities nationwide, families face daunting waits for scarce rental housing assistance. In fact, on any given night, nearly 750,000 people, many of them children, are homeless.

In short, NAHRO believes that the administration's 2009 budget request, if adopted, would continue a pattern of large scale disinvestment in our Nation's irreplaceable inventory of affordable housing and would undermine efforts to sustain vibrant communities by cutting or eliminating programs to revitalize our Nation's community infrastructure.

In recent years, we have made the committee aware of our questions and concerns regarding significant funding reductions contemplated in affordable housing and community development programs. These questions are raised once again by the President's fiscal year 2009 proposal. Going forward, we believe the larger question before the Congress is: what resources are necessary to sustain current levels of assistance to families and communities, and how as a Nation do we begin to make progress toward addressing unmet needs? For example, how will we preserve 1.1 million units of public housing, renew all vouchers, maintain vital community and economic development services, and address the millions waiting for some form of assistance to secure decent housing? These are the questions your committee, along with your colleagues on the Budget and Appropriations Committees in both houses, must, in our opinion, resolve to address.

Among the more striking examples found in this budget which we believe to be emblematic of the challenges and concerns noted above is the administration's request for basic public housing operations. The Department's own budget justification states that $5.3 billion is necessary to subsidize the 1.1 million families living in public housing, yet its budget request inexplicably asks for just $4.3 billion. We believe that the rationale for this and other contradictions in the budget request is best explained by the administration and we hope that more will be learned during your hearing. It is safe to say, however, that the fiscal year 2009 budget request, which would fund local agencies' public housing operations at just 81 percent of need, would constrain local agencies' ability to administer public housing in a responsible way and, as a result, underserve those most in need. In sum, we believe this budget denies residents the quality of life in public housing that they deserve.

There are several additional recommendations in this budget request that merit reversal. For example:

—*Disinvestment in Public Housing Infrastructure.*—The budget proposes $2.024 billion for the Capital Fund, a $415 million (17 percent) decrease compared with the amount provided by Congress for fiscal year 2008 ($2.438 billion). This recommendation has been put forward for the second year in a row despite the fact that the HUD's own estimates of long term deferred maintenance are between $18 and $20 billion.

—*No Disaster Planning for Public Housing.*—Within the Capital Fund account, the budget does not request funding for public housing disaster relief. The budget narrative states that "FEMA disaster assistance is available for any needs that are not covered by the required property insurance." Despite HUD's assertion, however, disaster assistance from FEMA for PHAs has not been forthcoming in recent years. Differing HUD and FEMA interpretations of the agencies' Memorandum of Understanding (MOU) have meant that neither agency has stepped in to provide the funding necessary in a major disaster, save HUD's limited allocation of emergency capital funds.

—*HOPE VI Eliminated.*—The President's budget proposes, once again, to zero out funding for the HOPE VI program. Instead, the administration intends to spend out the "remaining balance" in the program, which amounts to more than "$1.4 billion as of the end of 2006." Except for unawarded grants from fiscal years 2007 and 2008, however, this $1.4 billion is already committed to previously awarded grants. It is not available for new projects and awards as the administration seems to imply.

—*Deep Reductions in CDBG Formula Grants.*—The President's fiscal year 2009 proposal would fund Community Development Block Grant formula grants at $2.934 billion, a $659 million (18 percent) cut. This proposed cut is actually $865 million (24 percent) if one considers the administration's unrealistic proposal to offset fiscal year 2009 funding by rescinding $206 million in prior-year, special-purpose grants. Amounts available to local communities would be further reduced if Congress adopted the administration's proposal to set-aside $200 million of the remaining CDBG funding to support competitive "challenge grants" for communities pursuing targeted neighborhood revitalization.

—*Elimination of Economic Development Programs.*—The budget proposes to eliminate the section 108 Community Development Loan Guarantee program, the Brownfields Economic Development Initiative (BEDI), and the Rural Housing and Economic Development (RHED) program, arguing that "these programs are duplicative" and that "their activities are eligible to be funded by CDBG and other Federal programs." Because they are valuable components of the Federal community and economic development toolkit and should remain available to States and localities, NAHRO has consistently called upon Congress to fully fund HUD's economic development programs. The section 108 program, for example, allows an entitlement community to borrow up to five times the amount of its most recent CDBG formula allocation in order to finance large-scale physical improvement projects. HUD's own Office of Community Planning and Development, during a recent briefing for public interest groups, suggested that the section 108 program could be valuable to communities as a "source of funding to address problems created by the sub prime crisis" noted above. All three programs received funding under the Fiscal Year 2008 Omnibus Appropriations Act.

—*Insufficient Housing Voucher Assistance.*—HUD's budget assumes $14.161 billion in fiscal year 2009 appropriated funds for rental housing assistance voucher renewals, to be augmented by $600 million in agencies' net restricted assets, for a total of $14.8 billion. NAHRO's preliminary estimate is that $15.4 billion will be needed to support the voucher program in fiscal year 2009. When compared with PHAs' voucher expenditures in calendar year 2008, HUD's budget request would leave the program significantly under funded at levels insufficient to cover inflation, let alone the renewal of approximately 14,000 incremental vouchers appropriated in fiscal year 2008.

—*Underfunding Effective Administration of the Voucher Program.*—HUD's budget request includes $1.4 billion for Housing Choice Voucher administrative fees, including $1.34 billion for ongoing fees of existing vouchers and up to $40 million for PHAs that need additional funding to administer new vouchers in fiscal year 2009. The nominal increases in these accounts, however, will be insufficient to fully pay for needs for both ongoing and new vouchers, leading to likely downward prorations of administrative fees. Without sufficient funding for administration, local agencies will not be able to maximize the efficiency of available rental assistance dollars, will not be able to maintain program integrity, and will not be able to provide families with the services and support necessary to find appropriate housing.

—*Short-funding Project-Based Section 8 Contracts.*—HUD's budget would provide $7 billion for the section 8 project-based multi-family housing program for fiscal year 2009, representing a $682 million increase (10.8 percent). In addition to the $7 billion, the budget proposes a $400 million advance appropriation, which would become available on Oct. 1, 2009, to bridge renewal funding into fiscal year 2010. Recent HUD estimates of the amount needed to fully fund renewals for the full 12 months of the contract term rather increments through September 30, 2009, have cited the need as $8.1 billion. NAHRO is concerned that the short-funding of contracts as proposed by the Department may increase owner uncertainty and hasten the loss of affordable housing.

Taken together, the budget request provides no assurance that well-documented housing and community development concerns will be resolved in fiscal year 2009. This, in our opinion, places our invaluable affordable housing infrastructure at risk and thwarts our ability to undertake necessary revitalization of our neighborhoods and communities. Some will contend that larger, unrelated budget pressures necessarily limit funding for these accounts. However, those familiar with the Nation's housing and community development assets fear that we will pay an even greater price for years of disinvestment in this infrastructure if we fail to recognize the economic downside of our inaction and continue to underfund these accounts.

Our public housing stock represents a 70-year commitment to provide decent, safe, and affordable housing in this country. Local housing agencies, with few exceptions, preserve this inventory in a responsible and cost-effective manner. However, this is an older inventory that, like any other form of real estate, will deteriorate if its needs are unmet. The longer these needs are unaddressed, the more the cost of repairing the infrastructure grows. If let go too long, the price tag to sustain this inventory will become too great a burden on the Federal budget. At that point, absent a plan to provide new affordable housing, families will, quite possibly, be displaced.

Thank you for this opportunity to outline our concerns and advance our recommendations on the fiscal year 2009 HUD budget. Under your leadership, the committee has worked hard in recent years to improve upon a series of bad HUD budgets. We look forward to working with you once again this year to ensure that America's affordable housing and community development needs are addressed in fiscal year 2009.

NAHRO FISCAL YEAR 2009 FUNDING RECOMMENDATIONS

[in millions of dollars]

Program	2008 Enacted	2009 Proposed	NAHRO Recommendation [1]
Public Housing Operating Fund	4,200	4,300	[2] 5,300
Elderly & Disabled Service Coordinators	[15]	[16]	50
Public Housing Capital Fund	2,439	2,024	3,500
Resident Opportunity & Supportive Services	[40]	[38]	55
HOPE VI	100	....	800
Safety & Security	....	....	310
Tenant-Based Rental Assistance (Sec 8 Vouchers), Total	[3] 16,391	[3] 15,881	....
Housing Asst. Payments	[3] [14,695]	[3] [14,161]	[4] 15,400
Admin Fees	[1,351]	[1,400]	1,540
FSS Coordinators	[49]	[48]	72
Tenant Protection Vouchers and Administration	[$200]	[$150]	([5])
Project-Based Section 8	6,382	7,000	([5])
Community Development Fund	3,866	[6] 3,000	....
Community Development Block Grant formula grants	[3,593]	[6] [2,934]	4,500
Brownfields	10	....	25
Rural Housing/Econ. Dev.	17	....	25
Sec. 108 Loan Guarantees	5	....	7
HOME	1,704	1,967	....
HOME Formula Grants	1,628	1,901	2,000
ADDI set-aside in HOME	[10]	[50]	....
HOPWA	300	300	300
Homeless Assistance Grants	1,586	1,636	([7] [8])
Affordable Housing Production	....	....	[9] 1 ,000

[1] NAHRO requests are for stand-alone programs only. Blank indicates no position.

[2] Reflects the administration's own estimate of need.

[3] TBRA figures displayed on a program-year basis, consistent with appropriations bill language. HUD documents display figures on a fiscal year basis, which blend program years.

[4] Renewal of existing and incremental vouchers based on 2007 calendar year voucher leasing and cost data through September 30, 2007, inflated by blended BLS Consumer Price Index, Urban (CPI–U), Rent of Primary Residence component. Assumes a 96 percent utilization rate.

[5] Fully Fund.

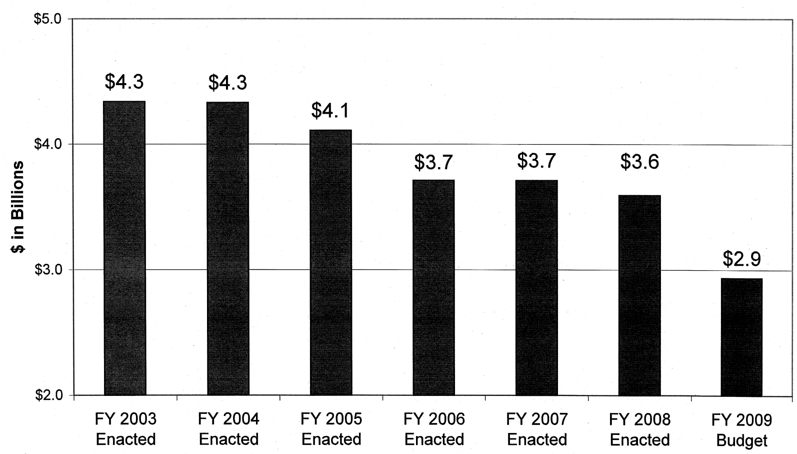
[6] The President's budget nominally requests $3.000 billion for the CD Fund for fiscal year 2009. However, it offsets this amount by presuming the cancellation of $206 million in fiscal year 2008 Economic Development Initiatives and other earmarks within the fund. The combination of the request and rescission results in a net fiscal year 2008 appropriations request of just $2.794 billion for the CD Fund.

[7] NAHRO's proposed funding level for Homeless Assistance Grants is for existing McKinney-Vento programs and does not include the administration's proposed $50 million set-aside for the Samaritan Initiative.

[8] At least $1,636.

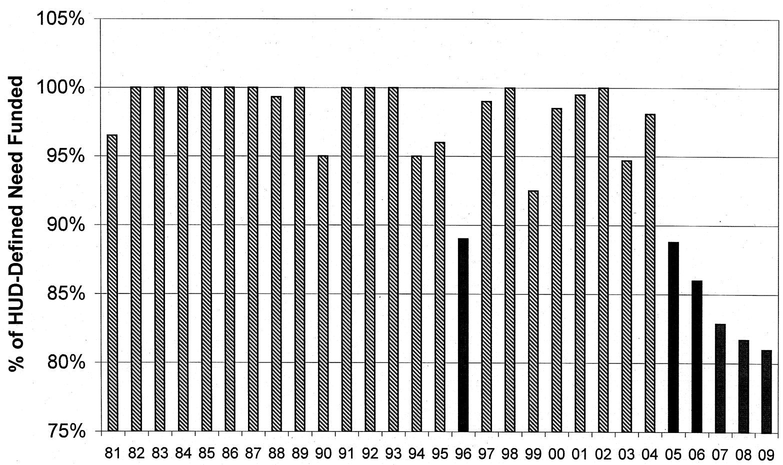
[9] Affordable Housing Production should be derived from sources other than appropriations if possible.

Community Development Block Grants Cut Dramatically
FY 2003 - FY 2009

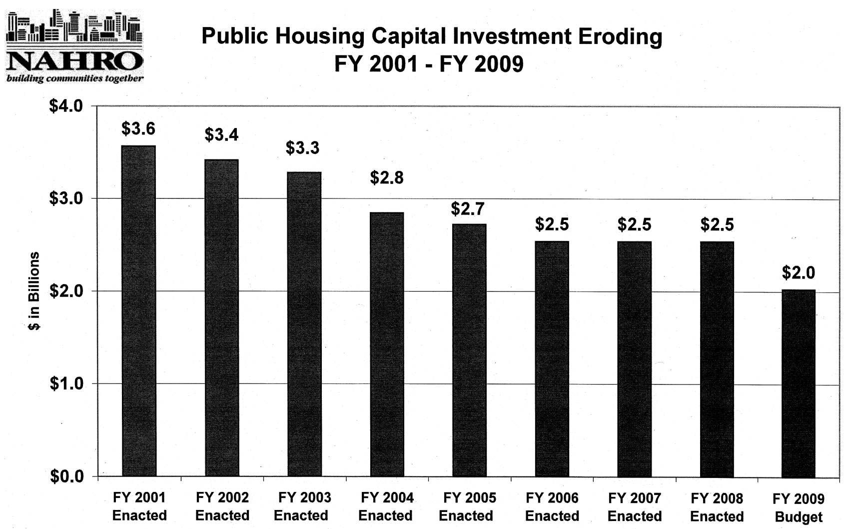


Note: CDBG *formula* grants only. President's FY 2008 Budget proposes $2.934 billion for CDBG formula grants, but assumes $206 million of that amount would be funded through rescission of prior-year earmarks.

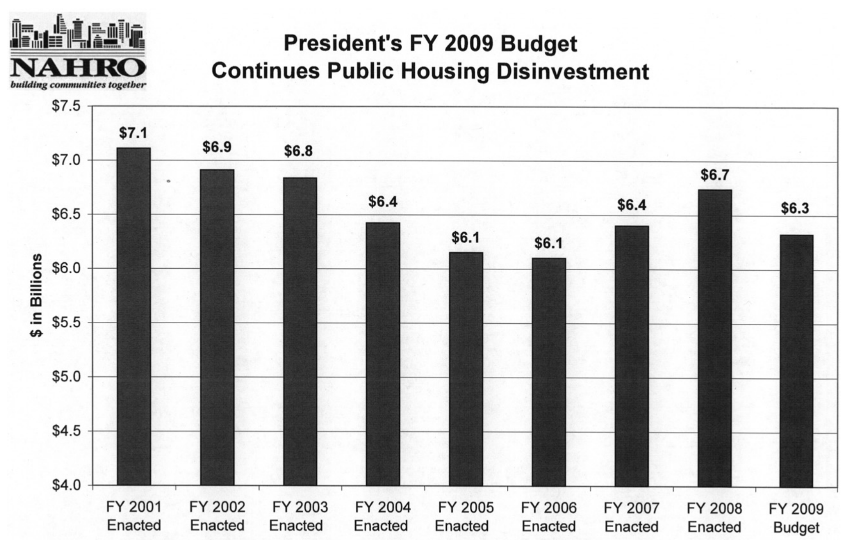
Public Housing Operating Fund in Historic Decline
Operating Fund Prorations, FY 1981 - FY 2009



Note: The Proration is the percentage of HUD-defined Operating Fund needs covered by available appropriations. Source: HUD Operating Fund data. Fiscal Year 2009 = President's budget; all others enacted



Note: Total includes the Public Housing Capital Fund and HOPE VI .



Total funding includes Public Housing Operating Fund, Capital Fund, Drug Elimination Grants and HOPE VI. Enacted dollars not adjusted for inflation. FY 2005 annualized to correct for a one-time shift in the Operating Fund program year.

PREPARED STATEMENT OF HECTOR PINERO BEFORE THE COMMITTEE ON BANKING, HOUSING, AND URBAN DEVELOPMENT ON BEHALF OF THE NATIONAL LEASED HOUSING ASSOCIATION, NATIONAL MULTI HOUSING COUNCIL, AND THE NATIONAL APARTMENT ASSOCIATION

Chairman Dodd, Senator Shelby and distinguished members of this committee, my name is Hector Pinero and I am senior vice president of Related Management Company. My firm manages 26,000 apartments of affordable and market-rate housing in 135 locations in 13 States from New York to California. I am responsible for the affordable housing portfolio in the New York metropolitan area. Today I am representing the National Leased Housing Association (NLHA) the National Multi Housing Council (NMHC) and the National Apartment Association (NAA).

NLHA represents the interests of 600 member organizations involved in federally assisted rental housing including developers, owners, lenders, housing agencies and nonprofits. NLHA's members provide affordable rental housing for over 3 million families.

NMHC represents the interests of the larger and most prominent firms in the multifamily rental housing industry. NMHC's members are the principal officers of these organizations and are engaged in all aspects of the development and operation of rental housing, including the ownership, construction, finance and management of such properties.

NAA is the largest national federation of State and local apartment associations, with nearly 200 affiliates representing more than 51,000 professionals who own and manage more than 6 million apartments.

We commend you, Chairman Dodd, for your leadership, and we thank the members of the committee for your valuable work addressing the important issue of housing and the Federal budget.

FISCAL YEAR 2009 PROPOSED BUDGET

On February 4, the President unveiled his fiscal year 2009 budget. The President's plan would fund the U.S. Department of Housing and Urban Development (HUD) at $38.7 billion, which according to the Center on Budget and Policy Priorities, is $330 million above current levels, but insufficient in light of the housing affordability issues plaguing this country. The HUD budget continues to strain efforts to provide decent and safe affordable housing. Over the years, HUD spending has declined significantly, illustrated by the fact that HUD's budget in 1974 was nearly $70 billion (in today's dollars) as compared to the $38.7 billion being proposed for fiscal year 2009. Clearly, such cuts are indicative of the reduced commitment of the Federal Government to affordable rental housing in favor of failed homeownership policies.

We would like to focus our testimony on two programs that are the cornerstone of federally assisted housing, the section 8 tenant-based rental assistance program, also known as the Housing Choice Voucher program and the section 8 project-based programs.

PROJECT-BASED SECTION 8

The project-based section 8 programs, enacted more than 30 years ago, have provided effective and enduring shelter for millions of low-income families. In addition to making possible the construction or rehabilitation of housing units dedicated to low-income occupancy for extended periods, the program reduces the rent burden for low-income residents living in those properties.

My company, Related Management, has its headquarters in New York City and owns and manages about 26,000 units of multifamily housing in 13 States from New York to California. Our section 8 project-based inventory totals 11,287 units in 64 projects.

In our opinion, the section 8 subsidy mechanism is the most effective housing subsidy ever devised by Congress. It is an elastic subsidy that can reach the very poorest families and keep their rent burden proportionately the same as the rent burden of families with more income.

However, for section 8 to be an effective program, HUD must comply with its contractual promise to housing providers to make timely monthly assistance payments. These assistance payments cover the difference between tenant rent contributions, generally set at 30 percent of a tenant's adjusted income, and the HUD-approved rents for the property. The tenant rent contribution generally pays for only a small portion of the costs of running a property, including debt service payments. Without assistance payments from HUD a building cannot continue to operate and serve its residents.

While HUD has been late sporadically in making payments over the past several years due to its antiquated computer systems, it was not until last summer that a major disruption in payments occurred. From June through September, late payments were widespread over most of the country. The negative impact of HUD being delayed in meeting its contractual obligations has both short- and long-term consequences, which we will discuss along with our recommendations to the committee for addressing the problem.

In the case of our company, for example, we billed HUD in June 2007 for $9.8 million in assistance payments for the month of July. Almost one-third of our bill, or $3.1 million, was not paid by July 31, and about 20 percent or $2 million remained unpaid until November. One of our properties, in San Diego, received no funds for the period of July through November, for a total of $875,000. No doubt many other owners have been hit harder than us, but any late payment at any time is indefensible.

Owners do what they can to cope during these periods of nonpayment, such as drawing funds from a replacement reserve and other reserves if they exist, borrowing funds, delaying payments to vendors, and making personal contributions. However, not all properties have the ability to make ends meet when HUD fails to make timely payments, resulting in notices of default, inability to pay operating expenses, deferred maintenance, etc.

Late Housing Assistance Payments (HAP) not only affect the operations of a project but also make more difficult the preservation of these aging projects through sales, often to nonprofit or other preservation purchasers that commit to long affordability periods, and through rehabilitation, usually with proceeds from the low-income housing tax credit.

Purchasers, lenders, and tax credit investors have been put on alert that the Government may not perform under its contracts, and they will act accordingly to protect their interests, assuming they continue to participate at all. We have attached to our testimony a list of 19 adverse consequences of delayed or insufficient HAP funding. We think it will be helpful to explain the circumstances that resulted in the late HAP debacle.

In the mid-to-late 1970s and early 1980s, when the section 8 project-based programs were first developed, the monies for the HAP contract (be it 20, 30 or 40 years) were funded up front. For example, the costs of a 20-year contract were appropriated during the first year of the contract. Further, the subsidy amounts were based on the total rental costs at the time and did not consider the tenant contribution, which left wiggle room for rent increases during the contract term. When the first of the 20-year contracts started to expire around 1994, it was the first time in 20 years that Congress needed to make an appropriation to subsidize the properties. Congress agreed to fund the renewals, but only at rents not to exceed comparable market rents (hence the Multifamily Assisted Housing Restructuring Act (MAHRA), which provided the Mark-to-Market program and ultimately the Mark-Up-to-Market program).

As the number of HAP contracts renewing under MAHRA continued to increase and more appropriations were needed, instead of HUD requesting additional funds in its budget request, the Department chose to ask for less funding than was actually required to renew the contracts. This approach masked the true costs of contract renewals, but it was successful for a number of years because HUD was able to recapture previously appropriated funds remaining in HAP contracts that were about to expire. When most of the 20-year contracts expired around 2001 and 2002, the availability of recaptured funds diminished. HUD's need for increased funding for section 8 renewals should have been reflected in its budget proposals around that time, but again HUD chose to mask the true costs.

To enable the renewal of contracts without sufficient appropriations, HUD chose to renew the HAP contracts with less than 1 year of funding. For example, if a contract expired in December 2005, HUD would provide 9 months of funding until September 30 (the end of the fiscal year) instead of providing the full 12 months of funding up front. Essentially, it was bifurcating the 12 months of funding over 2 fiscal years. In this example the remaining funding for the contract would have been provided after October 1 (the new fiscal year) at which time 3 months of funding would be added to the contract for a total of 12 months. Until last year, this practice was invisible to the owners. However, in the fall of 2006, HUD's Chief Financial Officer (CFO) determined that such partial funding of contracts could not continue as the CFO believed this approach to be a violation of the Antideficiency Act (ADA), a law that is intended to ensure that appropriated funds are not mishandled. This new interpretation of the law by the CFO (which, incidentally, was not put into writing until requested by Members of Congress more than a year later) resulted in HUD reverting to funding renewals for the full 12 months in advance and not in increments.

Because the HUD fiscal year 2007 budget request was based on its previous practice of partially funding contracts, there were insufficient funds appropriated by Congress, thus creating a large shortfall. The result of the shortfall was a delay in funding to thousands of section 8 properties. When HUD realized in May 2007 that it would not have sufficient funding to renew all of the contracts expiring in fiscal year 2007, HUD's Office of Housing eventually reached a compromise with its CFO office to revert to partial or incremental funding of renewal contracts as long as the renewal HAP contract was amended to reflect the fact that partial (and not 12-month) funding was being provided at the time the renewal contract is executed. In other words, if HUD disclosed to the owner that only partial funding was being provided, the CFO deemed that HUD was not in violation of the ADA.

HUD's policy of incrementally funding (or funding for less than 12 months) continues in the current fiscal year (fiscal year 2008) because of insufficient appropriations. Further, the President's fiscal year 2009 request does not include sufficient monies to put section 8 contract renewals back on a 12-month funding track. Insufficient funding coupled with HUD's inefficient payment process and questionable disbursement systems is likely to create financial disruptions to section 8 properties for the foreseeable future.

The perception a partially-funded contract creates is devastating. It is of a government struggling to keep its financial house in order. Until recently, several years of predictability and stability in the section 8 renewal process have led purchasers, lenders and investors in section 8 properties to rely on long-term section 8 renewal contracts, even though they are subject to annual appropriations, as sufficient backing for their investment. They assumed the appropriations risk in these contracts because they thought the risk was minuscule. They are not so sure anymore.

There are other more technical, but serious, concerns with short funding commitments. These contracts purport to bind an owner to providing section 8 housing for 1 year. If HUD funding stops after 4 months, is the owner bound to continue to comply with section 8 rent and other rules without receiving assistance payments? If the owner can get out of the contract will it be bound by the 1-year tenant notice statute, which will prevent the owner from raising rents for 1 year after an opt-out notice to the tenants? Will the tenants be eligible for enhanced vouchers if the contract is abrogated? Will HUD wait until the 1-year notice period has elapsed before awarding enhanced vouchers to the tenants, as has been its recent policy? Will there be sufficient funding for all enhanced vouchers?

All of these concerns will influence an owner's decision to remain in the program or to opt out, as well as decisions about whether to purchase and rehabilitate section 8 projects. At a minimum, owners will more likely give routine notices to tenants that they intend not to renew a section 8 contract, in order to reduce their exposure period during which they do not receive assistance payments but cannot raise rents. These opt-out notices will cause anxiety among tenants who will be placed in a continual state of uncertainty as to whether they will lose their homes or not.

Unless the industry has confidence that the Government is committed to adequate and timely funding, the section 8 inventory is likely to shrink in size. Nor will it get the new investment needed to preserve these properties as affordable housing and to keep them affordable far into the future.

What can this committee do to help rectify the damage done to the section 8 inventory? First, it can exercise close oversight over the process HUD uses to make section 8 assistance payments, as well as how budgetary needs are calculated. The Secretary should be directed to use a portion of the appropriated working capital funds for this purpose. Second, legislation should be enacted to: impose a penalty on HUD when its payments are more than 30 days late; remove any requirements that owners receive HUD permission to use reserves to pay their mortgages and employees when HAP payments are late; and require HUD to notify owners when late payments are anticipated. Third, the committee should urge that sufficient appropriations be provided for fiscal year 2009 to avert the use of a succession of short-term funding obligations by HUD.

HOUSING CHOICE VOUCHERS

We would also like to express our strong support for the section 8 Voucher Program. Housing Choice Vouchers enable nearly 2 million households of low- and very-low-income families and the elderly to achieve decent, safe and affordable housing. The program has been successful because it provides choice to families, allowing them to rent decent and safe apartments in the communities that are near their schools, churches and workplaces. It also has the benefit of reducing the concentration of poverty. Vouchers also enable the private sector to partner with housing agencies to improve the housing stock in communities as well as protect tenants during market rate conversions. Vouchers are an essential tool for the provision of housing assistance and are supported by the owner community. Related Management is a strong supporter of this program and currently leases to 1,600 voucher holders.

We are concerned about the future of the program because HUD's budget proposes to reduce funding for the voucher program by nearly $500 million, offsetting the reduction by relying on unused reserves, a move that the Center on Budget and Policy Priorities (CBPP) believes will result in the loss of at least 100,000 vouchers. Further, the proposed budget recommends using a funding formula that would base fiscal year 2009 funding on the costs per voucher (plus inflation) from fiscal year 2007 instead of the previous 12 months. This is unacceptable to our members because such an approach will result in additional shortfalls, jeopardizing housing assistance currently in use by tens of thousands of low-income families. It is imperative that the 2009 funding cycle be based on leasing and cost data for the most recent Federal fiscal year as provided for fiscal year 2008 by the Omnibus Appropriations Act (H.R. 2764) that President Bush signed into law on December 26, 2007. This is a fair formula that maximizes the amount of dollars provided by the appropriations process and ensures program stability.

THE BROADER NATIONAL HOUSING CRISIS

The current situation in the for-sale housing market is an unfortunate turn of events that is made even more unfortunate by the fact that it was completely foreseeable and preventable. For decades the Government has pursued a "homeownership at any cost" housing policy. Many Government officials, like other participants in the housing sector, mistakenly assumed that house prices would always go up. So they enticed people into houses they could not afford, and they forgot the rarely spoken truth that there is such a thing as too much homeownership.

Now we are seeing the consequences of that misguided policy. For years, we and others have been predicting this meltdown. We have been warning policymakers that pushing homeownership so aggressively could be disastrous not only for the hard-working Americans lured into unsustainable homeownership, but also for our local communities and our national economy.

That is exactly what is happening now. People are losing their homes, local communities are struggling with blight and crime, and our national economic growth is at risk. We understand that policymakers are worried that this situation might spill over into the broader economy, and we support efforts to help our country avoid a housing-induced recession.

The mortgage market meltdown represents a failure of Government oversight and regulation. Despite repeated warnings, nothing was done to prevent it. On the contrary, the Federal Government gave a "green light" to this bubble by trying to push homeownership without limits and even trying to create a federally insured no-downpayment mortgage.

Unfortunately, while there was much the Government could have done to prevent this crisis, there isn't much it can reasonably do now to alleviate it. What it can do, however, is recognize its own mistakes and ensure that this doesn't happen again. And that means, among other things, recognizing that homeownership isn't the right housing choice for all households at all points in their lives. Housing our diverse Nation well means having a vibrant rental market along with a functioning ownership market. It's time we adopt a balanced housing policy that doesn't measure success solely by how much homeownership there is.

CONCLUSION

I thank you for the opportunity to testify on behalf of the National Leased Housing Association, the National Multi Housing Council and the National Apartment Association, and wish to offer our assistance to the committee as you continue your important work.

SOME IMPLICATIONS OF INADEQUATE FUNDING OF PROJECT-BASED SECTION 8 CONTRACTS

NLHA

If Congress fails to appropriate sufficient funds for fiscal year 2008 to make all contractual section 8 payments, in original and renewal contracts, this failure will be regarded by participants in the section 8 program, other housing programs, other Federal programs, and the capital markets as a default by the United States in its perceived moral obligation. The section 8 contract has already been devalued even without a default by sustained talk of inadequate funds, widespread late payments in 2007, and the inability of HUD to provide 1-year extension contracts because of insufficient funds. A quick and decisive fix may salvage some of the damage.

The following are several specific adverse consequences:

—Lenders will be less willing to make long-term loans for refinancings or purchases of section 8 projects, transactions that help in the rehabilitation and preservation of the projects.

—Investors and syndicators will be less willing to purchase low-income housing tax credits, which are key to the sale and rehabilitation of those projects.

—To the extent the above players continue to participate, it will be on more onerous terms and with a more rigorous selection process to assist only projects that would be viable if section 8 payments terminated.
—Owners who economically can opt out of the section 8 program will plan to do so and will do so at the first opportunity.
—Owners can also stop providing section 8 housing even prior to contract expiration if HUD fails to provide assistance payments.
—Tenants will become anxious about the potential loss of their subsidy and homes. The elderly are particularly susceptible to those concerns. Some will move out and live with their families, thus losing their eligibility for tenant protection vouchers when an owner opts out.
—Owners will select the highest-income tenants they legally can select in order to mitigate the impact of missed or reduced assistance payments.
—The cost of enhanced vouchers and other tenant protection vouchers will soar, or, alternatively, all tenants will not be protected if there is an opt-out.
—There may be an increase in defaults on FHA-insured mortgages covering section 8 projects.
—Affordability use restrictions for projects that have been restructured in the mark-to-market program, which run 30 years, would be converted to permit higher-income tenants to be served.
—Fifty-year affordability use restrictions for LIHPRH projects and existing use restrictions for ELIPHA projects would be terminated and the projects rented to market tenants if HUD cannot provide all the contractual section 8 payments.
—For those projects remaining in the program, there will be an increase in deferred maintenance, depletion of replacement reserves, and little likelihood of obtaining tax credits for rehabilitation.
—Prices realized by HUD in selling foreclosed properties with section 8 subsidies would decline.
—If Congress authorizes the conversion of rent supplement and RAP contracts to section 8, there will be few takers.
—Participation and continued participation in other housing programs involving multi-year subsidies, such as project-based vouchers, tenant-based vouchers, and participation in the 202/811 programs would decline, or the quality of participants would decline.
—The lack of sufficient section 8 funds will also thwart the refinancing of older section 202 projects for the elderly and disabled that have section 8 subsidies. Many of these projects are 20 to 30 years old and can be preserved for another long period with recapitalization and rehabilitation, but lenders and investors would be wary of participating.
—The ability of public housing agencies (PHA) to borrow funds for capital improvements, secured by future appropriations to the capital fund, would be made more difficult and costly.
—Participation in non-housing Federal programs, dependant on ongoing Federal subsidies, would be compromised if participants felt the United States defaulted in the major section 8 program.
—There are broader implications in the capital markets. A default by the United States in any area could send further shock waves to the already shocked markets. Would this be the end of the perceived Federal backing of Fannie Mae and Freddie Mac obligations, and if so, would that increase borrowing costs for home purchases and refinancing? Would the hint of default by the United States raise borrowing costs for Treasury?

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. At this time, if the members have any additional questions, please submit them for inclusion in the record.

[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 RICHARD J. DURBIN

HOUSING DISCRIMINATION STUDY

Question. Historically, how has HUD funded the Housing Discrimination Study? Why is HUD requesting funding for the HDS through the Fair Housing Initiatives Program account?

Answer. Congress has appropriated the funding under the Fair Housing Initiatives Program (FHIP) to support its housing discrimination studies. Beginning in fiscal year 1999, Congress gave HUD the authority to use the FHIP budget to support these studies. To date, HUD has issued three decennial housing discrimination studies. The first in 1977 was funded through non-FHEO program funds.

However, the Housing Discrimination Study (HDS) 2000 study, as appropriated by Congress, was funded through FHIP. Specifically, $7.5 million, $6.0 million, and $7.5 million were appropriated in HUD's fiscal years 1999, 2000 and 2001, budgets respectively. Consistent with the 2000 study, in fiscal year 2009 HUD continues to use this funding methodology in requesting funds for the 2010 HDS study.

HDS is a tool that HUD uses to make or change fair housing policy by providing evidence of housing discrimination in America through a comprehensive research approach that includes using standard testing methods. HDS data helps HUD understand the nature of housing discrimination and the extent of the problem, as well as to identify the groups that are more impacted by acts of housing discrimination. This data helps HUD in determining the most effective strategies in meeting its fair housing mission. HUD has used the results of the housing discrimination studies to design new education and outreach initiatives and in making decisions for fair housing with most activities funded with FHIP resources.

FHIP GRANTS

Question. Last year, how many private fair housing groups applied for FHIP grants, how many received grant funding, and how many were denied? Of those that were denied, what were the reasons for denial?

Answer. In fiscal year 2007, HUD made $18.1 million available under the Fair Housing Initiatives Program (FHIP) Notice of Funding Availability (NOFA). This funding was divided between two initiatives: the Education and Outreach Initiative (EOI) and the Private Enforcement Initiative (PEI). This broke down as $4.1 million for EOI and $14 million for PEI.

EOI provides funding for education and outreach programs to inform the public about their rights and responsibilities under the Fair Housing Act. HUD awarded the $4.1 million under EOI to 32 groups out of 127 groups who applied for grants under EOI. Of the 95 groups who did not receive awards, 4 were ineligible for various reasons, and 36 had scores below the threshold minimum established by the Office of Management and Budget (OMB). The remaining 55 groups had qualifying scores but did not receive funding either because their score was not competitive enough for funding or because a higher scoring group in the same geographic area received funding.

In order to achieve the broadest geographic scope with the Department's education and outreach funding, the Department took into consideration not only the applicant's scores, but also where the applicant was located. This funding strategy allowed HUD to make EOI awards in 32 different States.

In addition, the Department awarded $1 million for a national education and outreach campaign on lending discrimination, which will reach approximately 100 million people throughout the country. The Ad Council reported that one-quarter of the public viewed one of the Department's previous public service announcements.

PEI supports the investigation and resolution of housing discrimination allegations handled by private fair housing organizations. These organizations conduct testing where discrimination is suspected and assist the public in resolving complaints through informal means. When necessary these groups file complaints with HUD and in Federal court on behalf of victims of discrimination.

In fiscal year 2005, at the urging of several fair housing organizations, including the National Fair Housing Alliance, HUD added the Performance-based Component to PEI. Performance-based funding provides 3-year grants to top-performing enforcement organizations. These organizations must have exceptional experience and excellent performance reviews. The multiple-year funding encourages them to take on larger cases of housing discrimination and allows for better strategic planning by the organizations.

Funds to performance-based groups now account for 73 percent of PEI funding. In fiscal year 2007, of the $14 million awarded under PEI, the Department first had to reserve $6.5 million for 25 top-performing groups who received a performance-based grant in fiscal years 2005 and 2006. That left $7.4 million to be awarded in new grants under PEI. The Department received 101 applications for this PEI funding. Of these 101 applicants, 30 were ineligible, and 18 had scores below minimum threshold level established by OMB. Of the remaining 53 applicants qualified for the PEI funding available in 2007, 14 groups received their first year allocation of performance-based funding, and an additional 16 organizations received general PEI grants.

The 2007 PEI grants support fair housing enforcement in 25 States. This includes four States where there is no substantially equivalent State or local fair housing law—-Nevada, Alabama, Mississippi, and Wisconsin.

In addition to enforcement efforts, all PEI recipients are required to use 10 percent of their funding for education and outreach efforts. This leverages an additional $1.4 million in education and outreach dollars on top of the $4.1 million the Department has already awarded under EOI. Education and outreach by PEI groups is particularly effective, because information about fair housing rights is provided by the local group that someone can turn to if those rights are violated.

FHIP FUNDING

Question. Why has HUD requested less funding for FHIP in fiscal year 2009 compared to the fiscal year 1994 funding level, even as housing discrimination persists in this country? Please explain the reasons for this diminished request and how HUD can expect to fulfill the promise of the Fair Housing Act in light of the fact that the number of complaints filed with HUD and its fair housing partners is less than 1 percent of total fair housing violations; a HUD study shows that knowledge of fair housing laws has not improved and is critical to pursuing alleged violations; HUD is unable to fund private fair housing centers who score highly on the agency's own performance scale; and the predatory lending practices highlighted by the recent mortgage crisis disproportionately victimize racial minorities, a class protected under the Fair Housing Act.

Answer. For fiscal year 2009, HUD requested $26 million for Fair Housing Initiatives Program (FHIP). In fiscal year 2009, $19.2 million of this funding will be made available to fair housing organizations through competition, with $6 million going to a study the Nation conducts every decade to measure the level of housing discrimination. All these funds go either directly to enforcement of the Fair Housing Act, education of the public regarding their rights and responsibilities under the Act, or research that will help best target these funds in the future. Moreover, the 2010 Housing Discrimination Study (HDS) will enlist and compensate private fair housing organizations in conducting the proposed research. In the study conducted in 2000, private fair housing groups received approximately 68 percent of the funding set aside for the study. The Department expects the same with the 2010 study. Therefore, the study would provide an estimated $4.08 million to fair housing groups, in addition to the $19.2 million directly allocated to the groups.

HUD does not believe its fiscal year 2009 FHIP budget of $26 million is an inappreciable amount. The requested amount is appropriately balanced to workload needs and continuing and evolving fair housing efforts. We also do not think one can make an appropriate comparison between this year's FHIP budget and one from 1994. First, the funding amounts are roughly the same, and second, the overall amount to fair housing organizations will likely exceed the 1994 level, given the additional amount provided through research testing for HDS 2010.

Though housing discrimination continues to persist, the Department's studies show that HUD, State, and local agencies, and the private fair housing advocacy community, have also done a lot to address the problem. HUD's HDS from 2000 shows that the overall level of discrimination that African-Americans and Hispanics face has declined from 1989 as a result of these efforts. Nevertheless, the Department each year requests a budget that allows HUD, State and local agencies, and private fair housing groups to tackle the evolving problem and the new forms such discrimination takes. The fiscal year 2009 budget, we believe, will meet this challenge.

In addition to the support HUD's annual budget provides for the short-term needs of fair housing groups, this budget also sustains the long-term needs of existing groups through its Performance-Based Component. Private fair housing groups, including the National Fair Housing Alliance, advocated for this component, and HUD began funding it in fiscal year 2005. In fiscal year 2007, this funding now accounted for 73 percent of FHIP's $1.4 million enforcement budget, providing the top-performing groups with 3 years of funding. This allows for broader testing and more systemic investigations by these groups.

FHIP's enforcement budget promotes the activities of the private groups, assists them in bringing in more allegations, and expands fair housing outreach by requiring that enforcement grantees spend 10 percent of their grant on education activities. In fiscal year 2007, this means that the groups will expend approximately $1.4 million marketing their services and educating the housing industry. These leveraged funds add to the $4.1 million in the budget allocated strictly for education and outreach grants.

State and local agencies in the Department's Fair Housing Assistance Program (FHAP) are also an integral part in the Nation's fulfillment of its fair housing objectives. These agencies handle approximately 75 percent of the complaints filed in the United States. For fiscal year 2009, HUD has requested $25 million to support fair housing investigations and education by its State and local partners. This funding is tied largely to the complaints these groups receive each year. As complaints to these agencies have increased, the Department has had to increase the amount budgeted for these organizations in order to keep pace.

In fiscal year 2008, HUD and State and local FHAP agencies received more than 10,000 complaints under the Fair Housing Act or a substantially equivalent State or local law. In almost one-third of the complaints, whether at HUD, or at one of the 108 State and local agencies, the agency obtains a positive result for the complainant, either through a finding of discrimination or resolution between the parties. In 2007, conciliation agreements and settlements provided more than $4.76 million in monetary relief to victims of discrimination. This is addition to other relief that agencies obtain for the complainant, such as providing the victim with the desired unit or accommodation, a reduction in the amount of rent or in the interest rate on loans, and retrofits that make a property accessible to persons with disabilities.

In addition to individual complaints, HUD has stepped up its use of Secretary-initiated enforcement in its efforts to proactively address and eliminate housing discrimination. This means if only a small share of the public is filing complaints, the Department is not waiting to receive a formal housing discrimination complaints but is vigorously pursuing cases where there is reason to believe that a person or entity has committed a discriminatory act. In fiscal year 2007, HUD filed 16 Secretary-initiated investigations or complaints. These addressed a variety of issues including widespread race discrimination in the New York rental market; housing providers who excluded families with children; discrimination against African-American and Hispanic mortgage applicants; and religious discrimination among real estate agents. The Department has filed 4 Secretary-initiated complaints or investigations in fiscal year 2008.

To further the Department's mission of ensuring fair housing, HUD has taken a number of strategic initiatives to enhance fair housing enforcement including creating a lending division to conduct fair lending investigations. The division initiates investigations when lending patterns or other information suggests discrimination by a lender, but no individual has come forward to file a complaint. In addition, the Department has reassigned to the division HUD's fair lending oversight of Fannie Mae and Freddie Mac to ensure their underwriting policies and practices comply with fair lending laws. The Department is pursuing six nationwide Secretary-initiated investigations into independent mortgage companies for discrimination based on race or national origin in the making of loans, the pricing of loans, and for policies that have a discriminatory effect.

FAIR HOUSING LAWS

Question. How does HUD plan to increase public awareness of existing fair housing laws?

Answer. As explained in more detail below, HUD uses an array of strategies, including print (e.g. posters, pamphlets and brochures) and electronic media (e.g., internet, television, radio), advertisements in movie theaters, on buses, taxis, public buildings, and meetings, conferences, seminars, etc., to increase public awareness of the Fair Housing Act. In fiscal year 2007, HUD, with its Fair Housing Initiatives Program (FHIP) and Fair Housing Assistance Program (FHAP) partners, conducted fair housing education and outreach programs and activities that reached approximately 50 million people, which is about 16 percent of the population of the United States. Going forward, HUD will continue to use these and other methods to promote its fair housing mission.

—*National Slogan.*—HUD started to consistently use the slogan, "Fair Housing It's Not an Option, It's the Law," in fiscal year 2006. We determined that mixed messages and multiple slogans confused the general public. Therefore, HUD has utilized the same slogan in fiscal years 2007 and 2008 and will continue to use it in fiscal year 2009.

—*Fair Housing Initiatives Program (FHIP)—Education and Outreach Initiative (EOI).*—The FHIP was created under the Housing and Community Development Act of 1987. One of the goals of the FHIP is to educate the public and the housing industry on their rights and responsibilities under the Fair Housing

Act. Each year since 1987, HUD has awarded funds to fair housing organizations under EOI to meet this goal. In fiscal year 2007, approximately $2.6 million was awarded to 32 fair housing organizations to conduct fair housing education and outreach programs and activities. In the fiscal year 2008 HUD budget, Congress appropriated $24 million for the Fair Housing Initiatives Program. For the EOI Awards, $2.8 million has been set aside for EOI awards. In addition, Private Enforcement Initiative-General Component ($19 million) has a requirement that 10 percent of the funds, about $1.9 million, be used for education and outreach activities. HUD has requested additional funds for FHIP in fiscal year 2009.

—*National Media Campaign.*—In April 2002, HUD released a study of fair housing laws, "How Much Do We Know?" The report gauged what the public knew about fair housing laws. The Study found general awareness, with one-half of the public able to correctly identify six or more of the eight scenarios that described illegal conduct. However, while many persons were conscious of fair housing protections, 83 percent did nothing about it when confronted with an act of housing discrimination. Following this awareness study, HUD, in fiscal year 2003, developed a national media campaign to educate the public on fair housing. Since 2003, HUD has awarded funds for a national media campaign. We believe that a national media campaign is an effective mean of promoting the fair housing because it provides a consistent message and it provides information to the entire country. Our national campaigns have been particularly effective. For example:

—In fiscal year 2006, HUD launched a national campaign to inform individuals who were displaced by Hurricanes Katrina and Rita of their fair housing rights and how to file housing discrimination complaints. The message of the public service announcement (PSA) was, "the storm isn't over." This PSA encouraged hurricane evacuees and other members of the public to call HUD's housing discrimination hotline if they suspected they had been denied housing for discriminatory reasons.

—In fiscal year 2007, HUD awarded a grant to Pacific News Service, a not-for-profit organization with specialization in radio, television, and print media for minority and ethnic populations, to provide an education and outreach program on fair lending, to education the public of the fair lending requirements of the Fair Housing Act. Pacific News Service partnered with the National Community Reinvestment Coalition (NCRC), a Fair Housing Initiatives Program recipient and a nationally recognized non-profit organization with expertise in fair lending issues. A PSA with actor Dennis Haysbert as the fair lending spokesperson, has been distributed to all HUD Fair Housing Assistance Program and Fair Housing Initiatives Program partners and to approximately 1,800 national cable and commercial television networks for airing. The PSA is available in both English and Spanish and it is closed caption. Additionally, fair lending posters have been produced in English, Spanish, Russian, Arabic, Chinese, Vietnamese, and Korean. The posters have been distributed to our Fair Housing Initiatives Program and Fair Housing Assistance Program partners. They will also be available through HUD/Fair Lending Web site.

—In association with the fair lending media campaign, NCRC will conduct 12 fair lending forums in the following cities: Atlanta, Georgia; Boston, Massachusetts; Charlotte, North Carolina; Chicago, Illinois; Columbus, Ohio; Denver, Colorado; El Paso, Texas; Fresno, California; Philadelphia, Pennsylvania; Washington, DC; Cleveland, Ohio; and Detroit, Michigan. These 12 cities were selected because they were identified as cities with high foreclosure rates. The first forum begins in Atlanta, GA, on May 17, and the last 1 forum is scheduled for Detroit, MI, on September 20. We estimate that the lending forums will reach approximately 6,000 households and will result in an increase of public knowledge on the fair lending requirements of the Fair Housing Act, how to avoid predatory loans, and what options are available to homeowners facing foreclosures. In addition to the NCRC staff, the forums will feature HUD staff, and HUD approved HUD housing counseling agencies.

—In fiscal year 2008, HUD designated $1 million of the Fair Housing Initiatives Program appropriation for a national media campaign. The funds will be awarded through the FHIP NOFA again to address discriminatory and predatory lending. Consistent with is strategies since 2003, HUD, in its fiscal year 2009 proposed budget, requested $1 million for a national media campaign.

—*Media Activities.*—In fiscal year 2007, as detailed in HUD's fiscal year 2007 Fair Housing Annual Report to Congress, HUD undertook the following media activities to increase the public's knowledge of fair housing laws:

—From April 6, through 12, 2007 and October 26, through November 2, 2007, HUD sponsored two fair housing advertisements that appeared in over 100 movie theaters, on more than 1,000 screens throughout the country. HUD spent approximately $17,000 in its movie theater advertisements that reached approximately 1.5 million movie goers. This is at a cost of about $0.011 per person. This marketing technique is a cost effective method of informing the public about the Fair Housing Act and HUD's toll free numbers. During June 2008, HUD will place the lending PSA, described above, in movie theaters across the Nation. Because HUD believes the use of the movie theaters is a cost effective method to reach large number of people, it will continue to utilize this source of marketing during fiscal year 2009.

—Samples of news articles and interviews follow:

As a result of HUD's outreach efforts, the April 15, 2007, issue of Parade magazine contained an article on fair housing. The article advised readers that housing discrimination is illegal and provided several examples of unlawful discrimination, such as charging higher rent to tenants based on race or religion or refusing to accept families with children. The article also provided HUD's housing discrimination hotline, 1–800–669–9777. Parade has a circulation of more than 35.5 million.

On September 28, 2007, Gannett News Service ran a featured article on fair housing. USA Today had multiple stories, including a prominent main story that included quotes from Assistant Secretary Kim Kendrick. The story was largely about HUD's education and outreach efforts led to increased fair housing complaints. The estimated circulation for Gannett Newspapers is 7.2 million readers. For complete details on the Gannett News Service on "Closed Doors: Housing Discrimination Complaints on the rise across the country," please go to: http://gns.gannettonline.com/apps/pbcs.dll/section?Category=HOUSING

On July 16, 2007, Assistant Secretary Kim Kendrick was featured on "The Federal News Drive" with Mike Causey and Jane Norris on Federal News Radio. Ms. Kendrick discussed the fair lending provisions of the Fair Housing Act.

On February 17, 2007, the CNN program Open House aired a segment on housing discrimination. The segment featured an interview with Nannatte Bishop, an African-American woman who filed a complaint with HUD alleging that Fifth Third Bank denied her application for mortgage loan because of her race. Approximately 665,000 viewers watched this episode.

On a monthly basis, starting with the June 2006 through June 2007, Essence Magazine featured an article on 12 steps of the home buying process. Assistant Secretary Kim Kendrick served as one of 12 members of an advisory board throughout the 12 steps. The name of the Office of Fair Housing and Equal Opportunity appeared in all 12 issues of Essence. Assistant Secretary Kendrick was featured in three steps. For instance, Step 3: Learn About the Mortgage Industry, included information on the home buying process and five ways individuals can protect themselves from unfair lending practices and predatory lenders. On a monthly basis, Assistant Secretary Kendrick provided guidance to each of the three families. Essence has a monthly circulation of approximately 1,066,000.

—One way to raise public awareness of fair housing laws is for HUD to publicize cases that result in significant housing or monetary relief on its Web site and through press releases. By publicly announcing all of its charges and major conciliations, we hope to re-enforce the public's trust of HUD's fair housing enforcement mission. FHEO's Web site statistics show that it receives from 4,000 to 20,000 hits per day.

—Letters to the editors from Assistant Secretary Kendrick appeared in the Sunday Los Angeles Times (approximately 1.2 million readers) and Times Picayune (approximately 262,000 readers).

—Fair Housing Op-Ed. During April 2007, an op-ed piece written by HUD appeared in four African-American newspapers. The op-ed appeared in the Pittsburgh Courier, Dallas Examiner, Louisville Defender, and East of the River newspaper, which together reach more than 60,000 readers.

—Assistant Secretary Kim Kendrick appeared in an article in the Federal Times which has an estimated circulation of 38,000. In the article, Assistant Secretary Kendrick discussed her role as the Administration's top enforcer of the Federal fair housing laws.

—*Fair Housing Month—2007, 2008, and 2009.*—During the April 2007 Fair Housing Month, HUD and its FHIP and FHAP partners sponsored and participated in over 250 events. Many of these events will be duplicated in fiscal year 2008 and fiscal year 2009. Some of the more innovative events include:

—Charleston Human Rights Commission and the Huntington Human Relations Commission—both FHAP funded agencies—erected several Fair Housing Month billboards in their cities. Also, the Charleston, WV, Human Rights Commission placed advertisements on the tops of taxi cabs to raise awareness of fair housing. It is estimated that approximately 51,000 people may have seen these taxi advertisements.

—For the second year in a row, Philadelphia skyline was lit by HUD's Fair Housing Month slogan as it scrolled around the top of the 28-story building of the Philadelphia Energy Company (PECO). PECO displayed the slogan on the evenings of April 13, 14, 15, and 16. In bright letters that are 38 feet high, Fair Housing: It's Not an Option; It's the Law is scrolled around all four sides of the downtown skyscraper.

—During the Fair Housing Month 2007, the LA Times and San Diego Union Tribune each ran fair housing ads four different times in their newspapers. Displaying HUD's Fair Housing message, "Fair Housing: It's Not an Option; It's the Law" for free.

Additional information about HUD's 2007 Fair Housing Month events may be found on the following website: http://www.hud.gov/offices/fheo/FHMonth/2007FHM-Events.pdf

—*Disaster Response.*—HUD strongly believes that it has a responsibility to ensure that persons affected by disaster are not victimized when searching for a new place to call home. As a measure of prevention and pro-action, FHEO collaborated with a group of Fair Housing Assistance Program (FHAP) and Fair Housing Initiative Program (FHIP) agencies and other fair housing professionals to develop a fair housing toolkit for emergency preparedness. Toward this end, FHEO engaged Emergency Management and Special Needs Consultants to facilitate roundtable discussions to define the role of fair housing in disaster preparedness planning identify the challenges that fair housing professionals face in responding to disaster situations, develop disaster-related education and outreach initiatives, develop communication strategies, and coordinate enforcement efforts. The final result was a "Fair Housing Disaster Toolkit for Emergency Preparedness" for fair housing professionals. The toolkit was issued in July 2007 and was distributed to over 800 participants of HUD's 2006 National Fair Housing Policy Conference. A copy of the toolkit continues to be available through the following website: http://www.hud.gov/offices/fheo/library/FHEO-DisasterToolkit.pdf

—*Fair Housing Exhibit Booth.*—The purpose of the Fair Housing Exhibit Booth is to provide fair housing information to the general public, housing, real estate, lending, insurance, and civil rights professionals at their national conferences and meetings. In fiscal year 2007, HUD operated the Fair Housing Exhibit Booth at 12 events throughout the country, including national conferences held by the National Association for the Advancement of Colored People, the National Association of Home Builders, the National Council of La Raza, the National Bar Association, National Black Family Reunion, and the Congressional Black Caucus. It is estimated that approximately 500,000 people were reached through HUD's Fair Housing Exhibit Booth.

—*Participation in Conferences and Events.*—Another way that HUD increases the public's awareness of the Fair Housing Act is by participating in conferences and other events held by HUD offices, housing industry groups, and fair housing groups throughout the Nation. For example, during fiscal year 2007, staff has participated in the following conferences:

—Education Conference and Lone Star Expo sponsored by the Texas Apartment Association in Houston, TX;

—National Community Reinvestment Coalition Conference, Washington, DC;

—Housing and Development Law Institute's Conference, Washington, DC; and

—National Coalition for Asian and Pacific Americans Community Development Conference, Honolulu, HI.

Just recently, from April 8, through 11, 2008, HUD held its 2008 National Fair Housing Policy Conference in Atlanta, GA, to commemorate the 40th anniversary of the Fair Housing Act. Approximately 1,000 people attended the Conference. The next national fair housing policy conference will be held in June 2010.

—*Accessibility First.*—In January 2003, HUD launched Fair Housing Accessibility FIRST, a FHIP-funded program that provides training and technical assistance on the Fair Housing Act's accessibility requirements to architects, builders, developers, and other others involved in the design and construction of multifamily housing. Approximately 7,500 people have attended the training since

2003. In fiscal year 2007, when asked the number of multifamily housing units on which the attendees were working, the attendees reported a total of 329,543 multifamily units in which they were assisting with the development, design, or construction. As a result of the training, we expect these units will be built in compliance with the accessibility standards of the Fair Housing Act.

—*40th Anniversary of the Fair Housing Act.*—The Assistant Secretary and FHEO senior staff were interviewed CNN Radio, with over 2,000 worldwide affiliates; CNN Español Radio (with over 9 domestic and 20 internationals bureaus); NPR—All Things Considered (with 11 million listeners), and Fox News Atlanta. During the separate interviews, Assistant Secretary Kendrick and staff discussed the 40th anniversary of the Fair Housing Act and the Reverend Dr. Martin Luther King, Jr.'s dream of an "open society."

—*Fair Housing Education in America.*—On April 16, 2008, HUD launched a new initiative, "Fair Housing Education in America Day." This national education project is designed for 4th through 6th grade students for them to hear from fair housing experts who present lessons on fair housing requirements. It gives teachers, parents, and their children a basic understanding of the Fair Housing Act. The goal of this initiative is to start the conversation about fair housing opportunities at a young age. It's critically important to teach future generations of renters and home buyers about their rights under fair housing laws. Over 50 schools nation wide registered to participate in this inaugural event. Additional information on Fair Housing Education in America Day may be obtained through the following website: http://www.hud.gov/offices/fheo/fheducationday.cfm. As this Initiative was successful, HUD plans to continue this Initiative on the 3rd Wednesday of April for fiscal years 2009 and 2010.

HOUSING DISCRIMINATION

Question. What concrete steps will HUD be taking to increase the percentage of persons who file complaints in response to the belief that they have been victims of housing discrimination?

Answer. HUD's fair housing mission is to eradicate housing discrimination. HUD plays several roles in this mission: (1) to increase public awareness of the Fair Housing Act; (2) to educate housing providers on their rights and responsibilities under the Fair Housing Act to reduce the number of occurrences of housing discrimination; and (3) to enforce the provisions of the Fair Housing Act.

HUD believes that persons cannot report housing discrimination unless they understand their fair housing rights and the recourse available to victims of discrimination. In order to increase the percentage of persons that report housing discrimination, HUD has engaged in media campaigns and other activities to raise public awareness of fair housing. These activities are described in the answer responding to Senator Durbin's question, "How does HUD plan to increase public awareness of existing fair housing laws?"

Moreover, HUD has conducted many of these activities in languages other than English in order to reach persons with limited English proficiency. For example, in fiscal year 2004, HUD, in conjunction with the Advertising Council, launched a fair housing education campaign through a series of public service announcements. This campaign consisted of two television advertisements, two radio advertisements and two print advertisements, in English and Spanish.

Additionally, in fiscal year 2005, HUD produced five new fair housing radio advertisements. Two of these advertisements were in Spanish and two of these were in Cantonese, Hmong, Korean, and Vietnamese. Starting in fiscal year 2005, HUD also produced fair housing print advertisements in Arabic, Bengali, Cantonese, Hmong, Khmer, Korean, Punjabi, Thai, Urdu, and Vietnamese.

Furthermore, HUD's 2005 Study—"Do We Know More Now?"—concludes that unless a person who has been discriminated against can see benefits in filing a complaint, he/she is unlikely to do so. Therefore, HUD makes a conscious effort to publicize the outcomes of its fair housing enforcement efforts to help encourage persons to report housing discrimination. HUD believes that publicizing the results of its enforcement efforts helps build public trust in its enforcement efforts, and, in turn, increases the likelihood that persons will report housing discrimination.

In February 2007, the CNN program Open House aired a segment on housing discrimination. The segment featured an interview with Assistant Secretary Kim Kendrick and Nannatte Bishop, an African-American woman who filed a complaint with HUD alleging that Fifth Third Bank denied her application for mortgage loan because of her race. HUD negotiated a $125,000 settlement in this case. An estimated 665,000 people may have viewed this broadcast.

HUD is also building the public trust in its enforcement efforts by training the approximately 500 full-time investigators employed by the more than 100 State and local government agencies that are certified through its Fair Housing Assistance Program (FHAP). In fiscal year 2004, HUD opened the National Fair Housing Training Academy (the Academy) to provide training and certification to ensure that FHAP and now HUD investigators have the necessary skills to conduct thorough and timely investigations.

The Academy offers a 5-week program, which covers fair housing laws, investigative skills, negotiation skills, litigating fair housing cases, and many other topics. After completing the 5-week program, the investigators must pass a comprehensive examination in order to receive a certificate of completion from the Academy. At of the end of fiscal year 2007, a total of 174 investigators have completed the 5-week basic training course.

However, HUD is not simply waiting for persons to file complaints. HUD has increased the use of its Secretary-initiated enforcement authority to eliminate discriminatory housing practices. Under the Fair Housing Amendments Act of 1988, the Secretary of HUD, in the public interest, has the authority to conduct an investigation and file a complaint when there is reason to believe that an alleged discriminatory housing practice has occurred or is about to occur, even when no aggrieved person has filed a complaint. HUD also uses its Secretary-initiated enforcement authority when it receives an individual complaint, but believes there may be additional victims of the discriminatory act or wants to obtain broader relief in the public interest.

Secretary-initiated enforcement authority allows HUD to take proactive measures to eliminate housing discrimination and ensure equal housing opportunity. In fiscal year 2007, HUD filed 12 Secretary-initiated complaints and launched four additional Secretary-initiated investigations. These investigations include a complaint against a management company alleging that it refused to rent to African-Americans, a complaint against brokerage organizations alleging that they limited their membership on the basis of religion, and a complaint against housing providers alleging that they prohibited families with children.

At the same time that HUD is increasing public awareness of the Fair Housing Act, HUD is taking steps to work with its housing industry members to reduce housing discrimination. For example:

—In fiscal year 2000, HUD signed a memorandum of understanding (MOU) with the Department of Justice and the Department of the Treasury setting forth procedures each signatory agency would follow in reporting Fair Housing Act violations. The MOU also outlined options for fair housing education for those involved in the financing, construction, and operation of low-income housing tax credit properties. For example, to help ensure that residential rental housing built with low-income housing tax credit was accessible to persons with disabilities. Since the implementation of this MOU, HUD staff members have participated at numerous meetings of State housing finance agencies to educate them on the accessibility requirements of the Fair Housing Act. This MOU is still in effect.

—In fiscal year 2003, HUD signed an MOU with representatives from the National Association of Realtors, the National Association of Real Estate Brokers, the National Association of Hispanic Real Estate Professionals, and the National Association of Asian American Real Estate Professionals to work together to increase minority homeownership and address housing discrimination. As part of the MOU, the real estate associations provide fair housing information to their members and partner with HUD and private fair housing organizations to distribute fair housing information to minority communities. This MOU is still in effect.

—In January 2003, HUD launched Fair Housing Accessibility FIRST (Fair Housing Instruction, Resources, Support, Technical Guidance), a FHIP-funded program that provides training and technical guidance on the Fair Housing Act's accessibility requirements to architects, builders, developers, and others involved in the design and construction of multifamily housing. FIRST consists of a comprehensive training curriculum that is accredited by the American Institute of Architects and various local professional groups.

—In fiscal year 2007, FIRST training sessions were held in Birmingham, AL; Tucson, AZ; San Jose, CA; Washington, DC; Atlanta, GA; Boise, ID; Chicago, IL; Frankfort, KY; Lake Charles, LA; New Orleans, LA; Portland, ME; Biloxi, MS; Jackson, MS; Bismarck, ND; Buffalo, NY; Cleveland, OH; Eugene, OR; Philadelphia, PA; Corpus Christi, TX; Houston, TX; and San Antonio, TX. In total, FIRST conducted 22 training sessions and trained 1,351 persons.

—HUD continues to fund the FIRST program at $800,000 in fiscal year 2008 and has requested $800,000 in its fiscal year 2009 budget to continue this program.

—In fiscal year 2007, HUD and the Texas Apartment Association (TAA) signed a Memorandum of Understanding (MOU) pledging to work together to conduct fair housing training and outreach to rental housing providers and renters in the State of Texas. As part of the MOU, HUD's FIRST program has conducted two training sessions on the accessibility requirements of the Fair Housing Act to TAA members. This MOU is still in effect.

—In fiscal year 2008, HUD plans to negotiate an MOU with the National League of Cities to collaborate to increase inclusive and diverse communities and strengthening financial education at the local levels. One of the goals of the MOU is to increase understanding of the Fair Housing Act and how fair housing is good business for local communities when dealing with unfair lending and predatory lending practices. It is anticipated that the MOU will be signed by the end of August 2008.

Complaint filing in fiscal year 2006 exceeded 10,000 for the first time since HUD began to gather statistics. It is likely that the increase was a direct result of these and other education and outreach programs and activities. HUD expects that the number of complaints will continue to grow as it carries forth education and outreach activities, but at the same time acts of housing discrimination may decrease as a result of HUD's partnerships with housing industry groups and associations.

HOPWA

Question. Why is HUD requesting the same level of funding for fiscal year 2009 as in fiscal year 2008 for the HOPWA program, even as demand for housing services among persons living with HIV/AIDS increases?

The $14 million increase from fiscal year 2007 to fiscal year 2008 will help HOPWA city and State grantees expand the number of clients assisted by an estimated 3,500 households, from 67,000 to 70,500. The administration's fiscal year 2009 request proposes to protect this increase in light of financial constraints which represents a high priority over other pressing needs. HOPWA is a highly effective and targeted program, and resources create and maintain stable housing for very low-income persons and dramatically improve their access to the available healthcare and HIV treatments.

HOPWA FUNDING

Question. How many jurisdictions will be funded with fiscal year 2008 dollars, both nationwide and specifically in IL? How many jurisdictions is HUD projecting to fund with fiscal year 2009 dollars, both nationwide and specifically in IL? How will the change in the number of jurisdictions affect the individual levels of funding for jurisdictions?

Answer. The HOPWA program targets housing resources to States and cities to address pressing needs for a vulnerable population, low-income persons with HIV/AIDS and their families. Ninety percent of HOPWA funding is distributed by formula to qualifying States and metropolitan areas, and the remaining grant funds are distributed through the competitive grant process.

Formula Grants.—The HOPWA formula grant allocations, which entail 90 percent of the program, are based on AIDS data provided annually by the Centers for Disease Control and Prevention (CDC). For fiscal year 2008, the formula portion of the HOPWA program serves 127 jurisdictions: 40 States, 1 county, and 86 cities. Furthermore, four new areas qualified for the fiscal year 2008 allocation: Bakersfield (CA), Palm Bay (FL), Tulsa (OK), and the State of Nebraska.

Fiscal year 2008 grantees in Illinois are the State of Illinois and the Chicago-Naperville-Joliet Metropolitan Statistical Area (MSA) Division. The city of St. Louis, MO also provides HOPWA assistance in Illinois parts of it's MSA.

Although the Department has not yet received CDC data for 2008, the Department estimates that several new jurisdictions will become eligible for HOPWA formula funding for fiscal year 2009. The eligibility of jurisdictions is dependent up the application of CDC data and the definitions of metropolitan statistical areas. We cannot predict at this time how many, if any, of the new jurisdictions will be in Illinois.

The addition of new formula areas does not have much of an affect on funding levels overall as most of the new areas were already included as part of the prior year allocations to their State. Of the 4 new areas in fiscal year 2008, the State of Nebraska was the only area not previously part of the formula programs, and received $306,000, a net impact of one-tenth of 1 percent on the overall formula.

Competitive Grants.—The HOPWA program's competitive grants have a 3-year duration and can be renewed if successful in providing permanent supportive housing. Two grantees in Illinois received awards during the fiscal year 2005 competition grant cycle and have indicated their interest in renewing their grants during fiscal year 2008. The Department is currently reviewing these and would expect to make selection in the next few months in accordance with grant renewal procedures. Additionally, there are five permanent housing grants in Illinois that would be eligible for renewal in fiscal year 2009, as these grants are now operating under 3-year awards made in the fiscal year 2006 grant selection.

MOVING TO WORK

Question. Members of the Illinois congressional delegation sent you a letter on December 11, 2007, requesting a minimum 5-year extension to the Chicago Housing Authority's 10-year Moving to Work agreement with HUD. Please explain why HUD has not responded to the December 11, 2007 letter, as of March 25, 2008.

Answer. The Department responded to the letter on February 19, 2008. Please see letter below.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
OFFICE OF CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS,
Washington, DC, February 19, 2008.

The Honorable RICHARD J. DURBIN,
United States Senate,
Washington, DC 20510–1304.

DEAR SENATOR DURBIN: On behalf of Secretary Alphonse Jackson, thank you for your letter of December 11, 2007, requesting an extension of the Chicago Housing Authority's (CHA) Moving to Work Demonstration (MTW) agreement, which will expire in 2010. Since the demonstration was authorized in 1996, the Department of Housing and Urban Development has worked closely with the participants in the MTW demonstration to provide the flexibility to design and test various approaches for providing and administering housing assistance to achieve the three objectives outlined in the authorizing statute.

Over the last year and a half, the Department has collaborated with the MTW agencies, including CHA, to develop a standard Amended and Restated MTW Agreement (Restated Agreement) for all MTW agencies. This Restated Agreement will ensure both that the flexibility that MTW gives is retained and that the demonstration provides the measurable outcomes as required for those MTW agencies extended by the 2006 Appropriations Act. Should Congress choose to expand the number of agencies eligible to participate in MTW, the Restated Agreement would better enable the Department to manage the larger number of agencies taking advantage of MTW flexibilities.

The final version of the Restated MTW Agreement was mailed to CHA and the other MTW agencies on January 4, 2008, and agencies have 120 days to execute the agreement. Under the Restated MTW Agreement, the MTW demonstration will continue until 2018, which will allow the Department to fully evaluate the impact of initiatives developed under the demonstration.

Thank you for your interest in the Department's programs. If I can be of further assistance, please let me know.

MARK A. STUDDERT,
General Deputy Assistant Secretary.

MOVING TO WORK AGREEMENT

Question. According to CHA, HUD has informally agreed to extend the agreement in meetings. Can you confirm this understanding and provide a timeline for formally extending the agreement?

Answer. The final version of the standard Moving-to-Work (MTW) Agreement was mailed to the Chicago Housing Authority (CHA) and the other MTW agencies on January 4, 2008, and agencies have 120 days to execute the agreement. Under the standard MTW Agreement, the MTW demonstration will continue until 2018, which will allow the Department to fully evaluate the impact of initiatives developed under the demonstration. CHA has advised us that it is considering the Agreement and will act on it shortly.

HOMELESSNESS

Question. How does HUD expect to meet the administration's 2001 goal of ending chronic homelessness in 10 years given its funding request for fiscal year 2009, which is inadequate to cover the cost of permanent housing renewals let alone fund the addition of new projects?

Answer. HUD originally set forth a goal of ending chronic homelessness by 2012. As we and the U.S. Interagency Council on Homelessness worked with communities across the Nation, city after city became engaged in taking on this challenge to end chronic homelessness. Not all communities implemented their plan in the same year. To secure political will and resources required more time for some communities than it did for others. Every year additional communities commit to the 10 year goal. Significantly, there is Federal, State and local commitment to achieve this bold goal. Communities are tracking the number of chronically homeless so that they can measure their progress. Communities are also securing Federal, State and local government and private resources to develop housing for this population. As a result of these efforts, nationally we saw an 11.5 percent reduction in chronic homelessness between 2005 and 2006. The 2007 figure is scheduled to be released in June and we expect to see further reductions.

HUD has employed creative incentives to encourage grantees across the country to use the limited HUD funds available for new units to specifically target the chronically homeless and thereby help meet the administration's goal. The Department has designated a portion of the competitive funds to be awarded to Continuums of Care (CoC) that set as their first priority, a permanent supportive housing project for the chronically homeless. In addition, HUD has created a reallocation process within the competition that allows CoCs to negotiate the elimination or reduction of grants that either no longer serve the need of the homeless in that community or have found alternative subsidy. They are thereby enabled to use the newly available funds to create additional new permanent support housing programs. These incentives have an incremental but cumulative impact on these production goals.

Finally it is important to note that while we continue to make progress in ending chronic homelessness, we also continue to provide funding for renewal projects. HUD estimates that the 2009 homeless assistance request is sufficient to fully fund all permanent housing renewals and to provide a limited amount of funds to develop new projects to help end chronic homelessness.

PERMANENT SUPPORTIVE HOUSING

Question. Please provide a status update on how close the agency is to the benchmark of 150,000 units of permanent supportive housing.

Answer. Former HUD Secretary Mel Martinez set a goal that as a Nation we create 150,000 permanent supportive housing units for chronically homeless individuals. The definition of a chronically homeless individual is a single, unaccompanied person with a disabling condition who has either been continuously homeless for more than a year or who has experienced at least four episodes of homelessness in 3 years.

While it is a challenging goal, HUD has instituted several incentives to meet it, such as providing extra funding for Continuums of Care that set as their first priority for funding a permanent supportive housing project for the chronically homeless. This incentive has led to a tremendous increase in the number of units for this target population.

At the end of 2006, Continuums of Care reported that about 40,000 new permanent supportive units were in place for the chronically homeless. In 2007, HUD funded approximately 4,000 additional permanent supportive housing units for this same population. These units do not include thousands of transitional housing units for the homeless created with HUD funds since 2002. These units also do not include funds awarded under the Emergency Shelter Grants program.

Moreover, in 2008, Congress appropriated the HUD VASH (HUD VA Supportive Housing) program, which will create 10,000 more units for homeless veterans, many of whom are chronically homeless. Finally, the President has requested $75 million in the fiscal year 2009 budget which would provide for approximately 10,000 additional HUD VASH vouchers for homeless veterans.

Question. How does HUD plan to reverse the trend of fewer new units? What plans are there to ensure HUD meets the 10-year goal of establishing 150,000 units of permanent supportive housing?

Answer. The percentage of funds needed to operate renewal projects increases each year. The renewal burden for fiscal year 2006 was 84 percent of funds awarded, and in fiscal year 2007 the renewal burden was 86 percent of funds awarded. However, the administration has requested and Congress has appropriated increased funding since 2001 for HUD's homeless programs, which has allowed HUD to continue to increase the number of new units created each year. With continuing appropriations increases, HUD will be able to continue to create even more new units of permanent supportive housing as well as transitional housing to help homeless families and individuals move to greater self-sufficiency.

In order to meet the ambitious goal of establishing 150,000 new units of permanent supportive housing for chronically homeless persons that are to be developed by HUD and our State and local partners, HUD focuses on this population in the (CoC) application by awarding "bonus" funds to communities that propose new permanent housing for chronically homeless persons. In addition, HUD awards more points to communities that demonstrate an emphasis on creating new housing units.

However, HUD is not working alone to meet this goal. In the annual (CoC) application, HUD provides incentives for State and local governments and the private sector to provide resources to develop permanent housing for the chronically homeless and for other homeless populations. Moreover, the Interagency Council on Homelessness has been working to help communities create local 10-year plans to end chronic homelessness. While many of the units created under these plans are funded by HUD, States as well as local communities are working to find additional funding sources to create new units of permanent supportive housing.

RAPID RE-HOUSING

Question. Does HUD plan to continue the rapid re-housing demonstration funded by Congress in fiscal year 2008? If not, please explain.

Answer. The Rapid Re-housing initiative was funded in 2008 as a one-time only demonstration program. The administration has not requested additional funds for this demonstration in fiscal year 2009. Included in the appropriation is funding to conduct a rigorous evaluation to determine the effectiveness of different local programs participating in the demonstration. The grant awards will be made later this calendar year. Once awarded, selected demonstration sites will begin collecting data on the homeless families. Our review of the eventual study results should provide very useful insights as to which interventions are actually effective. These findings will help inform future programming and use of limited resources.

REDUCING HOMELESSNESS

Question. What is HUD's strategy for reducing the number of homeless families?

Answer. HUD's performance objective related to homelessness underscores our commitment to serving homeless families. It is to "End chronic homelessness and move homeless families and individuals to permanent housing" (emphasis added). We require each community to annually enumerate and report to HUD on the size of their homeless family population. To address this local established need and to achieve HUD's performance objective, HUD provides each year significant funding to communities to assist their homeless families. Approximately half of all persons assisted by HUD homeless programs are persons in homeless families.

With the recent expansion of the HUD VA Supportive Housing (HUD–VASH) Program to sites across the Nation and the demographics of Desert Storm era veterans, it is anticipated that many homeless military families will be housed through this specialized HUD section 8 program.

The new $25 million Rapid Re-housing for homeless families demonstration initiative will also provide valuable insights into how communities and we as a Nation can most effectively help homeless families.

HUD's commitment to improve its programming for homeless families is reflected in the Department's efforts to better understand both the particular needs of homeless families today and how to best serve them. Several studies are underway or planned to help inform HUD and the Nation on this important subject. For instance, a study to be conducted by HUD's Office of Policy Development and Research entitled "The Impact of Various Housing and Service Interventions on Homeless Families" is in the early stages of being conducted. Once completed, the results will help inform future homeless family housing and service policies.

HOMELESS ASSISTANCE FUNDING

Question. What percentage of homeless assistance funding is currently going directly to families?

Answer. Data on homelessness provided by each community to HUD indicate that approximately 40 percent of all homeless persons are members of homeless families. Significantly, just over 40 percent of all of HUD's competitive homeless funds benefit homeless families. As such, HUD resources are well aligned with meeting the needs of homeless families.

FAMILY UNIFICATION PROGRAM

Question. How and when will the Family Unification Program vouchers be issued?

Answer. We expect the Family Unification Program vouchers to be issued between September and October 2008. HUD staff is currently working on the Notice of Funding Availability, which will explain the application procedures.

HUD–VA SUPPORTIVE HOUSING VOUCHERS

Question. How and when will the HUD-Veterans Affairs Supportive Housing vouchers be issued?

Answer. We expect to provide funding to housing authorities by the first week of May 2008. The actual issuance of the vouchers will depend on the referral of homeless veterans to housing authorities by the U.S. Department of Veterans Affairs. Eligibility for the program is determined by the Department of Veterans Affairs and not the housing authorities.

QUESTIONS SUBMITTED BY SENATOR ARLEN SPECTER

MOVING TO WORK

Question. Secretary Jackson, I understand that the Department has already informed the Philadelphia Housing Authority that it will not extend its successful Moving to Work Demonstration program beyond March 31, 2008, under similar terms and conditions. Is it true that the Department has granted similar extensions 30 times since 2000 and never denied a request for an MTW extension until now?

Answer. On February 8, 2002, the Philadelphia Housing Authority executed a Moving-to-Work (MTW) Agreement with the Department that expired by its own terms on March 31, 2008. Starting in the first quarter of 2006, HUD began the process of standardizing the MTW agreements it had with the housing authorities participating in the MTW program. In November 2005, Congress passed legislation that mandated extensions of current MTW agreements that would otherwise expire by September 30, 2006, and also called for data collection "so that the effect of Moving-to-Work policy changes on residents can be measured." (section 320(b) of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia and Independent Agencies Appropriations Act of 2006) (Pub. L. No. 109–115, 119 Stat. 2396 (Nov. 30, 2005)) ("section 320(b)).

The Department's development of standardized agreements was consistent with this Congressional mandate: one of the Department's principal objectives in developing the standardized agreement was to improve and reinforce requirements for tracking, reporting, and evaluating the effectiveness of the MTW program in achieving the goals of the MTW legislation. In addition, through the standardized MTW agreement, the Department sought to clarify the submission and approval processes, and to develop standard operating procedures for the Department's interaction with all MTW agencies under the program.

The Department has extended MTW Agencies under their current terms in 15 instances over the past 3 years, all involving PHAs in a different position than Philadelphia Housing Authority. The Department extended 13 MTW Agreements during the first 9 months of 2006 under the mandate of section 320(b). Because the Philadelphia Housing Authority's MTW Agreement did not expire during the period covered by section 320(b), the Philadelphia Housing Authority does not fall within the category of PHAs that were to receive this statutorily mandated extension.

In addition to the 13 PHAs covered by the 2006 extension provision, the Department has extended MTW agreements for two other housing agencies since September 30, 2006. Each of the PHAs in those instances is in a different position than Philadelphia Housing Authority, as each of those extensions was granted before the Department finalized and adopted the new, standardized MTW agreement. In December 2006, the Department extended the MTW for Pittsburgh, Pennsylvania for 3 years to December 31, 2009. The Department also extended the MTW agreement for Minneapolis, Minnesota for a 7-month period to allow for completion of the standardized agreement. The Minneapolis Housing Authority has now signed the new, standardized agreement. The Department has offered to execute the standardized agreement with PHA, as with any other participating housing authority, but Philadelphia Housing Authority has refused that offer.

MOVING TO WORK EXTENSION

Question. Without the MTW extension, Philadelphia Housing Authority understands that as of April 1, 2008, it will no longer be eligible to receive as much as

$50 million in Federal assistance, including approximately $25 million in section 8/ housing choice voucher funds. Is that your understanding? Can you assure me that the Philadelphia Housing Authority will continue to receive the same allocation of Federal funds if its MTW designation is not extended?

Answer. The Department does not agree that the Philadelphia Housing Authority would lose $50 million in funding because of this transition. The Department has made a comparison of the Philadelphia Housing Authority‘s funding under both the MTW agreement and current regulations and can find no basis for such a claim. Indeed, even the legal declarations made by the Philadelphia Housing Authority as part of its lawsuit against the Department only reference the $13,050,000 associated with the diversion of over 2,000 units worth of Housing Choice Voucher funding (MTW Activity Vouchers) for other purposes in support of the Philadelphia Housing Authority's public housing program. Even as the Philadelphia Housing Authority makes the transition to become a traditional non-MTW housing authority, it does not automatically lose this funding. Rather, the $13 million would be applied towards the Philadelphia Housing Authority's traditional Housing Choice Voucher Program, allowing it to provide 2,000 units of much-needed housing assistance to the low-income residents of Philadelphia.

HOUSING DISCRIMINATION

Question. What concrete steps will HUD be taking to increase the percentage of persons who file complaints in response to the belief that they have been victims of housing discrimination?

Answer. HUD's fair housing mission is to eradicate housing discrimination. HUD plays several roles in this mission: (1) to increase public awareness of the Fair Housing Act; (2) to educate housing providers on their rights and responsibilities under the Fair Housing Act to reduce the number of occurrences of housing discrimination; and (3) to enforce the provisions of the Fair Housing Act.

HUD believes that persons cannot report housing discrimination unless they understand their fair housing rights and the recourse available to victims of discrimination. In order to increase the percentage of persons that report housing discrimination, HUD has engaged in media campaigns and other activities to raise public awareness of fair housing. These activities are described in the answer responding to Senator Durbin's question, "How does HUD plan to increase public awareness of existing fair housing laws?"

Moreover, HUD has conducted many of these activities in languages other than English in order to reach persons with limited English proficiency. For example, in fiscal year 2004, HUD, in conjunction with the Advertising Council, launched a fair housing education campaign through a series of public service announcements. This campaign consisted of two television advertisements, two radio advertisements and two print advertisements, in English and Spanish.

Additionally, in fiscal year 2005, HUD produced five new fair housing radio advertisements. Two of these advertisements were in Spanish and two of these were in Cantonese, Hmong, Korean, and Vietnamese. Starting in fiscal year 2005, HUD also produced fair housing print advertisements in Arabic, Bengali, Cantonese, Hmong, Khmer, Korean, Punjabi, Thai, Urdu, and Vietnamese.

Furthermore, HUD's 2005 Study—"Do We Know More Now?" concludes that unless a person who has been discriminated against can see benefits in filing a complaint, he/she is unlikely to do so. Therefore, HUD makes a conscious effort to publicize the outcomes of its fair housing enforcement efforts to help encourage persons to report housing discrimination. HUD believes that publicizing the results of its enforcement efforts helps build public trust in its enforcement efforts, and, in turn, increases the likelihood that persons will report housing discrimination.

In February 2007, the CNN program Open House aired a segment on housing discrimination. The segment featured an interview with Assistant Secretary Kim Kendrick and Nannatte Bishop, an African-American woman who filed a complaint with HUD alleging that Fifth Third Bank denied her application for mortgage loan because of her race. HUD negotiated a $125,000 settlement in this case. An estimated 665,000 people may have viewed this broadcast.

HUD is also building the public trust in its enforcement efforts by training the approximately 500 full-time investigators employed by the more than 100 State and local government agencies that are certified through its Fair Housing Assistance Program (FHAP). In fiscal year 2004, HUD opened the National Fair Housing Training Academy (the Academy) to provide training and certification to ensure that FHAP and now HUD investigators have the necessary skills to conduct thorough and timely investigations.

The Academy offers a 5-week program, which covers fair housing laws, investigative skills, negotiation skills, litigating fair housing cases, and many other topics. After completing the 5-week program, the investigators must pass a comprehensive examination in order to receive a certificate of completion from the Academy. At of the end of fiscal year 2007, a total of 174 investigators have completed the 5-week basic training course.

However, HUD is not simply waiting for persons to file complaints. HUD has increased the use of its Secretary-initiated enforcement authority to eliminate discriminatory housing practices. Under the Fair Housing Amendments Act of 1988, the Secretary of HUD, in the public interest, has the authority to conduct an investigation and file a complaint when there is reason to believe that an alleged discriminatory housing practice has occurred or is about to occur, even when no aggrieved person has filed a complaint. HUD also uses its Secretary-initiated enforcement authority when it receives an individual complaint, but believes there may be additional victims of the discriminatory act or wants to obtain broader relief in the public interest.

Secretary-initiated enforcement authority allows HUD to take proactive measures to eliminate housing discrimination and ensure equal housing opportunity. In fiscal year 2007, HUD filed 12 Secretary-initiated complaints and launched four additional Secretary-initiated investigations. These investigations include a complaint against a management company alleging that it refused to rent to African-Americans, a complaint against brokerage organizations alleging that they limited their membership on the basis of religion, and a complaint against housing providers alleging that they prohibited families with children.

At the same time that HUD is increasing public awareness of the Fair Housing Act, HUD is taking steps to work with its housing industry members to reduce housing discrimination. For example:

—In fiscal year 2000, HUD signed a Memorandum of Understanding (MOU) with the Department of Justice and the Department of the Treasury setting forth procedures each signatory agency would follow in reporting Fair Housing Act violations. The MOU also outlined options for fair housing education for those involved in the financing, construction, and operation of low-income housing tax credit properties. For example, to help ensure that residential rental housing built with low-income housing tax credit was accessible to persons with disabilities. Since the implementation of this MOU, HUD staff members have participated at numerous meetings of State housing finance agencies to educate them on the accessibility requirements of the Fair Housing Act. This MOU is still in effect.

—In fiscal year 2003, HUD signed an MOU with representatives from the National Association of Realtors, the National Association of Real Estate Brokers, the National Association of Hispanic Real Estate Professionals, and the National Association of Asian American Real Estate Professionals to work together to increase minority homeownership and address housing discrimination. As part of the MOU, the real estate associations provide fair housing information to their members and partner with HUD and private fair housing organizations to distribute fair housing information to minority communities. This MOU is still in effect.

—In January 2003, HUD launched Fair Housing Accessibility FIRST (Fair Housing Instruction, Resources, Support, Technical Guidance), a FHIP-funded program that provides training and technical guidance on the Fair Housing Act's accessibility requirements to architects, builders, developers, and others involved in the design and construction of multifamily housing. FIRST consists of a comprehensive training curriculum that is accredited by the American Institute of Architects and various local professional groups.

—In fiscal year 2007, FIRST training sessions were held in Birmingham, AL; Tucson, AZ; San Jose, CA; Washington, DC; Atlanta, GA; Boise, ID; Chicago, IL; Frankfort, KY; Lake Charles, LA; New Orleans, LA; Portland, ME; Biloxi, MS; Jackson, MS; Bismarck, ND; Buffalo, NY; Cleveland, OH; Eugene, OR; Philadelphia, PA; Corpus Christi, TX; Houston, TX; and San Antonio, TX. In total, FIRST conducted 22 training sessions and trained 1,351 persons.

—HUD continues to fund the FIRST program at $800,000 in fiscal year 2008 and has requested $800,000 in its fiscal year 2009 budget to continue this program.

—In fiscal year 2007, HUD and the Texas Apartment Association (TAA) signed a Memorandum of Understanding (MOU) pledging to work together to conduct fair housing training and outreach to rental housing providers and renters in the State of Texas. As part of the MOU, HUD's FIRST program has conducted two training sessions on the accessibility requirements of the Fair Housing Act to TAA members. This MOU is still in effect.

—In fiscal year 2008, HUD plans to negotiate an MOU with the National League of Cities to collaborate to increase inclusive and diverse communities and strengthening financial education at the local levels. One of the goals of the MOU is to increase understanding of the Fair Housing Act and how fair housing is good business for local communities when dealing with unfair lending and predatory lending practices. It is anticipated that the MOU will be signed by the end of August 2008.

Complaint filing in fiscal year 2006 exceeded 10,000 for the first time since HUD began to gather statistics. It is likely that the increase was a direct result of these and other education and outreach programs and activities. HUD expects that the number of complaints will continue to grow as it carries forth education and outreach activities, but at the same time acts of housing discrimination may decrease as a result of HUD's partnerships with housing industry groups and associations.

SUBCOMMITTEE RECESS

Senator MURRAY. We will recess subject to the call of the Chair.

[Whereupon, at 11:17 a.m., Thursday, March 13, 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 2009

THURSDAY, APRIL 3, 2008

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

The subcommittee met at 9:35 a.m., in room SD–138, Dirksen Senate Office Building, Hon. Patty Murray (chairman) presiding.

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

STATUS OF SURFACE TRANSPORTATION TRUST FUNDS AND IMPACT ON FEDERAL SPENDING

DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT ADMINISTRATION

STATEMENT OF HON. JAMES S. SIMPSON, ADMINISTRATOR

FEDERAL HIGHWAY ADMINISTRATION

STATEMENT OF JAMES D. RAY, ACTING ADMINISTRATOR

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. This subcommittee will come to order. Today, we are addressing two different topics, the financial health of the Highway Trust Fund and the financial health of Amtrak, but in many ways, these two issues present this subcommittee with the same question: Is the Federal Government prepared to take the steps necessary to invest in our infrastructure and in our people, and is it prepared to keep people employed, to keep people and goods moving, and to keep our economy moving?

The Highway Trust Fund has served us well since it was first authorized in 1956, but today, the Trust Fund's Highway and Mass Transit Accounts are rapidly nearing bankruptcy and in Congress, this raises some critical questions in the short-term and in the long-term about the future of transportation funding.

The Bush administration has suggested some solutions, but after examining its proposals, I find them unrealistic and irresponsible, and I fear they would harm our highway system and the citizens that depend on them.

For the short-term, the administration wants us to cut highway funding by some $1.8 billion next year. It also wants to allow the

Highway Account of the Trust Fund to borrow roughly $3.2 billion from the Transit Account.

The administration likes to call this unprecedented transfer a loan even though it hasn't proposed a budget that will guarantee the loan would ever be paid back. As I see it, this loan will only bankrupt the Transit Account faster and that is unacceptable.

For the long-term, the administration is proposing the Federal Government slash investment for transportation infrastructure in a number of areas. President Bush has claimed that his budget proposals can reverse the deep deficits he's built in the last 8 years and bring us to surplus by 2012, but as always, the devil is in the details.

One of the ways he wants to do this is by cutting transportation funding by 25 percent by 2012 and the largest cut would come from the Highway and Transit Programs. He wants to slash those by almost a fifth between 2009 and 2012.

To make up for the cuts, the administration has been promoting alternative financing, such as privatization schemes that involve charging new tolls to drive on existing roads. The administration is advocating new tolls for the purpose of relieving congestion, but they want to price working families off the road.

I think tolling can be a successful way to build new highway capacity. It makes sense when the public supports that additional charge for the additional highway capacity that it would provide. But, most working families can't be expected to make up for Federal funding cuts by paying new tolls on highways they have already paid for with tax dollars. Especially while they are already struggling to keep up with record high gas prices.

So, it's clear that there are no quick fix solutions that will allow the kind of investments our highway and transit systems increasingly need, but I think we can avoid President Bush's drastic and damaging suggestions. I have been working on a short-term solution with the Finance Committee to get enough revenues into the Trust Fund to avoid painful cuts next year.

Chairman Baucus and Ranking Member Grassley have reported a bill out of their committee that solves the problem for 2009 and we need to pass that bill and pass it soon.

For the long-term, however, Congress must begin the next surface transportation reauthorization process with all financing options on the table. Separate from these decisions about transportation funding, this subcommittee must make another short-term decision, whether to invest in highway and transit construction to help stimulate our struggling economy.

I believe that with the economy on the verge of a recession and with a growing number of construction workers facing unemployment, now is the time to increase, not cut, infrastructure spending, but I also believe the money must come from the General Fund, not the Trust Fund.

I can say without hesitation that the next supplemental appropriations bill will include funding for highways. The only question is which highways.

The President's supplemental request for the wars in Iraq and Afghanistan includes almost $777 million for improved bridges and roads in Iraq and Afghanistan. Meanwhile, there are 21 States, including my State and Senator Bond's, waiting for Federal funding that are owed for the repair of highways and bridges damaged or destroyed in declared disaster areas, and the administration hasn't requested one dime in the supplemental for the Emergency Relief Highway Program to make those States whole.

We also have billions of dollars in ready-to-go highway and transit projects in every State of the Nation. Money in the supplemental to finance those projects could help save construction jobs and help our economy.

A couple months ago, we had the single largest reduction in construction employment recorded in the last 14 years. So, I hope that as our subcommittee convenes in the coming months to mark up the supplemental appropriations bill, we will recognize the critical infrastructure needs here at home, not just those in Iraq and Afghanistan.

Now I want to spend a few moments talking about the second subject of this hearing before we hear from Senator Bond.

Our second panel of witnesses this morning will discuss the current status of Amtrak, our national passenger railroad. As I mentioned earlier, the American public is facing record high gas prices, the highest level in 18 years. The average gallon of gasoline nationwide last week was $3.29. In my home State of Washington, it was $3.46 and States like California are facing gas prices of over $3.61 per gallon.

Partly as a result of those high gas prices, more people than ever before have been using Amtrak across the country and you would think with gas prices like these, even the Bush administration might reconsider the merits of an energy-efficient mode of travel like Amtrak. Unfortunately, it has not.

For the second year in a row, the administration has proposed cutting direct subsidies to Amtrak by almost 40 percent. For Amtrak's critical operating and debt service subsidies, which keep the railroad out of bankruptcy, the administration is proposing a cut of 64 percent.

Once again, the administration is proposing to decimate intercity rail transportation and once again, this subcommittee will need to take a much more realistic look at what Amtrak's genuine needs are and develop a budget for fiscal year 2009 that maintains and hopefully improves rail service.

I'm pleased that we are now about to resolve a period of very sour labor-management relations at Amtrak. I look forward to a new era in which management and labor at Amtrak will work side by side. We need a railroad that can focus on the country's transportation needs without the constant distraction of wage and workplace disputes.

President Bush's Emergency Board addressed all of the key disagreements that kept Amtrak labor and management from getting an agreement on their own. One particularly difficult issue that President Bush's Emergency Board settled was the issue of back pay. The PEB settled this by recommending two separate payments to Amtrak workers for well-deserved moderate wage increases that they did not receive over the last 8 years.

The first payment will be made shortly and the second one will be made in 2009, but we have to decide whether we must appropriate more resources to pay for it. Amtrak's management, which is represented here today by their Board Chairman, is not formally asking for this funding.

The DOT Inspector General's Office has regularly reviewed Amtrak's books. They will testify that Amtrak can expect to have adequate resources to make the second payment next year without any support from the subcommittee.

At the same time, the subcommittee must be mindful that we are unsure what will happen in the economy or Amtrak's revenue in the next year. Over the next several months, this subcommittee will have to monitor Amtrak's finances carefully to see whether we will have to act to keep Amtrak running or whether we will have to ensure that Amtrak's workers get the back wages they have gone without for too long.

With that, I will turn it over to our subcommittee's ranking member, Senator Bond, for his statement.

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you very much, Madam Chair, and I welcome our witnesses today. We have nine witnesses on two panels, so it's going to be a long hearing, and in order to save time, I will try to keep my opening comments brief, at least by senatorial standards, which would not apply in any other way, but first to answer the question a whole bunch of people asked.

I'm a born-again safety advocate. I'm here today with a new shoulder joint and my arm sewed back on as a result of a driver turning right on red without looking last year. So count me as a highway safety advocate from the word go.

Moving on to the direct subject of the hearing, I was one of the key authors of the SAFETEA bill. It took us 3 long years and two different bills to finally get an agreement with the House and the White House on a bill that didn't raise taxes and didn't quite spend the $300 billion in total.

At the time, we used Treasury and CBO projections on what the Highway Trust Fund could sustain over the life of the bill, realizing that we did have some balances available and that forecasts were projections of what we believed would be coming in to the HTF to be spent.

As I stated at our hearing with the Secretary of Transportation on the overall budget, I had hoped that the administration would have recommended—would have remained committed to meeting the guaranteed funding levels for highways and transits as authorized in SAFETEA. I understand from the testimony today that you believe the administration lived up to the terms by providing $286.4 billion over the life of the bill, thereby fulfilling the commitment of the spending agreement made with Congress when the President signed SAFETEA.

I disagree with your assessment and believe that Senator Murray and I will continue to work to honor our commitment to highways and transit.

I also hope that we can work with the Senate Finance Committee and the House Ways and Means Committee, to fix the current shortfall in the HTF to get us through fiscal year 2009 and beyond.

It appears to me that no one can really get a handle on the Highway Trust Fund shortfall that we face this year and next. Last year, last August, our staffs were briefed on the midyear projections of revenue in the HTF and were told that a $4.3 billion gap would occur at the beginning of 2009.

As you know, this came about from lower anticipated gas tax receipts into the Highway Trust Funds due to sharp downturn in vehicle miles traveled and truck sales being down 20 percent. It appeared then that high gas prices were having a major impact on the traveling public and their willingness to drive long distances.

It is true that the marketplace works and when prices go up, people tend to use less, and in some respects, that's good in terms of those who are concerned about global warming and economy, but it is bad when you look at it from the Highway Trust Fund side.

The budget you have before us today re-estimates that shortfall to be $3.3 billion, based upon slower-than-expected outlays on earmarks and projected negative RABA. To make up for this shortfall in the budget, the administration calls for other budget gimmicks, allowing the HTF to borrow up to $3.3 billion from the Mass Transit Account to cover the shortfall in the Highway Account. That's what I'd call putting a small bandaid on a bleeding wound.

What we really need is a solution to the problem to get us through 2009 and beyond and get a comprehensive reauthorization proposal that can be passed and signed into law, which, by judging past experience, would be a very long time, given the fact that there will be a new administration, insufficient balance in revenue raisers in the Highway Trust Fund, and a new Congress to contend with.

I understand the old rocker Jethro Tull once said, "Nothing is easy." He probably didn't know much about highways or at least highway funding, but he accurately and succinctly characterized the problem.

SAFETEA guaranteed the States $41.2 billion for highways. This budget provides $39.4 billion. This reduction comes in part from a projected negative revenue aligned budget authority of RAB, as we call it, of just over $1 billion, plus another $800 million in other reductions.

Similarly, this budget proposes to fund the Federal Transit Programs at a level which is $200 million below the SAFETEA-authorized levels for new starts. These funds allow an increased investment in key highway and transportation projects to complement and assist the continuing growth of the U.S. economy and I would hope we could live up to our commitments.

On Amtrak, once again the administration has forwarded a budget proposal which is a non-starter. In 2008, Amtrak received $1.325 billion, $850 million of that for capital debt service and $475 million in operating subsidies. The budget submission we have before us provides only $525 million for capital and debt service and $275 million for efficiency incentive grants that would take the place of direct operating subsidies, placing more control in the hands of Secretary Peters and Administrator Boardman rather than Amtrak.

I'm troubled that, while the administration seems to push for lower subsidies to Amtrak, they are also losing sight of reform initiatives that need to be part and parcel of a lowering operating subsidy.

The Secretary of Transportation already has sole authority to approve or disapprove Amtrak's request for funds to cover capital needs and operating losses and to date, I am unaware of how the Department has used its existing authority.

Are there any instances where DOT has denied funding to Amtrak because Amtrak's grant request would not be the efficient use of Federal funds? I understand that Mr. Boardman voted no on the Amtrak grant legislative request for 2009 and we'll want to know if that was solely because of the higher numbers contained or the fact that there was no operating reforms.

As the chairman has said, we are glad that the presidential board did provide the appropriate wage increases and the back pay, but as far as I can tell, none of the operating reforms were addressed. They whiffed on perhaps what is one of the significant long-term solutions for Amtrak's continued viability.

Now, some have indicated an interest in potentially reprogramming some of the efficiency grants of $66 million in 2006 and 2007 to fund a portion of the $114 million in 2009 for the unbudgeted retroactive wage costs in the PEB labor settlement. The IG for the Department will state that he believes that these could be funded out of the $269 million in end-of-the-year 2008 cash balances.

During the question period, I will ask you to describe how you believe we should deal with the issue and what's the sufficient level of cash balances for Amtrak.

FRA's priority appears to be the Intercity Passenger Rail Grant Program, which in 2009 they requested $100 million for, up from $30 million in 2008. I find it interesting that FRA doesn't include the labor settlement agreement in the budget and Amtrak does not include in its grant a legislative request, the Intercity Passenger Rail Grant Program, each totaling around $100 million.

We commend Amtrak for improved on-time performance, revenue, ridership and cash operating losses. These are good pieces of news. However, some of this can be attributed to labor costs held down by the absence of a labor settlement over the past 7 years that will now have to be addressed.

We had attempted to have a witness here today from the Presidential Emergency Board (PEB) to describe what exactly Amtrak received in work rule changes and the like through the PEB settlement, but they declined to come and speak today before this panel and as I look at what they did, I can see why they wouldn't want to come and talk about it.

Regardless of Amtrak's success of late, Amtrak has made no significant progress in restructuring operations to become less reliant on Federal funds. This year in operations, they're requesting a $50 million increase over last year. The IG will testify that level funding at $475 million is sufficient to meet the operating needs. The Graham legislative request for 2009 contains no operational reforms in 2009. The pace of Amtrak's reform savings has slowed from $61 million in 2006, almost $53 million the next year, and only $40 million in 2008.

There is little chance Amtrak will achieve anywhere near the $500 million in annual reform savings it promised when it adopted its 2005 plan. Is there a new plan or do the witnesses feel there's no need for a plan to be in place as long as the money keeps coming?

I look forward to the answers to these questions from the panels.

Senator MURRAY. Thank you very much. Senator Allard.

STATEMENT OF SENATOR WAYNE ALLARD

Senator ALLARD. Thank you, Madam Chairman. Thank you for holding this hearing.

I have two important hearings this morning and fortunately I do want to make my opening statement and will have to go to the other hearing since I am the ranking Republican on Securities. It involves our housing and securities issues.

First of all, you know, these are some very important matters for our surface transportation system, and I appreciate the opportunity to be able to review the testimony after this hearing.

Before I begin my remarks related to the hearing, I want to take this opportunity to publicly commend Federal Transit Administrator Jim Simpson. Administrator Simpson has been a tireless advocate for public transportation and I especially appreciate his efforts in Colorado.

RTD in Denver is currently in the midst of an aggressive multiyear multicorridor package known as Fast Trax. The successor in Fast Trax is closely linked to a close cooperative relationship with FTA and we are lucky to have him as its head.

Both Administrator Simpson and Deputy Administrator Sherry Little have gone out of their way to be helpful and supportive, devoting significant time to RTD and the Denver corridors. I especially appreciate their support for our public-private partnerships and the value that they can bring, particularly during these times of rapidly escalating materials costs. They both bring a flexible, innovative, solution-oriented mindset that has served the transit community well.

Jim, I offer my heartfelt thanks to you and Sherry for all that you've done. Your public service is appreciated in public transportation in Denver and across the country is better for it. Thank you.

Because I've been very involved with Amtrak on the authorizing side, I also wanted to make a few comments on that topic.

While passenger rail has a significant role in an 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 the results that they can demonstrate with those taxpayer dollars.

In the case of Amtrak, I'm afraid those results are not very impressive. In the administration's Part Assessment, their tool for evaluating the effectiveness of programs, Amtrak was rated as ineffective. 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 rating means. From the administration's description of ineffective, programs receiving this rating are not using your tax dollars effectively. That seems pretty clear to me.

I'm concerned, however, that we're not talking about real changes to reform Amtrak. I'm unconvinced that Amtrak has completely turned the corner and is solidly on the path to 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 appropriations process.

Finally, I want to say a brief word on the Trust Fund. I have been fortunate enough to serve on the authorizing committee during drafting of the last two surface transportation bills. While we struggled to complete action on both T21 and SAFETEA and in fact produced both behind schedule, in a sense, they were easy.

With significant funding increases, Congress was able to avoid some of the more difficult choices about how we structure and fund our surface transportation programs. With the Trust Fund that is running on empty, those decisions can no longer be avoided.

I regret that I won't be here to participate in the debate for the next bill, but I look forward to today's discussion.

Thank you, Madam Chairman.

Senator MURRAY. Senator Alexander?

STATEMENT OF SENATOR LAMAR ALEXANDER

Senator ALEXANDER. Thank you, Madam Chairman. I thank the witnesses for coming. I only have one thing I'd like to say and then I'll look forward to your comments.

Perhaps the greatest compliment I've been paid since I was elected a few years ago was by one critic who said the problem with Lamar is he hasn't gotten over being Governor, and I consider that a big compliment, and one of the things I insisted on as Governor was that if we raised money through the gas tax to build roads, that we only spent it for transportation projects and we did that year in and year out and as Governor, I resisted every attempt to take that money and use it for something else.

I want to be the same kind of United States Senator on that score that I was as Governor. In Tennessee alone, more than $237 million has been taken from transportation funds since December 2005, and spent on other purposes, maybe worthy purposes, but it's having a severe impact on our State transportation system.

I've heard the chairman talk about the twin goals here of dealing with traffic jams and highway safety. About one-half of Tennessee's highway budget is funded by the Federal Government. Well, when we take $237 million out of Tennessee's highway budget, that means less money to relieve traffic jams and less money for highway safety, so things don't happen to other Americans like what happened to Senator Bond not so long ago.

So, we're upset about that in Tennessee and so what I want to say today is that I intend to offer an amendment in the appropriations process in the appropriate way that will exempt transportation accounts from these raids by the rest of the Federal Government to pay its other bills.

The American people and Tennesseans have a right to know that if they pay gas taxes, that that money is used for transportation purposes.

Thank you.

Senator MURRAY. Thank you very much. We will now hear from our witnesses and we'll begin with Mr. Simpson who's speaking on behalf of the Department of Transportation today as the Administrator at the Federal Transit Administration.

STATEMENT OF HON. JAMES S. SIMPSON

Mr. SIMPSON. On behalf of Jim Ray, the Acting Administrator of the Federal Highway Administration, good morning and thank you, Chairman Murray, and members of the subcommittee for the opportunity to be here today to testify, to discuss the President's budget for the Department of Transportation's Surface Transportation Programs for fiscal year 2009.

I am pleased to report to you that the President's budget for all of the Department's programs is $68 billion. Of this, 76 percent or $51.7 billion is for our highways, highway safety, and transit programs. Fiscal year 2009 is the final year of the current surface transportation authorization known as SAFETEA–LU. Our request fulfills the President's commitment to provide the total 6-year, $286.4 billion investment that was agreed to when SAFETEA–LU was enacted in 2005. It does so without raising taxes or subsidizing transportation spending with other tax dollars.

The President's request for the Federal Highway Administration reflects the final installment of the total agreement for SAFETEA–LU. It totals $40 billion in new budgetary resources and reflects the downward adjustment of $1 billion in accordance with the statutorily-directed revenue-aligned budget authority calculation.

The requested funding will be used to improve highway safety and improve the Nation's highway system. The request also encourages new approaches to fighting gridlock by proposing to use $175 million of inactive earmarks and 75 percent of certain discretionary program funds to fight congestion.

The President's request for the Federal Transit Administration's fiscal year 2009 budget provides a record level of funding, $10 billion, for the Federal public transit programs. Funding will be used to increase transit system capacity and improve safety. It will also leverage private investment into public transit through joint development activities.

FTA's request fully funds what is needed in 2009 for the New Starts and Small Starts Programs. The request for major capital investment grants of $1.6 billion includes funding for 15 existing and two pending full funding grant agreements. When completed, these projects will encourage transit-oriented development and promote new economic activity throughout the Nation.

Receipts in the Highway Trust Fund have not kept pace with SAFETEA–LU funding levels. This has resulted in the continual decline of the cash balances of the Highway Trust Fund. During fiscal year 2009, we are projecting a possible $3.2 billion shortfall in the Highway Account. However, the Mass Transit Account is expected to remain solvent through fiscal year 2009 with an estimated ending balance of $4.4 billion. This will leave a combined total of $1.2 billion in the Highway Trust Fund at the end of fiscal year 2009.

To ensure that the administration can continue to meet its commitments to SAFETEA–LU, we are proposing new flexibility to manage funds in the Highway Trust Fund by allowing repayable advances between the Highway Account and the Mass Transit Account. We will be able to support authorized funding levels for surface transportation programs with the existing tax structure.

Our proposal would not impact the transit program in fiscal year 2009. The President's budget builds on the exciting things we are doing at the Department of Transportation to help us move forward on a new course, a course that provides high levels of safety and mitigates congestion.

As we look to the next surface transportation authorization, we have an opportunity to come together and completely reassess our approach to financing and managing these programs. The Department looks forward to working with the Congress to address the challenges we face in transportation and to meet our Nation's transportation financing needs.

PREPARED STATEMENT

Thank you for the opportunity to appear today. Jim Ray and I would be happy to answer your questions, I on the transit portion and Jim Ray on the highway side.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF HON. JAMES S. SIMPSON

Good Morning. Thank you, Madam Chairman and members of the subcommittee, for the opportunity to appear before you today to discuss the President's fiscal year 2009 budget plan for the Department of Transportation's surface transportation programs. I am pleased to report to you that the President's fiscal year 2009 budget for the Department of Transportation is $68 billion. Of this, 76 percent, or $51.7 billion, is for our highway, highway safety, and public transportation programs.

As you know, fiscal year 2009 is the final year of the current surface transportation authorization—the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). Our fiscal year 2009 request fulfills the President's commitment to provide the 6-year, $286.4 billion investment in highway, highway safety and public transportation programs that was agreed to when SAFETEA–LU was enacted in 2005, and does so without raising taxes or subsidizing transportation spending with other tax dollars. We are working with the President to hold the line on spending, while giving travelers and taxpayers the best possible value for their transportation dollars by transforming the way our transportation system works and is funded.

The President's budget builds on the exciting things we are doing at the Department of Transportation to help us move forward on a new course—a course that delivers high levels of safety, takes advantage of modern technology and financing mechanisms, and mitigates congestion with efficient and reliable transportation systems. However, it is increasingly clear that America's transportation systems are at a crossroads. Even as we continue to make substantial investments in our Nation's transportation systems, we realize that a business-as-usual approach to funding transportation programs will not work much longer. Long-term, we need a serious reform of our approaches to both financing and managing our transportation network. We need to not only maintain our infrastructure, but also win the battle against congestion.

FEDERAL HIGHWAY ADMINISTRATION

The President's request for the Federal Highway Administration (FHWA) in fiscal year 2009, $40.1 billion in new budgetary resources, reflects the final installment to the $286.4 billion total agreement for SAFETEA–LU. This level includes a Federal-aid highway obligation limitation of $39.4 billion and $739 million in exempt contract authority. The obligation limitation reflects a downward adjustment of $1 billion from the base level in SAFETEA–LU, in accordance with the statutorily directed revenue aligned budget authority (RABA) calculation. The request supports the Department's goals and policy initiatives, and FHWA's priorities including improving highway safety, minimizing project delays, reducing traffic congestion, and promoting environmental stewardship and streamlining.

Since the enactment of SAFETEA–LU in 2005, FHWA has implemented new programs to improve highway safety, promoted innovative solutions to reduce traffic congestion, worked with other Federal agencies and States to streamline the project approval process, enhanced program oversight and stewardship, and responded to unforeseen events such as Hurricane Katrina and the collapse of the I–35W Bridge in Minneapolis, Minnesota. Funding requested in fiscal year 2009 will enable FHWA to continue to improve the Nation's highway system while looking ahead to the next highway program authorization.

The budget request for FHWA will help address challenges that still confront us, such as congestion mitigation. The fiscal year 2009 FHWA budget would encourage new approaches to fighting gridlock by proposing to use $175 million in inactive earmarks and 75 percent of certain discretionary highway program funds to fight congestion, giving priority to projects that combine a mix of pricing, transit, and technology solutions. Congestion pricing of our highways will generate funding that can be used locally for transit projects. While State and local leaders across the country are aggressively moving forward, Congressional support and leadership is critical. These projects will help us find a new way forward as we approach reauthorization of our surface transportation programs.

The FHWA budget includes $4.5 billion for the bridge program, as authorized in SAFETEA–LU. In fiscal year 2009, FHWA will focus its bridge program on decreasing the percent of deck area of our Nation's highway bridges on public roads that are rated as either structurally deficient or functionally obsolete.

The FHWA safety program will continue to concentrate efforts to reduce the number of fatalities on our highways, focusing on four types of crashes: roadway departures, crashes at intersections, collisions involving pedestrians, and speeding-related crashes. The FHWA budget includes more than $1 billion dedicated to safety purposes such as the Highway Safety Improvement Program (HSIP), and funds utilized by States to support safety infrastructure and operational improvements as part of other Federal-aid highway programs such as the National Highway System (NHS) and the Surface Transportation Program.

In fiscal year 2009, FHWA will continue to assist States with the implementation of Strategic Highway Safety Plans and safety planning so that safety funds will be used where they yield the greatest safety improvement. The HSIP provides States with flexibility to use safety funds for projects on all public roads and publicly owned pedestrian and bicycle paths, and to focus efforts on implementation of a State Strategic Highway Safety Plan.

Rural two-lane, two-way road fatality rates are significantly higher than the fatality rates on the Interstate. To address these higher rural road fatalities, and in support of our Rural Safety Initiative, highway safety program funds will provide a foundation for safety improvements in areas where the greatest need exists. The High Risk Rural Road portion of the HSIP sets aside $90 million in fiscal year 2009 to address safety considerations and develop countermeasures to reduce these higher rural road fatalities.

FEDERAL TRANSIT ADMINISTRATION

The President's request for the Federal Transit Administration's (FTA) fiscal year 2009 budget provides a record level of funding, $10.1 billion, for the Federal public transportation programs. This is an increase of $643.8 million, or almost 7 percent above the Consolidated Appropriations Act, 2008. At this level of funding, FTA will achieve quantifiable and executable improvements that support the Secretary's priorities—safety, system performance and reliability, and 21st century solutions for 21st century transportation problems.

FTA's budget focuses on priorities such as increasing transit system capacity and improving safety and performance with existing infrastructure; leveraging private investment in public transportation through public-private partnerships and joint development activities; finding transit solutions to reduce traffic congestion; implementing the President's "Twenty In Ten" plan by increasing the fuel economy of transit buses; improving customer service through targeted program delivery process improvements; and increasing productivity through an agency-wide continuous improvement program that identifies new opportunities for streamlining, efficiency, and performance measurement.

Within the $10.1 billion, $8.4 billion is requested in fiscal year 2009 for transit services to provide stable, predictable formula funds to urbanized areas and increase funding for underserved rural communities. A total of $59.6 million is requested in fiscal year 2009 to support activities that improve public transportation through research and technical assistance.

FTA's budget fully funds the annual cost of multi-year construction projects under the New Starts and Small Starts programs, and is based on actual project requirements. The fiscal year 2009 request for major capital investment grants of $1.62 billion includes funding for 15 existing and 2 pending Full Funding Grant Agreements (FFGAs). The request is about $52 million over the fiscal year 2008 enacted level. When completed, these projects will encourage transit-oriented development and related initiatives by improving mobility, reducing congestion and pollution, and promoting new economic activity throughout the Nation.

The fiscal year 2009 FTA budget will also provide financial support and technology to further our Urban Partnerships. Transit is critical to the success of the Urban Partners' efforts to reduce congestion. Increasing the quality and capacity of peak-period transit service is necessary in order to offer a more attractive alternative to automobile travel and to accommodate peak-period commuters who elect to switch to transit in response to congestion pricing.

STATUS OF THE HIGHWAY TRUST FUND

The Highway Trust Fund is the principal source of funding for our Nation's highway, highway safety and public transportation programs. The President's 2009 budget projections reflect a continuing downward trend in the Highway Trust Fund cash balances. A fact sheet is attached to this statement that displays the current status of the Highway Trust Fund. The trust fund has two accounts—a Highway account that funds FHWA, the National Highway Traffic Safety Administration (NHTSA), and the Federal Motor Carrier Safety Administration (FMCSA) programs—and a separate Mass Transit Account that funds FTA programs. By the end of the SAFETEA–LU authorization period in 2009, the administration is projecting a $3.2 billion shortfall in the Highway Account. The Mass Transit Account is expected to remain solvent through fiscal year 2009, with an estimated balance of $4.4 billion, leaving a net total of $1.2 billion in the combined Highway Trust Fund at the end of fiscal year 2009.

HIGHWAY TRUST FUND CASH BALANCES—FISCAL YEAR 2004–FISCAL YEAR 2013

[In billions of dollars as shown in the fiscal year 2009 Presidents budget]

	Actual				Estimated Balances		Repayable Advances Proposal 2009
	2004	2005	2006	2007	2008	2009	
Highway Account (HA):							
Cash Balance (Beginning of Year)	13.0	10.8	10.6	9.0	8.1	3.0	3.0
Receipts	29.8	32.9	33.7	34.3	34.2	34.8	34.8
Outlays [1]	32.0	33.1	35.3	35.2	39.3	41.0	41.0
Repayable advance from MTA	....	....	....	....	....	....	3.2
Cash Balance (End of Year)	10.8	10.6	9.0	8.1	3.0	(3.2)	....
Mass Transit Account (MTA):							
Cash Balance (Beginning of Year)	4.8	3.8	2.0	6.2	7.3	6.4	6.4
Receipts	4.9	5.0	4.9	5.1	5.0	5.1	5.1
Flex Funding Transfer [2]	....	....	1.4	0.2	0.3	0.2	0.2
Outlays	6.0	6.8	2.0	4.2	6.3	7.3	7.3
Repayable advance to HA	....	....	....	....	....	....	(3.2)
Cash Balance (End of Year)	3.8	2.0	6.2	7.3	6.4	4.4	1.2
Highway Trust Fund End of Year Cash Balance (Total)	14.6	12.5	15.2	15.4	9.4	1.2	1.2

[1] Includes Flex Funding Transfer to MTA.

[2] Flex Funding in fiscal year 2004 and fiscal year 2005 was fully outlaid to the General Fund.

Note: Totals may reflect rounding error.

Despite the anticipated shortfall in the Highway Account, the administration retains its strong commitment to SAFETEA–LU programs. To ensure that the administration can continue to meet its commitments, the budget proposes a new flexibility to manage funds in the Highway Trust Fund so the existing tax structure can continue to support authorized funding for surface transportation programs. By requesting temporary authority to allow "repayable advances" between the Highway Account and the Mass Transit Account, the fiscal year 2009 President's Budget will enable us to complete the current authorization without any impact on transit programs in 2009. In addition to ensuring delivery of both FHWA and FTA programs, this mechanism will ensure that the vital safety programs funded through the Highway Trust Fund for NHTSA and FMCSA will also be able to continue without disruption.

However, as we look to the future, the projected shortfall in the Highway Account is evidence of the need to re-examine how surface infrastructure is funded in this country.

FUTURE SURFACE TRANSPORTATION NEEDS

For the first time since the creation of the Interstate Highway System, we have an opportunity to come together and completely reassess our approach to financing and managing surface transportation systems. For too long, we have tolerated exploding highway congestion, unsustainable revenue mechanisms and spending decisions based on political influence as opposed to merit.

Now, thanks to technological breakthroughs, changing public opinion and highly successful real-world demonstrations, it is clear that a new path is imminently achievable if we have the political will to forge it. That path must start with an honest assessment of how we pay for transportation, not simply how much (our current focus). In fact, our continued transportation financing challenges are in many ways a symptom of these underlying policy failures, not the cause.

In a report released in July 2007 entitled "Surface Transportation: Strategies Are Available for Making Existing Road Infrastructure Perform Better," the Government Accountability Office (GAO) cited existing revenue mechanisms as the culprit, stating:

The existing revenue-raising structure provides no incentive for users to take these costs (delays, unreliability and pollution) into account when making their driving decisions. From an economic perspective, a mechanism is needed that gives users price incentives to consider these costs in deciding when, where, and how to drive. Because the existing structure does not reflect the economic, social, and environmental costs of driving at peak periods, drivers who may have flexibility to share rides, use mass transit, use more indirect but less congested routes, or defer their trips to uncongested times have no financial incentives to do so. Without such incentives, the transportation system will be headed for more frequent occurrences of congestion that last longer, resulting in more time spent traveling, greater fuel consumption, and higher emissions in the long run.

We must decide what our national transportation priorities are, and what roles are appropriate for Federal, State and local government as well as the private sector, before we can adequately address our Nation's infrastructure needs.

One of the biggest challenges we face is congestion. Technology must play an important role in relieving traffic on our Nation's highways. Nationwide, congestion imposes delay and wasted fuel costs on the economy of at least $78 billion per year. The true costs of congestion are much higher, however, after taking into account the significant cost of transportation system unreliability to drivers and businesses, the environmental impacts of idle-related auto emissions, increased gasoline prices and the immobility of labor markets that result from congestion, all of which substantially affect interstate commerce. Through programs like our Urban Partnerships and Corridors of the Future initiatives, we have been aggressively pursuing effective new strategies to reverse the growing traffic congestion crisis.

However, our funding is limited and trying to be all things to all people has proven to be an unsuccessful strategy. Options such as direct pricing of road use, similar to how people pay for other utilities, holds far more promise in addressing congestion and generating sustainable revenues for re-investment than do traditional gas taxes. Drivers have proven in a growing array of road pricing examples in the United States and around the world that prices can work to significantly increase highway speed and reliability, encourage efficient spreading of traffic across all periods of the day, encourage shifts to public transportation and encourage the combining of trips. Direct pricing will also reduce carbon emissions and the emissions of traditional pollutants. According to Environmental Defense, a nonprofit environmental organization, congestion pricing in the city of London reduced emissions of particulate matter and nitrogen oxides by 12 percent and fossil fuel consumption and carbon dioxide (CO_2) emissions by 20 percent; a comprehensive electronic road pricing system in Singapore has prevented the emission of an estimated 175,000 lb. of CO_2; and Stockholm's congestion pricing system has led to a 10–14 percent drop in CO_2 emissions.

The Department believes that the highest priorities for Federal resources should be:

—Improving and maintaining the condition and performance of the Interstate Highway System. Roughly one quarter of all highway miles traveled in the United States takes place on the Interstate System;

—Reducing congestion in major metropolitan areas and increasing incentive funds to State and local officials that pursue more effective congestion relief strategies. A more effective integration of public transportation and highway investment strategies is central to this challenge;

—Investing in and fostering a data-driven approach to reducing highway fatalities;

—Using Federal dollars to leverage non-Federal resources;

—Focusing on cutting edge, breakthrough research areas like technologies to improve vehicle to infrastructure communications; and

—Establishing quality and performance standards.

A streamlined Federal role would allow the Federal Government to ensure accountability for specific investments that are in the national interest and give States greater flexibility to prioritize other investments in their transportation infrastructure.

We look forward to partnering with the Congress to address the challenges we face in transportation and to meet our Nation's transportation financing needs. Thank you for the opportunity to appear before you today. I would be happy to answer questions.

Senator MURRAY. Very good. Thank you very much. We will move to Mr. John McCaskie, Chief Engineer of Swank Associated Companies, who will speak on behalf of the Transportation Construction Coalition.

NONDEPARTMENTAL WITNESSES

STATEMENT OF JOHN McCASKIE, CHIEF ENGINEER, SWANK ASSOCIATED COMPANIES, ON BEHALF OF THE TRANSPORTATION CONSTRUCTION COALITION

Mr. MCCASKIE. Madam Chairman, Senator Bond, and members of the subcommittee, thank you for convening this hearing to discuss the financial outlook for the Highway Trust Fund.

My name is John McCaskie, and I am chief engineer of Swank Associated Companies, a highway and bridge construction firm located in western Pennsylvania.

I appear today on behalf of the Transportation Construction Coalition, a coalition of 28 national associations and labor unions.

The Federal Highway Program is facing a potentially devastating situation that, if not remedied soon, will impact not only State transportation programs but the construction industry and the economy in general.

SAFETEA–LU set guaranteed funding for the Federal Highway Program at the highest annual levels that could be supported by projected Highway Trust Fund revenues and existing balances at the time. Since then, it's become evident that the revenue projections Congress relied on at that time were overly optimistic. As a result, projected highway account revenues are $3.7 billion below the amount necessary to support the SAFETEA–LU fiscal year 2009 highway investment level of $41.2 billion.

Based on the historic spend-out rate, the Highway Account could support no more than $29.5 billion of new obligations for fiscal year 2009. This is $13.7 billion less than the amount appropriated in fiscal year 2008. Every State would be hit with a 32 percent cut in Federal highway funds.

Our Nation already faces a transportation crisis. We are not currently investing enough to address that crisis and cannot afford to get further behind by cutting transportation investment.

Some warning signs include 27 percent of the Nation's nearly 600,000 bridges have structural problems, pavement conditions on one-third of America's major roads are not up to minimum standards, many of the 15,000 interchanges on the interstate system are unsafe or create bottlenecks, and the number of vehicles using our highways has nearly doubled in the past 25 years while we have added less than a 7 percent increase in lane miles.

The transportation construction industry is concerned we may be facing the perfect storm set of conditions that could lead to substantial downturn in construction of transportation facilities. While public investment in transportation infrastructure has remained relatively stable over the past year, these numbers don't tell the full story.

Dramatic construction material cost inflation has reduced the purchasing power of public works dollars. As a result, fewer contracts are going to bid, which leads to less work for contractors, fewer jobs for employees, and denial of transportation improvements to the public.

An industry survey of States indicates that many DOTs have cut back substantially in the number of highway projects going to bid. The cutback in contracts being bid is already being felt. Heavy and civil engineering construction employment peaked in January 2007. Over the past 14 months, there has been more than a 2.4 percent decrease in heavy and civil construction employment over that period of time, which equates to 24,400 construction employees out of work.

An industry survey of the transportation construction businesses indicates that further layoffs are a looming possibility.

Not addressing the Highway Trust Fund revenue shortfall and the potential resulting cut of as much as 32 percent in highway funding would result in further cutbacks in transportation projects and lead to further job losses. While the situation may seem bleak, there is hope. The Senate Finance Committee, as you mentioned, Chairman Backus and Ranking Republican Grassley have developed legislation that allows SAFETEA–LU highway investment commitment to be met.

The Backus-Grassley plan would generate new Highway Account revenues by crediting the account for currently unrealized highway user fee receipts. Furthermore, the legislation is fully offset.

Madam Chairman, failure to address this situation will impede your ability to fully fund the Highway Program in fiscal year 2009. The Transportation Construction Coalition urges this subcommittee's support for the Backus-Grassley proposal and the Transportation Construction Coalition is working diligently to build broadbased congressional support for this measure.

PREPARED STATEMENT

Thank you again for the opportunity to appear before you today and I would be happy to answer any questions that you might have.

[The statement follows:]

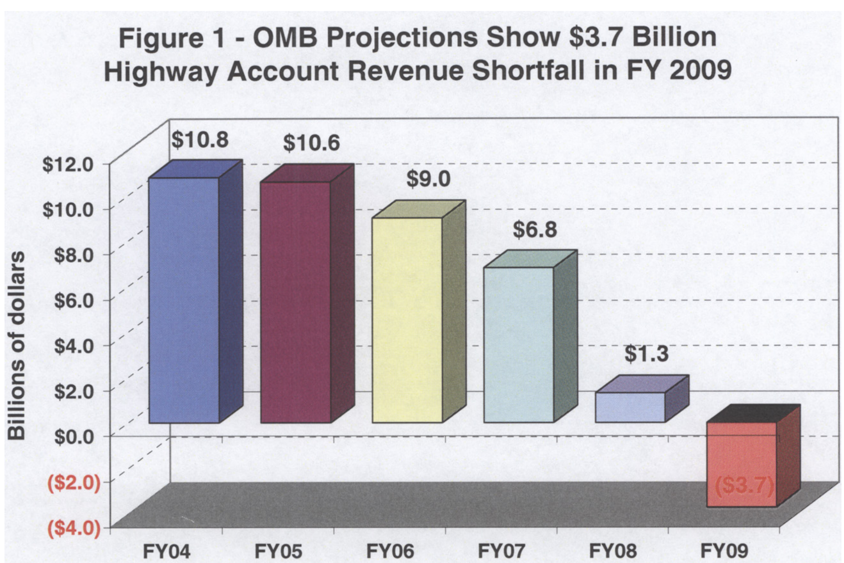
PREPARED STATEMENT OF JOHN MCCASKIE

HIGHWAY TRUST FUND SOLVENCY

Madam Chairman, Senator Bond and members of the subcommittee, thank you for inviting the Transportation Construction Coalition to testify on the financial outlook for the Highway Account of the Highway Trust Fund. What I would like to focus on this morning is how failure to address the projected shortfall of Highway Account revenues could affect Federal highway investment and highway construction in the United States this year and next.

When Congress enacted the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users—or SAFETEA–LU—in August 2005, guaranteed funding for the Federal highway program was set at the highest annual levels for fiscal years 2005 through 2009 that could be supported by projected Highway Account resources. Not only did the bill spend all of the projected revenues into the Highway Account through 2009, it also spent down the accumulated cash balance in the Highway Account, envisioning virtually no cash reserve when SAFETEA–LU expires on September 30, 2009.

Since then, it has become evident that the revenue projections Congress relied on at that time were overly optimistic. Actual Highway Account revenues in fiscal year 2007 were about $300 million less than originally expected and the Treasury now projects about $2.7 billion less Highway Account revenues in fiscal year 2008 and 2009, for a total shortfall of about $3.0 billion. This, combined with higher outlays due to positive RABA adjustments in fiscal year 2007 and 2008 and the extra $1 billion bridge investment in fiscal year 2008, means that outlays from the Highway Account are now projected to exceed revenues by $3.7 billion in fiscal year 2009 if the Federal highway program is fully funded as enacted in SAFETEA–LU, as shown in Figure 1.



The Bush administration has proposed two measures for addressing this shortfall. First, it proposes to limit Federal highway investment in fiscal year 2009 to $39.4 billion rather than the $41.2 billion guaranteed in SAFETEA–LU. Second, it proposes to let the Highway Account borrow the necessary cash from the Mass Transit

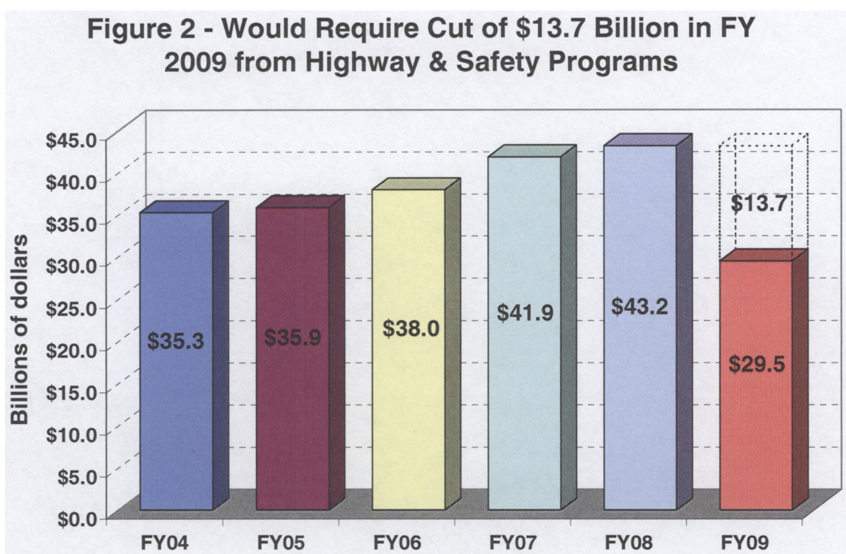
Account, which will continue to show a positive balance through the end of fiscal year 2009.

The administration's proposal is a band-aid. Unfortunately the patient needs surgery. Their plan fails to address the core issue of insufficient Highway Account revenues. The Transportation Construction Coalition opposes it because it perpetuates a zero-sum mentality by transferring resources from one mode of transportation to another. Madame Chairman, the reality is that greater resources are needed for both the highway and public transportation programs.

We are happy to see that both Houses of Congress have passed budget resolutions that assume the full $41.2 billion highway investment guaranteed for fiscal year 2009. But Congress still has to address the pending Highway Account insolvency to assure this recommendation can be realized in this year's appropriations process. Other than borrowing from the Mass Transit Account, there are only three options.

One is to cut highway funding in fiscal year 2009 to an amount that could be supported by existing revenue projections.

Based on the historic spendout of Federal highway funds, the Highway Account could support no more than $29.5 billion of new obligations for the Federal highway and highway safety programs in fiscal year 2009, as shown in Figure 2. This is $13.7 billion less than the amount appropriated in fiscal year 2008. Every State would be hit with a 32 percent cut in Federal highway funds. Washington State, for example, would see its Federal highway funds cut from $573 million in fiscal year 2008 to about $390 million in fiscal year 2009. Dozens of planned highway improvements in the State would have to be postponed or cancelled. Missouri would be hit with a $240 million drop in Federal highway funds, from $762.5 million in fiscal year 2008 to about $518 million in fiscal year 2009. Other States would experience similar cuts.



A second option would be to fully fund the Federal highway program at $41.2 billion in fiscal year 2009 but not add revenues to the Highway Account.

In this case, State departments of transportation (DOTs) could move forward on Federal-aid highway projects, but the Federal Highway Administration would not be able to pay the bills on time. Currently, when a state DOT pays a contractor for work completed on a Federal-aid project, the State invoices the Federal Highway Administration for the Federal share and receives an electronic transfer of funds usually within 24 hours. But when the Highway Account cash balance is exhausted, FHWA can pay bills only as new revenues come in, which means most bills will be days to weeks late.

With the economic downturn eroding State government revenues, many States will have no option but to stop work on highway projects, putting thousands of construction workers out of jobs. The reaction on Wall Street and in international markets when investors in Treasury bonds see a Federal agency failing to pay its bills on time can only be imagined.

Furthermore, an unfunded highway program is a very dangerous and disturbing precedent to set on the eve of a new multi-year reauthorization of the Federal surface transportation program.

Congress has a third option for dealing with the projected Highway Account deficit and that is to inject additional revenues. Senate Finance Committee Chairman Max Baucus and Ranking Republican Charles Grassley made a commitment to you last year to find the necessary revenue to keep the Highway Trust Fund whole for the life of the current authorization. They honored that commitment when the Finance Committee developed a three-part plan—the American Infrastructure Investment and Improvement Act, S. 2345—that would:

—Compensate the Trust Fund for emergency highway spending since 1998;

—Suspend exemptions from the Federal motor fuels taxes for 6 months; and

—Reduce motor fuel tax evasion.

The proposal would generate an estimated $5.1 billion for the Highway Account between now and the end of fiscal year 2009, which would be sufficient to support a $41.2 billion Federal highway investment in fiscal year 2009 as called for in SAFETEA–LU and possibly provide a small cash cushion for the SAFETEA–LU reauthorization process. We strongly support this proposal, even though it is temporary, and urge all Members of Congress to support enactment of the Senate Finance Committee proposal.

The transportation construction industry is concerned we may be facing a "perfect storm" set of conditions that could lead to a substantial downturn in the construction of highways, bridges, transit and other transportation facilities. Dramatic construction material cost inflation has reduced the purchasing power of public works dollars. As a result, fewer contracts are going out to bid which leads to less work for contractors and fewer jobs for their employees. Not addressing the Highway Trust Fund revenue shortage would result in a further cutback in transportation projects. This would heighten the "perfect storm" scenario and have a drastic effect on not only the transportation construction industry but the U.S. economy as well. The construction industry employs more than 7 million people (about 5 percent of total employment) and represents more than $1 trillion annually in economic activity including the purchase of $500 billion in materials and supplies and $36 billion in new equipment. Construction represents over 8 percent of annual U.S. gross domestic product.

While economic data show that public investment in transportation infrastructure has remained relatively stable over the past year, these numbers do not tell the full story. An industry survey of States indicates that many have cut back on the number of highway projects going out to bid in the last year because of the significant increase in highway construction material costs. Economic research shows that the Producer Price Index (PPI) for highway and street construction rose 49 percent from December 2003 to February 2008. This compares to a 15 percent increase in the Consumer Price Index (CPI) over the same period of time. The PPI reflects the dramatic increase in the cost of basic building materials, including: steel, cement, asphalt, aggregate and other materials. Diesel fuel price increases also impact this cost as construction activity is energy intensive.

State and local budgets are also feeling pressure. At the beginning of 2008, 13 States were facing severe budget deficits this year, including multi-billion dollar deficits in: California, New York and New Jersey. Six more States will be facing significant deficits. Local governments, dealing with the ramifications of the housing crisis are cutting budgets all across the country.

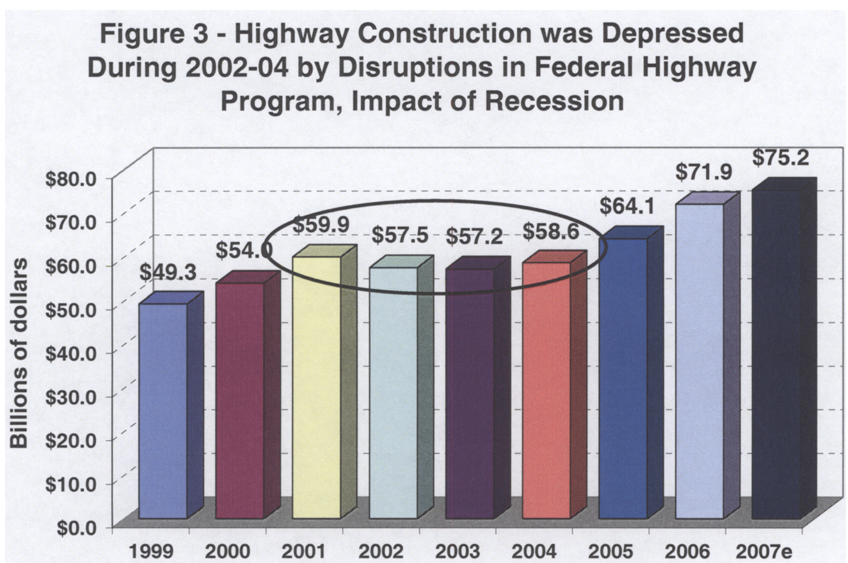
The impact from the cutback in contracts being bid by State DOTs is already being felt. Heavy and civil engineering construction employment peaked in January 2007 and has steadily decreased over the past 14 months. There was more than a 2.4 percent decrease in construction employment over that time period, which equates to 24,400 construction employees now out of work. An industry survey of transportation construction businesses indicates that future lay offs are a very real possibility if States continue to cut back on the number of contracts going out to bid. This worrisome trend should not be allowed to continue. The potential cut of as much as 32 percent in highway program funding in fiscal year 2009 would lead to further job loss only making this situation worse.

The fact that the pending highway trust fund insolvency won't occur until fiscal year 2009 belies the fact that Congress cannot waste time resolving the problem. This has to be addressed quickly or it will have a serious negative impact on highway construction this year, compounding the economic downturn and partially thwarting the recent efforts of Congress to stimulate the economy.

As States face uncertainty about receiving their Federal apportionment, they tend to take a conservative approach and cut back on the number of contracts going out to bid. Since highway and bridge projects take time to plan and construct, a reliable and predictable flow of financing is essential to keep construction plans on schedule. Whenever there is a disruption in Federal financing as often occurs during reauthorization or uncertainty about Federal highway funding as happened in fiscal year 2003, when this committee led the effort to overcome a potential $8.6 billion cut in Federal highway investment—and is facing us again in fiscal year 2009—State DOTs often hold back on starting new projects. They simply cannot afford to commit money they may not receive. And this becomes an even bigger problem when the economy is in a recession and State governments have their own fiscal problems. Uncertainty and disruptions in Federal funding for highway and bridge construction is detrimental to the construction industry and the economy because decisions about investing in equipment and hiring and training employees are deferred. The public also suffers because the long term capital investments funded by these dollars are deferred and therefore transportation improvements that improve safety, ease commutes, and promote economic development are delayed.

The last time we faced a situation of uncertainty about Federal highway investment combined with pending reauthorization and an economic recession was in 2002 and 2003. The combination forced many States to cut back on highway construction. As Figure 3 shows, the value of construction work put in place on the Nation's highways and bridges actually fell in 2002 and remained flat until 2005. The same forces are at work today, and there is the distinct possibility of a similar downturn in the 2008 construction season.

With the economy facing a possible recession and Congress committing $160 billion in tax rebates and incentives to stimulate the economy, it makes no sense to worsen the economic situation by putting thousands of highway construction workers out of jobs this summer.



Madam Chairman, we appreciate the efforts of this subcommittee to draw attention to this critical issue during last year's appropriations process. We recognize that failure to address this situation as soon as possible will impede your ability to fully fund the highway program as you move forward with the fiscal year 2009 transportation appropriations bill. In this regard, we hope all members of this subcommittee will support the proposal developed by Senators Baucus and Grassley to ensure the highway investment commitment made in SAFETEA–LU for fiscal year 2009 becomes a reality. Rest assured that the Transportation Construction Coalition is working diligently to urge all Members of Congress to resolve this issue.

Thank you very much for the invitation to testify and I am happy to respond to questions.

Senator MURRAY. Thank you very much. Mr. Millar, if you would speak to us? The President of the American Public Transportation Association.

STATEMENT OF WILLIAM W. MILLAR, PRESIDENT, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

Mr. MILLAR. Thank you, Madam Chair, and thank all the members of the committee for the invitation to be with you.

Before I address the Highway Trust Fund, let me just second something you said in your opening statement, Madam Chair.

We believe that an economic fiscal package needs to include public transit and highway construction. Our own members have said they have some $3.6 billion worth of ready-to-go projects that could mean thousands of jobs for Americans. We would strongly support that. So, thank you very much.

As you all know, the Highway Trust Fund was created in 1956. It was created primarily to provide a reliable and adequate source of funds to build the Nation's interstate highway system.

In 1982, the Congress amended that Trust Fund and President Reagan signed into law a bill that would allow a portion of the funds to provide funding for public transportation projects as well.

The Highway Trust Fund has worked well. It has provided a reliable and predictable funding mechanism both for highways and for public transportation. It has been phenomenally successful and therefore we must find ways to save it.

Now over the years, the Congress had periodically approved modest increases in the user fees to fund increases in the Trust Fund. Unfortunately, the Congress has not made such an approval since 1993. As a result, and I completely agree with Mr. McCaskie's statements there, the pure inflation as well as the growing needs of our country has meant there simply is not enough money for public transit or highway construction.

As things stand now, the Fund is scheduled to run—the Highway Account is scheduled to run out of money next year, fiscal year 2009, followed by the Transit Account shortly thereafter. Therefore, there isn't a lot of time here. The Congress must fix these problems.

If there's any doubt about it, only look at the collapse of the I–35 bridge in Minnesota and then all the subsequent work that was done to identify deficient transportation facilities throughout the country. We're behind in what we should be investing in and as the National Surface Transportation Policy and Revenue Study Commission pointed out, the importance of having a good transportation system because it is fundamental to the growth of our economy, to the ability of our Nation to meet its people's needs, to provide jobs and to provide for the kind of life that all Americans want to have.

We certainly agree with that Commission's recommendation that the Highway User Fee must be immediately raised to restore purchasing power and to allow growth in highway and transit investment.

For fiscal year 2009, we ask you to act quickly. We should not accept the administration's proposal. We should reject the administration's proposal. It makes no sense, as they say, to rob Peter to pay Paul. Both highway investment is important, public transit investment is important, and we need to make sure there's adequate funding for both.

We do think that a temporary fix needs to be put in place for 2009. We strongly support the work of the Finance Committee and its leadership to try to identify a temporary fix. All of us know it's only temporary and that by the next year, when SAFETEA–LU is scheduled to be reauthorized, a long-term and permanent fix will be necessary here.

I think it's important to point out that many associations have come to agreement on this, besides my own APTA that deals primarily in transit. Certainly the American Association of State Highway and Transportation Officials, AASHTO, which deals with all modes of transportation, the U.S. Chamber of Commerce, Americans for Transportation Mobility, the American Road and Transportation Builders Association, ARTBA, the Associated General Contractors, AGC, to name just a few, have come together in common interests and belief in this, and we strongly urge you to work with the Finance Committee to find a temporary fix, reject the administration's proposal. It would not be appropriate. Then, finally, we need to work together on a long-term fix.

PREPARED STATEMENT

So, in my remaining few seconds here, let me also say that we certainly hope the subcommittee will work to restore the proposed Bush administration cut in the Transit Program. We need to make sure that the levels that the Congress set in SAFETEA–LU are met and again we would ask you to reject the administration's proposal.

Thank you, Madam Chair. I'd be happy to answer any questions you might have.

[The statement follows:]

PREPARED STATEMENT OF WILLIAM W. MILLAR

INTRODUCTION

Chairman Murray, Ranking Member Bond and members of the subcommittee, I thank you for the opportunity to testify today on behalf of the American Public Transportation Association (APTA), to provide the perspective of the public transportation industry on the status of the highway trust fund. My name is Bill Millar, and I am the President of APTA.

ABOUT APTA

APTA is a nonprofit international association of more than 1,500 public and private member organizations, including transit systems and commuter rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and State departments of transportation. APTA members serve the public interest by providing safe, efficient, and economical transit services and products. More than 90 percent of the people using public transportation in the United States and Canada are served by APTA member systems.

THE STATUS OF THE HIGHWAY TRUST FUND

Madam Chairman, the Highway Trust Fund was created by Congress in 1956 to provide a dedicated revenue source for the Federal Government to build the interstate highway system. In 1982 Congress enacted legislation that was singed into law by President Reagan that created the mass transit account of the highway trust fund, which provides a dedicated source of revenue for public transportation. Funded primarily by the motor fuels user fee, the trust fund has provided a steady stream of revenue to fund critical capital surface transportation projects in America for more than five decades.

The Federal gas tax is currently set at 18.4 cents per gallon, and of that, 2.86 cents is dedicated to the mass transit account. The mass transit account of the highway trust fund has served as a dependable funding source for the Federal transit program for over 25 years. Revenues generated from the highway user fee have allowed for a steady growth in Federal capital investment in public transportation. Currently, approximately 80 percent of the Federal dollars invested in public transportation come directly from the trust fund. This reliable funding mechanism has provided predictable and guaranteed investment in transit, allowing for not only large scale capital transit projects throughout the country, but also important smaller scale transit investments.

Unfortunately, the future of the highway trust fund is in jeopardy. Receipts from the highway user fee are not generating sufficient revenue to sustain the current level of Federal investment in the surface transportation program. While Congress has periodically approved modest increases for Federal investment in surface transportation, it has not approved an increase in the user fee since 1993. Recent Congressional Budget Office projections show that by the end of fiscal year 2009, without intervening action by Congress, the highway account of the trust fund will no longer be solvent. Those same projections show that the mass transit account will be insolvent by fiscal year 2012. Without sufficient revenues in the trust fund, Congress will not be able to continue to sustain current levels of Federal investment in surface transportation, and insolvency will make future growth in the Federal program impossible. This is bad news at a time where increased investment in our Nation's transportation infrastructure is critical. One only needs to look at the collapse of the 1–35 bridge in Minnesota to realize the importance of maintaining and growing Federal investment in the surface transportation program.

In its recent report on the status of the surface transportation program in America, the National Surface Transportation Policy and Revenue Study Commission noted that a good transportation infrastructure is essential to the Nation's economic health, and we need to invest more to both preserve the current aging system and to expand and improve our transportation infrastructure to meet the demands of our growing population. The report recommends that an immediate increase in the highway user fee is necessary to restore the purchasing power of the trust fund, and it should be indexed to account for future inflation. APTA agrees with those conclusions, and calls on Congress to make the necessary increase as it considers the next surface transportation authorization legislation next year.

Since there has been no increase in the motor fuel tax since 1993, inflation has steadily eroded the purchasing power of the highway trust fund. In addition, recent studies by the U.S. Department of Transportation on price trends for construction show that increases in construction costs have outpaced inflation, further weakening the ability of the trust fund to meet investment needs. The original purchasing power of the gas tax must be restored to allow for growth in the Federal investment in our Nation's surface transportation infrastructure.

SHORT TERM SOLUTIONS

While Congress will have the opportunity to address the long term stability of the trust fund in the next authorization bill, more immediate action is needed to prevent the insolvency of the highway account in fiscal year 2009. A short term solution is to ensure that revenues are available for Congress to appropriate the guaranteed and authorized levels in SAFETEA–LU for the highway program. APTA supports full funding of the highway program in fiscal year 2009, but we strongly oppose the administration's short sighted proposal to raid the mass transit account to cover the short fall.

The President's budget, released in early February, proposes to allow transfers of balances in the mass transit account into the highway account to cover projected short falls that occur before the end of fiscal year 2009. The administration estimates that this will result in a transfer of up to $3.2 billion out of the mass transit account. As I wrote to this subcommittee a month ago, we urge Congress to reject the administration's proposal. Concern over the projected insolvency of the highway account does not justify the proposed transfer. Not only is this a temporary fix for the highway account, but it jeopardizes public transportation investment by hastening the insolvency of the mass transit account. Absent new revenues for transit, this would preclude funding the transit program at even current levels by fiscal year 2010. The tens of millions of Americans who depend on public transportation should not be penalized, especially when there are other alternatives to meeting highway funding needs in fiscal year 2009. While it is important to fix the Federal highway account, robbing Peter to pay Paul is not the way to go. The President's short-sighted transportation policy "fix" is irresponsible and flies in the face of common sense. With more than 10 billion trips taken on public transportation annually, public transportation's growth rate outpaced the growth rate of the population and the growth rate of vehicle miles traveled on our Nation's roads over the past 12 years. This irresponsible proposal has also been opposed by American Association of State Highway Transportation Officials (AASHTO), the U.S. Chamber of Commerce's Americans for Transportation Mobility (ATM), the American Road and Transportation Builders Association (ARTBA), and the Association of General Contractors (AGC), to name only a few.

The Senate Finance Committee has proposed legislation that would prevent the insolvency of the highway account in fiscal year 2009, without borrowing funds from the mass transit account. APTA supports this proposal and we urge Congress to adopt it as soon as possible.

FISCAL YEAR 2009 TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS BILL

I also want to take this opportunity to comment briefly on the President's funding request for public transportation in fiscal year 2009. APTA is disappointed that the Bush administration's budget request would fund Federal transit programs in fiscal year 2009 at $202.1 million less than the levels authorized and guaranteed in SAFETEA–LU. As your subcommittee works to adopt the fiscal year 2009 Transportation and Housing and Urban Development Appropriations bill, we urge you to reject this proposed cut and to provide full funding for the pubic transportation program at $10.3 billion, as authorized in SAFETEA–LU. The $10.1 billion the president proposes for public transportation does not come close to addressing current transit capital needs, let alone the costs of a growing public transit system that meets growing demands for more public transportation. Ironically, failure to adequately fund the Federal transit program will push more public transportation riders onto already congested roads making matters worse for road users.

Adequately funding public transportation is an important action that benefits all Americans and meets many of our Nation's national priorities. Public transportation helps Americans save money and is a key strategy in helping conserve energy, minimize climate change and reduce highway congestion. A household that uses public transportation saves more than $6,200 every year, compared to a household with no access to public transportation. This amount is more than the average household pays for food each year. Using public transportation is also one of the quickest ways that people can help our country become energy independent since using public transit saves 4.26 billion gallons of gasoline every year (the equivalent of 324 million cars filling up or almost 900,000 gallons per day). Using public transportation is also more effective at reducing greenhouse gases than environmentally friendly household activities which everyone should do, such as home weatherizing, changing to efficient light bulbs, and using efficient appliances.

The Bus and Bus Facilities Program and Urban Congestion Initiative

I would also like to express my gratitude to this subcommittee for including a provision in the Fiscal Year 2008 Omnibus Appropriations bill that limits the Federal Transit Administration (FTA) from spending more than 10 percent of Bus and Bus Facilities Program funds on congestion pricing initiatives. We urge the subcommittee to continue to protect these funds by adopting a similar provision in the fiscal year 2009 THUD bill. As you know, in fiscal year 2007, Congress did not allocate Bus and Bus Facilities Program funds, and instead gave the funds to the FTA to distribute to transit agencies to address capital needs. We were disappointed that the U.S. Department of Transportation (U.S. DOT) decided to allocate virtually all of these funds to its Urban Partnership Congestion Initiative (UPCI). While members of APTA recognize the potential benefits of projects funded under the UPCI, we do not believe that these projects should be funded at the expense of much needed capital investment for buses and bus facilities across the Nation. Numerous transit systems, both large and small, depend on this Federal capital assistance to replace aging buses, expand bus fleets to meet growing service demands, and address needs for vehicle maintenance and fueling facilities.

New Starts Rule

We also appreciate the subcommittee's inclusion of language in the Fiscal Year 2008 Omnibus Appropriations bill that from prohibits the FTA from finalizing its Notice of Proposed Rulemaking (NPRM) for the New Starts and Small Starts program. Simply put, the NPRM is unacceptable to the transit industry, and does not sufficiently follow guidance provided by SAFETEA–LU. For example, the proposed rule does not sufficiently consider the benefits of economic development and land use criteria in its project approval rating process, and does not effectively simplify the Small Starts approval process. The provision adopted by Congress to prevent FTA from finalizing this NPRM expires at the end of the fiscal year on September 30, and we urge the subcommittee to extend the prohibition prior to its expiration.

CONCLUSION

I thank the subcommittee for allowing me to share my views on the status of the highway trust fund and fiscal year 2009 transit appropriations issues. We look forward to working with the subcommittee to take necessary steps to ensure the future solvency of the trust fund, so that we can meet the investment needs of our surface transportation system. We urge Congress to reject the administration's short-sighted proposal to raid the mass transit account of the highway trust fund to cover the projected short-fall in the highway account in fiscal year 2009, and instead urge this subcommittee to support the common sense proposal to solve this problem that is being advanced by the Senate Finance Committee. Finally, we urge the subcommittee to fully fund the transit program in fiscal year 2009 at the level authorized and guaranteed in SAFETEA–LU, and to renew provisions that ensure that transit funds are spent in accordance with the authorizing statutes.

FEDERAL HIGHWAY BUDGET REQUEST

Senator MURRAY. Thank you very much. Administrator Ray, I'm going to start with you. Your budget proposal would make dramatic cuts to the Highway Program. Your request is $1.8 billion less than the level we appropriated for this current year.

Using the most recent information on the impact of highway funding on the economy, this cut to the Highway Program represents a potential loss of over 54,000 well-paying jobs and almost $2 billion of employment income. You know, few areas in our economy have deteriorated as badly as employment in the construction sector.

So, given the state of the economy, is this the right time to cut back on infrastructure investments and worsen the job losses in our construction sector?

Mr. RAY. Madam Chairman, thank you for the question. First and foremost, let me say that we're, of course, very concerned about the economy at the Department of Transportation. We recognize that transportation in America is really the life blood of the American economy, but let me say that the numbers, the $1.8 billion reduction that you're talking about is an effort to bring spending in line with the agreement made between the administration and the Congress in the original SAFETEA–LU agreement. Of that amount, $1 billion is the negative RABA adjustment and the rest of it a step to bring spending in line with SAFETEA–LU figures.

The true point of your question is, is this the appropriate time to be cutting spending like that, considering the jobs? Let me suggest that all of our estimates with regard to spending a billion dollars of Federal funding plus the 20 percent State match supports 34,700 jobs. These are jobs that are sustained by current funding levels. They are not jobs that are created by funding levels and I think that's an important distinction to make.

The other thing that is important to note about transportation spending is that approximately only one-third of the jobs created for every $1.25 billion, again that's the Federal and the State investment into the transportation marketplace, are actually construction-related jobs. The others are more downstream.

Senator MURRAY. Well, I want Mr. McCaskie to comment on that, but first, you claim your budget's just following SAFETEA–LU, but in reality, your budget proposals over the last couple years have sometimes honored the SAFETEA–LU law and sometimes ignored it.

This year, more than half of the cuts you propose to take out of the Highway Program is due to the revenue aligned budget authority adjustment that's called for in SAFETEA–LU. That provision adjusts highway funding up or down based on projections of revenue to the Highway Trust Fund.

REVENUE ALIGNED BUDGET AUTHORITY

Last year, you asked this subcommittee to eliminate Revenue Aligned Budget Authority (RABA) adjustment because it would trigger increased highway spending. This year, you want us to fully honor the RABA adjustment because it would cut highway funding.

So, explain the discrepancy.

Mr. RAY. Madam Chairman, I appreciate the comment, and it seems to be a particular note of interest. Of course, I'm sure you know that my predecessor, Administrator Capya, was in this position at the time. We'd be happy to respond on the record for that.

Senator MURRAY. Do you have different philosophies?

Mr. RAY. It would be premature for me to say. I don't know the specifics of what occurred last year. So again, I'd be happy to respond on the record, but I don't have that information in front of me at this time.

Senator MURRAY. Were you at the agency last year?

Mr. RAY. I was.

Senator MURRAY. Were you in any discussions about this?

Mr. RAY. I was not. I was in the role of Chief Counsel last year, but again I would be happy to work with your staff, respond on the record and get you a full answer on that in the days and weeks to come.

[The information follows:]

In preparing its fiscal year 2008 budget, the administration considered the projected shortfall in the Highway Account of the Highway Trust Fund and determined that it would be prudent to begin to address it in fiscal year 2008, and to not increase the discretionary Federal-aid highway obligation limitation for RABA in fiscal year 2008. The requested level would have been more effective in avoiding a cash shortfall during the SAFETEA–LU authorization period than waiting until fiscal year 2009 to control spending. Outlays from the Federal-aid highway program take place over a number of years, with the highest outlays in the second year (the year after an obligation is made).

Again mindful of the projected Highway Trust Fund shortfall, the President's fiscal year 2009 budget proposes a $1.8 billion reduction to the fiscal year 2009 Federal-aid highway obligation limitation that incorporates the negative $1 billion RABA calculation authorized in SAFETEA–LU.

Senator MURRAY. Okay, interesting. All right, Mr. McCaskie, do you want to comment on the economy and jobs impact of transportation funding?

Mr. MCCASKIE. I really don't view the Highway Trust Fund as strictly a jobs situation. Yes, it employs a lot of people, but my focus is on the condition of the highways because what we are working on out there today is strictly catch-up maintenance and we don't have enough people to do it or enough money to keep even, but to cut highway funding, irrespective of employment, is ludicrous.

I heard about Minneapolis. I think we all should feel that we were extremely fortunate that Minneapolis was not much worse and you say, well, we lost lives and so forth. I would repeat, we were very fortunate.

In Pennsylvania, we have a bridge problem that some advertise as the worst of any of the States. I think we have competition. The problems that have developed lately, i.e., the closing of I–95 for a couple of days to put some shoring under it, the closing of the Birmingham Bridge in Pittsburgh, these are just indications of the deterioration.

We bought an interstate system, a wonderful purchase, but it's bordering on 50 years old and just like the 20-year roof on your house, it needs repairs.

Thank you.

TRANSIT REQUEST BELOW SAFETEA–LU

Senator MURRAY. Thank you. Let me go back to SAFETEA–LU one more time. Administrator Simpson, you request an increase in funding for the Transit Administration over last year's level, but you still don't request the $200 million in funds that were authorized by SAFETEA–LU.

Why does the Transit budget ignore the SAFETEA–LU law?

Mr. SIMPSON. Well, I wouldn't say that we're ignoring it. The shortfall, as you might call it, of $202 million, $188 million of which is from the New Starts Program, and the need wasn't there. We looked at all the projects that we had in the pipeline and the flow charts of demand for each project over each fiscal year. Then we prepared the budget to meet the need 100 percent. There's not one project that we're not funding.

Had we other projects that were ready to go, we would have asked for more money. So, we took a needs-based approach and did not request the remaining portion of the authority, I would hope that you would call that good government because while my colleague to the left wants the full amount of SAFETEA–LU, I'm sure he's also happy that we're trying to be good caretakers——

Senator MURRAY. Well, I'd like to ask Mr. Millar where the needs are there. You just heard——

Mr. SIMPSON. Well, I'd like to finish my answer.

Senator MURRAY. Quickly, if you would.

Mr. SIMPSON. Yes, because the other part of it was discretionary administrative funding. We held the line on administrative expenses and we also reduced our discretionary research a bit because we took a hard look at the research and, like Senator Allard said, we looked for outcomes-based solutions. We weren't satisfied with a lot of the outcomes that we had in research, so we thought we'd hold back a little bit on research and administrative expenses and try to do more with less. But we fully fund the Formula Programs and we're fully funding every New Starts/Small Starts project in the pipeline.

Senator MURRAY. Well, Mr. Millar, Mr. Simpson just testified that many of those New Start Programs were not ready to go. What is your information on that?

Mr. MILLAR. My information is that there are projects across the country that could use additional funding, that there are bus fleets that need to be replaced, that over the years what this administration has done is squeezed the pipeline. They have caused projects to be removed from that pipeline, so there are many fewer projects in the pipeline today.

Just because a project goes outside the Federal pipeline doesn't mean the need isn't there. In fact, we're seeing unprecedented in modern times the number of projects that are moving forward outside the Federal process. It used to take 5 years to get through that process. It now takes 10 years. There are many reasons for that. Not all of them can be laid at the feet of the Federal Transit Administration, but it is a broken, flawed process, and as a result, it needs to be fixed, and it's our hope to work with the Congress to make sure that we can move good projects along that will improve transit for Americans.

At this time, with high gas prices, with the increasing concern about global warming and climate change, Americans need choice. That's what transit gives them.

Senator MURRAY. Okay. And my time is up. I will turn it over to Senator Bond.

Senator BOND. Thank you very much, Madam Chair. Mr. Ray, I don't want to influence the outcome of your review of RABA but a little historical fact you may not be aware of.

RABA is in the law because of the Chafee-Bond proposal in T21, now known as the Bond-Chafee proposals. So just keep that in mind when you're looking at RABA, if you would.

Mr. McCaskie, I would say that Missouri may rival you in bridge needs. We are now down to a maintenance-only status in Missouri. So, we are up against the wall.

DULLES CORRIDOR METRORAIL PROJECT

But I want to address a very difficult question to Mr. Simpson. You are faced with tremendous popular pull and appeal in the Beltway for the Dulles Rail Project. On the other hand, you have a responsibility to the taxpayers in Washington, Missouri, and the rest of the Nation to spend the money wisely, and I would like to know how the process, the review is proceeding, when it will be completed. It continues month after month, and it's my understanding that if these funds lapse, they're 2-year funds, there will be—could be significant funds, and I would be interested in knowing how you would handle the reprogramming should the decision be made not to go forward.

Mr. SIMPSON. The Dulles Project has been getting a lot of attention, as you know, in the local area, more than we'd care to read about, but in a nutshell, we are the last firewall, the Federal Transit Administration, for the taxpayer's dollar.

This is a mega project. The first phase is $3 billion. The second phase is $3 billion. That's $6 billion and that's before you turn the key and start to operate the system. So, we want to make sure before we make that kind of a commitment over a 10- or 20-year period that the taxpayer is getting the best bang for the dollar.

We have numerous concerns, probably too many to enumerate right now, but it's been part of the public record that we've been working with the folks in Virginia, the Governor's office and the congressional delegation. I was pressed by the Commonwealth of Virginia and by the Metropolitan Washington Airports Authority (MWAA) to give them an answer by January 31, because of contracts that they had ready to proceed.

When we looked at that project, I guess it was January 23, there was no way that I in good conscience could move that project forward, given the complexities of the project, given the unanswered questions, and also given the state of good repair of the WMATA system.

It's like building a 25 percent addition on to your home. The other witness talked about the house analogy. Let's say you've got the roof collapsing and, you've got shorts in the electrical system and you've got water in the basement and you come to the bank, that is the FTA, and you're looking for a loan to put this 25 percent addition on to your house. You've got to stop and wonder, hey, wait a minute, what's going on here?

So, we're in the process of working with the Commonwealth, with WMATA, with MWAA and all the other stakeholders to try and get the wheels back on the track to Dulles.

Senator BOND. If the funds were to lapse, how would they be reprogrammed?

Mr. SIMPSON. Are you talking about the funds that have already been committed to the project? It's about a $180 million left.

Senator BOND. Well, actually, there would be—there could be. There was a tremendous impact. Would there be unspent funds from the 180 or has that already been blown?

Mr. SIMPSON. No.

Senator BOND. Spent?

Mr. SIMPSON. The total Federal share is about $900 million and approximately $200 million have been committed. About $153 million is still unobligated. I guess you'd have to ask the congressional delegation what they would like to do with that. I don't know, but I'll tell you the rest of that pot, that $750 and some odd million would be up for grabs for another project.

URBAN PARTNERSHIP AGREEMENTS

Senator BOND. Okay. Now let me ask you something on which I have a rather strong opinion. You may have read about it some place.

I'd like to ask you about the use of the 2007 bus facility money, some $844 million, for five communities or urban partners to "incentivize" the city councils and the State legislatures to impose tolls and also we in Congress are owed a 3-day notice after the terms have been met before grants are announced and I heard the Secretary may be preparing to announce a major grant to one city before the tolls have been implemented, and I'd like to know how that works.

Mr. SIMPSON. The Federal Transit Administration will follow SAFETEA–LU to the letter of the law. We will give the three-day notification before we at FTA make any sort of announcement. I'm sure the Department will as well.

Senator BOND. And does that not require that the tolls be implemented before they grant the money?

Mr. SIMPSON. That was a departmentwide initiative. Since I'm on the transit side, I'm going to tell you what I've heard. The cities have to have the legislative authority. They need not have the toll booth up and running, but they have to have the legislative authority. Right now, I believe Miami and San Francisco are the only two cities right now that have the legislative authority to move forward.

Senator BOND. Well, that's because we heard rumors there was going to be an announcement of another city before they had the legislative authority, and I'm glad you agree with us.

Mr. SIMPSON. What city would that be?

Senator BOND. New York.

Mr. SIMPSON. New York?

Senator BOND. Yes.

Mr. SIMPSON. I believe the deadline is April 7, on New York to get their State legislation to vote. It's in the hands of the State. The city council passed the resolution, I think it was on Monday, and the State needs to vote before April 7.

Senator BOND. And if they don't vote, no announcement, if they don't approve it.

Mr. SIMPSON. That's correct.

Senator BOND. Okay. I want to ask just quickly to Mr. Ray. I have mentioned in the previous hearing, I'd asked Secretary Peters about the rescission. SAFETEA requires an $8.5 billion rescission on September 30, 2009.

EXCESS CONTRACT AUTHORITY

How much contract authority would be available for future rescissions if we were to include the $3.89 billion that is in your budget, along with the $8.5 billion rescission called for in SAFETEA?

Mr. RAY. Senator Bond, that's a good question. I'm not surprised that you asked it and actually did a little bit of homework in advance of this hearing to look into it.

It is a fluid number, of course, it moves. So, it's based completely on our estimates, but we believe there would be approximately $5 billion in contract authority still available in excess of the obligation amount that we would have available to us at the end of that time period.

Senator BOND. There would be $5 billion on top of that?

Mr. RAY. Approximately $5 billion on top of that.

Senator BOND. We'd be interested to see the numbers. Thank you, Madam Chair.

[The information follows:]

The Federal-aid highway program currently has $16.8 billion in excess contract authority. Under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), $8.7 billion in contract authority will be rescinded in fiscal year 2009. If Congress were to also enact the $3.2 billion in rescissions proposed in the fiscal year 2009 President's budget request, approximately $5 billion in excess contract authority would remain at the end of the current authorization.

REIMBURSEMENTS WHEN SHORTFALL

Senator MURRAY. Thank you, Senator Bond. Administrator Ray, let me go back to you.

As much as we all want to prevent the Highway Trust Fund from going bankrupt, I think it's still important that we all understand what might happen if that Trust Fund's balance is depleted.

Because the Highway Program operates on a reimbursable basis, by the time States apply for funding from the Highway Trust Fund, they've already spent their own funds completing projects that they know are going to be eligible for Federal assistance.

If the Trust Fund were to go bankrupt, States may find that the money isn't there when they ask for reimbursement from the Federal Government. How would you decide which States get reimbursed first?

Mr. RAY. Well, that's an interesting question, Madam Chair, and I appreciate it. It's something that we're looking at right now and, as you already mentioned, we don't have the authority to slow down or stop obligations. We will continue business as normal. But bankrupt may not be the most appropriate word—perhaps shortfalls is more accurate.

As you know, we get receipts from the Treasury into the Highway Trust Fund twice a month, with the exception of October, in which one deposit is made. Right now States can get their reimbursements almost instantaneously.

Senator MURRAY. Correct.

Mr. RAY. What will happen is that we will experience fits and starts, and so there could be a tremendous slowdown. We have not actually decided what framework we would use.

Senator MURRAY. Are you looking at establishing criteria? Will it be a first come/first serve basis?

Mr. RAY. We are looking into that issue now. We've not decided. First come/first serve is certainly one potential approach and we'd be happy to work with you in terms of how we're going to do that, but we have not decided that framework yet.

Senator MURRAY. What do you mean when you say fits and starts in terms of reimbursement? Couple days? Few weeks? Months? What?

Mr. RAY. We're estimating a $3.2 billion shortfall and that is if Congress gives us the flexibility to borrow from the Mass Transit Account. That's not going to occur in any 1 day. It will build up over time.

So, in the early days, certainly there will be a gap, possibly until the next receipts come in 2 weeks later or potentially sooner than that. As that balance builds up, the length of time will extend.

Senator MURRAY. Are you beginning to talk to States about that possibility? Are you giving them any advice on managing their funds?

Mr. RAY. Those conversations are just beginning, are underway. In fact, I had one just last week with the Nevada DOT and so those conversations are beginning.

Senator MURRAY. Mr. McCaskie, in your formal testimony, you say that "economic pressures have already forced States to slow down their bids for contracts so that the impact is really being felt across the industry," and you testified that "States become even more conservative when they feel uncertain about their highway grants."

Have you started to see evidence of that at your own company?

Mr. McCASKIE. I cannot say that in Pennsylvania, which is where Swank primarily operates, that we have seen a cutback in highway spending at this point. However, going down the road, there's a stonewall.

We face the same problem on State funding. We're right at the edge. The Department of Transportation in Pennsylvania is doing everything they possibly can with the money available to maintain the roads. There is no expansion whatsoever with the exception of the Pennsylvania Turnpike which is a separate authority.

There's concern that—for instance, there is a lot of work being done and the Department is asking contractors now can you handle this and I've heard contractors say yes, we can handle it. Well, you better build up; we're going to have more work. They say no, we are not building up because we have had promises in the past too many times.

The stability of funding is paramount. If a firm or an individual is going to invest in equipment and develop people, employ people, he has to have a long-range steady program that he can depend upon and a lot of firms in the highway construction industry are strictly in the highway construction industry. They aren't into what's known as vertical construction. They're heavy and highway contractors.

TRANSIT ACCOUNT REPAYABLE ADVANCE

Senator MURRAY. Thank you for that. Mr. Simpson, let me ask you. The administration is asking this subcommittee to include language in our appropriations bill that would allow the Highway Account of the Trust Fund to borrow from the Transit Account.

Even with the President's proposed cut in highway spending, OMB is still estimating that the Transit Account would have to borrow $3.2 billion from the Highway Account just to get through the year.

Based on the President's anticipated levels of highway and transit spending in our future years, is there any reason to believe that this Transit Account would ever be repaid?

Mr. SIMPSON. I think the first answer is that we look at the Highway Trust Fund as one entity, not as the Highway and Mass Transit Account, and we know that the Transit Account would probably go bankrupt as well around 2011 or 2012. One of the concerns I had as the Federal Transit Administrator is that if we left that shortfall in the Highway side, that about $1 billion a year in CMAQ and STP flexed from Highway into the Transit Account. So, the concern that I had personally as the FTA Administrator, is that's 10 percent of the Transit Program. We've got about $10 billion in our own budget, plus another $1 billion is flexed from Highway. So that was an immediate concern.

Second, we look at this as more of a mobility problem, one problem that the entire Surface Transportation Program has, not Highways versus Transit. When we talked about this as far as our Department is concerned and the administration is concerned, this was the best fix for now. For the long term, we are looking to the reauthorization.

Senator MURRAY. Okay. I'm certain we'll have more discussions about this. So, let me ask you one more question and then I'll turn it over to Senator Bond for his questions.

CHARTER BUS RULE

Your agency, Mr. Simpson, has a new rule that is supposed to come into effect at the end of April that restricts special bus services that can be run by publicly-subsidized transit agencies.

In Seattle, our city and our transit agency have made a commitment to minimizing congestion during our Seattle Mariner games and our University of Washington football games by running free buses from all parts of the city to the ballparks. That service, by the way, has made a huge difference in our city, it keeps the city out of gridlock. However, there's concern, I am told, that this new rule could cause part of that service to be canceled.

Can you explain to me why you are working on a rule that would really worsen the congestion problem in Seattle and probably other cities?

Mr. SIMPSON. Madam Chair, are you talking about the new charter rule that went into effect?

Senator MURRAY. Correct, yes.

Mr. SIMPSON. It's one of the few rules that both the public and the privates are happy about, actually. That's been in print. I don't know the specifics on the Seattle situation, but I'd be more than willing to work with staff when we finish here.

Senator MURRAY. Okay.

Mr. SIMPSON. People are still digesting the rule. It was just published. As a matter of fact, Bill Millar and I spoke earlier. There's a lot of confusion about the rule because it is complex.

Senator MURRAY. Mr. Millar, have you heard similar concerns?

Mr. MILLAR. Yes, there are concerns around the country that what used to be classified as public transportation service is now classified as charter service and so we have asked the Federal Transit Administration to work carefully with us to make sure our members understand how to comply with the new rule and understand the best way to handle these situations.

Mr. SIMPSON. Since I worked on the rule myself, I know it is very complex. But, there are opportunities now that the public agencies never had before in order to provide charter service, particularly for government officials on official business.

Senator MURRAY. Well, this program, in our city, makes a huge, huge difference, and so I would like my staff to work with you on this issue.

Mr. SIMPSON. We will work with your staff today on it. If they will call us any time after 12 o'clock today, we'll get with them.

Senator MURRAY. So will everybody else now.

Mr. SIMPSON. That's all right.

Senator MURRAY. Okay. Thank you very much. Senator Bond.

Senator BOND. Thank you very much, Madam Chair. I think you've asked the most important questions. There are many questions remaining, but I believe we have significant questions for our friends to speak about Amtrak. So, I will pass on further questions and thank the witnesses for their participation.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. Thank you very much to all of our witnesses. We will leave the record open for additional questions for members who couldn't be here today. Thank you very much, with that, if our next panel could come up and be seated.

[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. JAMES S. SIMPSON

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

APPROPRIATE BALANCE FOR THE HIGHWAY TRUST FUND

Question. As we talk about what needs to be done to fix the Highway Trust Fund, we need a better understanding of what level of balances would provide an adequate safety net for the Highway Trust Fund.

Administrator Simpson, as I have mentioned in the hearing, the transit account of the Highway Trust Fund is also in a precarious situation. Even without the borrowing authority requested by the administration, the transit account is expected to go bankrupt over the next few years.

What are your thoughts on the appropriate balance of the transit account?

Answer. The appropriate balance in the Mass Transit Account depends on many different factors, including forecasts of future revenue and anticipated Federal funding for transit. One of the goals in the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU) was to spend down the balances in the Highway Trust Fund and Mass Transit Account. SAFETEA–LU also restructured Federal Transit Administration programs to eliminate split funded (trust fund and general fund) accounts, so that outlays from the MTA are not premature.

Going forward and in general, projected spending levels should not exceed projected receipts. A prudent balance in the MTA would fund annual Federal Transit Administration programs over the course of the next authorization, based on projected receipt levels, with a sufficient cushion to keep the account solvent if receipts are below projected amounts.

FEDERAL TRANSPORTATION OVERSIGHT

Question. This administration claims that the Federal Government should play a reduced role in infrastructure investment. Given that most Federal oversight is accomplished by requiring States to meet certain standards in order to receive their highway grants, I would like to know what reducing the Federal role means for continuing any kind of meaningful oversight.

Recent GAO reports have indicated that there is already a lot of room for the Federal Government to improve its oversight over our highway system. Your agency currently has only a limited ability to ensure that projects are completed efficiently, Federal dollars are invested in projects with the greatest benefit, and complex projects are built safely.

According to one GAO report, State departments of transportation are increasingly using contractors to carry out what had been primarily government jobs, such as engineering, inspection, and quality assurance. As a result, staffs at the State level are finding it difficult to oversee a growing number of projects, and they are losing their in-house expertise.

Administrator Simpson, you provide a very high level of scrutiny for transit projects that are applying for New Starts funding. Again, this oversight is possible because project sponsors are very interested in receiving a New Starts grant agreement from the FTA.

Do you believe that this oversight works in terms of improving the quality of transit projects being built across the country?

Answer. In the early 1980s, several FTA-funded transit projects suffered major setbacks due to problems with quality, cost overruns, and delays in schedules. To safeguard the Federal investment and ensure public safety, Congress directed FTA (then the Urban Mass Transportation Administration) to establish the Project Management Oversight (PMO) Program. The Program is financed by setting aside 1.0 percent of the funds available under 49 U.S.C., section 5309, Capital Investment

Programs, 0.75 percent of funds available from sections 5307, Urbanized Area Formula, and 0.05 percent from section 5311, Non-urbanized Area Formula Program. Today, PMO contractors monitor projects worth over $80 billion in a very effective and systematic manner and in accordance with pre-established guidelines. PMO contractors serve as an extension of FTA's technical staff in assessing grantees' project management and technical capacity and capability to successfully implement major capital projects. They also monitor the projects to determine if they are progressing on time, within budget, and in accordance with the grantees' approved plans and specifications. The PMO program has repeatedly proven to be a very powerful, effective, and efficient tool in monitoring major capital transit projects. We have also witnessed some project sponsors incorporating some of the project management oversight tools and principles into their project development plans on non-FTA funded projects and believe FTA's project management oversight is definitely helping improve the quality of transit projects being built across the country.

BORROWING FROM THE TRANSIT ACCOUNT

Question. Mr. Simpson, the administration is asking this subcommittee to include language in our Appropriations bill that would allow the highway account of the trust fund to borrow from the transit account in 2009. Even with the President's proposed cut in highway spending, OMB still estimates that the transit account would have to borrow $3.2 billion from the transit account just to get through the year.

Administrator Simpson, based on the President's anticipated levels of highway and transit spending in future years, is there any reason to believe that the transit account will ever be repaid? If so, where will the money come from and when will it happen?

Answer. As I stated our goal is to ensure the solvency of the Highway Trust Fund through the current authorization period. The topic and solution to the future solvency of the Highway Trust Fund, including and the Mass Transit Account, will be addressed in the next surface transportation reauthorization. The MTA remains solvent until 2010 with the proposed "advanced payment" provision in the President's fiscal year 2009 budget. I believe that once the Highway Trust Fund solvency issues are solved there is no reason to believe that the MTA will not have sufficient resources to meet all future commitments.

Question. My understanding is that this proposed transfer will just speed up the date at which the transit account will go bankrupt from 2011 to 2010.

Mr. Simpson, why does the administration believe that the way to solve the problem of a bankrupt highway account is to expedite the bankruptcy of the transit account?

Answer. The administration estimate is that if the MTA transfers funds to the Highway Account during fiscal year 2009, both accounts will remain solvent until fiscal year 2010. This provision will fund surface transportation programs at levels requested in the President's fiscal year 2009 budget and delay the impending shortfall in the Highway Account of the Highway Trust Fund until fiscal year 2010, past the point when Congress is scheduled to enact the next surface authorization. This mechanism has a precedent in the "repayable advances" used during the early years of the Highway Trust Fund. The mechanism was used in 1960, 1961, and 1966 and each time the advance was repaid.

TOLLING AND PRIVATIZATION

Question. The Secretary has clearly stated in previous testimony, as well as in her dissent from the Surface Transportation Policy Commission Report, that she supports a greater role for tolling and private investment in our highway infrastructure, and a reduced role for Federal funding. Your testimony today also praises tolling, but does not mention its close ties to privatization.

A GAO report released last month found that many existing road privatization schemes are expected to short-change the public in the long term and to restrict our ability to respond to changing transportation needs.

The GAO study also found that public opposition to private toll schemes has prevented several such projects from getting off the ground. Opposition to proposals like the Trans-Texas Corridor shows us that, even if we encourage privatization at the Federal level, many State and local communities are unwilling to accept it. Just last year, at the strong urging of all sides of the Texas delegation, we enacted a provision that banned the tolling of certain highways in Texas.

You claim in your testimony that tolls collected on highways can be used for local transit projects. This may be true for publicly-owned toll roads, but a private toll road's purpose is to generate revenue for investors, not for local governments, and certainly not for transit agencies.

Administrator Simpson, how does private tolling of highways provide for the Nation's rapidly growing transit needs?

Answer. Private tolling of highways involves the long term lease of existing, publicly-financed toll facilities to a private sector concessionaire for a prescribed concession period during which they have the right to collect tolls on the facility. In exchange, the private partner must operate and maintain the facility and in some cases make improvements to it. The private partner must also pay an upfront concession fee.

It is this upfront concession fee that enables States to address longstanding transportation needs. It has been shown that the facilities where tolls are used to manage traffic create free-flow conditions that benefit transit vehicles by ensuring predictable travel times.

The State of Indiana entered into a toll concession and lease agreement with the ITR Concession Company for $3.8 billion. The receipt of these funds enabled the State of Indiana to pay for longstanding transportation improvements throughout the State. Similarly, the State of Pennsylvania has accepted a bid of $12.8 billion to lease the Pennsylvania Turnpike, providing the State with resources to repair deteriorating transportation infrastructure and invest in new construction.

Given the growing need for transit, it is the State's choice to use concession fees from long term leases of highway facilities to invest in transit as part of an overall strategy to improve their transportation system.

Questions Submitted to James D. Ray

Questions Submitted by Senator Patty Murray

APPROPRIATE BALANCE FOR THE HIGHWAY TRUST FUND

Question. As we talk about what needs to be done to fix the Highway Trust Fund, we need a better understanding of what level of balances would provide an adequate safety net for the Highway Trust Fund.

Administrator Ray, what do you believe is the appropriate balance to maintain in the highway account of the Highway Trust Fund?

Answer. The purpose of maintaining a positive cash balance in the Highway Account is to provide a cushion in the event that Highway Account tax receipts, obligations, and/or outlays are not as projected at the time an authorization act is enacted. In addition to providing a cushion from the normal economic ups and downs that impact Highway Account receipts, maintaining a sufficient cash balance also provides time for remedial Congressional action should a dramatic event occur, such as an interruption of shipments of foreign oil, or a dramatic downturn in revenue.

Factors to be considered in determining the minimum prudent balance for the Highway Account are the size of the programs funded by the Highway Account, historic errors in projecting receipts and outlays, the time that would be needed for legislative action to correct any imbalance between receipts and outlays, and the degree of risk of short term insolvency that the Federal Government is willing to bear.

In recent years, receipt and outlay estimates have been within plus or minus 2 percent, but secondary sources indicate that the receipt projections were off by about 14 percent as the result of the 1973 oil embargo. Risk assessment principles would suggest that the minimum balance be based on likely estimation error rather than the maximum or minimum error. Of course, the effect of a potential 2 percent error on the need for a minimum cash balance depends on the size of the program.

Question. Administrator Ray, do you have a detailed reauthorization proposal that will allow the Congress to see how you would address these concerns?

Answer. The Department recently released a comprehensive and fundamental reform proposal a copy of which can be found at http://www.fightgridlocknow.gov/.

Question. Will the reauthorization proposal include legislative language so that the Congress can see exactly how the administration proposes to change current law?

Answer. The Department is working on legislative language, but has not yet decided when or in what manner it would be released. The Department may choose to submit some of the concepts as individual components rather than as a complete proposed bill.

FEDERAL TRANSPORTATION OVERSIGHT

Question. This administration claims that the Federal Government should play a reduced role in infrastructure investment. Given that most Federal oversight is accomplished by requiring States to meet certain standards in order to receive their highway grants, I would like to know what reducing the Federal role means for continuing any kind of meaningful oversight.

Recent GAO reports have indicated that there is already a lot of room for the Federal Government to improve its oversight over our highway system. Your agency currently has only a limited ability to ensure that projects are completed efficiently, Federal dollars are invested in projects with the greatest benefit, and complex projects are built safely.

Question. Administrator Ray, do you agree that Federal oversight over the Nation's highway system should be strengthened?

Answer. At its heart, the Federal-aid highway program is a federally assisted State program. I believe that at the Federal level, we have a responsibility to those who use our highways and pay for them through their Federal highway fuel taxes to ensure that the funds are effectively and efficiently invested to support the transportation projects that promote national interests (e.g., interstate commerce, defense and security and economic well being) and meet regional needs. More rigorous, data-driven and mode-neutral transportation decisionmaking by State and local officials is needed, including the use of asset management techniques, benefit-cost analyses, and a focus on improving the safety and performance of our transportation systems.

Question. Do you see a conflict between reducing the Federal role in transportation investment and maintaining Federal oversight?

Answer. No. I do not equate achieving a better focused Federal role in transportation investment with a reduced Federal role. The Federal role in surface transportation policy should be better focused than it is today to provide for surface transportation needs that are critical to the Nation as a whole. The Federal role includes providing leadership for, and stewardship of, the system with a focus on enhancing system performance. This includes ensuring that the Interstate System and other facilities of national significance, which are critical to the Nation's interstate commerce, are maintained properly, rebuilt as needed, and expanded when justified; maintaining the productivity of our metropolitan areas, which are the economic engines of the Nation's prosperity and which experience the overwhelming share of congestion; and providing for safety on all our Nation's roads. As described above, I believe that decisionmaking for investment of Federal funds in these national priorities warrants additional attention.

Question. According to one GAO report, State departments of transportation are increasingly using contractors to carry out what had been primarily government jobs, such as engineering, inspection, and quality assurance. As a result, staffs at the State level are finding it difficult to oversee a growing number of projects, and they are losing their in-house expertise.

Do you believe that it would be easier for States to oversee highway development that has been transferred to the private sector?

Answer. In general, because State DOTs are unlikely to serve as the construction contracting entity when States enter into a highway development agreement with a private sector partner, demands on State employee resources are likely to be considerably lessened but clearly not eliminated. The degree of State employee involvement in project development is unique to the development agreement, the size and type of project negotiated between the State DOT, and the private developer. While there may be many routine oversight functions and tasks a private sector partner may perform and certify to the State, State DOTs are still ultimately responsible for the quality control and assurance associated with how a project is designed, constructed, maintained and operated. In some cases, the size and type of a project may still require a State DOT to provide a substantial amount of staff and resources to ensure it is suitably equipped to provide the appropriate level of stewardship and oversight needed for each partnership with the private sector. The commitment of the staff and resources that may be necessary to ensure the public interests are represented in these partnerships is typically not covered or funded through an agreement with a private sector partner.

TOLLING AND PRIVATIZATION

Question. The Secretary has clearly stated in previous testimony, as well as in her dissent from the Surface Transportation Policy Commission Report, that she supports a greater role for tolling and private investment in our highway infrastructure, and a reduced role for Federal funding. Your testimony today also praises tolling, but does not mention its close ties to privatization.

A GAO report released last month found that many existing road privatization schemes are expected to short-change the public in the long term and to restrict our ability to respond to changing transportation needs.

Administrator Ray, do you agree that encouraging the privatization of our highway infrastructure on a grand scale is a responsible decision?

Answer. Increased involvement and investment in the development, maintenance and operation of our highway system is a necessity if we are to resolve the current imbalance among the needs of our system, funding availability and the need to deliver projects in a more timely manner whether that investment is derived from public sector resources or the private sector. In this era of fiscally constrained budgets, private investment in State transportation assets permits States to target public sector funds on projects that are not able to be supported by user fees.

The great majority of goods and services produced in our economy are provided by the private sector, including telecommunications, electricity, and freight rail transportation. Given that we trust the private sector in these and other essential areas, there is no reason that the private sector cannot play a major role in serving all surface transportation infrastructure needs. An increased private sector role does not connote privatization. In virtually all highway public private partnerships, the public sector owns the roads and is able to establish performance standards governing their use.

I would also note that the GAO report (page 19) cited above also found: "Highway public-private partnerships have resulted in advantages from the perspective of State and local governments, such as the construction of new facilities without the use of public funding and extracting value—in the form of up-front payments—from existing facilities for reinvestment in transportation and other public programs. In addition, highway public-private partnerships can potentially provide other benefits to the public sector, including the transfer of project risks to the private sector, increased operational efficiencies through private sector operation and life-cycle management, and benefits of pricing and improved investment decisionmaking that result from increased use of tolling."

The GAO study also found that public opposition to private toll schemes has prevented several such projects from getting off the ground. Opposition to proposals like the Trans-Texas Corridor shows us that, even if we encourage privatization at the Federal level, many State and local communities are unwilling to accept it. Just last year, at the strong urging of all sides of the Texas delegation, we enacted a provision that banned the tolling of certain highways in Texas.

Question. Administrator Ray, given the public's hostility to road privatization, how can we rely on private capital to replace Federal funding in providing critical highway infrastructure?

Answer. One reason some oppose public-private partnerships is that they believe ownership of facilities will be turned over to the private sector and the public sector will lose all control over the facility. This, however, is not how public-private partnerships are being pursued in this country or in other countries around the world. Other reasons that public-private partnerships are opposed include fears that the private sector will be free to set whatever toll rates they choose, and concern about the private sector not maintaining the condition and performance of facilities they operate. These concerns result primarily from a lack of information about how public-private partnerships operate or misinformation spread by opponents of public-private partnerships. In some States, opposition to public-private partnerships stems from a more general opposition to tolls, not from the fact that facilities would be operated by the private sector.

We are not proposing that public-private partnerships replace all Federal funding, and in States where they are implemented, public-private partnerships replace not only a portion of Federal funding, but State fuel tax revenues as well. Polls have shown that when given a choice, more highway users would prefer to fund new highway improvements from tolls than from general increases in the gas tax. When presented with the facts concerning public-private partnerships and when presented with the options available to fund needed highway improvement programs, we believe users in more and more States will support the use of private capital to fund new highway improvement programs rather than increases in their fuel taxes.

Again, I would cite the aforementioned GAO study (page 72): "Highway public-private partnerships show promise as a viable alternative, where appropriate, to help meet growing and costly transportation demands. The public sector can acquire new infrastructure or extract value from existing infrastructure while potentially sharing with the private sector the risks associated with designing, constructing, operating, and maintaining public infrastructure."

FUTURE OUTLOOK AND BUDGETARY NEEDS FOR AMTRAK

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

STATEMENT OF HON. JOSEPH H. BOARDMAN, ADMINISTRATOR

Senator MURRAY. Okay. As our panelists take their seat, no one in the audience needs panic. There are five witnesses but two of them are going to combine their 5-minute time, Donna McLean and Mr. Kummant. So, I appreciate that.

We will hear first from Joseph Boardman, who's the Administrator at the Federal Railroad Administration. Then Donna McLean, Chairman of the Board of Amtrak, and Mr. Kummant, President and CEO of Amtrak, will share 5 minutes. Then we will here from Mr. David Tornquist, Assistant Inspector General, and then Joel Parker, the International Vice President and Special Assistant to the President on Transportation and Communications International Union.

So, we'll begin with Mr. Boardman.

Mr. BOARDMAN. Chairman Murray and 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 2009 as it relates to the FRA and Amtrak.

Safety remains FRA's mission, essential activity and strategic performance objective. You'll find in my written testimony and our fiscal year 2009 budget request that provides a greater detail about the FRA essential safety initiatives. However, given today's hearing, I'll limit my comments to the largest portion of our request, our intercity passenger rail funding.

In 2009, FRA requests $800 million in direct assistance for Amtrak and a $100 million to expand the new Intercity Passenger Rail Grant Program, which Congress appropriated $30 million for in 2008.

The 2009 Amtrak request is intended to encourage the corporation to continue to implement meaningful reforms and control spending. I would note that while Amtrak has made progress in certain reform initiatives, significant progress remains to be achieved. In particular, the corporation's 2009 grant request does not articulate how it will achieve operational savings necessary to meet its growing labor and fuel costs in 2009 and beyond.

As you know, we have requested $100 million to expand the Intercity Passenger Rail Grant Program, which awards competitive matching grant, capital grants to States for intercity passenger rail services. This program truly represents the single most important initiative to spur corridor development and create market pressure, to drive reform and service improvements at Amtrak.

After just one week of accepting applications, we received three applications and expressions of strong interest from 13 other States. The request includes $525 million in direct Federal subsidies for Amtrak capital costs and this amount allows Amtrak and its State partners to continue to address the most pressing investment needs in the Northeast corridor infrastructure as well as essential equipment investments.

I commend Amtrak on its efforts to seek a more collaborative investment process by engaging in a multi-State Northeast corridor user planning group.

I would note, however, that the corporation has further work to do in developing long-term capital investment strategies for other assets, particularly fleet and stations.

PREPARED STATEMENT

The administration's request also includes $275 million for operating expenses that are to be made available to Amtrak as they demonstrate and achieve efficiencies. Under this account, the 2009 request proposes establishing a new competitive pilot program that would allow the Secretary to test the viability of using non-Amtrak operators on selected routes to provide passenger rail services.

I appreciate your attention and yield back my time.

[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 2009 as it relates to the Federal Railroad Administration (FRA) and Amtrak.

This budget request continues to support the administration's commitment to ensuring that the Nation's rail transportation system is safe, secure, and efficient. The requested $1.1 billion will sustain and advance FRA's mission to improve railroad safety, while providing valuable resources to ensure the continuation of intercity passenger rail operations.

As you are aware, safety remains FRA's single most mission essential activity and strategic performance objective. The fiscal year 2009 request includes $185 million in funds to directly support the agency's core safety assurance, oversight and enforcement activities, to achieve our goals of preventing and reducing railroad accidents and incidents and contributing to the avoidance of serious hazardous materials incidents in rail transportation. Included within FRA's safety budget is $1.2 million to expand the implementation of the Close Call Confidential Reporting Pilot (C3RP) program. This initiative allows FRA to more effectively leverage its resources by expanding its partnership with industry to promote risk reduction programs on the Nation's railroads.

With regard to FRA's Railroad Research and Development activities, the fiscal year 2009 request includes $34 million to support our Railroad Safety efforts. Of note are new initiatives that fund research in the area of "level boarding" to support further access and compliance with the Americans with Disabilities Act; the development of new Joint Bar Inspection technology; and procurement of a high-speed ultrasonic rail flaw detection system.

By far, the largest portion of FRA's fiscal year 2009 request provides $900 million in financial assistance for intercity passenger rail services. This total includes $800 million in direct subsidies to Amtrak and $100 million to expand the current $30 million Intercity Passenger Rail Grant Program that was appropriated for the first time in fiscal year 2008. In total, this funding level will support continued intercity passenger rail service, while Amtrak's management team continues to make progress in reshaping the company. This funding level encourages Amtrak to continue to undertake meaningful reforms and control spending.

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

The fiscal year 2009 budget request marks part of a multi-year effort to reduce, and eventually eliminate, federally funded operating subsidies for Amtrak. Overall, this level of subsidy is appropriate as it provides Amtrak continuing incentive to more effectively manage costs, rationalize its services, and pursue innovations. It also expands 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.

AMTRAK CAPITAL GRANTS

The request includes $525 million in direct Federal subsidies for Amtrak capital costs. This amount allows Amtrak and its State partners to continue to address the most pressing investment needs on the Northeast Corridor infrastructure as well as essential equipment investments.

INTERCITY PASSENGER RAIL GRANT PROGRAM

In addition, the budget includes the aforementioned $100 million to expand the new Intercity Passenger Rail Grant Program, which awards competitive grants to States to finance the cost of State driven capital improvement priorities associated with intercity passenger rail services. This program encourages State involvement in planning and decisionmaking for intercity passenger rail service, allowing them to identify where mobility needs justify public investment. Additionally, State involvement in planning and decisionmaking helps prioritize infrastructure improvements, such as stations, and lets States assure connectivity to other forms of transportation supporting intermodalism within the State. 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. A "Notification of Funds Availability" for this program was published in the Federal Register earlier, and we anticipate awarding the first grant under this program later this fiscal year.

AMTRAK EFFICIENCY GRANTS

The administration's request also includes $275 million for operating expenses that are to be made available to Amtrak as they demonstrate and achieve efficiencies. Under this account, the fiscal year 2009 request proposes establishing a new competitive pilot program that would allow the Secretary to test the viability of using non-Amtrak operators on selected routes to provide passenger rail services.

RAIL LINE RELOCATION AND IMPROVEMENT PROGRAM

Finally, I'd like to offer a brief update on the Rail Line Relocation and Improvement Program. As you know, just over $20 million was appropriated for this new program in fiscal year 2008. FRA is taking aggressive steps to implement the program, and has developed regulations governing its implementation. These regulations are currently being cleared within the administration. We expect to issue them this spring, with the first grant awards under the program beginning in fiscal year 2009.

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

Senator MURRAY. Thank you very much. We will move to Donna McLean and Mr. Kummant.

AMTRAK

STATEMENT OF DONNA McLEAN, CHAIRMAN, BOARD OF DIRECTORS

Ms. MCLEAN. Thank you. Good morning, Chairman Murray and Senator Bond. Thanks for the opportunity to testify before the committee this morning.

I am the Chairman of the Board of Amtrak, a position I assumed in November 2007.

I'd like to thank the Senate for the recent confirmation of our new Board members, Nancy Naples of New York and Tom Carper of Illinois.

As Chairman, I envision the Board as functioning as a governing body, one that provides a combination of oversight and guidance. The Board should be in the business of setting goals and monitoring and assessing performance, but the day to day management of the company is the responsibility of Alex Kummant and the Executive Committee.

Alex has assembled an excellent team, and I'm very pleased with the progress of Amtrak under Alex's guidance.

The Board and the Executive Committee are currently refining our corporate strategy. We are developing a strategy that's multiyear and provides detail and specific guidance for the next 5 years.

One of our key questions, though, is how do we measure success at Amtrak? As Alex will report, our ridership and ticket revenue are up. They're increasing in almost all of our markets and that's success, right? Well, Amtrak's corporate debt is decreasing. That's good as well, but our operating subsidy needs are increasing, but at the same time, our subsidy per passenger mile is declining.

Our fiscal year 2007 on-time performance was around 82 percent in the Northeast corridor and our capital needs are growing. We collect a lot of great data, but our real challenge is going to be analytical. We've often looked at ridership and revenue and stopped.

The Amtrak team understands that we have to rely on some additional measures, such as revenue per available seat mile, load factor, on-time performance, and customer satisfaction indicators which are a leading indicator in revenue. These measures are going to be key components to both our day to day operations and for planning in the long term.

PREPARED STATEMENT

As we set out to define success at Amtrak, we'll strive to be increasingly transparent in all of our areas of business, and I feel very strongly that it's our responsibility to provide information to Congress and our other stakeholders and that information should be clear and easy to understand.

Thank you.

[The statement follows:]

PREPARED STATEMENT OF DONNA MCLEAN

Good morning Chairman Murray, Senator Bond, and members of the committee. Thank you for the opportunity to testify before your committee this morning. My name is Donna McLean, and I am the Chairman of the Board of Amtrak, a position I assumed in November 2007. I was confirmed as a member of the Board of Directors in late July of 2006. Prior to that, I worked as Chief Financial Officer of the Department of Transportation and as the Assistant Administrator for Financial Services at the Federal Aviation Administration. Presently, I work as a consultant and an adjunct professor, and I am based here in Washington, DC.

The Amtrak Board of Directors is a seven-person body, and includes the Secretary of Transportation; currently, five of those seats are filled and two are vacant. I would like to thank the Senate for the recent confirmation of our new board members, Nancy Naples O'Neill of New York and Thomas C. Carper of Illinois. As Chairman, I envision the Board functioning as a governing body, one that provides a combination of oversight and guidance to ensure that the company is working toward the attainment of its strategic objectives. The Board should be in the business of setting goals and monitoring and assessing performance. The day-to-day management of the company and the setting of specific policies within the overarching framework of our strategic goals are going to be the responsibility of Alex and our Executive Committee.

We are currently refining our corporate strategy. We have had a provisional strategy since last summer, and it is included in the business plan we have just published, since it guided the development of our fiscal year 2008 budget. Currently, we are developing a strategy that is multi-year but provides detailed and specific guidance for the next 5 years. Our strategic priorities must reflect the dual nature of Amtrak, which combines the goals of a private company with the obligations of a public service provider.

MEASURING SUCCESS AT AMTRAK

To succeed, this company must be a safe, convenient and affordable transportation choice for travelers. We recognize that we can't be everywhere, and we know that there are markets where we will not have a competitive advantage. But where we do provide service, it must be professionally operated and as responsive as possible to the needs of the traveling public.

So how do we measure success? As Amtrak's management team and I have been working on our multi-year strategic plan, this is the central question that the Board and I have to answer. As Alex will report, our ridership and ticket revenue numbers are increasing in almost all of our markets. That is success, right? Amtrak's corporate debt is decreasing, which is also good. Our operating subsidy needs are increasing. But at the same time, our subsidy per passenger mile is declining. Our fiscal year 2007 on time performance was around 82.3 percent in the Northeast Corridor and our share of the air/rail market has also improved, but our capital needs are growing. Our average on-time performance on our long distance train routes in fiscal year 2007 varied from a low of 10.2 percent to a high of 86.2 percent.

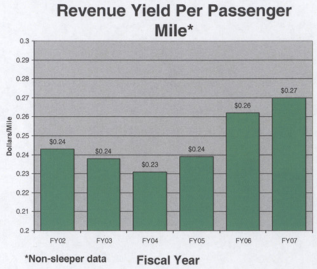
The good news is we do a pretty good job of tracking and collecting the basic data we need to inform our analysis. The real challenge is going to be analytical—we are going to need to produce answers that matter to us and are useful to other stakeholders. In other words, we are going to have to do some thinking about what we want to know, why we want to know it, and what it's telling us about consumer demand, about the health of our business, and about our internal efficiency. We will have to rely on some additional measurements such as:

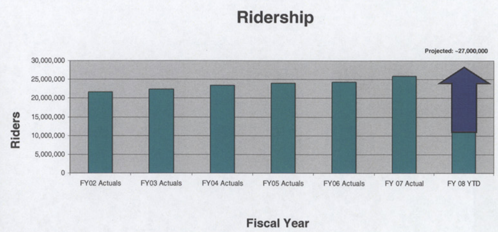
—Operating ratio
—Revenue per available seat-mile
—Cost per available seat-mile
—Load factor
—On-time performance
—Customer satisfaction indices
—Partner (state and commuter authority) satisfaction
—Employee satisfaction
—Safety ratio
—Ridership growth

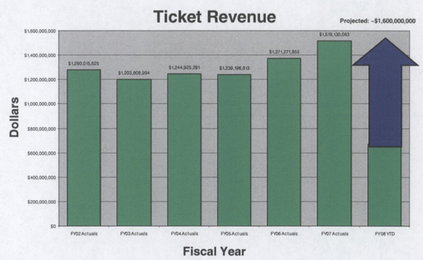
These measures will be key components of both our day-to-day operations and for planning for the long term.

In my written statement I am submitting several charts and graphs that will give you a better understanding of some of the metrics that we rely on to monitor our performance. It is important for you to know that I am asking the questions of the Board, the management, and the employees of Amtrak—how do we measure ourselves? How can we best position ourselves for the future, and how can we meet the growing demand for our services, given our challenges? As we set out to define success at Amtrak, we will strive to be increasingly transparent in all areas of our business. I feel very strongly that it is our highest responsibility to provide information to Congress and our other stakeholders, and that information should be clear, easy to understand, and transparent.

Ridership and Revenue

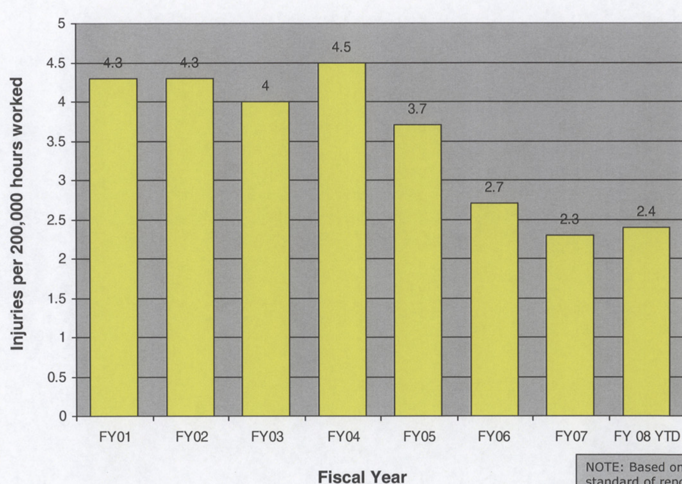






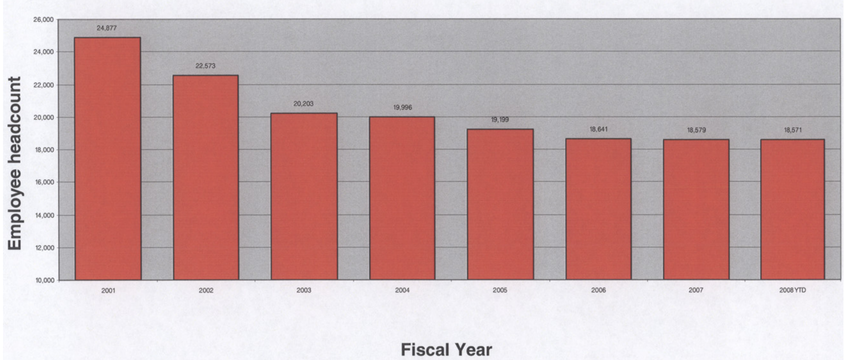
NOTE: All years restated to reflect NJ Transit assumption of NJ/NY *Clocker* trains in FY05.

Safety

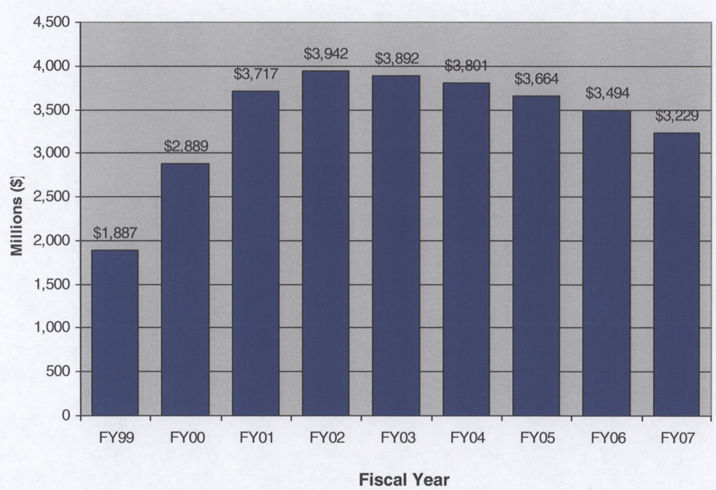


NOTE: Based on the FRA standard of reportable injuries per 200,000 hours worked.

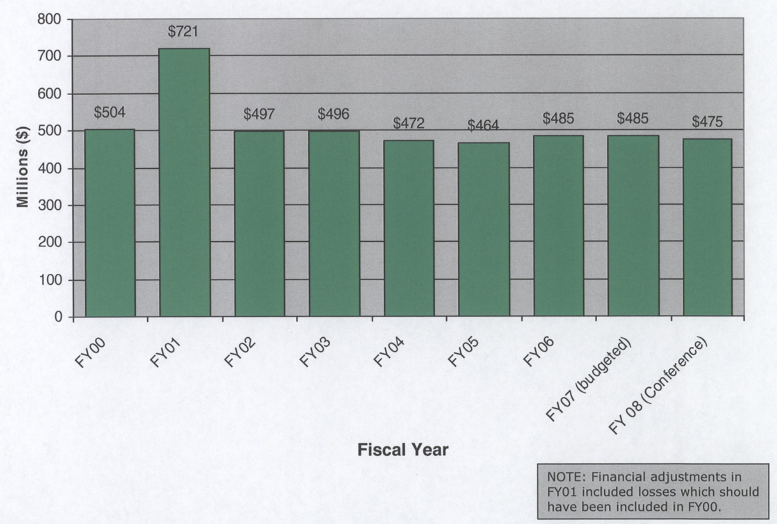
Workforce



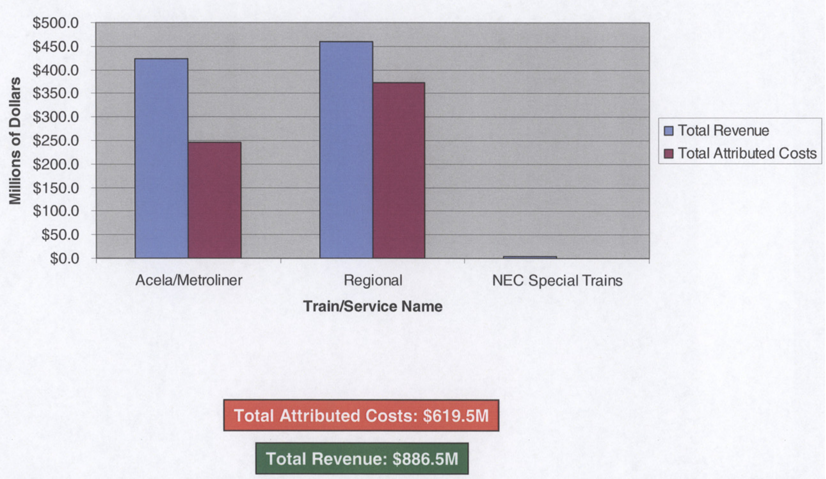
Corporate Debt

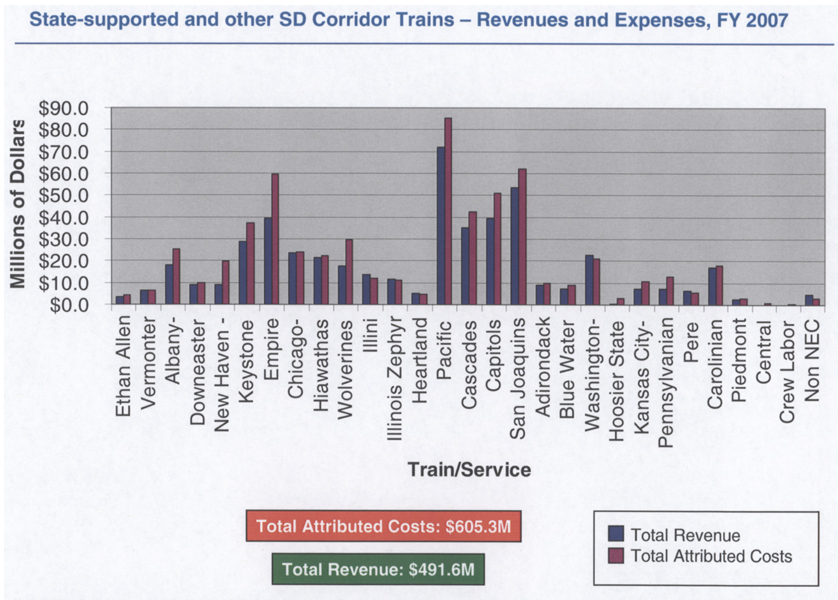


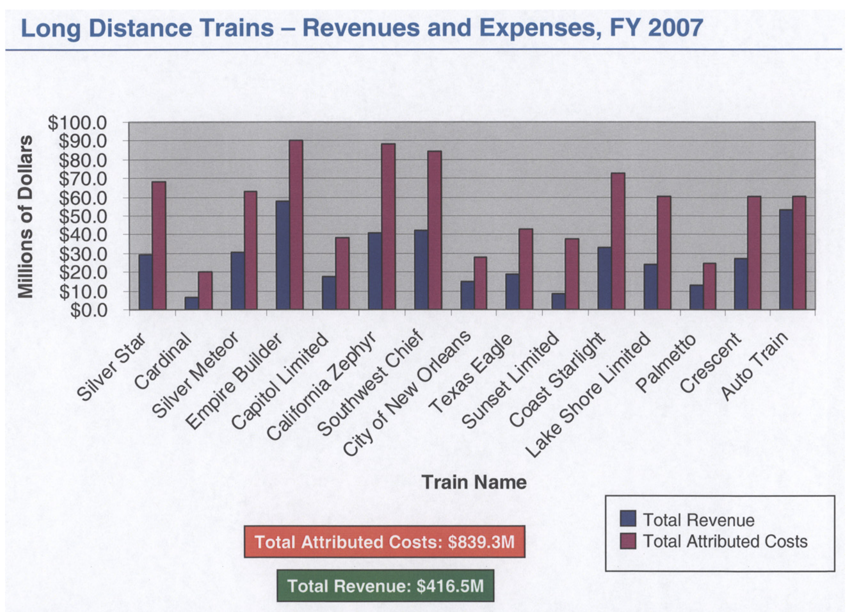
Federal support for operations



Northeast Corridor – Revenues and Expenses, FY 2007







INTERMODAL CONNECTIONS

As we strive to provide a service that is increasingly transparent and successful, as transportation providers, we have a couple of important competitive advantages that we can offer travelers that increase their range of choices. We are trying to think of travel not just in terms of a rail trip, but in terms of the passenger's journey. People don't wake up at 5 in the morning to ride an Amtrak train; they wake up early to get to a meeting in Philadelphia which they just happen to do via Amtrak. We must take into consideration the passengers' need to get to and from the train station, a need that intermodal planners will need to satisfy if we are to provide those essential and convenient connections.

In fiscal year 2007, Amtrak carried 56 percent of what we call the "New York to D.C. air-rail" market—the people who either flew or took the train. That number has been trending generally upward since 2000, when we had 37 percent of the market share. The Acela service has been a big contributor to our market share growth. We believe our market advantage is three fold; our service is frequent and reliable; our service is between city centers; and our stations include intermodal connections to the subway, bus, or taxi. That intermodal connection is key to getting our passengers to their final destination.

This is an important advantage—and one that is not limited to the Northeast Corridor. The Bureau of Transportation Statistics recently studied the connectivity of intercity rail and airport facilities, and concluded that while only 34.5 percent of airports in the 48 contiguous States included connectivity with another mode of mass transportation, about 54.3 percent of intercity rail stations did. I think that's an important statistic. The ability to offer travelers a range of choices is vital to Amtrak's appeal, and we consider the development of those connections to be a high priority. This connectivity is currently most marked on the east and west coasts. This is a pattern not just associated with the Northeast Corridor, but in California, Washington, and Oregon, over 85 percent of the stations have some kind of connectivity, usually bus service. That's a real benefit to travelers, and we want to work on developing that elsewhere.

And as road congestion grows, I think the ability to travel without having to drive a car is going to be increasingly popular, and we need to be poised to provide consumers with that alternative. We are particularly interested in the possibility of offering connections to airports, and we currently have direct connections with five airports: Newark, Baltimore-Washington International, Burbank, Oakland, and Mitchell Field in Milwaukee. While these are all traffic feeders for Amtrak, they offer the promise of an essential component of an intermodal national transportation policy—the prospect of a system that allows the various modes to provide the transportation services that maximize the consumer's utility.

In conclusion, I hope that you are satisfied with the knowledge that Amtrak is moving forward with a strategic vision that should make sense to most people who understand Amtrak's mission. Our strategy will provide a realistic assessment of what we can do as a transportation provider, of the opportunities we see, and of the types of events and trends that could be obstacles to success. We are committed to measuring our performance, continuous improvement, and defining the true meaning of success. And each step of the way, we will do our level best to provide the transparency that is essential to the policymakers, taxpayers, and passengers that provide the resources for Amtrak's nationwide service.

This concludes my opening statement. I will be happy to answer any questions you might have.

STATEMENT OF ALEX KUMMANT, PRESIDENT AND CHIEF EXECUTIVE OFFICER

Mr. KUMMANT. Madam Chairwoman, ranking member, thanks for the opportunity today.

I would just ask that my full statement be submitted for the record and I'll quickly summarize much of what's in there.

We ended fiscal year 2007 with a set of strong numbers and we are now, as we sit in April, halfway through our fiscal year and feel good about the progress, certainly on a revenue and ridership basis. On ridership, we're up another 11 percent year over year and almost 14 percent in revenues.

One of the key issues we have going forward and you will hear in strategy discussion later in the year is we're working on a plan for equipment procurement in the coming years. That will be especially critical given the aging of the entire fleet. It will also be an opportunity to really recast and to generate everything we can out of the Northeast corridor, both in terms of efficiencies and the fact that new equipment will be much cheaper to maintain. I believe you have probably a good sense of what it takes to maintain our aging fleet.

On the core operating numbers, again those numbers have been submitted and discussed. Let me make one comment on the debt service, a number we're requesting. We've requested $345 million. Our core debt service needs are $285 million. We believe there are some opportunities there to retire debt early and in fact generate significant savings over the next couple of years if we do that. So that's the nature of that request.

We are really in an inflationary environment that we have not seen probably for a decade and a half, and I think that is one of the core issues that are reflected in the numbers next year. All the commodities are up dramatically. So, if you look at just core materials, cost of tie, rail, copper, anything material we put in the system, we're seeing dramatic inflationary effects, and there's some obviously effect, as we'll discuss, cost of the PEB.

Let me get to that point and talk directly about that. Obviously there will be some discussion about the second installment of back pay and there will be some discussion, as there was a year ago, about our ability to pay or not pay that.

I would just suggest, first of all, that we're still 6 months away from the end of the year, in a pretty complicated environment and strong inflationary pressures. So, I think before we get too definitive on what the year-end cash balance will look like, we need to be careful there.

I'd also suggest we had this discussion a year ago where it was suggested that we had a lot of cash on hand and after the CR was signed in December and we got our first installment of cash in February, we were a little over 3 weeks from running out of cash. So, I would suggest we continue having that discussion through the year but take some care on a longer-term cash plan rather than thinking about it as a point in time.

PREPARED STATEMENT

That being said, I think we're enjoying a relative period of stability. I'm happy with the management team and we're working hard to make the operation better every day.

Thanks.

[The statement follows:]

PREPARED STATEMENT OF ALEX KUMMANT

Good morning, Madame Chairwoman, and thank you for the opportunity to testify before your committee this morning on Amtrak's financial needs for fiscal year 2009. As you may know, fiscal year 2007 finished as a strong year for Amtrak, and fiscal year 2008 has gotten off to a good start as well. We set an annual ridership record of 25.8 million passengers, the largest in the company's history. We had record summer months and a record Thanksgiving, which are important indicators of the traveling public's preferences and confidence. Our ridership and revenue for fiscal year 2008 have also been strong; we carried 11.7 percent more riders between the beginning of the fiscal year and the end of February than we carried in fiscal year 2007, and those riders brought us 14.8 percent more revenue. Finally, we have concluded agreements with most of our unions after years of negotiations. Of the unions before our recent PEB, the members of 9 groups ratified their tentative agreements on March 10, one additional group has ratified an agreement, and we expect the remainder to be complete soon. These agreements follow the recommendations of the Presidential Emergency Board in providing wage increases and retroactive pay to our employees, and our employees will also be making contributions to health care.

With this performance as background, I think it's safe to say that passenger rail service has a bright future. To help shape the next few years, Amtrak is focusing its efforts on a set of key strategic priorities. We are working on increasing revenue, reducing costs, and improving both trip times and systemwide on-time performance. We are also in the process of developing a comprehensive plan for equipment procurement in the coming years; the acquisition of additional equipment is a small component of the fiscal year 2009 capital request, but we expect it to grow as our electric engines and Amfleet cars approach the end of their useful lives. We are also working with a number of States to develop and augment short-distance corridor operations. We are, however, quickly bumping up against the limits of our existing equipment capacity at a time when States are seeking new service. To address this problem, we are going to need to begin a new equipment procurement cycle.

To realize these strategic priorities, Amtrak will continue to require a certain core level of operating assistance and capital investment from the Federal Government. In fiscal year 2009, Amtrak will need a total of $1.671 billion in Federal assistance. Of this total, $506 million will be required to meet operating costs, $801.4 million will be invested in capital projects, $19 million will be required for the funding of Amtrak's Office of the Inspector General, and $345 million will be spent on debt service. All of these numbers represent increases over our fiscal year 2008 spending levels, and I will give you some background on them. We have provided additional detail in our fiscal year 2009 legislative and grant request, which I would ask to have made a part of the record.

We foresee significant cost inflation in several important areas in fiscal year 2009. The most significant costs will be increases in wages, benefits, and fuel. Wage increases will be a byproduct of the labor agreement, and will add about $27 million to the fiscal year 2009 budget, but the largest single category of cost increases is going to be benefits. This is principally a reflection of the growing cost of health care. We expect our total benefits costs to rise by $50 million in fiscal year 2009, and the expenses associated with medical treatment and drugs are at the core of it. We expect that the cost sharing provisions in our labor agreements will to some degree restrain medical cost growth, but that growth is still going to be substantial.

I think it's also important to mention at this point that we have a single additional expense that will come due in fiscal year 2009. As you may know, from 2002 until early this year, this company and many of its unions were unable to agree on the terms of contracts for our employees. In November 2007, the administration appointed a Presidential Emergency Board (or PEB) under the terms of the Railway Labor Act to hear the dispute and recommend a settlement, which it did in early January. The management of Amtrak has accepted this recommendation, as have nine of our labor groups; we expect that groups whose ratifications and negotiations are ongoing will likewise accept the contract pattern the PEB recommended. The recommended agreement pattern included a pair of lump sum retroactive payments to Amtrak's employees to effectively extend the raises it offered back to the beginning of the negotiating period, and Amtrak accepted the recommendation. Amtrak believes at this time that it has the financial wherewithal to meet our fiscal year 2008 wage and retroactive pay obligations, as well as its wage obligations in fiscal year 2009 and fiscal year 2010. However the 60 percent (or $114 million) of the one time "back pay" payment the PEB recommended be made in fiscal year 2009 is noted separately in the fiscal year 2009 grant request summary table on page 3 of the leg and grant request, and is not contained in Amtrak's fiscal year 2009 operating costs. The PEB was aware that Amtrak did not have the means to pay the additional $114 million and recommended that the decision to fund this amount lies with Congress.

To fund our fiscal year 2009 capital programs, Amtrak is asking for a total of $801.4 million. Of this total, we intend to use $506.9 million to pay for ongoing "state of good repair" (or SOGR) programs dedicated to the rehabilitation of our plant and equipment. In addition to meeting day to day SOGR requirements, we are undertaking an ambitious capital program in fiscal year 2008. The replacement of the lift span on the Thames River Bridge in New London, Connecticut will be the centerpiece, and we are planning a large scale repair "blitz" on our New England Division in June to undertake repair and replacement work on the electric catenary, several interlocking plants, and a host of smaller projects. We intend to continue our capital investment program effort in fiscal year 2009, when our program to replace the lift span on the Niantic River Bridge will hit its stride. Big projects like lift bridge replacement are expensive but enduring—we expect the completed span to last for a lifetime. Though we have an aging fleet, we will also be spending significant capital on bringing it into SOGR.

We are also working to comply with the Americans with Disabilities Act, and our 2009 budget includes $68.5 million for that effort. ADA compliance is going to be a significant challenge, and Amtrak is seeking an extension of the current compliance deadline of July 26, 2010, because, even if we had the regulatory guidance and resources to comply, it would still be impossible to achieve compliance by that date. Amtrak is fully focused on making its service accessible, and we are pursuing compliance under the terms of the ADA, but we will need additional time to accomplish that. New rules proposed nearly 2 years ago by the DOT would materially change the standards for compliance under the Act with respect to station platform level requirements, would add millions of dollars to the compliance cost, and would deprive that aspect of compliance of any clarity and certainty. Even under the current law, Amtrak will need more time and more resources to achieve full ADA compliance.

On the whole, I think our projections for the upcoming year are responsible, realistic, and attainable. There are a lot of points that must be considered, and the rising costs of fuel, which now hovers at $4.00 a gallon and health care and the condition of the economy will all have a bearing on our plans. We're going to need new equipment, both to modernize our fleet and have equipment available for expansion. But from where I sit, the leading indicators continue to trend in the right direction. I believe there is a latent demand for intercity passenger rail service in the United States. In the coming year we will work to inform this discussion and to meet the expectations and needs of our customers. Let me conclude by saying we are going to have some big opportunities ahead, and we will need a strong, skilled and well-trained workforce with high morale if we're going to make the most of them. To that end, these new labor agreements will help. I appreciate all of the hard work our employees put in every day, sometimes in difficult or trying situations, and I am glad that we have been able to conclude a workable settlement and trust that our employees will embrace it. I also want to thank our Board of Directors, and particularly Donna, for their ongoing support and their wise counsel.

This concludes my opening statement. I will be happy to answer any questions you might have.

Senator MURRAY. Mr. Tornquist?

DEPARTMENT OF TRANSPORTATION

STATEMENT OF DAVID TORNQUIST, ASSISTANT INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL

Mr. TORNQUIST. Chairman Murray, Ranking Member Bond, I appreciate the opportunity today to present the views of the Office of the Inspector General on Amtrak's fiscal year 2009 financial needs.

Let me start by saying that Amtrak has benefited from the strong leadership provided by Chairman McLean and CEO Kummant and Alex's executive team. The results of that leadership have been borne out in Amtrak's recent operating and financial statistics, many of which I've cited in my written statement.

Regarding fiscal year 2009 needs, we believe that Amtrak requires only a modest funding increase. Specifically, we recommend $475 million for operations, $675 million for capital, and $266 million for debt service.

In addition, we believe the fiscal year 2009 share of the retroactive wages that would result from the pending labor agreement can be accommodated within Amtrak's projected end of fiscal year 2008 cash balances without additional appropriations.

Our recommended grant level would allow Amtrak to run a nationwide system and when combined with Amtrak's likely increase in fiscal year 2009 revenues would allow for an approximately 3.5 percent increase in operating expenses.

Of particular concern to us is that Amtrak's request does not include any operating reform savings in fiscal year 2009. We feel Amtrak can do more to minimize its costs and dependence on Federal operating subsidies.

The $675 million we recommend for capital would allow Amtrak to fund its legal, safety and security requirements, and continue to make progress to a state of good repair. The $266 million we recommend for debt service is the minimum that we believe is needed to meet Amtrak's fiscal year 2009 debt obligations.

Looking to the future, I'd like to draw the subcommittee's attention to a report we issued last week which concluded that "Amtrak would receive a significant financial benefit by improving its on-time performance." Specifically, we found that "improving on-time performance to 85 percent on all routes outside the Northeast corridor in fiscal year 2006 would have generated a net gain of a $136 million for Amtrak."

However, there's little agreement between Amtrak and the host railroads, on whose track Amtrak operates, regarding the causes of this poor on-time performance and therefore little consensus on how to improve it.

We expect to report shortly on work we have ongoing at the request of this subcommittee regarding the root causes of these delays. Our preliminary findings indicate that Amtrak trains are delayed by a combination of insufficient track capacity, host railroad operating practices, and external factors beyond the host railroad's control.

Determining who is responsible for delays is made difficult by the disagreement that exists among the stakeholders regarding the exact nature of Amtrak's statutory right to preference.

We believe the issue of improving Amtrak's on-time performance can best be addressed through collaboration between Amtrak, the host railroads and the executive branch which balances the enforcement of Amtrak's rights with incentives to the freights for cooperation, and we think that the State capital matching grant program can play an important role in this effort.

PREPARED STATEMENT

As we testified previously, we believe that Amtrak's long-term outlook would be improved through a reauthorization. We look forward to seeing the results of the ongoing strategic planning process that the Board has underway and believe it can be an important tool in guiding Amtrak's decisionmaking.

That concludes my statement. I'd be happy to answer any questions.

[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 the Inspector General on Amtrak's fiscal year 2009 financial needs and the future of intercity passenger rail. My statement today will draw upon the work we have ongoing for your subcommittee on Amtrak's financial performance and labor agreement costs, its efforts to achieve operating reform savings, and the causes of its on-time performance (OTP) problems, as well as other work we have ongoing on Amtrak's capital plan.

Despite Recent Progress, Amtrak Still Faces Challenges.—Once again, Amtrak's 2007 ridership and ticket revenue records set new records. Amtrak also improved its OTP on about two-thirds of its routes, implemented an expanded capital program, and continued to pay down its debt. In addition, the labor agreement now in the ratification process holds the promise of allowing both Amtrak management and employees to focus on the business of running a passenger railroad.

At the same time, Amtrak is seeking to increase its Federal subsidy by 35 percent in a very difficult budget environment while continuing to incur unsustainably large and potentially growing operating losses. We believe Amtrak can do more to minimize its costs and dependence on Federal subsidies and that its spending initiatives need to make a demonstrable contribution to its bottom line.

Amtrak Requires a Modest fiscal year 2009 Funding Increase.—We believe that Amtrak's fiscal year 2009 legislative and grant request understates Amtrak's likely fiscal year 2009 revenues, overstates its costs, and ignores its significant cash balance. As a result, we believe that Amtrak needs $475 million in fiscal year 2009 for operations, $675 million for capital, and $266 million for debt service. Furthermore, the fiscal year 2009 share of retroactive wages included in the pending labor agreement[1] can be accommodated within Amtrak's projected cash balances without additional appropriations.

Our recommended operating grant level would allow Amtrak to operate a nationwide system. When combined with Amtrak's likely increase in fiscal year 2009 revenues, our recommendation would cover an approximately 3.5 percent increase in Amtrak's operating expenses. Regarding these revenues, we believe that Amtrak's forecast is understated because it was arbitrarily reduced below the levels projected by its econometric models. The expense forecast is likely overstated because it includes the cost of significant hiring in fiscal year 2008 and 2009 and other cost increases which Amtrak need not incur, and no additional operational reform savings.

TABLE 1.—FEDERAL APPROPRIATIONS

[In millions of dollars]

	Fiscal Year 2007 Appropriated	Fiscal Year 2008		Fiscal Year 2009	
		Appropriated	Forecasted Use	Request	Recommend
Operating	485	475	454	525	475
Capital	495	565	564	801	675
Debt service	277	285	285	345	266
Retroactive wages for labor settlement				114	
Total Table	1,257	1,325	1,303	1,785	1,416

Source: Amtrak data and OIG analysis.

The $675 million for capital would allow Amtrak to fund legal, safety, and security requirements and continue to make progress towards a "state of good repair". The $266 million for debt service is the minimum needed to fund Amtrak's fiscal year 2009 debt obligations. Amtrak's proposal to pay off debt early is linked to a plan to borrow funds in the future for rolling stock replacement. However, significant issues still need to be resolved regarding States' willingness to pay the full costs of State services not covered by ticket revenues which may impact the overall demand for new rolling stock.

Finally, Amtrak could fund the unbudgeted $114 million in fiscal year 2009 retroactive wage costs and $11.3 million in other planned pay-related costs within its anticipated $269 million end of fiscal year 2008 cash balance. The resulting $119 million cash balance would be less than Amtrak's preferred $150 million level, but consistent with the $103.9 million cash balance that would have resulted in fiscal year 2007 from Amtrak's spending decisions.

Achieving Reliable On-Time Performance Could Substantially Improve Amtrak's Finances.—We recently reported that improving OTP to 85 percent on all routes outside the Northeast Corridor in fiscal year 2006 would have generated a net gain of $136.6 million for Amtrak. However, there is little agreement between Amtrak and the host railroads on whose track Amtrak operates regarding the cause of this poor OTP, and, therefore, no consensus on how to improve it.

In work we have ongoing at the request of this subcommittee, we have found that Amtrak trains are delayed by insufficient track capacity; host railroad operating practices, including dispatching; and external factors beyond the host railroads' control, such as weather and derailments. Amtrak's data on delays does not allow us to quantify the relative share each cause contributes to delay. Disagreement also exists regarding the precise nature of Amtrak's right to "preference over freight trans-

[1] This agreement would grant full retroactive pay raises back to 2002 to all agreement employees onboard on December 1, 2007. The payment would be split, with 40 percent being paid in fiscal year 2008 and 60 percent in fiscal year 2009.

portation in using a rail line, junction, or crossing".[2] We believe the issue of improving Amtrak's OTP can best be addressed through collaboration between Amtrak, the host railroads, and the executive branch which balances the enforcement of rights with incentives for cooperation. The State capital matching grant program can play an important role in this effort.

Reauthorization Remains Key to Amtrak's Long-Term Outlook.—As we have testified previously, we believe that Amtrak's long-term outlook would be improved through a reauthorization that focused on three 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.

Absent a reauthorization, it will continue to fall to the Appropriations Committee to maintain fiscal discipline at Amtrak while providing the tools to improve their performance. At the same time, as we reported last year in our audit of the Amtrak Board's activities, the Board plays a key role in setting a strategic direction for Amtrak within the statutory parameters set by Congress. The Board and Amtrak management currently are developing a new strategic plan, which, if accompanied by implementation plans, will be very helpful in guiding Amtrak's decisionmaking.

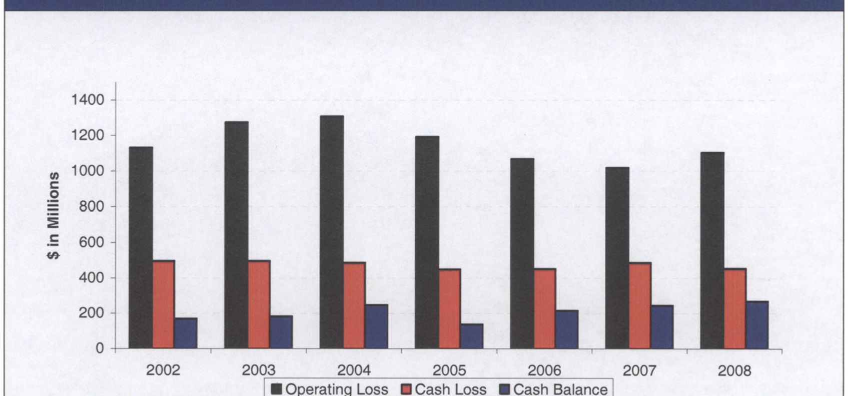
I will now discuss these issues in greater detail.

DESPITE RECENT PROGRESS, AMTRAK STILL FACES CHALLENGES

Operating Losses

Amtrak ended fiscal year 2007 with a net operating loss of $1.0 billion and a cash operating loss, excluding interest and depreciation, of $486.3 million.[3] Amtrak currently projects a cash operating loss of $454.3 million in fiscal year 2008,[4] $21 million below its original budgeted loss, and $525 million in fiscal year 2009. The increase in fiscal year 2009 is due largely to fuel, benefits, and labor settlement costs, and the impact of a projected economic slowdown on revenues.

Figure 1. Amtrak's Operating and Cash Losses and Cash Balances



Note: Cash loss is measured on an earnings before interest, taxes and depreciation basis.

Source: Amtrak.

Based on the information available today, we believe Amtrak could manage with $475 million for its fiscal year 2009 operating subsidy instead of the $525 million requested. We differ with Amtrak's estimates of likely fiscal year 2009 revenues, expenses, and operating reforms. Our recommended operating grant level would provide Amtrak with an increase of almost $100 million and cover an approximately 3.5 percent increase in operating expenses as a result of likely revenue increases.

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[2] Section 24308c of title 49 of the United States Code.

[3] Amtrak's fiscal year 2007 cash operating loss includes $190 million in accrued expenses from the pending labor settlement.

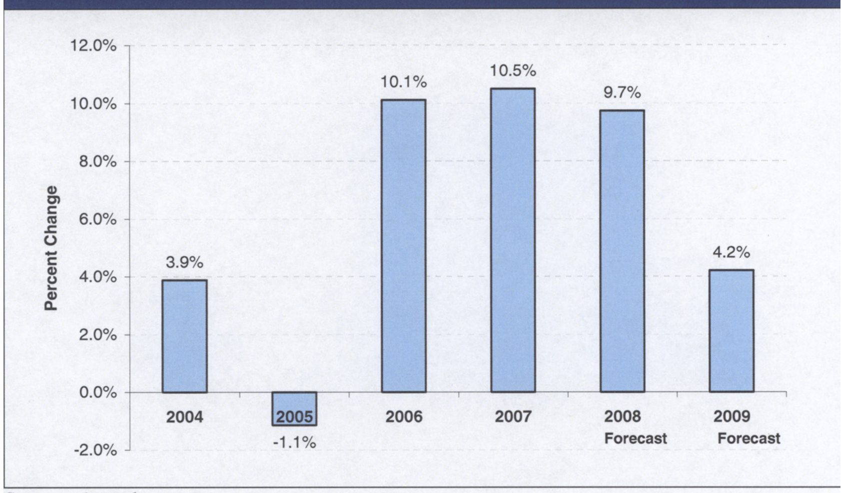
[4] Amtrak originally budgeted for a $475 million cash operating loss in fiscal year 2008. However, based on actual revenues and expenditures through January, this loss has been revised downward by $21 million to $454.3 million.

We strongly urge the subcommittee to reexamine Amtrak's funding requirements after Amtrak completes its more detailed, bottom up budget projection in July.

We are concerned about the seemingly arbitrary manner in which Amtrak management revised its fiscal year 2009 revenue estimates developed using their econometric models to reflect a potential recession. While we understand the desire to be conservative in light of economic uncertainty, we believe that the tight budget environment calls for a more scientific and supportable approach to revenue forecasting.

In this regard, we note that both the Federal Reserve's Federal Open Market Committee and the Blue Chip consensus forecast call for economic growth in fiscal year 2009 at a level commensurate with that in fiscal year 2007, not a decline as Amtrak projects. Growth in the gross domestic product, a measure of overall economic activity, began to slow in 2007, and projected to slowdown further in 2008 before picking up in 2009. Despite the current slowdown, Amtrak's fiscal year 2008 passenger related revenues are projected to be $170 million above fiscal year 2007 and $71 million above the level Amtrak originally projected in its fiscal year 2008 budget.

Figure 2. Amtrak's Passenger Related Revenues



Source: Amtrak.

In addition, we believe that Amtrak should take a more restrained approach regarding expenditures given the large uncontrollable cost increases Amtrak anticipates for wages, benefits, and fuel costs. Amtrak's budget estimates anticipates hiring about 200 employees which might be aggressive considering the tight budget environment. Finally, since Amtrak forecasts its fiscal year 2008 cash operating loss will be about $21 million below the amount it used as a starting point to build its fiscal year 2009 request, its fiscal year 2009 expenses are likely to be less than reflected in Amtrak's budget request.

Finally, Amtrak anticipates achieving no savings from operating reforms in fiscal year 2009. Amtrak saved $61.3 million from operating reforms in fiscal year 2006, $52.8 million in fiscal year 2007, and anticipates saving $40.3 million in fiscal year 2008. The current estimate of fiscal year 2008 savings is just half of the amount Amtrak originally anticipated it would save. The Amtrak Board of Directors, in the fiscal year 2008 Action Plan, established as one of its seven corporate goals, to "contain cost growth through productivity and efficiency improvements". We strongly support this goal and believe it should be reflected in the fiscal year 2009 budget.

As shown in Table 2, Amtrak anticipates achieving $17.0 million in fiscal year 2008 savings through revenue enhancements and $23.3 million through expense reductions. The revenue enhancements include improvements to both Acela and long-distance services and additional food and beverage sales. The expense reductions include reducing energy costs, increasing use of credit cards on-board trains, and implementing several productivity improvements in Amtrak's Environment, Transportation, Mechanical, and Engineering departments. Through January, Amtrak has achieved $6.3 million of these projected savings.

TABLE 2.—AMTRAK'S FISCAL YEAR 2008 COST SAVINGS FROM REFORM

[In millions of dollars]

	Annual	Budget YTD	Actual YTD	YTD Variance
Revenue Enhancements	17.0	4.5	4.4	(0.1)
Food and Beverage	0.9	0.9	0.5	(0.4)
Overhead Functions	2.4	0.4	0.4	
Customer Service	1.3	0.4	0.9	0.5
Marketing and Sales	1.8	1.2	0.2	(1.0)
NEC Operations	7.6	1.4	2.3	0.9
Long Distance Services	3.2	0.2	0.2	
Expense Reductions	23.3	5.3	1.9	(3.4)
Mechanical	(7.2)	(2.1)	(1.7)	0.4
Overhead Functions	11.0	0.7	(0.1)	(0.8)
Customer Service	17.7	6.2	4.9	(1.3)
Ongoing Efficiencies	1.8	0.5	(1.2)	(1.7)
Total	40.3	9.8	6.3	(3.5)

Columns may not sum due to rounding.

Source: Amtrak.

Labor Settlement Costs

Amtrak anticipates the fiscal year 2008 and fiscal year 2009 cost of the labor agreement currently in the ratification process will be $412.2 million for both the operating and capital accounts. As shown in Table 3, Amtrak's estimate of $148.9 million in fiscal year 2008 costs includes $52.4 million for the prospective fiscal year 2008 pay raise, $94.4 million for the fiscal year 2008 share of the retroactive fiscal year 2002–2008 pay raise, and $2.1 million for management pay raises to supervisors to maintain an appropriate pay differential relative to their employees. The $263.3 million in fiscal year 2009 costs include $117.4 million for the prospective fiscal year 2009 pay raise, $141.6 million for the fiscal year 2009 share of the retroactive pay raise, and $4.3 million for management pay raises.

We believe that Amtrak does not require a separate $114 million appropriation in fiscal year 2009 to cover the partial costs of the retroactive wages resulting from the pending settlement ratification. Based on actual revenues and expenditures through January, Amtrak forecast that its cash balance at the end of fiscal year 2008 would be $268.7 million. According to Amtrak, paying off the unbudgeted labor settlement costs would reduce this cash balance to $118.7 million. While this cash balance is below the $150 million level Amtrak stated they prefer to have on hand, it is 14 percent more than the $103.9 million cash balance that would have resulted in fiscal year 2007 from Amtrak's spending decisions. Amtrak is currently refining these estimates as it determines the amounts due on an employee-by-employee basis.

TABLE 3.—ESTIMATED LABOR SETTLEMENT COSTS

[In millions of dollars]

	Due in Fiscal Year 2008	Due in Fiscal Year 2009	Total
Retroactive Wage Payment (2002–2008)	94.4	141.6	236.0
Management Pay Raise	2.1	4.3	6.4
Prospective Pay Raises	52.4	117.4	169.8
Total	148.9	263.3	412.2

Source: Amtrak.

Capital

Amtrak's infrastructure continues to suffer from the effects of years of under-investment, and its estimated backlog of infrastructure projects needed to attain a "state of good repair"[5] is $4.8 billion. The $675 million recommended for capital would allow Amtrak to fund legal, safety, and security requirements and continue to make progress to achieving a "state of good repair."

Amtrak initiated a new capital planning process in fiscal year 2008 that prioritizes capital projects across different departments. We believe this planning process is an important step forward. As it matures, we would like to see greater reliance on return on investment analyses for projects, when appropriate. This analysis would facilitate the comparison and prioritization of projects and would demonstrate how projects contribute to meet Amtrak's business goals, i.e., increasing ridership and revenues, reducing costs, improving OTP, and reducing trip times.

Debt Service

The $266 million for debt service is the minimum needed to fund Amtrak's fiscal year 2009 obligations. This amount reflects Amtrak's minimum debt payment schedule adjusted for Amtrak's pre-payment of the $21 million on its Railroad Rehabilitation and Improvement Financing (RRIF) loan. Amtrak's proposal to pay off debt early is based on the economic benefits of paying off higher interest debt and a desire to reduce its overall debt burden to facilitate new borrowing in the future for rolling stock replacement.

We have previously testified that from an economic standpoint, the taxpayer would benefit by the Federal Government paying off Amtrak's $3.3 billion in long term debt and capital lease obligations. Currently, this debt is being paid off with Federal appropriations. Because portions of Amtrak's debt were financed at higher interest rates than what the Federal Government can borrow, it would be less costly for the Federal Government to payoff the entire debt at once. However, in this tight budget environment, we believe Amtrak has higher funding priorities at this time than repaying debt, such as infrastructure investment.

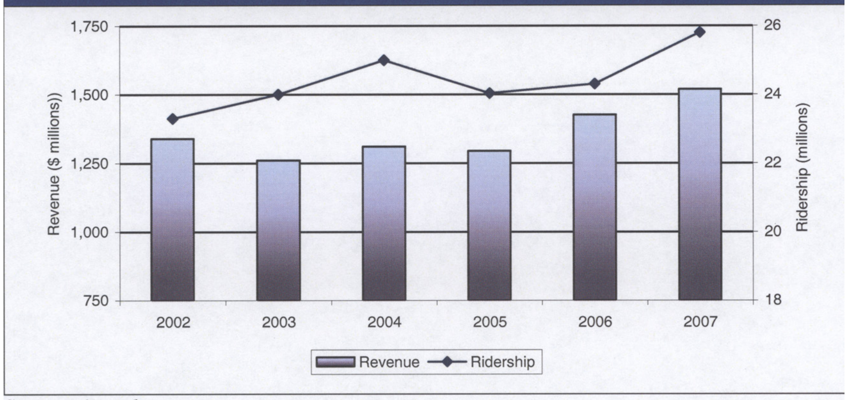
In addition, significant issues still need to be resolved which will affect Amtrak's rolling stock needs. In particular, Amtrak needs to develop a more equitable method of charging States for State corridor services and determine whether the States will pay the fully allocated operating costs and, over time, a growing contribution to capital costs for new and existing service. In addition, the higher labor rates resulting from the pending labor agreement will increase State costs and may affect their willingness to pay for current services, let alone expand into new services. The impact these issues will have on States' demand for new service and the need for additional rolling stock needs to be incorporated into a comprehensive fleet plan.

Revenue and Ridership

Passenger revenues increased to a peak level of $1.52 billion in fiscal year 2007, primarily as a result of revenues from Acela service that were $56.7 million above budget projections. Amtrak attributed increases in Acela revenues and ridership to reduced trip times, improved OTP, deteriorating airline service, increased highway congestion, and higher gasoline costs. Systemwide ridership increased to 25.8 million in fiscal year 2007. For the first 4 months of fiscal year 2008, passenger revenues were $71.1 million higher than the same period in fiscal year 2007, supported by strong demand for corridor trains, particularly for Acela and Regional services. Ridership grew 11.2 percent during this period.

[5] Amtrak uses a component life cycle replacement approach to defining "state of good repair". Amtrak defines being in a "state of good repair" when each of its infrastructure assets is maintained and replaced within the design life of that component.

Figure 3. Amtrak Passenger Revenue and Ridership



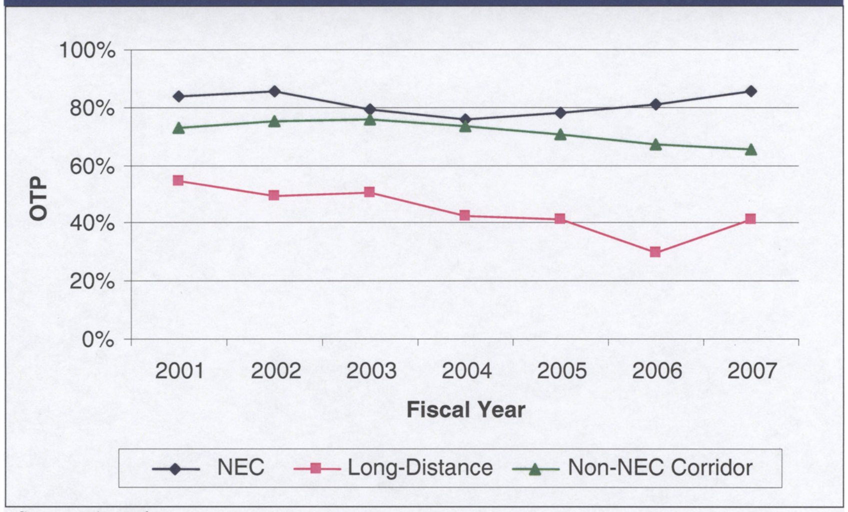
Source: Amtrak.

ACHIEVING RELIABLE ON-TIME PERFORMANCE COULD SUBSTANTIALLY IMPROVE AMTRAK'S FINANCES

Amtrak's OTP had been declining steadily since fiscal year 2002, from 77 percent to 68 percent in fiscal year 2006. However, the OTP increased in fiscal year 2007 to 69 percent and to 72.7 percent through January 2008. In fiscal year 2006, average OTP across Amtrak's long-distance routes was only 30 percent. For Amtrak's corridor routes, average OTP was much higher, but still only 67 percent (excluding the NEC). In fiscal year 2007, the OTP of a number of long-distance routes increased substantially, but only enough to raise the average for long-distance routes to 42 percent. Through January 2008, long-distance OTP increased to 59.7 percent.

We recently reported that improving OTP to 85 percent on all routes outside the Northeast Corridor (NEC) in fiscal year 2006 would have generated a net gain of $136.6 million for Amtrak. This total net gain includes increased Amtrak revenues of $111.4 million and reduced fuel and labor costs of $39.3 million. Revenue would increase as customers become more confident in Amtrak's ability to arrive on time. Labor expenses would be reduced in part by fewer overtime hours required to staff late trains. Fuel costs would also fall with a reduction in delays as less time would be spent idling or accelerating and decelerating. The improved OTP would also require an increase in net performance payments paid to the host railroads. We estimated these would total $14.1 million. Achieving an OTP of 75 percent outside of the NEC in fiscal year 2006 would have generated a net gain of $122.1 million and an OTP of 100 percent would have generated a net savings of $136.4 million. This latter estimate reflects higher performance payments that exceed the revenue increase and cost reductions.

Figure 4. Average OTP of Amtrak Routes



Source: Amtrak.

However, there is little agreement between Amtrak and the host railroads on whose track Amtrak operates regarding the cause of this poor OTP, and, therefore, no consensus on how to improve it. In work we have ongoing at the request of this subcommittee, we have found that Amtrak trains are delayed by insufficient track capacity; host railroad operating practices, including dispatching; and external factors beyond the host railroads' control, such as weather and derailments. The available data does not allow us to quantify the relative share each cause contributes to delay.

The capacity of the freight rail network is insufficient to handle the mix of fast (passenger and inter-modal freight) and slow (bulk commodity freight) trains operating according to different business models, i.e., scheduled versus unscheduled or loosely scheduled service. In this network, passenger trains frequently catch up with slower moving freight trains, or other passenger and commuter trains. In addition, most Amtrak trains outside the NEC operate over single tracks with bi-directional traffic, which requires trains to be held on sidings until they can pass each other. Capacity is also reduced by temporary speed restrictions, or slow orders.

Host railroad operating and dispatching practices also can delay Amtrak trains. Dispatch operations are focused on maintaining network fluidity, sometimes at the expense of Amtrak's OTP. It is difficult to determine how individual dispatching decisions impact delays simply by observing day-to-day dispatching operations. Nevertheless, we found certain practices intentionally delay Amtrak trains. In addition, a lack of management attention by a host railroad to Amtrak's performance can increase delays. Amtrak and the host railroads largely attribute recent OTP improvements on the Auto Train and other Florida services, the California Zephyr, Crescent, Capitol Limited and Lake Shore Limited trains to more focused and cooperative management efforts. Each of these root causes contributes to Amtrak's delays, often in combination with each other. As delays accumulate, it can be difficult to separate the relative impact from each other.

Disagreement also exists regarding the precise nature of Amtrak's right to "preference over freight transportation in using a rail line, junction, or crossing".[6] Amtrak views the legislation as granting an absolute right to run unimpeded on the freight network and, as such, considers all freight train interference a violation of its right of preference. In Amtrak's view, host railroads need to proactively manage operations on their rail lines to avoid interference-related delays. The host railroads we met with did not offer us a legal definition of preference, but generally viewed

[6] Section 24308c of title 49 of the United States Code.

their responsibility to grant preference relative to their ability to manage congestion levels and maintain "fluidity" in the overall system.

We believe the issue of improving Amtrak's OTP can best be addressed through collaborative interactions between Amtrak, the host railroads, and the executive branch which balances the enforcement of rights with incentives for cooperation. The State capital matching grant program can play an important role in this effort in terms of providing an incentive to freight railroads for cooperation. In addition, the quarterly reporting requirements regarding host railroad OTP Congress established last year will also focus the Department and host railroad management's attention on this issue.

REAUTHORIZATION REMAINS KEY TO AMTRAK'S LONG-TERM OUTLOOK

As we have testified previously, we believe that Amtrak's long-term outlook would be improved through a reauthorization that focused on three 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.

Absent a reauthorization, it will continue to fall to the Appropriations Committee to maintain fiscal discipline at Amtrak while providing the tools to improve their performance. At the same time, as we reported last year in our audit of the Amtrak Board's activities, the Amtrak Board of Directors plays a key role in setting a strategic direction for Amtrak within the statutory parameters set by Congress. The previous Board set a strategic direction for Amtrak with its April 2005 Amtrak Strategic Reform Initiatives and fiscal year 2006 Legislative Grant Request. However, this plan's broad long-term objectives were not fully translated into a detailed plan with outcomes, milestones, and performance measures. As a result, the Board and Amtrak management lacked a comprehensive standard against which to evaluate how Amtrak's day-to-day activities are addressing the Board's strategic vision for Amtrak.

The current Board and Amtrak management are developing a new strategic plan, which if accompanied by implementation plans, will be very helpful in guiding Amtrak's decisionmaking.

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

Senator MURRAY. Thank you very much. Mr. Parker.

NONDEPARTMENTAL WITNESS

STATEMENT OF JOEL PARKER, INTERNATIONAL VICE PRESIDENT AND SPECIAL ASSISTANT TO THE PRESIDENT, TRANSPORTATION COMMUNICATIONS INTERNATIONAL UNION

Mr. PARKER. Good morning. Thank you very much. I'm an International Vice President and Special Assistant to the President of Transportation Communications Union, TCU, which is affiliated with the International Association of Machinists.

I've been renegotiater for TCU on Amtrak since 1984. TCU represents the most unionized workers on Amtrak, approximately 7,500. In the just-completed bargaining round, I served as spokesman for a coalition of shop craft unions. I was also lead witness for all 8 unions that were before PEB 242 representing about 11,000 Amtrak workers.

I've submitted written remarks that cover the relevant issues in greater detail, particularly Amtrak's overall funding needs and labor's belief that only a permanent funding source for Amtrak will make it possible for Amtrak to fulfill its promise as a truly national rail passenger service.

Today, I will focus only on the recent labor settlements. I want to begin by thanking this committee for including forceful report language in last year's appropriation bill calling on Amtrak to negotiate fair and equitable collective bargaining agreements.

We have now succeeded in that task. Contracts have been ratified covering the 10-year period from 2000 through the end of 2009 by all eight unions that were before PEB 242 and four other unions who were not.

For the first time in a very long time, I am pleased to say that labor peace is a real possibility on Amtrak. For that to happen, Amtrak must live up to the one item left hanging in all the contracts, payment of the second retroactive pay installment that the unions agreed to defer to 2009.

To understand why the unions agreed to defer this payment, I want to review the negotiations briefly and especially the PEB recommendations that served as a basis for the contracts that were reached.

Negotiations opened on January 1, 2000. From almost the first day, Amtrak stated no contract was possible without far-reaching unprecedented concessions. Amtrak never wavered from that position. While making take-it-or-leave-it demands that it knew the unions would never voluntarily accept, Amtrak also pronounced another departure from traditional bargaining. It would never agree to a dime of back pay.

Under this strategy, the longer negotiations dragged on, the more money Amtrak saved. Amtrak had no incentive to compromise to reach a negotiated deal, and let me just say that the reason we now are before you for this extra money is largely a result of the negotiations going on so long.

As you know under the Railway Labor Act, there's no time limit for negotiations. The parties can't resort to self-help until released by the NMB. Repeated requests over the years by several of the unions for release for mediation were opposed by Amtrak. Finally, in October 2007, the NMB proffered binding arbitration to the eight unions who were then in mediation. Following the rejection of that proffer, President Bush created PEB 242.

President Bush appointed the following individuals to serve on the PEB. As Chairman Peter Tredick, as members, Ira Jaffe, Joshua Javits, Annette Sandberg and Helen Witt. Chairman Tredick was a long-time management side attorney, specializing in labor disputes. Joshua Javits and Helen Witt were former Chairmen of the NMB, appointed by President Reagan. Annette Sandberg had recently served as Administrator of the FMCSA to which she had been appointed by President Bush.

No one could possibly accuse this Board of harboring a pro-labor bias, yet their report overwhelmingly adopted labor's proposals for settlement. Many outside observers professed surprise at this result. I was not surprised. The unions proposed to follow the contracts that had traditionally served as a pattern for settlement on Amtrak, the National Freight Agreements. Those agreements were hardly extravagant. The wage increases, 2.6 percent a year net of employee health contributions, were far less than national outside industry averages and than those, for example, of Federal employees during the past 8-year period.

A strong case could have been made that Amtrak employees had more in common with much higher-paid commuter workers who, like them, work on passenger carriers that require public subsidy, but we elected to present the conservative proposal based on historic pattern considerations.

Amtrak, on the other hand, proposed radical departures from pattern in the areas of back pay and work rules. The Board rejected Amtrak's non-traditional approach.

On back pay, the Board recommended that the wage increases be effective on the same dates they were effective in the pattern agreements, the National Freight Contracts.

I'm going to run out of time. I would beg your indulgence to go a little beyond. Thank you very much.

To address Amtrak's argument that Congress had not appropriated enough funds to allow them to pay retroactive wages, the Board recommended two divergencies from their National Freight Agreements.

First, it recommended that the back pay component be paid in two installments, 40 percent at the time of signing the remaining 60 percent 1 year later. Secondly, the Board limited back pay to employees in service on December 1, 2007, which was the day the Board was established. By doing that, the Board eliminated all employees who had retired or died before December 1, 2007, from receiving any compensation for the 7 years of work they had performed.

Upon issuance of the report, negotiations between Amtrak and each of the eight unions immediately began. Contracts were reached on January 18, 2008. The contracts followed almost to the letter the PEB's recommendation.

However, there was one significant departure. Amtrak insisted it would not agree to the second back pay payment until sufficient funds were appropriated by Congress. In order to avoid a strike, the unions agreed to a contingency provision. If Amtrak determined it lacked the money to pay the second back pay installment, it would notify the unions in 2009 and after a 60-day negotiation and cooling-off period, the unions would be free to strike.

In summary then, what has been the most difficult and contested negotiations in Amtrak history are finally on the verge of being resolved with a fair outcome. Only one outstanding issue remains, the payment of the second back pay installment. Amtrak estimates it requires an additional specific appropriation of $114 million to be able to pay that installment.

As you consider this request for appropriation, I believe a few facts should be front and center. First, the agreements reached with Amtrak are modest, 2.6 a year net in wages is by no means an extravagant settlement. Most importantly, the contract is a product of recommendations by a well-respected group of neutral experts that concluded there could be no rationale for Amtrak workers to be paid less than their counterparts in the rail industry simply because the company they work for receives public subsidies.

Senator MURRAY. Mr. Parker, if you could summarize for us. We will submit all of your testimony for the record.

Mr. PARKER. I will. Let me end on a positive note. I felt compelled to bring the issue of retirees to you but that is in my written statement and it's in the oral statement that I didn't get to.

We believe there are valid reasons for optimism going forward. Amtrak President Alexander Kummant has said he wants to establish a new partnership with Amtrak workers. He was not there when this bargaining strategy was devised nor were most of the current Board of Directors.

PREPARED STATEMENT

We wholeheartedly seek a cooperative relationship with Mr. Kummant and his management team. We want to strive together to work for the best possible service to the riding public. We can accomplish much for the public good. It's time to embark on that journey and to put the strains of the past behind us. That will require the payment of that $114 million back pay installment.

[The statement follows:]

PREPARED STATEMENT OF JOEL PARKER

Thank you for your invitation to testify this morning about Amtrak's budgetary outlook, and specifically about the recent labor settlements on Amtrak and their impact on Amtrak's financial needs.

I am testifying on behalf of the Transportation Communications Union, TCU, an affiliate of the International Association of Machinists. TCU is the union which represents the most workers on Amtrak, approximately 7,500 clerks, carmen, on-board service workers, mechanical supervisors, maintenance of way supervisors, and product line supervisors.

I have served as lead negotiator for TCU on several contracts with Amtrak since 1984. In the just-completed bargaining round I served as spokesman for a coalition of Shopcraft unions, which included the International Brotherhood of Electrical Workers, the International Association of Machinists, the Transport Workers Union and TCU. I was also the lead witness for all eight unions that were before Presidential Emergency Board 242.

I want to begin by thanking this subcommittee for its historic support for Amtrak funding. The members we represent have had to endure the uncertainty of working for a company whose survival was never assured beyond the upcoming year. Every year we faced a serious attempt to underfund Amtrak, or in the case of the current administration, to zero fund it. This funding uncertainty not only fostered job insecurity and concomitant low morale, but also was a direct contributor to the unprecedented nadir in collective bargaining that marked the last 8 years on Amtrak.

The administration has attempted every year to dismantle Amtrak by starving it of the Federal resources it needs or pursuing risky privatization initiatives. Through those efforts the White House demonstrated its complete lack of understanding of the importance of Amtrak to our national economy and our competitiveness. It also demonstrated the administration's disregard for the growing transportation needs of cities and States that are on the front-lines of addressing major congestion and environmental challenges. And by pursuing a reckless funding plan for Amtrak every year, the Bush administration exacerbated Amtrak's already enormous backlog of much needed equipment, infrastructure and safety and security upgrades.

Fortunately, each year this subcommittee has stepped to the plate and funded Amtrak at levels adequate to keep a national system running. You have done this even though Congress as a whole has failed to pass an authorization bill since 2002. For that steady support I again want to thank you on behalf of all of the men and women we represent.

I am especially appreciative of you, Madame Chair, for calling an early hearing last year to highlight the plight of Amtrak employees who had worked for up to 8 years without new contracts and a general wage increase. And I want to thank you and your committee colleagues for including forceful Report Language in last year's appropriations bill that called on Amtrak to negotiate fair and equitable collective bargaining agreements.

Amtrak's accomplishments have been remarkable given its year to year funding scramble for survival. Ridership records continue to be set, and service levels continue to improve. This is largely due to the dedication and professionalism of Amtrak workers, who have refused to let adverse working conditions and terribly bitter labor negotiations deter them from their work of making sure train sets, even terribly antiquated ones, run safely and efficiently, and that service to the passenger be of the highest caliber possible.

But year to year funding can never be the real answer to this Nation's need for a technologically advanced coast to coast rail passenger system. The greatest obstacle to Amtrak's long term success is the absence of a permanent funding source. At this time of soaring gas prices, energy dependence, and the need for environmentally friendly modes of transportation, there is a growing public consensus that Amtrak can play a major positive role in all three areas. Amtrak President Alexander Kummant has laid out an exciting vision of growth in those markets where Amtrak service is now woefully inadequate but where the demand for decent speed rail passenger service clearly exists. To realize that vision will take consistent investment and planning, which is contingent on long term funding certainties.

That is why TCU and the rest of rail labor wholeheartedly endorses a multi-year funding plan that provides no less than $2 billion a year with adequate allocations for both capital and operating needs. We will work with Senators and House Members to achieve long-term financial stability permitting Amtrak and its workers to produce the first-class national rail passenger system Americans deserve.

It is our sincere hope that the Senate and House will not only fund the current needs of Amtrak including the costs associated with newly signed collective bargaining agreements, but will adopt a multi-year blueprint for a truly national Amtrak system. Hopefully, a congressional blueprint for Amtrak will:

—provide multi-year Federal funding of at least $2 billion a year;

—restructure and pay-down Amtrak's debt, which is a product of 30 years of under-funding and neglect;

—reform the make up of Amtrak's Board to include a rail labor member and to ensure it is comprised of strong advocates of the company and its mission; and

—fund critically important security and safety upgrades.

But while we work to see a long term authorization passed, we must necessarily also focus on making sure Amtrak receives an adequate appropriation to not only fund next year's operations, but also to live up to the settlement terms of the just-negotiated contracts that ended an unprecedented 8 years of negotiations without a strike. On the first count, TCU and rail labor support the $1.8 billion for fiscal year 2009 that the House and Senate Budget Committees provided. On the second, we strongly urge the Senate to appropriate an additional $114 million that is needed to fulfill the economic terms of the recent contracts.

It is to that issue that I will devote the balance of my testimony.

To understand the need for the additional $114 million, it is first necessary to understand why negotiations dragged on for 8 long years, why a Presidential Emergency Board appointed by President Bush overwhelmingly decided on recommendations that were largely consistent with labor's proposals, and why the unions agreed to allow Amtrak to pursue additional funding to meet its contractual obligations rather than striking when the law permitted.

Negotiations for contracts opened on January 1, 2000. From almost the first day, Amtrak stated that no contract was possible without far-reaching, unprecedented concessions. In the 8 years that followed, Amtrak never wavered from that position. While making take-it-or-leave-it demands that it knew the unions would never voluntarily accept, Amtrak also pronounced another departure from traditional bargaining: it would never agree to a dime of back pay. Under this strategy, the longer negotiations dragged on, the more money Amtrak saved. Amtrak had no incentive to compromise to reach a negotiated deal. As months turned into years, the ever-growing amount of back pay due itself became an obstacle to settlement.

Under the Railway Labor Act, there is no time limit to negotiations. The parties cannot resort to self-help until released by the National Mediation Board (NMB). Repeated requests over the years by several of the unions for release from mediation were opposed by Amtrak, and ignored by the NMB.

Finally, on October 18, 2007, almost 8 full years since bargaining began and in some cases 7 years after the NMB had assigned mediators to the disputes, the NMB proffered binding arbitration to the eight unions who were then in mediation. (Four unions had elected not to be in mediation and they were therefore not subject to the proffer of arbitration.) The involved unions were: the Brotherhood of Maintenance of Way Employes—Teamsters; the International Brotherhood of Electrical Workers; the International Association of Machinists & Aerospace Workers; the Brotherhood of Railroad Signalmen; the Joint Council of Carmen, comprised of the Transport Workers Union of America and TCU; the American Train Dispatchers Association; the National Conference of Firemen & Oilers/Service Employees International Union; and two ARASA (Supervisors) crafts of TCU.

After the involved unions all rejected the proffer of arbitration, President Bush, on November 28, 2007, created Presidential Emergency Board (PEB) 242. Under the

Act, the Board had 30 days to investigate the dispute and issue non-binding recommendations, after which there would be a 30 day cooling off period at the end of which the parties would be free to exercise self-help.

President Bush appointed the following individuals to serve on the PEB: as Chairman, Peter Tredick; as Members, Ira Jaffe, Joshua Javits, Annette Sandberg, and Helen Witt. Four of the five had previously served on other PEB's appointed by President Bush. Chairman Tredick had served as Chairman of PEBs 240 and 241, which made recommendations in 2007 to settle disputes on Metro North Commuter Railroad and several of its unions. Joshua Javits and Helen Witt were former Chairmen of the National Mediation Board, appointed by President Reagan. Annette Sandberg had been an official in the Department of Transportation under President Bush.

The Board held 3 days of hearings in December 2007, at which the parties fully presented their positions. All eight unions presented a common position to the Board.

The Board issued its Report to the President on December 30, 2007.

The Report for the most part recommended the proposals for settlement that had been advanced by the unions. It advocated adoption of the wage terms of the last two national freight railroad settlements to cover the period January 1, 2000 through December 31, 2009. Wages would be increased by approximately 28 percent over the 10 year period, or about 2.6 percent a year. As in the freight agreements, employee health insurance contributions would be retroactively increased from zero to $166 a month this year, and $200 a month by the end of the agreement. Employees would also have to pay significantly higher copays for doctor visits and prescription drugs, and deductibles were also increased. Wages would be paid retroactively to the dates the increases in the freight contracts were effective, to be offset by retroactive health insurance contributions and COLAs already paid. There would be no changes in work rules.

To address Amtrak's argument that Congress had not appropriated enough funds to allow them to pay retroactive wages, the Board recommended two divergences from the national freight agreements. First, it recommended that the back pay component of the settlements be paid in two installments: 40 percent at the time of signing, and the remaining 60 percent 1 year later. Second, the Board limited back pay to employees in service with Amtrak on December 1, 2007, the day the Board was established. By doing so, the Board eliminated all employees who had retired or died between January 1, 2000 and December 1, 2007 from receiving any compensation for the work they had performed. The Board stated it did this in response to Amtrak's inability to pay argument as a way to "reduce somewhat the cost of the retroactivity pay . . ." (P. 40 of Report of PEB 242).

Upon issuance of the Board report, negotiations between Amtrak and each of the eight unions immediately commenced, and contracts were reached with each union on January 18, 2008. The contracts followed almost to the letter the recommendations of the PEB. However, there was one significant departure. Amtrak insisted that it could not agree to the second back pay payment until sufficient funds were appropriated by Congress. In order to avoid a strike, which would have been legally permissible on January 30, 2008, the unions agreed to a contingency provision. Under that provision, the 60 percent second retroactive payment would be due 1 year from the first retroactive payment, which will occur within 60 days after contract ratification. If Amtrak determined that it lacked the money to pay that installment, it would notify the unions and, after a 60 day negotiation and cooling off period, the unions would be free to strike.

All of the contracts involving the eight unions before the PEB have now been ratified by their memberships. The four unions who also had not reached agreements since 2000 but were not before the PEB have also reached agreements that mirror the Board's recommendations. Those contracts have either been ratified or are in the process of being ratified. Three crafts (clerks, on-board service workers, and product line supervisors) reached agreements in 2003 for the period January 1, 2000 through December 31, 2004, but are without agreements for the period 2005 through 2009. They are now in negotiations with Amtrak, and I am confident agreements will be reached in the immediate future.

In summary, then, what has been the most difficult and contested negotiations in Amtrak's history are finally on the verge of being resolved with a fair outcome. Only one outstanding issue remains, and that is payment of the second back pay installment. Amtrak estimates that it requires an additional specific appropriation of $114 million to be able to pay that second back pay installment.

I am here today on behalf of all of rail labor to urge this subcommittee, and Congress as a whole, to bring this bargaining round to a fair conclusion by appropriating the $114 million to allow Amtrak to fulfill its back pay obligation to its employees.

As Congress considers this request for appropriation, I believe certain facts should be front and center. First, the agreements reached with Amtrak are modest in their terms, 2.6 percent a year in wages is by no means an extravagant settlement. The $114 million needed for back pay covers an 8 year period, which amounts to less than $15 million a year.

Most importantly, the contract is the product of recommendations by a well-respected group of neutral experts, none of whom could be accused of harboring a pro-labor bias or background. They were guided by the evidence before them, and concluded there could be no rationale for Amtrak workers to be paid less than their counterparts in the rail industry simply because the company they worked for received public subsidies. The Board adopted the traditional pattern for Amtrak workers—the national freight agreements.[1] In doing so, the Board noted that had it looked at contracts of rail workers that worked for other subsidized carriers, namely commuter rail workers, its recommendations on wages would have been significantly higher.[2]

As to the prolonged nature of negotiations, the Board found the blame lay squarely at Amtrak's door. ". . . the evidence paints a fairly clear picture that places much greater responsibility on Amtrak for the failure to ink a deal over the prolonged period since December 31, 1999, than on the Organizations." (P. 37 of Report of PEB 242.)

In fashioning its recommendations, the Board noted the "tremendous gains in productivity in recent years by the employees represented by the Organizations." (P. 30 of Report of PEB 242.)

On the back pay issue, the Board unequivocally wrote, "We are persuaded that, in this case, nothing short of full retroactivity is fair and equitable and appropriate to begin to restore to employees the lost wages that resulted from their inability to obtain a successor agreement over the unprecedented 8 year period that these employees have continued to work without a new agreement. Even an award of full retroactivity will result in Amtrak having had the benefit of an interest-free 'loan' of the pay that would have been granted on an ongoing basis if the Freight or other applicable pattern had been timely incorporated as part of an Agreement." (P. 38 of Report of PEB 242.)

Because Amtrak could not credibly point to collective bargaining settlements in the rail industry, freight or commuter, to justify its no back pay position, it relied principally on an argument that it simply could not afford to pay retroactive wages without jeopardizing its operations.

Amtrak failed to mention that not once over the course of the 8 years had it asked Congress to appropriate money to fund an eventual settlement, including back pay. In the absence of such a request, I submit it was disingenuous for Amtrak to suggest that Congress' failure to appropriate such money in advance as evidence of congressional intent that Amtrak workers should work for lower wages than comparable workers in the rail industry.

In fact, the PEB cited this very committee as evidence that Amtrak's arguments on this score were remiss. On page 11 of their Report, the Board wrote that "the Senate Committee on Appropriations recently noted that most of Amtrak's employees have gone more than 7 years (now eight) without a general wage increase, and that consequently many craftsmen have fallen further and further behind craftsmen conducting identical work for freight and commuter railroads. This report went on to State that 'Amtrak's failure to reach a labor settlement is not a result of inadequate Federal funding.'"

The PEB also referenced your counterpart committee in the House who in 2007 reported that "Amtrak's wages, in many cases, are well below market . . ."

Labor did not rely on those reports to make our economic case to the PEB. The facts of the wage comparisons spoke for themselves. But the reports did demonstrate that underpayment of Amtrak workers was not necessarily congressional intent, as Amtrak tried to suggest.

But in fashioning what they considered a fair settlement based on traditional comparators such as pattern settlements in the industry, wages paid for comparable

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[1] "There is no dispute that . . . the Freight Agreements have served over the years as the historical pattern referenced for establishment of wages, benefits, and working conditions, at Amtrak." (P. 14 of Report of PEB 242.)

[2] The Board found that if the freight pattern was not used as the basis of settlement, "One would then be compelled to more closely examine similarities between Amtrak's operations and those of Commuter Rail and Urban Transit in which wages and benefits are significantly higher." (P. 23 of Report of PEB 242.)

work, and economic trends such as inflation, the Board did in effect punt one part, albeit a small part, of the settlement to Congress: the second back pay installment.

In doing so, the Board wrote that its "role is to find a fair and reasonable basis for agreement. We must consider traditional factors relevant to the collective bargaining process but cannot tailor those recommendations to a prediction of Congressional action. We are cognizant of the political and financial constraints facing Amtrak, and have recommended adoption of contractual terms that are reflective, in part, of those realities. But we agree with PEB 234 (the last Amtrak PEB) that Congress should be informed of the 'true cost' of Amtrak's service. It is then for Congress to determine whether to provide the funding necessary for passenger train service." (P. 11 of Report of PEB 242.)

Labor believes that it was never Congressional intent to base Amtrak's survival on having Amtrak workers endure substandard wages and working conditions. Just as Amtrak suppliers, vendors and contractors expect to be fully compensated, Amtrak workers deserve to be treated fairly, and to not have to discount their labor as the price of keeping a national rail passenger service funded.

Now the decision is squarely in Congress' hands. Appropriating the $114 million will bring this round of bargaining to a long overdue conclusion. Failure to appropriate will foment another year of labor unrest, at the end of which once again Amtrak workers will have to contemplate a strike as the only legal means to obtain the settlement that the Board recommended and to which Amtrak agreed.

Amtrak admits that the lion's share of the settlements is payable based on current and anticipated funding action—that is, Amtrak is not requesting additional funds to pay the wage increases over the 10 year life of the agreement, nor the 40 percent of the back pay due payable in 2008. The only piece that Amtrak says it requires additional funding for is the 60 percent back pay component payable in 2009, which Amtrak calculates as $114 million.

All of labor on Amtrak strongly urges this subcommittee, and Congress as a whole, to appropriate that additional $114 million.

There is one other issue I would like to address before concluding. I mentioned before that in an attempt to reduce the amount of back pay due, the PEB recommended that employees who retired and the estates of employees who died between January 1, 2000 and December 1, 2007 would not be eligible for any back pay. All of the unions vigorously disagreed with this recommendation, but Amtrak would not agree to ignore it without funding to pay for it. Amtrak estimates the cost of funding the back pay for retired and deceased employees as between $13 and $14 million. We do not have the data necessary to verify those figures, so for purposes of this discussion I will rely on them as accurate.

We believe that it is extremely unfair that these employees who contributed so much to Amtrak's success be arbitrarily excluded from any consideration for the time they worked during the 7 year period. Amtrak didn't even propose this as a resolution. The Board came up with it out of thin air, arbitrarily picking the date of its appointment as the cut-off date for back pay. Its only stated reason was to reduce costs. Many of the affected workers had been there from Amtrak's creation. Excluding them is both inequitable and bad public policy. As a result of this action, their railroad retirement annuities were permanently reduced. We don't believe that Congress ever intended that retirees be treated in such a manner. For an additional $13 to $14 million, this unfair situation could be rectified. We urge Congress to give it serious consideration.

In conclusion, it is time to move beyond the bitter labor relations of the past 8 years. That will be impossible until the issue of funding the second back pay installment is resolved, since a lack of resolution will throw the parties back into impasse and a possible strike. We believe that it was never congressional intent to embark on such a course, and past Amtrak management used it as a smokescreen to justify their confrontational agenda.

But we believe that there are valid reasons for optimism going forward. Amtrak President Alex Kummant has said he wants to establish a new partnership with Amtrak workers and their unions. He was not there when Amtrak's bargaining strategy was devised. Nor were most of the current Board of Directors. Amtrak unions wholeheartedly seek a cooperative relationship with Mr. Kummant and his management team. We want to work together to strive for the best possible service to the riding public and the expansion of service to new areas and along existing routes so that Amtrak fulfills its promise as a major transportation alternative. Working together, we can accomplish so much for the public good.

It is time to embark on that positive journey, and to put the strains of the past behind us. That must begin with fulfillment of the contractual terms just agreed to, which includes the second back pay installment. I urge Congress to appropriate the necessary $114 million to finally bring this round to a fair and equitable conclusion. Thank you.

Senator MURRAY. Thank you very much, and all of the testimony will be included as part of the record.

Mr. PARKER. Thank you.

Senator MURRAY. The President's budget cuts direct subsidies to Amtrak by about 40 percent, and when you look at the direct subsidies for Amtrak's operating losses and required debt service payments, the cut proposed by the administration for fiscal year 2009 is 64 percent.

Mr. Tornquist, let me start with you. Your office has been reviewing Amtrak's books every quarter for some time now. Do you believe there is any way possible for Amtrak to avoid bankruptcy if they absorb a 64 percent cut at this time?

Mr. TORNQUIST. No, we don't see a way forward with that level of reduction that would avoid bankruptcy.

Senator MURRAY. Mr. Kummant?

Mr. KUMMANT. Excuse me. It would take just a complete radical reconfiguration of what's there. It would not resemble what's here today.

Senator MURRAY. Ms. McLean?

Ms. MCLEAN. I agree with what Mr. Kummant said, that it would be very difficult.

Senator MURRAY. Mr. Boardman?

Mr. BOARDMAN. I wondered if I would be last.

Senator MURRAY. You are.

Mr. BOARDMAN. I think $900 million is the number that has probably been dealt with here since 2004. The years 2004, 2005, and 2006 were zero years, it was $360 million at that time. It was $900 million in 2007 and $900 million in 2008, and when you look at that number, what you find is that on all the requests of all administrations back as far as I could look is the highest number that's been requested, and you ask yourself how do you deal with a trap that you continue to seem to be in here between what is asked for, what is appropriated, what is spent, and I think it partly has to do with the fact that there is no request of the administration from Amtrak in the budget process.

They aren't part of the budget process, we never receive anything from them, and so you wind up with a number that goes in and if you look over the years, those numbers sometimes have been more realistic than other times, but what Amtrak has instead is a legislative and grant request which I see as a board member right before it comes here as a request for——

Senator MURRAY. Well, you are on the Amtrak Board?

Mr. BOARDMAN. Yes.

Senator MURRAY. You know what their expenses are,——

Mr. BOARDMAN. Yes.

Senator MURRAY [continuing]. Their operating expenses are?

Mr. BOARDMAN. Yes.

Senator MURRAY. You sent the request to us?

Mr. BOARDMAN. Yes, we sent the request to you. We do our budget in the July beforehand. We provide and lock down the budget by the end of the year and by that point in time, we have not yet had an estimate from Amtrak. Doesn't mean I don't have reality of understanding what the number is.

Senator MURRAY. Well, in that reality, hearing what you just heard, do you think the budget request, 64 percent cut, is going to——

Mr. BOARDMAN. I don't know what the percentage is, Senator. I trust your——

Senator MURRAY. Okay.

Mr. BOARDMAN [continuing]. Your numbers.

Senator MURRAY. Sixty-four is——

Mr. BOARDMAN. The $900 million that we propose——

Senator MURRAY. The question is do you realistically believe that the budget request you sent in your position and in your capacity as a Board Member will allow Amtrak to continue without going bankrupt?

Mr. BOARDMAN. Not in the system that they currently operate.

Senator MURRAY. And what miracle will occur in the next 6 months to have that change?

Mr. BOARDMAN. Well, there's no miracle. I'm not talking about any miracle, but there are hard business decisions that could be made that would reduce the need for that Federal assistance substantially.

If you look at the fare box going back to 1995, they covered approximately——

Senator MURRAY. As a Board Member, have you proposed those changes?

Mr. BOARDMAN. Yes.

Senator MURRAY. And the Board has said?

Mr. BOARDMAN. The Board itself has had those discussions. Management has had those discussions. We have not had action on those changes.

Senator MURRAY. Well, can you describe for us what those detailed changes are?

Mr. BOARDMAN. One of the changes could be that New York could start paying for the services that are provided and it was a fairly fun discussion that we had at the time since I'm the former New York Commissioner and they said to me and management said to me and the Board, well, you could have paid us then.

Senator MURRAY. Okay. So, first of all, New York sends us a big check. Then what?

Mr. BOARDMAN. Well, I think that's part of it. I think it's a lot of different things that would need to happen and change for the future, and I think the administration has said from the beginning, if it sees those changes, it sees those reforms then we can talk about what additional incentives could be provided to Amtrak for the future.

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

Mr. KUMMANT. The reality is that Mr. Boardman and I are not really that far off. In fact, this feels a little bit like a board meeting with Mr. Tornquist who sits in on all of ours and Donna McLean as well.

But if you look, it's really a question of timing. I think there are a lot of things we agree on. In fact, one of the first things I did when I arrived was to reconfigure our organization to be able to go and gauge the State DOTs more effectively. It was one of the strategic reform initiatives to recoup more overhead and equipment money from the States and that, as you all know, is easier said than done given the state of the State budgets as well.

But we are in very active discussions and strategic planning with States everywhere to say how can we reconfigure, make this far more transparent.

To your question, will that happen in the next 6 months, no.

Another example we're very much together on is working very hard on our mechanical operations. That's a $500 million operation. It needs to be modernized. We're doing that. We also—we have choices to also even attract outside business in order to leverage those assets more effectively. Again that will all take time.

Senator MURRAY. Well, let me jump to one other question before I turn it over to Senator Bond.

Ms. McLean, I want to ask you. The budget submission by your board of directors is really confusing. It acknowledges the requirement to pay an additional $114 million for the second installment on back pay, but it doesn't actually request the funding of this committee.

Mr. Tornquist has testified that if Amtrak receives the current year's level of operating support again in 2009, then the railroad can be expected to have sufficient cash on hand to make the $114 million payment without an explicit appropriation from our committee.

What is the formal position of the Amtrak Board on this?

Ms. MCLEAN. If I can step back for one second on our request for our operating, we've got a $50 million increase and what it represents is we have agreed that we can absorb the $127 million in 2009 for additional wage increases as a result of the PEB.

We are saying we're going to absorb the anticipated increase in fuel costs, deal costs, et cetera, et cetera, but what hit us unexpected was a $50 million increase in our health benefits, our estimated costs for health benefits. We could not absorb that, so that's most of our request for an increase in operations in 2009.

Then on top of that, you've got the PEB back pay. We went into the PEB negotiations offering as much as we could afford, which stopped short of the 100 percent back pay. After accepting the PEB, the PEB's recommendation is based on historic patterns. They looked to what happened in the past. That was their recommendation. We accepted it, but we also looked to the past and in previous negotiations where there had been additional requests and the PEB stated this in their recommendation, it's the decision of Congress on meeting those requirements.

So, our request does not include the $114 million. It is the decision of Congress on whether or not that's going to be funded. We have worked with your staff on other ideas, some alternative funding. The efficiency grants is something that was brought up. That's not something we can do, but it's something that can be changed in law and offset that $114 million.

We have come to the table paying and offering that within our budget request, we are able to afford 81 percent of this PEB, but the $114 million is dependent on Congress and the ratification clearly states that if Congress gives us the money, then we will be paying that 100 percent back pay.

Senator BOND. Thank you very much, Madam Chair. As the Inspector General pointed out, there's a great big black hole in the presentation of Amtrak that I didn't hear either the Chair or the Chief Executive Officer address.

Mr. Tornquist noted the commitment to savings. I believe in 2005, the goal was set for $500 million savings. Well, the next year they got 61.3 in operating reforms, 52.8 in 2007, 40.3 in 2008 planned, and then it's disappeared. The funding requests go up, the operational reforms disappear.

What happened to them? Where are the operating reforms?

Mr. KUMMANT. Well, I'll start. First, I'm not entirely sure what the genesis of that figure is. All of our internal numbers are based on an additional $40 million in savings, so that continues. The food reforms continue. We continue to reconfigure the mechanical operations. We continue having fuel savings work.

As I alluded to, the State partnership work is very difficult and is a very heavy lift. We have a whole group of people working on that. So, the operating reforms certainly are continuing, sir.

Senator BOND. There were no work rules changes. Are you considering those?

Mr. KUMMANT. We're considering every day to make the operation more efficient, but as you well know, we are constrained in what we can do on work rules, given the PEB.

Senator BOND. And there were no—the Emergency Board completely—did they completely ignore the work rule changes?

Mr. KUMMANT. Well, in terms of any forward deal, we are going to continue to pursue the rights that we do have, but there are no reforms contractually agreed to.

Senator BOND. Mr. Tornquist, you said there are no savings from operating reforms in 2009. Do you have a different view of the budget from Mr. Kummant?

Mr. TORNQUIST. I think it's a question of definitions. The $40 million that I think Alex is referring to is the fiscal year 2008 reforms and to their credit, Amtrak in the previous 3 years has had significant reforms. Our definition of reforms is a change in business practices that is recurring into the future, so that we are lowering their ongoing core operating costs.

So, there have been significant reforms. There are no new reforms in that area in the 2009 request as it was presented to us.

Senator BOND. Do you have suggested reforms that you would offer to them?

Mr. TORNQUIST. I think they have reforms that are on the table in terms of their long distance service. I think they have reforms that they have proposed in the past regarding State payments, and I would encourage them to look in those areas.

Senator BOND. Mr. Boardman, do you know of any instances where the DOT has denied funding to Amtrak because Amtrak's grant request would not be the most efficient use of Federal funds?

Mr. BOARDMAN. No. When we looked at the efficiency requirements itself, we made sure that the kinds of things that Amtrak was talking about would provide efficiencies.

Senator BOND. You voted against Amtrak's grant legislative request for 2009 and the basis for that vote?

Mr. BOARDMAN. So that the chairwoman wouldn't ask me why we submitted $900 million and voted for $1.6 billion —what is it? I'm just kidding.

Senator BOND. Just wanted to get that on the record. It was rather obvious.

Mr. BOARDMAN. Yes, sir.

Senator BOND. Are you concerned there are no operating reforms proposed? What do you see for operating reforms in——

Mr. BOARDMAN. Well, I think that operating the train reforms, there are some things that are going on that I see as a Board Member. I think there's been a strong effort to reduce the amount of debt, and I think that has been important in this process and that Amtrak, as you know, was in trouble with that debt, and when you look back again at this whole history of the appropriation levels, it was when they got in debt back in 2000 and 2001, when the really big debt came along, it was because appropriation levels partly were much, much lower, $520 million on 1 year and $726 million on the next, which was substantially lower than they had been, and you look at the consistency of the revenues, you look all the way along the process, they also began to drop between 2002 and 2004 on their revenues for ancillary business about 8 percentage points.

I guess what I'm trying to look at here is I've been trying to look at the whole consistency of how you fund Amtrak and I think that they are making changes, whether it's in the mechanical side of things or whether it's in the back shop where they're really changing today, E-ticketing, for example, and some of the things, business practices, that have come about and they've gotten a focus on.

As we measure those, I think you're going to see improvements, but how you adjust in the middle of the changes that Alex talked about with fuel costs and other costs that are going up has been particularly difficult.

Senator BOND. Let me just have one last question for you, Mr. Boardman and for Mr. Kummant and Ms. McLean.

In 2006 and 2007 a total of about $66 million was appropriated for efficiency grants. I understand that Amtrak has only sent in $15 million in receipts, leaving about $47.5 million remaining.

What's going on with the efficiency grants? Would Amtrak like to use these funds in part for labor settlement? I'd also like to know Mr. Boardman's position on use of those funds for that purpose. So, let me ask Amtrak first on the efficiency grants.

Ms. MCLEAN. We are not opposed to using it, but like I stated before, it's not something that we can do. It has to be legislatively changed. We would have used those funds for a variety of activities and which Alex can probably go through. That's obviously a lost opportunity but, you know, we have immediate needs as well.

Mr. KUMMANT. A key point to be made, though, on how the efficiency grant functioned and why those funds don't disappear quickly is we have to spend the money first and then we're reimbursed. So, we don't have enormous other reserves to draw on. It's not like we have a lot of excess cash to go work projects and then come to the FRA for reimbursement, but there are projects identified, such as really modernizing our dispatch system and consolidating other backroom functions, but it's a slow process, given the mechanism that we have to fund it ourselves first, and we're all here today because we're not a cash-rich organization.

Senator BOND. Mr. Boardman.

Mr. BOARDMAN. We've obligated the funds. They would have to be deobligated. We would look at the expenses that Amtrak has already incurred on them, but I think Alex said it the right way and that is, that these are things that still need to be done.

Senator BOND. Thank you, ladies and gentlemen. Thank you.

Senator MURRAY. Thank you. I just have a few more questions. I wanted to go back to the PEB recommendations right now because Amtrak is signing those contracts right now, and as I understand it, if Amtrak does not make the $114 million payment for back pay next year, then Amtrak's unions are free to strike 60 days after the decision is made.

Under those new contracts, who decides if Amtrak has the resources to make the payment or not?

Mr. KUMMANT. It's the sole discretion of the Board.

Senator MURRAY. So that's strictly your decision?

Mr. KUMMANT. I'm a non-voting member of the Board. I actually should perhaps look at Donna and Joe, but it's the sole discretion of the Board to look at our cash balance and make the decision whether or not we can manage that.

Senator MURRAY. Is that correct, Ms. McLean?

Ms. MCLEAN. Yes, that's how I understand it.

Senator MURRAY. Mr. Parker, would you like to comment on that?

Mr. PARKER. That is correct. In the negotiations, we decided we didn't want to get hung up on whether this amount of money was appropriated or not. Obviously revenue is either sufficient or not. They can do it without. So, the issue to us was payment, period.

Senator MURRAY. Let me move on to another happy topic, on-time performance. When we had the hearing last year, we spent a lot of time talking about the very poor on-time performance of Amtrak trains outside of the Northeast corridor, and when you look at Amtrak's most recent data, things have improved slightly but certain trains, including those that are subsidized by the States, still have a pathetically poor record of getting to their destinations on time.

Amtrak services in Indiana are on time less than a quarter of the time. I'm afraid the record is worse when it comes to State-supported services in Senator Bond's State, for example. Certain services, like Vermont are not doing well. In fact, it is much worse than last year. In Amtrak's long distance network, more than 40 percent of the trains do not arrive within a half hour of scheduled arrival time and a lot of them arrive later than that.

Mr. Boardman, actually you testified last year that improving on-time performance was one of your top priorities. Can you tell us what you've done in the past year to work on that?

Mr. BOARDMAN. I think what we've mostly done is work with Amtrak. We think Amtrak's done a good job, for example, with CSX and the Auto Train and some of the other improvements that are out there.

I think that David Tornquist, in the study that they did, did point out some of the real difficulties here, the capacity issues. I think that by proposing last year and starting to fund the grants programs with the State, the idea was that we could get some passing sidings and we could make some improvements in the longer term.

We have included in our annual review of every one of the railroads now a document that begins to measure for us what the on-time performance is on that particular segment that would be on that railroad, regardless of what the railroad itself has as capacity problems and we've set up—in a couple of weeks from now, the Secretary will meet with the chief executive officers of all the freight railroads and the Amtrak Board and one of the subjects or topics will be on-time performance. So, we're trying to make sure we're raising that to a level of importance.

Senator MURRAY. You probably know that I included a provision in the 2008 appropriations bill requiring some quarterly reports from you on on-time performance. The first one was due in January 1. The second one was due in April 1. We have not seen either one of those.

Can you tell me what you're doing to meet those statutory requirements?

Mr. BOARDMAN. You will get it right away because I thought that we had some time yet.

Senator MURRAY. Okay. One was due January 1, another is due. When can we expect that?

Mr. BOARDMAN. Right away. I will get staff. If you need a date on it, it will be done by the end of this month.

Senator MURRAY. Right away, like in on-time performance right away or right away like in right away?

Mr. BOARDMAN. Yes, ma'am. I deserved that.

Senator MURRAY. Thank you. One more question and then I'll turn it over to Senator Lautenberg.

Mr. Tornquist, your agency has been doing an audit of this on-time performance and its causes. The law that established Amtrak granted passenger trains priority over other traffic when operating on track owned by freight railroads. That priority was part of the deal in exchange for the Federal Government taking passenger trains off the books of the freight railroads that used to run them.

Have you found that there's any consistency among the major freight railroads on what they consider to be their obligations under this provision of the law?

Mr. TORNQUIST. That actually has been one of the difficulties in determining the exact cause of the delays that Amtrak trains experience. There's both a lack of agreement between Amtrak and the freights in regarding the freights' obligations under the preference requirements. The freights as a whole place a different emphasis on on-time performance of Amtrak trains within their own operations.

So, Amtrak has a very black and white definition of preference which is that their trains should run unimpeded along the host railroad tracks. The freights did not give us a legal definition of their preference obligations. By their practices, they are in fact defining Amtrak's preference rights since they control the dispatching. They view their dispatching responsibilities, as they describe it to us, more in terms of giving Amtrak priority while maintaining the flow of traffic across their networks.

Senator MURRAY. Okay. I have a number of other questions that I will submit for the record.

Senator Lautenberg, who's been a major player in this area, I know as well, has some concerns, has a comment. I will give you your time to ask questions.

Senator LAUTENBERG. Thank you very much, Madam Chairman, for holding this hearing.

With gas prices as they are, greater delays at the airports, the train is becoming ever more popular, and I can attest to it directly. Coming down on Amtrak last night from Newark, the place was busy and so it's been, I'm told by the people who work in Newark Penn Station that, they're continuing to see ever-larger crowds, and people seem to be content to take a little bit longer, or in reality maybe some time less.

Effectively once you look at the delays getting into the airport, the distance from city-centers and so forth, the train is the way to go. I've even seen an improvement in the quality of the food. So, I wanted to tell you things are picking up at Amtrak and over 26 million people having taken the train in the last year and again literally clamoring for more space and for more opportunity for improving schedules and service.

So, I thank you, Madam Chairman, and I wanted to just get a couple of questions in place here, and I ask for Mr. Tornquist. The recent audit that you completed at my request estimates that in fiscal 2006, late trains cost Amtrak $137 million or about 30 percent of its Federal operating subsidy.

How can Amtrak recover some of these costs, especially when most of these delays are caused by private freight rail companies?

Mr. TORNQUIST. That's a very good question. The $137 million was tied to an on-time performance off the NEC of 85 percent which is an ambitious target. We would view it would require a combination of effort, both clarifying Amtrak's preference and the enforcement of those rights. S. 294 includes provisions in those areas.

But we also think it has to be a collaborative effort between Amtrak, the freights and the administration, that simply standing over the freights' shoulders as they dispatch trains is not a very good or efficient way of ensuring that the desired result will be achieved.

We look to the State capital grant program that Mr. Boardman has referred to as a way of bringing some capital into the problem. In addition, a portion of the $137 million that could be derived by improving Amtrak's on-time performance could possibly be used to further incentivize the host railroads to improve their dispatching of Amtrak trains.

Senator LAUTENBERG. Have the incentive opportunities moved the freights along at all, Mr. Boardman, do you think?

Mr. BOARDMAN. We have—in the $30 million, we do have 3 applications and 13 States that have serious interest in it and yes, we think that it does help with the freights because in some cases, the freights are talking about providing that local share, so they can make improvements in the railroad.

Senator LAUTENBERG. Is there—how else might we enforce the development of the relationship between the two? I mean, in law, it says that the freights are to give consideration, the preference to the rail service.

Can you think of what else we might do to make this a reality?

Mr. BOARDMAN. Well, I think—I was instructed or, I mean, it was instructed to me to read David's report and his testimony and the different definitions that there are out there for what a railroad or what their dispatchers, what their operators really think the obligation is, along with listening to management at some of the board meetings at Amtrak, which I think has taken a pretty aggressive approach in dealing with the freight railroads, especially the ones that really aren't coming up to the plate on these kinds of things.

I answered the question earlier and got myself in hot water because I should have written it as a quarterly report, but we have had regular meetings now with the freight railroads where we're identifying for them and beginning to measure their on-time performance in our safety review. The Secretary will be meeting with the CEOs and the Amtrak Board this month, on the 16th of this month, together as a group for the first time and one of the key elements of the discussion will be on-time performance.

So, we're going to try to get to the bottom of what the definition is, what the expectation is, and we think that's the way to go, both in terms of talking to them, having Amtrak be more aggressive about it and continuing to measure that performance.

Senator LAUTENBERG. Mr. Kummant, do you want to tell us what Amtrak is doing for their share of the problem?

Mr. KUMMANT. We have some good examples. I think we've done very well with CSX on the Auto Train, for example, and when they have serious maintenance issues, we need to be flexible in schedules.

I do think that going forward to have the opportunity to offer them capital for siding extensions or sidings to work with them. Some of the best examples are with strong State DOTs. If you look at BNSF's relationship on the west coast, there's a lot of capital that flows into their systems. That's related to passenger rail. That helps clear bottlenecks. So, there are capital solutions.

Other than that, I do think visibility is important. I mean, it's clear that the political environment is significantly different, but just to scope the magnitude, only four times really since the founding of the company has the OTP been over 75 percent and that was as far back as 1985 and if we recall, in this period of time, freight volume on the railroad has doubled while mainline track capacity has probably dropped by 30 or 40 percent.

So, it's a tough problem and in the end, yes, I do think working on dispatching is maybe 5 or 10 points, but in the end, it's about capital and it's about the way the States, the freights and Amtrak come together as a coalition to solve each individual problem. They're all different. That's what makes it hard. Every single challenge is different on every different corridor.

Mr. BOARDMAN. Can I add to that? One of the other things that's been a particular difficulty for us is to figure out how to manage the slow order difficulties that are out there, that a freight is just fine with the slow order because of their demand for their particular service, but it's not an acceptable deal for the passenger railroad because it really does hang them up and slow them down.

So, we're trying to figure out how do we get the freights to pay attention to that issue and move slow orders and take care of things quicker.

Senator LAUTENBERG. Well, we have a bill that's passed through the Senate, as you know, that will provide more capital and perhaps can help us deal with this particular problem. It's an important thing. We want freight to continue to be able to have the capacity that they need, but we also have to make sure that we encourage people to use the rail system and one way to do it is to make it more reliable and the appetite is there. We should try to fill it.

I want to ask Ms. McLean. Amtrak has now been given a $114 million for the resolution of the retroactive employee pay. Does Amtrak have the $114 million or will it have now or next year?

Ms. MCLEAN. The $114 million is the back pay dollar amount for fiscal year 2009. That is not something that we can absorb and one thing that was brought up earlier in the hearing was whether or not our cash balance would at the end of the year, which we tend to have $200 million to a $180 million at the end of the fiscal year, could that—could we just pick that up and pay for the $114 million?

Well, that's what the IG David Tornquist is saying we could do. Our experience at Amtrak is that we need a cash balance around a $180 million because as our funds come in slowly at the beginning of the fiscal year, you know, we need a cash balance to be able to run our business, be able to pay your basic requirements, and if we run down into about a $100 million, which we did in fact last year with the continuing resolution situation, we get in a position where we are going to have to start, you know, calling our company bankrupt, quite honestly, because we cannot operate on a cash flow of nothing.

We have—we basically lose $40 million a month and that's just, you know, the facts. So, we can't take our cash balance and just pay for the $114 million out of that.

Senator LAUTENBERG. Mr. Tornquist, should they have—Amtrak have that money available?

Mr. TORNQUIST. The point that we were making in our testimony is that when looking at how to pay all of Amtrak's bills, we think it's important to look at all the resources that are available to Amtrak, and the cash balance that Amtrak expects to have on hand at the end of fiscal year 2008 is a resource that they have available.

We understand the concerns about cash flow that Amtrak has expressed. I think Chairman Murray and Mr. Kummant both have talked about how we're dealing with forecasts and we need to keep an eye on how the economy is doing and how the expenditures are doing. But based on the information we have right now, there is almost $270 million that will be on hand at the end of the year.

Amtrak has expressed a need to have $150 million on hand at the time. I recognize the cash flow issues are tied to when they'll get their appropriation in the next fiscal year, but there are ways to address that problem in the CR. However, it is a resource that we think just needs to be considered in calculating their ultimate appropriation needs.

Senator LAUTENBERG. Madam Chairman, you've been patient. May I ask one more question? One or two short ones?

Mr. Kummant, as we look at stimulus packages, opportunities I'll call them, are there any capital projects in which Amtrak could begin in let's say a 90-day period, if you had additional funds?

Mr. KUMMANT. I think we could, we certainly could find work on the Northeast corridor. The problem and the reason I need to be hesitant and there's probably some people behind me grinding their teeth, depending on how I answer it, is, I mean, material is tight. With commodity markets, I mean that's difficult.

I can think of all kinds of expenditures, if you broaden the 90 days to, you know, 6 or 9 months. The 90-day provision is a tough one, but, I mean, I'm sure we could find a few things, but material availability is difficult outside of our core planned efforts that we have today.

I might just—I have to turn around and look and see if there's a nod. I mean, we certainly have a backlog of projects, but again we have to review what we can do on material.

Senator LAUTENBERG. Thanks very much, Madam Chairman. I appreciate the courtesy.

Senator MURRAY. Thank you very much, and before I recess, I just want to ask Mr. Kummant. In terms of on-time performance, I noticed that one of the biggest problems is in my own backyard with the Empire Builder going from 80 percent performance to less than 45.

Do you know what is going on in that case?

Mr. KUMMANT. Yes. That was—we had a lot of weather, a lot of slides. I think that was very much a seasonal issue over the winter. Generally, Empire Builder does well and BNSF does well with the Empire Builder. That's—obviously we're concerned about that, but that should be improving.

Senator MURRAY. So that was mostly due to the snow that we had?

Mr. KUMMANT. Yes. We had a very difficult winter in your backyard.

ADDITIONAL COMMITTEE QUESTIONS

Senator MURRAY. At this time I would like to remind the members that we will leave the record open for additional questions they have for the second panel.

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

QUESTIONS SUBMITTED TO ALEX KUMMANT

QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

STATE SUPPORTED SERVICES

Question. Mr. Kummant, in your testimony and budget submission, you stated that additional States are interested in expanding Amtrak's services with State subsidies.

At the same time, we have heard that new costs associated with the labor agreement will have to be covered by States that support Amtrak services, and that some of these States may not be in a position to cover those costs.

What should we expect to see in the coming years as far as the expansion or contraction of State supported Amtrak trains?

Answer. Amtrak is currently working with more than two dozen States on proposals for new or increased State-supported intercity rail services. However, due to a lack of available passenger rail equipment and Federal matching capital funds for intercity rail investments, near term expansion will be limited. As evidence for the need of such a program, 22 States have applied to the Federal Railroad Administration for a portion of the $30 million in Federal matching grant funds that Congress appropriated this year. The Amtrak reauthorization legislation approved by both houses of Congress would at least in part address this need by creating a multi-year Federal matching capital grant program for intercity passenger rail development, modeled on the Federal programs that provide funding to States for other transportation modes. We believe that enactment of a Federal capital matching grant program would allow States and Amtrak to bring many of the proposals mentioned above to fruition, and would encourage additional initiatives to expand Amtrak service.

Question. Do you foresee any States dropping rail service because of their inability to pay their portion of the cost?

Answer. While many States are seeking to start or expand existing intercity passenger rail services, increased operating expenses associated with higher labor rates resulting from the recent settlement and increased fuel costs (which for many routes have been largely offset by higher demand) have negatively impacted some routes. Coupled with lower than expected tax revenue several States may be forced to consider reducing or eliminating service over existing State-supported routes. Amtrak is working closely with each of these States to seek new efficiencies and/or increase passenger revenue through fare adjustments or service improvements. We remain confident that these actions and continued strong demand will avoid service cuts. However, a reduction or elimination of service remains a possibility in at least four and perhaps more States.

Question. What communities do you think are poised to expand to rail service even at these increased costs?

Answer. Despite higher operating, costs strong demand driven by the safety, affordability, comfort and convenience of rail travel has driven many communities to seek new or expanded service. Major routes where equipment has been identified and service expansion is currently underway or in advanced planning phase include the Downeaster Service (expansion to Brunswick, Maine), Cascades Service (additional service between Bellingham, Washington and Vancouver, British Columbia) and the Piedmont service (additional service between Raleigh, North Carolina and Charlotte, North Carolina). In addition, routes where planning efforts are underway and near term expansion (2 to 3 years) is possible include the Northeast Regional Service (between Washington, DC and Lynchburg, Virginia and between Washington, DC and Richmond, Virginia); addition of an eighth daily roundtrip of the Hiawatha service operating between Chicago and Milwaukee; new service between Chicago and the Quad Cities; and new service on the Chicago-Rockford-Dubuque route. However, Amtrak's inventory of available equipment is nearly depleted and therefore not all of these routes will be implemented in the near term. Amtrak is working with our State partners to standardize equipment templates in an effort to reduce the cost and lead time necessary to secure new equipment in the event that Federal capital matching funds are made available.

HEALTH INSURANCE COSTS

Question. Mr. Kummant, in your grant request for next year, you state that you expect a very large increase in expenditures for health insurance. However, health insurance is one area where the expenditures for the current year to date are below your projections.

What is the realistic outlook for your health insurance costs next year?

Answer. The grant request for next year projected a large increase in employee benefit costs that included taxes and pension costs as well as insurance. Health insurance costs are not expected to grow significantly over the current year's forecast as a result of favorable lower claims experience. Taxes will increase due to higher wages paid and higher tax ceilings. Pension costs are expected to rise as our workforce ages. The combined increase is about $20 million less than what was projected in the grant request.

DEBT

Question. When it comes to Amtrak's appropriations request for debt service payments, there is a dramatic difference between the level sought by the Amtrak Board and the level recommended by the Inspector General. Ms. McLean, the Board is recommending that we increase your appropriations for debt service payments by $60 million next year in order to allow you to buy down some of your outstanding debt. Mr. Tornquist, the IG is actually recommending that we cut debt service payments by $19 million next year.

Could each of you explain the rationale behind your recommendation?

Answer. The current budget proposal before the Amtrak Board of Directors is $264 million in order to satisfy all required debt service payments. This is lower than fiscal year 2008 due to the repayment of the RRIF loan. The additional $60 million requested was proposed in order to buy down approximately $120 million of debt at a discount.

DEFECTIVE CONCRETE TIES

Question. Mr. Kummant, Amtrak owns much of the Northeast Corridor. I was disturbed to learn that Amtrak has repeated a past problem of purchasing defective concrete ties for the Northeast Corridor. Your grant request for 2009 points out that the vendor is covering only the cost of the new ties, but that Amtrak has to bear the cost of installing those new ties.

Why isn't the vendor covering the entire cost of replacing its defective ties? How much is this problem likely to cost the corporation this year and in the years going forward?

Answer. Amtrak's purchase of the defective ties is subject to a contract which generally governs Amtrak's rights and remedies. Amtrak is currently reviewing available options to recover as much as possible for the defective concrete ties. At the present time the vendor, ROCLA, is supplying the necessary new ties to Amtrak at cost, but Amtrak has not waived any of its rights with respect to the defective ties.

We have spent $37.4 million in fiscal year 2008 and have budgeted $38.0 million in fiscal year 2009 for concrete tie mitigation. Our present estimates anticipate a cost of $150 to $200 million over the next 5 to 6 years to complete the replacement of the defective concrete ties.

CONCLUSION OF HEARINGS

Senator MURRAY. Thank you very much. With that, we will conclude this hearing and this subcommittee is in recess until Thursday, April 10, when we will take the testimony in the housing crisis with the Federal Housing Commissioner and outside witnesses.

[Whereupon, at 11:40 a.m., Thursday, April 3, the hearing was concluded, and 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 2009

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 2009 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 CITY OF SAN MARCOS, TEXAS

SAN MARCOS MUNICIPAL AIRPORT

Madam 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 request for project funding for fiscal year 2009.

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 project components listed below:

	Amount
Northside Infrastructure Development	$2,021,250
New Terminal Building	4,725,000
Fixed Base Operator (FBO) Facility	1,575,000
Total Request	8,321,250

The San Marcos Municipal Airport is a public general aviation 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 of the fastest growing corridors in Texas.

The airport is part of a closed military base; the remainder of the former Air Force Base is occupied by the United States Department of Labor's Gary Job Corps Center. When the base was closed and divided in 1966, the Job Corps retained the portion of the property with the buildings and other amenities, while the city of San Marcos was given the aeronautical facilities consisting of runways, taxiways, and the parking apron.

This arrangement has resulted in a "bare bones" airfield that lacks the support structure to sustain an economically viable modern airport. We have adequate aeronautical facilities and real estate, but few other vital 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 as well. After analysis and master planning, we have determined that the three project components herein described will produce the "biggest bang for the buck." These components represent 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 initiate 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-part request:

North Side Infrastructure Development—$2,021,250

The layout of the former Gary Air Force Base is such that all the buildings and developed area of the base are 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 this area consists of approximately 40 acres of very desirable airport land that fronts 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 prime 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 then to build approximately 50 nested T-hangars in two or three city-owned buildings. Our planning estimate for the cost to implement this project is $2,021,250. San Marcos Airport received $1,575,000 in appropriations funding for fiscal year 2008, leaving $2,021,250 needed to complete the infrastructure project. 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—$4,725,000

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 on-site businesses such 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 is 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. 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 $4,725,000. This terminal building will be the seed project to stimulate private investors and other commercial and corporate business to move into the area. 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.

Fixed Base Operator (FBO) Facility—$1,575,000

For general aviation operations, airport activity centers on the Fixed Base Operator (FBO). This facility is where the transient and airport-based pilots and aircraft operators buy fuel and obtain direct support for their flights. It is also a place where transient and airport-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 facility be constructed to meet the airport's present and future commercial requirements. The approximately 30,000 square foot structure would be primarily hangar space with an attached business, repair shop, and office area. Cost is estimated at $1,575,000.

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 components 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.

Cost-Sharing

The city of San Marcos will contribute real estate on the north side of the airport for the three components of the airport project. The value of the local municipal government in-kind share is estimated at $832,125. Additionally, our development code will require new developers to share the costs for infrastructure extensions (water lines, waste water lines, roadways, etc.) We estimate this cost share value to be approximately $1,500,000.

The city of San Marcos sincerely appreciates your consideration of these requests for funding in the fiscal year 2009 cycle and respectfully requests your support.

LOOP 82 RAILROAD OVERPASS PROJECT

On behalf of the city of San Marcos, Texas, I am pleased to submit this statement in support of our request for project funding for fiscal year 2009.

The city of San Marcos requests an appropriation of $10 million from the Transportation, HUD & Related Agencies Subcommittee to complete the funding for a vitally needed $25 million railroad overpass on Aquarena Springs Drive (Loop 82), a major State highway in San Marcos, Texas.

Background

San Marcos has 50,371 residents, plus an estimated 13,000 commuting students who are part of our 28,500 student campus at Texas State University, all within the city limits. The city is located in the heart of the Interstate 35 corridor halfway between Austin and San Antonio, Texas.

Aquarena Springs Drive (Loop 82) is a major entryway into San Marcos and the primary access point for Texas State University from Interstate 35. In addition to traffic generated by commuters and residents, Aquarena Springs Drive carries heavy traffic from numerous university housing and large apartment complexes located along this busy thoroughfare. Aquarena Springs Drive averages an estimated 32,000 vehicles per day.

San Marcos has an elevated railroad crossing on only one State highway and 20 at-grade railroad crossings throughout the city. Union Pacific Railroad tracks completely bisect San Marcos, with most crossings located within 1 mile of downtown, including the Aquarena Springs Drive crossing. An average of 47 trains travel through San Marcos every 24 hours. The existing at-grade crossing on Aquarena Springs Drive results in increased risk for automobile/railroad conflicts and significant trip delay.

In February 2005, a freight train transporting hazardous materials derailed in the center of San Marcos near a heavily populated neighborhood about 1.6 miles from Aquarena Springs Drive. While no one was injured and no hazardous materials were spilled, the incident raised the level of concern about the lack of safe passage at railroad crossings along major thoroughfares in San Marcos.

Cost Sharing

The Loop 82 Aquarena Springs Drive overpass project has been approved by the Texas Department of Transportation (TXDOT) and Union Pacific Railroad, and preliminary design has begun. Approximately $15 million in railroad safety funds have been allocated to this $25 million project. As of October 2007, design was scheduled to be completed by April 2011, with construction to begin in August 2011.

The city of San Marcos has received voter approval to allocate $932,800 in tax-supported general obligation bonds as our local share to pay for the realignment of local roadways associated with the railroad overpass. As noted, the Texas Department of Transportation has set aside $15 million in railroad safety funds for the bridge. However, the recent financial shortfalls at TXDOT have caused the State agency to halt all work on this important project.

Community Safety Issue

The $10 million shortfall has effectively stopped a project that addresses a critical issue of health, safety and welfare in our community. Loop 82 was identified by the Texas Department of Transportation as the only other State highway on which a railroad overpass can be constructed in San Marcos. In December 2006, the city of San Marcos and TXDOT opened the first railroad overpass on Wonder World Drive (FM 3407) on the south end of San Marcos, a project that took us more than 25 years to achieve.

Design, right-of-way acquisition and construction of a 4-lane railroad overpass on Aquarena Springs Drive (Loop 82) with associated frontage roads will improve railroad safety, traffic safety, mobility and air quality in San Marcos. We believe that it is a matter of safety and community health and welfare to build this overpass and create an unobstructed access to Texas State University and downtown San Marcos.

The city of San Marcos sincerely appreciates your consideration of this request for funding in the fiscal year 2009 cycle and respectfully requests your support.

PREPARED STATEMENT OF THE INSTITUTE OF MAKERS OF EXPLOSIVES

INTEREST OF THE IME

The IME is the safety and security association of the commercial explosives industry. 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. 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 under the Hazardous Materials Transportation Act (HMTA) 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] The Secretary has delegated the HMTA authorities to various modal administrations, with primary regulatory authority resting in the Pipeline & Hazardous Materials Safety Administration's (PHMSA) Office of Hazardous Materials Safety (OHMS). How OHMS has handled and proposes to handle these responsibilities is the focus of this statement.

FISCAL YEAR 2009 BUDGET REQUEST

Staff and Program Resources

We understand that this is an unusually tight budget year. While OHMS is level funded, it is technically adsorbing a $1.3 million cut from the adjusted fiscal year 2008 base. It is able to sustain those cuts because it has automated some activities, streamlined some regulatory processes, leveraged other agency resources, and made efforts to fully staff up to allowable FTE. At the same time, however, PHMSA leadership has charted an aggressive program of work for OHMS that is risk-based, compliance-oriented, and stakeholder-focused. We believe OHMS is operating at capacity. Any additional cuts would compromise the agency's role to ensure the reliability of commercial hazardous materials transportation.

We are concerned that "over one-third of [OHMS] employees will be eligible to retire within 5 years."[2] Essential programmatic knowledge may be lost with turnover of this magnitude. We urge Congress to ensure that adequate transition plans are in place.

Regulatory Backlog

This year OHMS has designated four rulemakings as "significant," the same number as last year. However, two from the old list were completed and two new ones

[1] 49 U.S.C. chapter 51.
[2] Fiscal Year 2009 PHMSA Budget Submission, page 50.

have been opened.[3] In addition to these four priority rulemakings, OHMS is assisting the Federal Railroad Administration with a priority rulemaking and working on 17 additional dockets. 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 24 such rulemaking petitions.[4] In addition, OHMS is in the 10th of a 10-year cycle to review the impact of its regulations on small entities pursuant to the Regulatory Flexibility Act (RFA).[5]

Since the enactment of the 2005 HMTA amendments, OHMS' special permit workload has decreased because permits may now be issued for periods up to 4 years, rather than the previous 2 year limitation. Still, OHMS processes nearly 200 special permit requests annually—a commendable effort. However, this does not reveal how timely the special permit workload is handled. OHMS is under a statutory mandate to process special permits within 180 days. Yet last year, "lack of staff resources given other priorities or volume of applications" was the reason given 81 percent of the time that special permit applications were delayed. A helpful workload indicator 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.

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. Six petitions for preemption determinations are currently pending. There has been no change in the status of these petitions during the last year. Neither these, nor any prior petition for preemption, have been processed within the congressionally mandated 180-day turnaround.[6] PHMSA's 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.[7]

Hazmat Registration and Fees

We have appreciated the 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 nearly doubled the fees to be collected in support of the Emergency Preparedness Grant Program (EPGP), "train-the-trainer" grants for first responders, publication of the Emergency Response Guide, and, for the first time, grants to train hazmat employees. At the same time, the statute requires OHMS to adjust the amount of the fees charged to account for unexpended balances that accrue to the fund. In the past, OHMS failure to adjust fees due to over-collection resulted in litigation.[8] OHMS finds itself again with a substantial $18 million over-collection. As a result, OHMS is not proposing to increase hazmat registration fees for the 2008–2009 registration year to cover the increases authorized by the 2005 amendments.[9] But, we expect a rulemaking to increase fees in fiscal year 2009.

Our concern about over-collection of hazmat fees stems from the statutory provision that allows OHMS to transfer fees "without further appropriation" from the Hazardous Materials Emergency Preparedness Fund (HMEPF).[10] It is important, therefore, 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.

OHMS is authorized to assess a separate fee to process registration submissions. Currently, that fee is $25 per registration. The fiscal year 2009 budget request cuts the amount needed to cover the costs of registration processing from $1.2 million to $765,000. OHMS has been able to reduce costs through system automation, bringing the registration program in-house, and by eliminating costly 24/7 emergency registration processing. We fully support the registration program whose purpose is to provide OHMS information on the community it regulates, and have no objection to paying fees for this function.

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[3] DOT Rulemaking List, Fall 2007. http://www.reginfo.gov/public/do/eAgendaMain.

[4] http://dms.dot.gov/reports/PHMSA__report.cfin, February 13, 2008.

[5] Public Law 96–354, section 610 as amended.

[6] 49 U.S.C. 5125(d).

[7] 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.

[8] Hazardous Materials Advisory Council, Inc. et al. v. Mineta, No. 02–01331, (D.D.C., filed July 1, 2002).

[9] The 2005 amendments were enacted too late to appropriate increases to the fiscal year 2006 EPGP. Fiscal year 2007 was funded on a continuing resolution. Fiscal year 2008.

[10] 49 U.S.C. 5116(i).

Thirty percent 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.[11] This program is of questionable benefit because the training provided is limited to that offered by non-profit hazmat employee organizations that are unlikely to be relied upon to provide the specific and specialized training each "hazmat employer" is required by law 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. The program amounts to double taxation for hazmat employee training. The real issue with private sector training is assessing the quality of the training that is available. Given the millions of dollars in fees industry is already paying to fund other aspects of the EPGP, this program cannot be justified. If fee revenue will be allocated for hazmat employee training, OHMS is proposing some creative options to make the program more palatable. First, OHMS is committed to competitively award the hazmat employee training grants, a good Government decision that should be supported.[12] Second, OHMS is proposing to limit the hazmat employee grant program to $2 million. With this allotment, OHMS could still train 50,000 employees.[13] Third, the agency is proposing to redirect $1.5 million of the remaining fees to fund its authority to establish grants and cooperative agreements.[14] This initiative proposes to create a data repository of training materials developed using EPGP funds. Fourth, OHMS is proposing to develop training competency standards and instructor guidelines and to offer instructor certification as a way to improve the quality of training available to the hazardous materials community.[15]

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 $199 million during the life of the grants program. More accountability is needed 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. Congress directed OHMS to submit annual reports to Congress on the allocation and uses of the grants, the identity of the ultimate recipients, a detailed accounting of all grant expenditures, as well as an evaluation of the efficacy of the programs carried out.[16] No reports or information have been forthcoming. The subcommittee is best suited to insist on this level of oversight.

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 OHMS discretion to limit or deny new funding. Yet, OHMS has not exercised this discretionary authority, nor does it describe any sort of analysis that would justify ignoring this funding opportunity. 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. The subcommittee should use this information to redirect the new $9 million allocation up to the maximum extent allowed.

While the law provides that OHMS can expend industry's hazmat registration fees for the EPGP "without further appropriation," we would encourage the subcommittee to exercise its oversight to address 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.

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[11] 49 U.S.C. 5107(e) & 5128(c).

[12] Fiscal Year 2009 PHMSA Budget Submission, page 129.

[13] OHMS estimates that training will cost $40.00/employee. OHMS estimates that only 25,000 will be trained. However, 2,000,000÷40=50,000. See fiscal year 2009 PHMSA Budget Submission, page 52.

[14] 49 U.S.C. 5121(g). Fiscal year 2009 PHMSA Budget Submission, page 131. These grant funds are in addition and not to be confused with the $1.25 million OHMS receives from the Federal highway trust fund to support research projects identified by the National Academy of Sciences. See. Public Law 109–59, sec. 7131, and fiscal year 2009 PHMSA Budget Submission, page 43.

[15] Fiscal Year 2009 PHMSA Budget Submission, page 42.

[16] 49 U.S.C. 5116(k).

Program Priorities

OHMS lays out an aggressive array of priorities for the fiscal year 2009 funding request. In particular, we are particularly pleased to see plans to charter a Hazardous Materials Technical Advisory Committee (HMTAC). The HMTAC would be modeled after successful advisory committees currently serving the Federal Motor Carrier Administration and the Federal Railroad Administration, with representation from the regulated community, State and local government and the public sector.[17] Likewise, we support several training initiatives OHMS outlines to address the needs of the agency for a skilled workforce, to improve the competency of Federal and State hazmat investigators, and to promote professionalism throughout the regulated community.[18] We are particularly enthused by OHMS' proposal to develop curriculum for the regulated community and to establish an exclusive authority to certify hazmat professionals.

OHMS also proposes to establish a Integrity Management Program.[19] This type of initiative is a hallmark of the pipeline regulatory program. However, we are approaching this initiative for the hazmat community with a degree of caution. The hazmat community is so diverse that relatively few entities have systemwide control of a hazmat shipment. Typically, a hazmat shipment will involve multiple offerors and carriers as a package transits from the manufacturer to the end user. OHMS has suggested that some form of regulatory relief will be the reward of those that employ a IMP approach. However, the one factor that underpins the undisputed success of the Federal regulatory program is the very uniformity of its requirements. It remains to be seen how IMP relief will translate into a regulatory environment dependent on uniformity to function safely and efficiently.

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. Finally, we note that OHMS intends to kick-off a number of innovative initiatives with a flat-lined budget and in the face of unprecedented staff turnover, largely due to retirements. We, therefore, strongly recommend full funding for OHMS.

PREPARED STATEMENT OF THE CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY, AUSTIN, TEXAS

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 2009 funding requests from the Federal Transit Administration and the Federal Highway Administration 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.

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[17] Fiscal Year 2009 PHMSA Budget Submission, page 47.
[18] Fiscal Year 2009 PHMSA Budget Submission, page 50.
[19] Fiscal Year 2009 PHMSA Budget Submission, page 49.

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. This project was entirely financed with local funds and will open in late 2008.

To implement the community's All Systems Go Transit Plan, Capital Metro is seeking $10 million for fiscal year 2009 for three projects of importance to our Central Texas community. Each of the three projects is contained in the community-designed All Systems Go Long Range Transit Plan, and each will be funded by Capital Metro with a significant overmatch of local funds.

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 nearly $300 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.

HIKE AND BIKE TRAIL—$3 MILLION

During Capital Metro's 2004 All Systems Go open houses, workshops and briefings, the Central Texas community encouraged Capital Metro to begin planning for bike and pedestrian trails along rail lines. Capital Metro has coordinated local efforts to plan for pedestrian and bicycle trails along several rail corridors in Capital Metro's service area.

Capital Metro is seeking $3 million for its planned pedestrian and bicycle trail located in the right of way of its 32-mile Urban Commuter Rail line from Austin to Leander.

PARATRANSIT SERVICE VEHICLES—$2 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 2008 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 2009. 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 NATIONAL ASSOCIATION OF REALTORS®

THE FEDERAL HOUSING ADMINISTRATION'S ROLE IN ADDRESSING THE HOUSING CRISIS

The mortgage crisis continues to grow—homeowners continue to face foreclosure, and housing markets are in turmoil. For all these reasons, I and the 1.3 million members of the National Association of REALTORS® thank you for holding this hearing on "The Federal Housing Administration's Role in Addressing the Housing Crisis."

In 1934 the Federal Housing Administration was established to provide consumers an alternative during a similar lending crisis. FHA served as the foundation for our housing market, which has served our citizens and our economy well for more than 70 years.

However, as private mortgage markets evolved, FHA remained stagnant. Because FHA was unable to serve its core constituency, other mortgage providers stepped in to fill the gap. Without another alternative, many homebuyers were lured into these more exotic mortgage options, which fueled our current crisis. Even after all of this evidence, the need for a viable FHA remains unmet. Despite the best efforts of you and others, FHA reform has yet to be achieved.

We urge you and your colleagues in the Senate to continue to work towards FHA reform. Permanent, realistic increases in the FHA loan limits; lowered FHA downpayment requirements; and new opportunities for condominium purchases are needed to create safe and affordable mortgage options for homebuyers and those wishing to refinance. These changes will also provide much needed stability to our local housing markets and economies.

We also believe that the FHASecure program has been, and can continue to be a valuable tool for homeowners in crisis. This program, introduced in September 2007, gives credit-worthy homeowners who were making timely mortgage payments but are now in default, a second chance with a FHA insured loan product. We believe enhancements to this program can help an even greater number of borrowers without negatively impacting the sovereignty of the FHA insurance fund.

As you know, through FHASecure, lenders and homeowners may refinance mortgages that, due to the increased mortgage payment following the interest rate reset have become delinquent. However, in many cases, subprime borrowers are becoming delinquent for reasons other than an interest rate reset meaning a rate reduction alone will not help borrowers avoid default or foreclosure.

Specifically, we believe that where prudent, FHA should modify underwriting criteria in return for a lower loan-to-value ratio thereby assuring the lenders share risk. Changes include:

—Permit late payments on fixed-rate and on conventional adjustable-rate mortgages without regard to interest rate reset or higher DTI ratios.

—Create a sliding scale whereby the number of late payments allowed for qualification is dependent on the LTV ratio. For example, LTV = 90 percent, with several late payments = 80 percent LTV.

—Permit second mortgage with CLTV treatment like FHASecure.

A borrower would only be permitted to utilize one of the program changes mentioned above for their mortgage. Loans that qualify for FHASecure under these changes could be placed into a special risk insurance fund to further protect FHA.

We submitted these recommendations to HUD on February 15, for their consideration. Based upon testimony given by the FHA Commissioner on April 9, 2008 before the House Financial Services Committee, we are hopeful that these changes will be implemented. The enhancements proposed will allow a greater number of borrowers to avoid foreclosure and reduce their burden of debt. Risk to FHA will continue to be mitigated by traditional FHA underwriting standards beyond the recommended enhancements to the FHASecure Program.

The National Association of REALTORS® thanks you for your efforts to help stem the housing crisis. Congress must act expeditiously to help our Nation's homeowners, communities, and local economies recover. We applaud you efforts and stand ready to work with you on solutions.

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 and Housing and Urban Development, and Related Agencies.

UCAR is a consortium of 71 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 over 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 2009 budgets for these agencies.

THE FEDERAL HIGHWAY ADMINISTRATION

The fiscal year 2009 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.

Road Weather Research and Development Program—Request: $3.3 Million

Bad weather contributes to 15 percent of the Nation's congestion problems; the economic toll of weather-related deaths, injuries and delays is estimated at $42 billion per year. The Road Weather Research and Development Program (section 5308 in the SAFETEA–LU authorization bill) 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. For example, State Departments of Transportation (DOTs) have already benefitted from the development and implementation of real world decision support solutions, including the Winter Maintenance Decision Support System which has been successfully demonstrated by 23 State DOTs, and the Clarus System, a research and development initiative to demonstrate and evaluate the value of integrating and processing data from State DOT weather observation systems across the Nation. However, additional resources are required to develop technologies that will support improvements in traffic and emergency management to develop, test, and implement solutions nationally that will reduce congestion and save lives.

A fully funded Road Weather Research and Development Program could support such activities as developing technologies that would integrate weather and road condition information in traffic management centers, improved understanding of driver behavior in poor weather, developing in-vehicle information systems and wireless technologies that provide warnings to drivers when poor weather and road conditions exist, improving the understanding of the impact of weather on pavement condition, and developing new active control strategies (e.g., signal timing and ramp metering) optimized for poor weather and road conditions.

SAFETEA–LU (section 5308) contains language that established the Road Weather Research and Development Program within the FHWA ITS Research and Development Program, with annual authorized funding at $5.0 million (significantly less than the National Research Council's recommendation of $25.0 million). This road weather research 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), numerous commercial weather service companies, and the American Meteorological Society (AMS). Improved safety, capacity, efficiency and mobility, of the national roadway system will benefit the general public, commercial trucking industry, State DOT traffic, incident and emergency managers, operators and maintenance personnel. Environmental benefits will be realized due to improved efficiency in the use of anti-icing and deicing chemicals for winter maintenance, reduced congestion, and improved mobility. I urge the subcommittee to fund the Road Weather Research and Development Program at the authorized level of $5.0 million, at a minimum, in fiscal year 2009.

FEDERAL AVIATION ADMINISTRATION (FAA)

Fliers nationwide are stuck in an air traffic jam. Famous for delays, Chicago, New York, and most recently, Newark airports, have all reached travel capacity, forcing them to reduce the number of flights in and out. To make matters worse, it is estimated that by 2025 U.S. air transportation will increase two to three times. Today's existing air traffic control system will not be able to manage this staggering growth rate. Fortunately, the Federal Government has proactively responded by undertaking an unprecedented initiative: the Next Generation Air Transportation System (NextGen). While a joint effort involving a number of agencies, the FAA has taken the lead by developing a budget that truly supports developing and implementing NextGen. The FAA accounts mentioned in this testimony all support the much-needed transformation of the National Airspace System.

RESEARCH AND ENGINEERING DEVELOPMENT ACCOUNT (RE&D)

The following programs can be found within the RE&D section of the fiscal year 2009 FAA budget request.

Weather Program—Request: $16.9 Million

According to the FAA, 70 percent of flight delays are caused by weather. A key area for NextGen is using advanced forecasting techniques and shared information among all system users—dispatchers, pilots and controllers. FAA's Weather Program is a research program focused on improved forecasts of atmospheric hazards such as turbulence, icing, thunderstorms and restricted visibility. Improved forecasts enhance flight safety, reduce air traffic controller and pilot workload, and enable better flight planning and productivity. The request of $16.9 million, however, is essentially flat; in real terms, it is down. To truly reduce delays associated with weather, it is essential this program be provided at least $20 million. Enhanced research and improved technologies will result in longer forecast lead times, increased accuracy and ultimately, more efficiency and safer skies. Two years ago, the request for the Weather Program was $19.5 million, but has declined since. I urge the subcommittee to support the goals of NextGen and provide the Weather Program $20.0 million, at a minimum, in fiscal year 2009.

Weather Technology in the Cockpit—Request: $8 Million

Weather, according to the FAA, is more than twice as likely to cause general aviation fatalities as any other factor and is also the largest cause of general aviation fatalities in the United States, equating to 200 deaths annually. Weather uplinks in the cockpit, when combined with a thorough preview of the weather during preflight planning and other cockpit weather avionics, will help ensure that general aviation pilots increase awareness and reduce accidents. Weather Technology in the Cockpit, a new and innovative program, will provide a common weather picture to pilots, controllers, and users, and will expedite flight planning and decisionmaking. "Cockpit weather" applied research will focus on hardware and software standards, integrate weather information, and prototype forecasting products for the flight deck. I urge you to support the fiscal year 2009 request of $8 million, which will revolutionize the way pilots and controllers receive and use weather information in real-time.

Joint Planning and Development Office (JPDO)—Request: $20 Million

The multi-agency Joint Planning and Development Office (JPDO) has accomplished much since its inception 5 years ago. The JPDO has a challenging mandate: to coordinate and manage six agencies focused on bringing NextGen online by 2025. It has completed its integrated work plan on how NextGen will improve safety, security, mobility, efficiency, and capacity to transform the Nation's air transportation system. Recently, the Secretary of Transportation tasked the JPDO to develop an action plan that would accelerate implementation of NextGen. The plan will address constraints and opportunities in both the near- and mid-term. After the action plan is approved, the intent is for the partner departments and agencies to start immediate implementation. In order to move forward with this directive, I urge the subcommittee to fund the Joint Planning and Development Office at the fiscal year 2009 request of $20 million.

Wake Turbulence—Request: $10.1 Million

Aircraft in flight create wake turbulence, dangerous swirling air masses that trail from aircraft wingtips. Better detection and forecasting of wake turbulence 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 subcommittee to support the fiscal year 2009 request of $10.1 million for the wake turbulence program.

Atmospheric Hazards/Digital System Safety—Request: $4.8 Million

The Atmospheric Hazards/Digital System Safety Research Program focuses on reducing the number of accidents or potential accidents associated with aircraft icing.

The program promises to develop and test technologies that detect icing, predict anti-icing fluid failure, and ensure safe operations both during and after flight in icing conditions. To prevent the number and severity of icing-associated accidents, I urge you to support the fiscal year 2009 request of $4.8 million for this life-saving program.

WITHIN FAA'S AIR TRAFFIC ORGANIZATION—CAPITAL PROGRAMS, I WOULD ASK THAT YOU PAY PARTICULAR ATTENTION TO THE FOLLOWING CRITICAL PROGRAMS

NextGen Network Enabled Weather (NNEW) and Reduced Weather Impact Request: NNEW: $20 Million Reduced Weather Impact: $14.4 million

The current weather dissemination system is inefficient to operate and maintain. Information gathered by one system is not easily shared with other systems. This leads to redundant and inconsistent information, and in many cases information not being universally available or used leading ultimately to suboptimal decisions. The complementary goals of NNEW and RWI are to integrate tens of thousands of global weather observations and sensor reports from ground-, airborne-, and space-based sources into a single national (eventually global) weather information system, constantly updated as needed. This integration will be enabled by system-wide availability of observational and forecast weather information to all NextGen users, service providers, military planners, security personnel, and the flying public. The key word is "information." No longer will it be necessary to manually gather and integrate diverse weather data to realize a coherent picture of the weather situation—that will be accomplished with automation assistance prior to dissemination to interested parties. This will enable "common situational awareness" of the weather, and rapid dissemination of any changes.

The request of $20 million for NNEW is significantly more than the fiscal year 2008 enacted level of $7 million, which illustrates the FAA's commitment to NextGen. Because NextGen Network Enabled Weather and the Reduced Weather Impact Program are directly aligned with the goals of a flexible, safe, efficient air traffic system, I urge you to support the fiscal year 2009 request of $20 million for NNEW and $14.4 million for Reduced Weather Impact.

Wind Profiling and Weather Research-Juneau—Request: $1.1 Million

In the late 1990s, after two 737s encountered severe turbulence during departure from the Juneau Airport, the FAA mandated a system be developed to provide high-wind alerts to pilots at the airport. The Wind Profiling and Weather Research-Juneau program supports the design and development of the Juneau Airport Wind System (JAWS), an operational system designed to detect and warn of wind and airport turbulence hazards. This will result in reduced severe delays and flight cancellations. The fiscal year 2009 request of $1.1 million, however, is a dramatic cut, which is extremely disruptive to the research program. In order to complete the work of developing this turbulence alerting system, I urge the subcommittee to support the fiscal year 2008 enacted level 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 subcommittee 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 2009 FHWA and FAA budgets and your concern for safety within the Nation's transportation systems.

PREPARED STATEMENT OF THE COALITION OF NORTHEASTERN GOVERNORS

The Coalition of Northeastern Governors (CONEG) is pleased to share with the Subcommittee on Transportation, Housing and Urban Development, and Related Agencies this testimony on fiscal year 2009 appropriations for transportation and community development programs. The CONEG Governors appreciate the subcommittee's longstanding support of funding for the Nation's highway, transit, and rail systems and critical community development programs. We understand the particularly 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 a national, integrated, multimodal transportation system. This network underpins the competitiveness of the Nation's economy, broadens employment opportunities, and contributes to the efficient, safe, environmentally sound, and energy smart movement of people and goods.

TRANSPORTATION

Surface Transportation

The Governors recognize the impending shortfall in the Highway Trust Fund and the still-uncertain outcome of proposed short-term solutions. However, we urge the subcommittee to fund the combined highway, public transit, and safety programs at the fiscal year 2009 levels authorized in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). This level of Federal investment is necessary to sustain the progress made under SAFETEA–LU to improve the condition and safety of the Nation's highways, bridges, and transit systems.

Continued and substantial Federal investment in these infrastructure improvements—in urban, suburban, exurban, and rural areas—is necessary to safely and efficiently move people and products and support the substantial growth in freight movement projected in the coming decades. A significant increase in public investment is needed to keep America competitive in a global economy. According to the majority report of the National Surface Transportation Policy and Revenue Study Commission, at least $225 billion annually is needed from all sources—public (Federal, State and local) and private—for the next 50 years to upgrade the existing infrastructure system to a state of good repair and to create the advanced system that can sustain and ensure strong economic growth nationwide.

Specifically, the CONEG Governors urge the subcommittee to:

—support a Federal aid highway obligation limit at the authorized level of $41.2 billion; and

—fund public transit at the authorized funding level of $10.3 billion, including full funding for Formula and Bus Grants, the Capital Investment Grants, and the Small Starts Programs.

The Governors also urge the subcommittee to fund the Transit Security Grant program at the full $750 million as authorized in Public Law 110–53 (Implementing Recommendations of the 9/11 Commission Act of 2007). This critically needed funding makes the Federal Government a partner with State and local governments and public transportation authorities in enhancing the security of the Nation's public transportation systems and their tens of millions of riders.

While recognizing the difficult decisions facing the Congress, the Governors are also concerned about several techniques—actual or proposed—to manage the Highway Trust Fund and appropriations outlays. For example, the recent practice of mandating how to rescind unobligated highway funding is now cutting into the States' ability to make planned investments and deliver much needed transportation improvements.

The Governors also oppose the administration's proposal to cover the projected shortfall in the Highway Account of the Highway Trust Fund by transferring $3.2 billion from the Mass Transit Account to the Highway Account. This proposal would jeopardize the future of public transportation funding while sidestepping the underlying problem facing the Highway Account. A more appropriate short-term solution is timely action on the proposals to secure additional revenues to the Highway Account contained in title II of the American Infrastructure Investment and Improvement Act of 2007 (S. 2345) currently pending in the Senate.

Rail

Rising fuel prices and congested highways and airways make intercity passenger rail an ever more vital component of a national, balanced transportation system. Increasing market demand for intercity passenger rail travel is creating unique opportunities for growth in Amtrak's revenue. Amtrak's ability to respond to these opportunities requires substantial and on-going maintenance and "state of good repair" capital investments essential for the reliable, on-time service that attracts and retains ridership.

The Governors request that the subcommittee provide $1.78 billion in fiscal year 2009 Federal funding for Amtrak, with specific funding levels provided for operations, capital, and debt service. We recognize that Amtrak faces a one-time need for additional funding in fiscal year 2009 to meet its legal obligations for "back pay" as part of the Presidential Emergency Board recommendations, which are close to final ratification.

A funding level of $801.4 million in fiscal year 2009 for capital improvements is critically needed for the "state of good repair" improvements to aging infrastructure and equipment. These capital investments are vital to Amtrak's ability to deliver efficient, reliable, quality service nation-wide. We particularly encourage the subcommittee to ensure that Amtrak can continue bridge repair projects underway on the Northeast Corridor, as well as the system-wide security upgrades and the life-safety work in the New York, Baltimore, and Washington, DC tunnels as authorized under Public Law 110–53 (sections 1514 and 1515).

The Governors recognize that the subcommittee has initiated internal Amtrak reforms while intercity passenger rail authorization legislation is pending. We welcome the subcommittee's consistent commitment to continued transparency and accountability in Amtrak's financial and data systems, and to meaningful collaboration in its dealings with State partners. This guidance, including the requirement that Amtrak consult with its State partners and report to the Congress on the results of those discussions, has set the stage for productive coordination and information-sharing, particularly on the future of the Northeast Corridor Network.

The CONEG Governors appreciate the subcommittee's leadership in creating and providing initial funding for the State Intercity Passenger Rail Grant Program. This program provides an important foundation for a vibrant Federal-State partnership that will bring expanded, enhanced intercity passenger rail service to corridors across the Nation. We urge the subcommittee to provide the requested $100 million for this program, and to ensure that 10 percent is directed to corridor development planning and that an additional 5 percent to essential education and outreach initiatives.

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 the Rail Relocation Program, the Swift High Speed Rail Development Program, the Next Generation High Speed Rail program, and the Nationwide Differential Global Position System effort—all of which benefit passenger rail and freight rail systems. In addition, initial funding for the Advanced Technology Locomotive Grant Pilot Program, created in section 1111 of the Energy Independence and Security Act of 2007, would be an important first step to assist the railroads and State and local governments in a transition to energy-efficient and environmentally friendly locomotives for freight and passenger railroad systems.

The CONEG Governors also support a modest increase in funding for the Surface Transportation Board (STB) above the overall $26.3 million provided in fiscal year 2008. This funding level will allow the STB to provide critical oversight 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 at least $4.1 billion for the Community Development Block Grant (CDBG) program. The CDBG program enables States to provide funding for infrastructure improvement, housing programs, and projects that attract businesses to urban, suburban, exurban, 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 NATIONAL CONGRESS OF AMERICAN INDIANS

On behalf of the National Congress of American Indians, we are pleased to present testimony on the administration's fiscal year 2009 budget request for transportation and housing programs. We look forward to working with this subcommittee to ensure that the critical programs and initiatives funded are at levels which will ensure their long term effectiveness.

BACKGROUND

Housing

A successful start in life depends on safe, quality and affordable housing, which helps to prevent and alleviate other physical and social problems from occurring, including lack of educational achievement and poor health. These types of problems make it difficult to obtain and maintain employment, creating further economic hardship for Indian families. The Native American Housing and Self-Determination Act (NAHASDA) allowed tribes to be more resourceful in creating homes for their members. NAHASDA modernize how Native American housing funds are provided by recognizing tribes' authority to make their own business decisions. Tribes have been able to increase capacity housing and improve infrastructure conditions in Indian Country. However, housing need continue to rise as do the maintenance needs of Housing and Urban Development (HUD) homes.

Because of NAHASDA, tribes are better able to address the needs of their communities. In 1995, 20 percent of tribal residents lacked complete plumbing. This number was reduced to 11.7 percent by 2000, although it is still far higher than the 1.2 percent for the general population. In 2000, 14.7 percent of tribal homes were overcrowded, a drop from 32.5 percent in 1990. Despite improvements, severe conditions still remain in some tribal homes, with as many as 25–30 people living in houses with as few as three bedrooms. Native Americans are also becoming homeowners at an increasing rate, 39 percent more from 1997 to 2001. Fannie Mae's investment in mortgages increased exponentially, from $30 million in 1997 to more than $640 million in the most recent 5 year period.

Although tribes have the desire and potential to make headway in alleviating the dire housing and infrastructure needs of their communities, tribes' housing needs remain disproportionately high and disproportionately underfunded. Due to funding levels and population growth tribal housing entities are only able to maintain the status quo.

Transportation

The nearly 56,000 mile system of Indian Reservation Roads (IRR) is the most underdeveloped road network in the Nation [1]—yet it is the primary transportation system for all residents of and visitors to American Indian and Alaska Native communities. Over two-thirds of the roads on the system are unimproved dirt or gravel roads, and less than 12 percent of IRR roads are rated as good.[2] The condition of IRR bridges is equally troubling. Over 25 percent of bridges on the system are structurally deficient.[3]

Building a transportation system that allows for safe travel and promotes economic expansion will help us strengthen our tribal communities while at the same time making valuable contributions to much of rural America. Surface transportation in Indian Country involves thousands of miles of roads, bridges, and highways. It connects and serves both tribal and non-tribal communities.

Tribal communities share much the same obstacles as rural communities in addressing how to improve transportation needs. NCAI has diligently worked with tribal governments to find solutions for improving the transportation infrastructure of Indian Country. Tribes are pro-active in this effort through the legislative process, by building partnerships with other entities, and by generating revenue to assist in financing their transportation projects.

Even though great strides have been made, there is still a tremendous need to address the terrible conditions of surface transportation on tribal land. These conditions significantly impact the daily lives of tribal members and the entire governments of tribal nations. Tribal communities as well as rural America require a proper infrastructure if they are both to become thriving hubs of economic growth and opportunity.

Economic development cannot occur without a solid foundational infrastructure that must involve adequate surface transportation. Improving transportation systems sets the stage for economic development. Connecting people within tribal communities and to the areas and communities that surround Indian Country is vital for business, industry, and labor. Sustaining both the tribal communities and surrounding communities through viable surface transportation systems improves the lives of all involved.

Another important reason for improving transportation systems is to enhance public safety. Insufficient transportation systems increase the risk factor for law enforcement and emergency personnel in responding to emergency situations. The fatality rate on roads on the Indian Reservation Road (IRR) System has the highest national average. Inadequate roads are a major contributor to vehicle crashes. These emergencies cost tribes millions of dollars each year in lost productivity, property damage, higher insurance premiums, medical and rehabilitative treatment. And that still does not factor in the human suffering of victims and their families. The poor condition of many tribal roads and bridges jeopardizes the health, safety, security and economic well-being of our tribal members. This environment creates dangerous and deadly situations for all who drive within Indian Country.

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[1] Bureau of Indian Affairs, Transportation Serving Native American Lands: TEA–21 Reauthorization Resource Paper (2003).

[2] Id.

[3] Id.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The President proposed increased funding for the Indian homeownership program; however he proposed decreases in other Indian programs in the HUD. The section 184: Indian Housing Loan Guarantee Program, $420 million for fiscal year 2009, is an increase of over $53 million over the enacted fiscal year 2008 amount. This increase is to promote homeownership and to address the lack of mortgage capital on tribal lands. The President's request for fiscal year 2009 proposes the amount of $627 million for the Native American Housing Block Grant, an amount similar to his request for fiscal year 2008. In addition, the President's budget for fiscal year 2009 requests $57 million for the Indian Community Development Block Grant, a decrease of $5 million from the enacted fiscal year 2008 amount.

Native American Housing Block Grant.—The President's request for fiscal year 2009 proposes the amount of $627 million for the Indian Housing Block Grant.

—NCAI recommends $750 million, which would maintain funding at the fiscal year 2002 level adjusted for inflation.

Indian Community Development Block Grant.—These funds are dedicated to improve not only housing but the overall economy and community development of tribal communities. Community development includes a variety of commercial, industrial and agricultural projects.

—This budget area has faced numerous and devastating reductions over the last few years and its funding needs to be increased to a more realistic level of $77 million.

Section 184 Program.—Created in 1992, the section 184 program provides 100 percent reimbursement to private lenders in case of default. Tribes have been successful in participating in this program with little to no defaults. Under section 184, tribes or tribal members can purchase an existing home or obtain single-close construction loans for a stick-built or a manufactured home on a permanent foundation, rehabilitation loans or a purchase and rehabilitation loan. This underutilized program continues to grow as TDHEs expand their housing programs beyond low-income programs, tailoring them to meet the needs of their people.

—NCAI recommends $420 million for section 184.

DEPARTMENT OF TRANSPORTATION

Federal-aid Highway Program.—The President proposed essentially flat funding for Indian programs in the Department of Transportation. The President has proposed for the Federal-aid Highway Program $39.6 million, a slight increase from the $39,585,000 for enacted fiscal year 2008. Indian tribes receive funding under the Federal Lands Highway Program (FLHP), which improves the access to and within Federal lands such as Indian reservations.

—NCAI recommends the authorized amount of $450 million for Indian Reservation Road Programs.

Pipeline and Hazardous Materials Safety Administration-Emergency Preparedness Grant.—The Pipeline and Hazardous Materials Safety Administration provides funding to Indian tribes, States, and local governments under their program. This program primarily focuses on reducing serious hazardous materials and pipeline transportation. This agency provides training and planning grants to Indian tribes to improve hazardous materials emergency preparedness. The funding request for fiscal year 2009 is leveled for this program in the amount of $28 million.

—NCAI recommends the $28 million for the Emergency Preparedness Grant.

Highway Traffic Safety Grant.—The National Highway Traffic Safety Administration (NHTSA) which gives grant funding to Indian tribes, States, and territories under their Highway Traffic Safety Grant, includes; the supports for highway safety initiatives; to improve traffic records and other data systems for safety traffic information; and alcohol-impaired driving countermeasures incentives for addressing alcohol driving incidents. For fiscal year 2009, the funding level for this program is elevated from the enacted fiscal year 2008 in the amount of $599 million. According to USC, tribes receive 1½ percent of the total allocation amount. Statutorily, Indian tribes are eligible to receive 2 percent of the total appropriation authorized amount from the NHTSA funding amount.

—NCAI recommends that authorized amount of $4.3 million for Indian tribes from NHTSA.

PREPARED STATEMENT OF THE COUNCIL OF LARGE PUBLIC HOUSING AUTHORITIES

Chairwoman Murray, Ranking Member Bond and members of the subcommittee, on behalf of the Council of Large Public Housing Authorities (CLPHA), thank you for the opportunity to submit testimony for the record on the administration's proposed fiscal year 2009 public housing budget. CLPHA members represent virtually every major metropolitan area in the country and on any given day, they serve more than 1 million households. Together, they manage approximately 40 percent of the Nation's multi-billion dollar public housing stock, and administer over 30 percent of the section 8 voucher program.

Last year, a first-ever national study measuring the economic impact of public housing concluded that public housing is an essential part of the housing market and makes significant contributions to local economies. The Econsult study showed that direct spending by public housing authorities on capital improvements, maintenance and operations generates additional dollar-for-dollar indirect economic activity in local communities.

Given the uncertain economic conditions of today's housing market—with record-setting foreclosure rates among homeowners, a crisis in the credit and home mortgage lending industries, and an insufficient supply of rental housing nationwide—the housing crisis we are facing will place even greater pressure on the type of decent, safe, and affordable housing provided by public housing communities. Regrettably, this administration's proposed fiscal year 2009 budget is a continuation of a now 8 year effort to cripple, dismantle, devalue, and under fund public housing as we know it.

OPERATING FUND

The administration's proposal of $4.3 billion for the Operating Fund is a paltry increase of $100 million over last year's appropriation. HUD's own budget justifications indicate that $5.3 billion is needed to fully fund the Operating Fund in fiscal year 2009. Furthermore, the Operating Fund has not been fully funded since 2002 and estimates show that during those years, public housing lost nearly $3 billion in operating subsidies alone. At 81 percent funding, in essence, this budget proposal fails to fund 19 percent of—or approximately 227,000—public housing units. Housing authorities will cope with this low proration by reducing services to residents. Also, with insufficient resources to properly maintain existing units, the problem becomes cyclical, with more units becoming severely distressed.

Coupled with the under-funding is HUD's problematic implementation of asset management and the restrictions HUD placed on management fees that prevent housing authorities from charging reasonable fees for administration. These continued shortfalls in annual public housing funding will make the transition to asset management needlessly difficult, if not impossible to achieve, and will result in negative consequences for resident services.

—CLPHA requests the Senate Appropriations fully fund the Operating Fund at the industry recommended level of $5.3 billion in fiscal year 2009.

CAPITAL FUND

The administration's proposal for $2.024 billion is approximately $415 million less than the amount appropriated in fiscal year 2008. This funding request is considerably lower than annual accrual needs and therefore, funding at this level would severely under-fund accrual needs by more than $700 million in fiscal year 2009. Furthermore, it completely ignores the backlog of modernization needs, which could be in the tens of billions.

The negative impacts of under-funding the Capital Fund will have harmful trickle down effects on private sector investments. Housing authorities are currently able to raise private capital by pledging their future Capital Funds toward the repayment of bonds and loan. To date, housing authorities have borrowed $3 billion through the Capital Fund Financing Program (CFFP) and have used the money creatively to make large-scale comprehensive improvements to their developments. Thus, under-funding the Capital Fund will create uncertainty for private investors. Similarly, private lenders will avoid future investments in public housing neighborhoods. As a result, housing authorities who borrow against their future years' Capital Fund allocations will be unable to address future years' annual capital needs. This will result in the delay of necessary services and upgrades, inevitably leading to future higher costs for essential repairs. Thus, if the Capital Fund is fully funded in fiscal year 2009, housing authorities will be able to meet accrual needs, begin to address the modernization backlog, and continue to encourage private sector investment in public housing neighborhoods.

—CLPHA requests the Senate Appropriations fully fund the Capital Fund at the industry requested level of $3.5 billion in fiscal year 2009.

HOPE VI

In fiscal year 2009, for the third consecutive year, the administration is proposing to end HOPE VI. HOPE VI is an essential tool for public housing authorities and has leveraged more than $12 billion in additional private and public investment since the program began in 1993. HOPE VI has transformed communities of despair and unrelenting concentrations of poverty into mixed-income communities that will serve as long-term assets in their neighborhoods. In 1993, when the program was first authorized, the stated goal was to demolish severely distressed public housing, estimated at that time to be 100,000 units. Today, 15 years later, we are still faced with a substantial number of severely distressed public housing units and estimates show there may be an additional 82,000 units. The work of HOPE VI is not yet over as there is still much work to be done.

—CLPHA requests the Senate Appropriations reauthorize, expand and provide adequate funding of $800 million for the HOPE VI program.

TENANT-BASED HOUSING CHOICE VOUCHER PROGRAM

In fiscal year 2009, the administration is proposing $14.3 billion and an offset of $600 million for renewals under the Tenant-Based Housing Choice Voucher Program. However, the industry estimates that $15.4 billion is needed for tenant-based renewals. Therefore, HUD's request would fail to support between 55,000–100,000 vouchers currently in use. HUD proposes that public housing authorities be funded "based on the amount public housing agencies were eligible to receive in calendar year 2008 and by applying the 2009 annual adjustment factor." This budget based approach does not account for significant changes in local housing markets, nor does it reward housing authorities for improved utilization costs. Funding for the housing choice voucher program should continue to be funded by using actual leasing and cost data, as it has for the past two funding cycles. Even though HUD and OMB recognize the voucher program as one of the most effective Government programs, this proposed budget does not provide the full funding required for continued success.

—CLPHA requests the Senate Appropriations fully fund the renewal of the Tenant-Based Housing Choice Voucher program at the industry requested level of $15.4 billion.

TENANT PROTECTION VOUCHERS

This year, the Tenant Protection account is cut from $200 million in fiscal year 2008 to $150 million in fiscal year 2009. HUD claims additional costs for tenant protection vouchers may be obtained by using un-obligated balances from funds in the Housing Certificate Fund or from Annual Contributions for Assisted Housing. HUD also proposes removing the requirement that a tenant protection voucher be provided for all units that were occupied in the previous 24 months that cease to be available for occupancy. Here again, HUD will attempt to limit affordable housing opportunities for low-income families.

—CLPHA requests the Senate Appropriations fully fund Tenant Protection Vouchers in fiscal year 2009.

ADMINISTRATIVE FEES

HUD proposes $1.4 billion for administrative fees in fiscal year 2009, a $49 million increase over fiscal year 2008. This amount is insufficient. The fiscal year 2008 administrative fees were prorated at 86 percent so if they were fully funded, the fees would require over $1.5 billion in fiscal year 2009.

—CLPHA requests the Senate Appropriations fully fund Administrative Fees at the industry recommended level of $1.54 billion.

SAFETY AND SECURITY

Since 2002, the administration's budget provides no specific funding for safety and security in public housing through the Public Housing Drug Elimination Program (PHDEP). It fails to see the widespread, positive impact the program has gained and its strong support from PHAs, residents, local law enforcement and other concerned parties. Since PHDEP's termination, housing authorities have had to use their already scarce operating subsidies to combat crime and drugs, and ensure safety in their units.

—CLPHA requests the Senate Appropriations fully fund Safety and Security at the industry recommended level of $310 million.

RESIDENT OPPORTUNITY SERVICES

For fiscal year 2009, the administration recommends $38 million for supportive services, service coordinators, and congregate services. This is a $2 million reduction from fiscal year 2008 and is budgeted in the Public Housing Capital Fund, which has the effect of further reducing the total funding for capital needs. CLPHA strongly supports and urges separate funding for the ROSS program in order to address the critical, on-going need for supportive services among our most vulnerable residents, including the elderly and persons with disabilities.

—CLPHA requests the Senate Appropriations fully fund Resident Opportunity Supportive Services as a separate program at the industry recommended level of $55 million.

OTHER SET-ASIDES

This year, HUD proposes $48 million for Family Self-Sufficiency coordinators, $1 million less than the fiscal year 2008 appropriation. HUD also proposes $39 million to prevent displacement of the elderly and disabled families who receive assistance by the Disaster Assistance Program, and $75 million for incremental vouchers administered in conjunction with the Department of Veterans Affairs.

—CLPHA requests the Senate Appropriations fully fund Service Coordinators for the Elderly and Disabled at the industry recommended level of $50 million.

CLPHA members remain committed to providing quality housing and management services in public housing. However, without adequate funding, public housing authorities cannot ensure that housing is properly maintained or needed services are available. Given increasing housing costs and struggling housing markets across the country, protecting and preserving public housing has proven ever more critical to low-income families. We appreciate the opportunity to submit our comments and public housing funding requests to the subcommittee. We look forward to continuing to work with the subcommittee in our joint efforts to advocate for, and deliver, safe and affordable public housing to our Nation's most disadvantaged and vulnerable persons.

PREPARED STATEMENT OF THE AMERICAN ASSOCIATION OF SERVICE COORDINATORS (AASC)

The American Association of Service Coordinators (AASC) appreciates the opportunity to share our views on the fiscal year 2009 appropriations for the Department of Housing and Urban Development (HUD). While we have funding concerns with a number of programs contained in the THUD fiscal year 2009 appropriations bill, we will focus our comments on resources needed for the staffing of service coordinators in federally assisted and public housing.

Service coordinators have helped thousands of low-income elderly, persons with disabilities, and others with special needs to link with community-based health and supportive services. While most local communities may have available the various services needed, they are highly fragmented, not well known, and/or have complexities that have hindered easy access. By providing timely assistance, service coordinators have enabled many frail and vulnerable older persons to achieve their preference to remain in their home for as long as possible. Without the benefit of service coordinators, many vulnerable persons have been forced to move prematurely into more costly settings, such as nursing homes.

Service coordinators in federally assisted housing are funded through a number of sources, including national competitive grants funded through the section 202 Elderly Housing Program. However, since the service coordinator grant program was established there have been insufficient funds available to enable service coordinators to be staffed in most eligible federally assisted housing. Findings of a recent HUD survey revealed that there are about 1,500 service coordinators funded through the competitive grant program which represents less than one-third of the more than 12,000 eligible housing facilities. Current eligible facilities for these grants are those funded with: section 202 without PRACs; HUD insured section 221d3, some section 236s, and project based section 8 rent subsidies. In addition, nearly 2,000 service coordinators are funded through project operations, and over 200 service coordinators are funded through project residual receipts and excess revenues. Unfortunately, many facilities do not have sufficient funds to absorb service coordinators into their operating budget; and it is very difficult to secure the necessary rent increase to enable staffing as a routine part of the operating budget.

In addition to federally assisted housing, there are 1.3 million households living in public housing and almost half of all residents are elderly or persons with disabilities, including more than 50,000 seniors age 83 and older. Service coordinators are needed not only to assist frail elderly to remain in their home, but also to provide assistance to many low-income families in public housing or using Housing Choice Vouchers to become more self-sufficient and economically independent through employment and homeownership. Service coordinators have been funded to assist public housing residents through short-term competitive grants with the Resident Opportunities and Self-Sufficiency program (ROSS), the Housing Choice Vouchers Family Self-Sufficiency (HCV–FSS) program; or through public housing Operating Funds. Unfortunately, over the past few years there have been significant cuts and shortfalls in Federal funds needed for the sound operation of public housing, including the routine staffing of service coordinators.

Despite the critical need and cost-effectiveness of service coordinators in assisting frail and low-income elderly and others with special needs to access supportive services or the need to assist families to become more self-sufficient, funding for service coordinators remains very limited. While the administration's fiscal year 2009 budget provides a slight increase for service coordinators in section 202 and other federally assisted senior housing, yet funding for service coordinators in public housing remains essentially flat. AASC would urge the subcommittee's support for the following:

—$100 million in fiscal year 2009 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;
—$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 2009 budget requests $80 million for service coordinators, an increase over the $71 million budget requested in fiscal year 2008 and the $60 million appropriated as part of the consolidated fiscal year 2008 appropriations bill enacted December 26, 2007 (Public Law 110–161). Unfortunately, the $60 million appropriated for fiscal year 2008 is insufficient even to extend contracts of existing service coordinators; and will provide no funds for any additional service coordinators. In fact, it is anticipated that there will be no funds for service coordinators in the fiscal year 2008 Notice for Funds Available (NOFA) when it is issued (anticipated by the end of April). This will be the first time since the service coordinator grant program was established that no funds will be available for additional service coordinators. In fiscal year 2007, HUD awarded nearly $3.5 million for 21 grants in 11 States (2,064 units); $12 million was provided in fiscal year 2006; and $30 million in fiscal year 2002.

The shortfall of fiscal year 2008 appropriations for the staffing of service coordinators in federally assisted senior housing has contributed to several months delays in HUD allocation of fiscal year 2008 funds to extend existing contracts for service coordinators. In order to extend all contracts, it is anticipated that HUD will make proportional cuts to all existing contracts. This action may seem equitable in sharing the shortfall; however, it may also have an unintended consequence of reducing needed assistance to many low-income, frail and vulnerable elderly and others with special needs and jeopardize their well-being as a result of anticipated reduced hours and capacity of existing service coordinator programs. While HUD may allow service coordinators to be funded through project reserves or to be incorporated into project operations; most federally assisted and public housing facilities do not have sufficient resources in their operating budgets to staff service coordinators. Given the shortages for section 8, HAPs, PRACs and other operating funds and critical competing needs, it is unlikely that projects will be able to secure necessary rent increases to allow the staffing of service coordinators.

AASC would recommend several actions: first, there is a need for $20 million in fiscal year 2008 supplemental funds in order to extend contracts at full funding for existing service coordinators to ensure there are no cuts in hours, elimination of service coordinator positions, or cuts in quality assurance and other aspects of the service coordinator program; second, to provide $100 million in fiscal year 2009 for service coordinators in federally assisted housing to ensure full funding with the renewal of existing contracts, as well as to expand service coordinators in federally assisted housing for elderly or persons with disabilities that currently do not have them (two-thirds of eligible facilities do not have service coordinators); and to expand eligibility for service coordinators to section 515 rural housing and for Low-Income Housing Tax Credits (LIHTC) projects that involve non-profit organizations.

There is also a need for a dual strategy for funding service coordinators that includes maintaining the service coordinator grant program, and also increasing the routine staffing of 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 through the project's operating budget. There is also a need to expand the funding for housing-based service coordinator to assist frail elderly in the facilities' surrounding community. While there is existing statutory authority to enable service coordinators to assist residents in the surrounding community, there are insufficient funds to enable service coordinators to reach out to assist these surrounding residents.

PUBLIC HOUSING: COMPLEXITY AND INADEQUATE FUNDS FOR SERVICE COORDINATORS

Elderly and other residents with special needs living in public housing and those using Housing Choice Vouchers (HCV) have been denied full access to the valuable and cost-effective assistance provided by service coordinators. Over one-third of residents in public housing are elderly residing in various settings such as senior housing, family housing, and mixed-population housing with younger persons with physical and mental disabilities. Unfortunately, funding for service coordinators in public housing is very limited, complex, and has experienced a steady reduction in funds over the past few years, both with specific grant programs for service coordinators, as well as with the public housing operating budget.

A number of local housing authorities have funded service coordinators through competitive short-term grant programs, such as those under the Resident Opportunities and Self-Sufficiency (ROSS) or Family Self-Sufficiency (FSS) programs. Unfortunately, over the past few years, there have been funding cuts and a lack of program consistency contributing to disincentives for PHAs to participate in these grant programs. For example, the Elderly and Persons with Disabilities Service Coordinator program (EDSC) funded at over $15 million as part of the ROSS program was shifted to the Public Housing Operating Fund, but with no additional funds. Therefore, coordinators that once were funded through the EDSC program now need to compete with other funding 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. Service Coordinators have also been essential in facilities that have a mix of older residents and non-elderly persons with disabilities. Therefore, it is necessary to ensure that there are adequate funds available in the fiscal year 2009 Public Housing Operating funds to accommodate service coordinators. AASC recommends that $85 million be provided as a separate add-on to Public Housing Operating Funds to ensure that PHAs can include service coordinators as a routine part of their operating budget.

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 non-profit 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 $40 million in fiscal year 2008, including: (1) Family and Homeownership ($33.4 million funded in fiscal year 2007), (2) Elderly and Persons with Disabilities ($16.6 million funded in fiscal year 2007; and (3) Public Housing Family Self-Sufficiency ($12 million in fiscal year 2007 NOFA). Despite the demonstrated need and effective results, the administration's fiscal year 2009 budget seeks $37.6 million for these three ROSS programs, and no additional funds for Neighborhood Networks (funded earlier at $15 million), a slight reduction from the $40 million appropriated in fiscal year 2008. AASC recommends 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 allows 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. The HCV/FSS program currently assists over 63,000 families and 8,300 families in public housing. In fiscal year 2004, HUD made a number of changes in the program that led to a number of technical errors and elimination of nearly one-third of the existing grants. The administration's fiscal year 2009 budget requests $48 million for HCV/FSS, slightly less than the $49 million appropriated in fiscal year 2008 and essentially the same since fiscal year 2005. AASC recommends $85 million for HCV/FSS funding in order to restore funds to PHAs that were cut in fiscal year 2004 and to expand the number of FSS participants. In addition, we support administrative changes for up-front funding of HCV/FSS escrow accounts, and to streamline the staffing of service coordinators.

CONCLUSION

While we understand the difficult funding choices that the subcommittee needs to make with limited resources, we would urge your support for the funding of service coordinators as a cost-effective means to assist the low-income elderly and other residents with special needs and as a means to save public funds by promoting economic self-sufficiency for low-income families and options for frail elderly to delay or avoid premature admission into costly nursing homes.

PREPARED STATEMENT OF EASTER SEALS

Chairman Murray, Ranking Member Bond and members of the subcommittee, Easter Seals appreciates this opportunity to share the successes 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 year 2009.

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 2006 and the Center was officially launched in January 2007.

The goals of the NCST 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;
—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, website, 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 an appropriation of $3 million for the NCST in fiscal 2009. The additional $2 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.

HIGHLIGHTED ACTIVITIES OF PROJECT ACTION AND THE NATIONAL CENTER ON SENIOR TRANSPORTATION DURING THE LAST YEAR

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. The past year has been an exciting one and the role of Project ACTION and the NCST as productive, highly trustworthy, innovative resources to the Federal Transit Administration has continued to grow.

In late 2007, the NCST released an RFP to local communities to undertake demonstration projects that will work creatively to meet the transportation needs of older adults living in the community. More than 300 public, private and faith-based aging/human services and transportation organizations from 46 states plus the District of Columbia applied. Eight community organizations have been selected to receive grants from the National Center on Senior Transportation. The grants range from $35,000 to $90,000. The sites will also receive 24 months of tailored technical assistance. A panel of external reviewers selected these organizations: Human Services Council, Vancouver, WA; Jewish Family and Children's Services of Minneapolis, Minnetonka, MN; Knoxville-Knox County Community Action Committee, Knoxville, TN; Leslie, Knott, Letcher Perry Community Action Council, Inc., Jeff, KY; Meadowlink Commuter Services, Rutherford, NJ; Mid County Senior Services, Newtown Square, PA; Southwest Michigan Planning Commission, Benton Harbor, MI; ACCESS Transportation System, Pittsburg, PA.

A highly promising new tool that both Project ACTION and the NCST are accessing to achieve their missions is distance learning. Distance learning has proven to be a highly effective method to reach an exponentially greater number of stakeholders to educate and inform them about activities that will increase the mobility of older adults and people with disabilities. For instance, over 800 people have participated in technical training offered by Project ACTION and the NCST with approximately 120 people signing up for each event on average. This has allowed approximately 5 times as many people to be trained by project staff. The experience has been so positive that the FTA has requested that the project triple their distance learning activities over the next 3 years contingent on funding. An additional training success was the presentation of the Project ACTION "People on the Move" program in New Orleans, LA to help assure that transportation options for people with disabilities were part of the rebuilding efforts in that city. Project ACTION was also proud to introduce a new course this year to increase the skills, knowledge and abilities of travel training professionals. Within 3 months following each of these three trainings being offered this year, participants will submit a report detailing how they used the curriculum materials to train people with disabilities to use public transportation, improve policies and practices, educate colleagues and increase their own knowledge.

Both projects have also instituted an on-line technical assistance tracking process that will help identify geographic and issue area trends in our technical assistance efforts so that broader training and technical assistance tools can be targeted at specific needs.

There are currently three ongoing studies that will result in new tools being added to the resource clearinghouse for both projects. The first is in the area of accessible taxi service and is critical to meeting the needs of both older adults and people with disabilities, particularly in rural areas. The other two are in the areas of bus stop accessibility and accessible pathways. In addition Project ACTION just released a report on wheelchair mobility that addresses the growing need to address larger wheelchairs in vehicles.

FISCAL 2009 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 $3 million be allocated for the National Center on Senior Transportation in fiscal 2009 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 THE NATIONAL ASSOCIATION OF RAILROAD PASSENGERS

The National Association of Railroad Passengers strongly supports $1.785 billion as a minimum appropriation for Amtrak for fiscal year 2009 in the absence of a responsible request by the Bush administration. There are two caveats below regarding rolling stock and infrastructure (sections II and IV) which justify additional funding.

Looking forward, we strongly urge the next Congress and administration to take seriously the $9 billion a year recommendation of intercity passenger train investments contained in the report of the National Surface Transportation Policy and Revenue Study Commission.

STRONG RIDERSHIP GROWTH

Americans are turning to trains. Demand for all types of services is growing rapidly—long distance, corridor, commuter rail and local transit. At Amtrak, ridership for the first 6 months of fiscal year 2008 (October–March) was up 12 percent compared with the same period of fiscal year 2007. And ridership for all of fiscal year 2007, which Amtrak said marked "the fifth straight year of gains," was 6.3 percent higher than in fiscal year 2006.

Sold-out trains on Amtrak means we don't have enough capacity to meet current demand, and certainly not the larger demand that is likely in the future as more people seek alternatives to high and rising gasoline prices and airline fares. As explained below, from a public policy standpoint, the increased popularity of energy-efficient trains is good.

HOW TO KEEP RIDERSHIP GROWING

Amtrak has about 100 cars that need repairs before they can be returned to service. The fiscal year 2008 budget apparently would accomplish very little in this regard. Similarly, it appears that little could be accomplished within what Amtrak has requested for fiscal year 2009, since they are showing a significant drop in capital spending on both "passenger cars" and "locomotives." Passenger cars would drop $40.1 million or 22.5 percent, from $178.0 million this year to $137.9 million next year.

This issue also is complicated by the fact that, as a result of leaseback deals in the pre-Gunn years, Amtrak does not own many of "its" cars and the law, as we understand it, prohibits Amtrak's use of capital dollars to repair such cars.

With passenger demand already exceeding what Amtrak can supply today, we urge the subcommittee to sort through the above and take the necessary steps to maximize the number of cars Amtrak can operate, including—if needed for this purpose—adding additional funding.

New Equipment.—We appreciate that Amtrak is working on developing a program to secure new equipment in cooperation with the States, and is working with them to standardize equipment design as much as possible. However, we are concerned at the lack of action with regard to equipment for the national network (long-distance) trains, where demand also is strong and growing, and cars also are aging. It is essential that the Federal funds become available to move both of these programs forward; with States partnering on "State corridors" equipment.

STATE GRANT PROGRAM

The Association appreciates the fact that, for the first time, Federal funds are available to match State investments for intercity passenger trains, and not just as a by-product of commuter rail or intermodal terminal programs. The $30 million approved for fiscal 2008 is significant as a start; we urge the subcommittee to expand this program as rapidly as possible—and not at the expense of Amtrak funding—ideally at $100 million in fiscal year 2009, and including a 5 percent set-aside for education and outreach.

SERVICE RELIABILITY

While some on-time performance issues result from problems with railroad operating practices, substantial delays also are caused by genuine track capacity issues. One of the biggest problems involves the Norfolk Southern mainline between Porter, Indiana, 26 miles east of the Illinois State line, and Chicago. This segment handles Amtrak's five daily Michigan round-trips as well as Amtrak's four Chicago-Cleveland trains (Lake Shore Limited serving New York State, New York City and Boston; Capitol Limited serving Pittsburgh and Washington).

Paralleling this mainline is the abandoned former New York Central right-of-way (and associated drawbridges, still in place). Putting this back into service would improve both passenger and freight operations. This is one major example of the sorts of projects that could blossom under an adequately funded Federal program to jointly fund railroad projects with States.

IT IS SOUND PUBLIC POLICY TO SUPPORT TRAINS

Fuel efficiency offers the most immediate and biggest potential for reducing CO_2 emissions from transportation over the next 3 decades, partly because we are so far from developing radically advanced, low-carbon technologies to replace oil-based transportation energy. The emissions reduction policy measure that will have the most immediate impact is the one that will make greater use of the most fuel/carbon efficient forms of transportation.

It is in that context that we present the most recent data from the annual Transportation Energy Data Book (Edition 26, released in 2007), published by Oak Ridge National Laboratory, under contract to the U.S. Department of Energy. The following table shows 2005 data; the five modes shown are listed from most to least energy efficient:

Mode	BTUs per psgr-mile [1]
Amtrak	2,709
Commuter trains	2,743
Certificated air carriers	3,254
Cars	3,445

Mode	BTUs per psgr-mile [1]
Light trucks (2-axle, 4-tire)	7,652

[1] BTU = British Thermal Unit; passenger-mile = one passenger traveling one mile.

The aviation figure shown above is straight energy consumption; no multiplier is added although there is evidence that "radiative forcing" increases the negative environmental impacts of high altitude emissions.

HUDSON RIVER TUNNELS

One other geographically specific project demands comment: the current plan of New Jersey Transit to build two tunnels under the Hudson River which would not connect with existing New York Penn Station and which would lead to a dead-end, deep cavern station so far under 34th Street as to render questionable the ability to extend tracks to Grand Central. Moreover, we understand that the tunnels are designed in a way that prohibits additional intercity capacity in the future.

We cannot support or justify a $7.6 billion expenditure on new tunnels that, in 2017, will find existing Penn Station and all intercity service under the Hudson just as dependent as today on two century-old tunnels. Moreover, these new tunnels will block future investments to expand intercity capacity, violating a basic rule: do no harm. As we have testified to New Jersey Transit and written to the Governors of New York and New Jersey, it is inconceivable that the continent's strongest market opportunity for rail to ameliorate aviation congestion could remain one incident away from rail paralysis. Even without an incident that closes those tunnels for any length of time, basic track maintenance needs are increasingly in conflict with growing demand for both commuter and intercity weekend services.

BACK PAY

Our $1.785 billion request includes both the $1.671 billion that Amtrak formally requested and the additional $114 million to fulfill the new contracts.

The alternative approach of relying on an end-of-year cash balance to cover the $114 million would be unwise because the remaining cash on hand would be inadequate for responsible management of a $3+ billion corporation like Amtrak. While it is unfortunate that Amtrak did not forthrightly request the $114 million, we agree that the board arguably would be failing in its fiduciary responsibility to recommend "swallowing" the $114 million. As Alex Kummant testified before your subcommittee on April 3, "it's early to project end-of-year cash. Last year, we came within 3 weeks of running out of cash by the time we got our first grant in February."

WORK RULES

We have supported reasonable efforts to improve productivity, believing that such efforts will facilitate service expansion that provides services travelers need while increasing the number of good jobs on and related to passenger trains. It is widely known that the PEB "does not recommend any of Amtrak's requested changes." However, rail labor submissions to the PEB noted that Amtrak can increase productivity within the scope of existing contracts. Also, the new contracts become amendable in just over 19 months which leaves room for hope that all parties, informed by the recent process, can approach the issue more effectively.

PREPARED STATEMENT OF THE RAILWAY SUPPLY INSTITUTE, INC.

Dear Mr. Chairman, the Railway Supply Institute (RSI) appreciates the opportunity to provide this subcommittee with our views on important transportation funding policy.

Established in 1908, RSI is the international association of suppliers to the Nation's freight, passenger rail systems, and rail transit authorities. The domestic railway supply industry is a $20 billion a year business with some 500 companies employing 150,000 people. Approximately 25 percent of sales involve Amtrak, commuter railroads and transit authorities. A strong national freight and passenger rail system will not only continue to sustain good paying domestic jobs but will lead to future job creation as well.

RSI supports both our Nation's freight and passenger rail operations. Today we will focus on passenger rail service. Unfortunately, in our view, our transportation policy places entirely too much emphasis on those modes of transportation that have the inverse effect on the issues mentioned above.

We need a strong, national railroad passenger system that contributes to reducing dependence on foreign oil; reducing carbon emissions into the atmosphere; reducing congestion on our highways; improving transportation safety; reducing airport congestion; and that will enhance our ability to move vast numbers of people in emergency evacuation situations (i.e. 9/11, Katrina, etc).

As representatives of those who supply our Nation's railroad industry, we submit that a more balanced national transportation policy that places more emphasis on rail will significantly contribute to meeting our Nation's stated policy objectives that are designed to make this Nation stronger.

That is why we urge this subcommittee to reject the administration's proposed cuts in rail passenger service and support Amtrak's fiscal year 2009 appropriation request of $1.671 billion. However, if policy makers are truly serious about achieving the above stated objectives, then we need to do much more than just allowing Amtrak to survive on a year to year basis. And, certainly get away from the annual starvation budget for rail passenger service.

Last August, the Wall Street Journal wrote that just the increase in ridership alone on the Acela's on Amtrak's Northeast Corridor was "enough new passengers to fill 2,000 Boeing 757 jets". Just imagine running more corridor operations that would do more of that and the impact that could have on fuel consumption and carbon emissions. Amtrak needs more equipment and investment in railroad infrastructure so it can expand capacity allowing it to move more people by rail. By doing that, it will help reduce short distance flights and auto trips.

At a time when we are considering capping air traffic in some of our busiest airports, wouldn't it make more sense to have a Federal policy that encourages the development of rail corridors that will reduce the need for short distance air travel and free up valuable air slots at airports? Such a policy would not only reduce airport congestion but would aide in reducing fuel consumption.

In addition:

—Air transportation produces significant levels of CO_2. Air emissions effects are greater at high altitudes.

—Airliner fuel use triples during the takeoff climb, and sometimes in descent, making short distance trips inefficient and adding unnecessarily to airport congestion.

—Rail travel could efficiently replace short distance air travel and longer distance highway trips, while reducing greenhouse gas emissions if we had a policy that encouraged more rail passenger corridor development.

Former airline executives, (Gordon Bethune-Continental/Robert Crandall-American) have publicly stated that the United States should do what governments in Europe and Asia have long done—building high speed rail lines for short distance travelers and freeing up runway space for long distance flights. States all over this country are interested in adopting policies that reward and encourage energy efficient, low-emissions transportation modes like passenger rail and corridor development. The Federal Government needs to be a partner with those States.

Mr. Chairman, we are here to urge you and the members of this subcommittee to focus your attention on the benefits of rail passenger service and, perhaps, even follow some of the recommendations of the National Surface Transportation Commission which clearly states that "intercity passenger rail is . . . more energy efficient than many other modes of passenger transportation." That same report goes on to say that the average intercity passenger rail train produces 60 percent lower carbon dioxide emission per passenger mile than the average auto, and half the carbon dioxide emission per passenger mile of an airplane.

These facts suggest that Federal transportation policy should do more to develop those modes of transportation that we already know are efficient. Perhaps our policy should measure the value of rail passenger service in a way that will reflect its overall value and enhance other policy objectives rather than only measuring the pure cost of the service as we do today.

Instead of measuring the "loss-per-passenger-mile" on Amtrak trains maybe this subcommittee should entertain other measures like "carbon emission reduction per-passenger-mile" or "reduction in VMT" (vehicle miles traveled).

Why not require a Fuel Efficient/Carbon Emission Impact Statement similar to the Environmental Impact Statement that will give transportation policy makers a different measurement tool that will actually help to gage the progress (or lack of it) in reducing fuel consumption and carbon emissions.

Above all, we would urge the subcommittee and Congress to provide full funding for Amtrak and to resist micro-managing their activities. If Congress wants Amtrak to operate more like a business, it should treat it like a business and have an arms-length relationship allowing the Board of Directors to be responsible for setting management objectives.

Clearly there are things Amtrak can do to be more efficient but dictating operational reforms for specific on-board services or a marketing strategy should be left to the Board of Directors and its management oversight and not spelled out in statutory language. Allow the Amtrak Board to be responsible and accountable for the actions of the corporation. The whole purpose for having a Board of Directors is to provide management with a general direction and hold management to the policies it sets.

Once Congress begins to dictate policies to management, it becomes part of the problem. We believe that the appropriate role of Congress should be to make policy, provide funding, and engage in oversight. The Appropriations Committees have a responsibility to work in the best interests of the Nation, making funding decisions that can set the foundation for a strong economy and a brighter future for all Americans. Support for rail passenger service is part of the solution for many of our Nation's concerns over congestion and pollution.

We applaud the subcommittee for its wisdom in providing the initial funding for the Intercity Passenger Rail Grant Program last year. In addition, Federal Railroad Administrator Joseph Boardman deserves credit for proposing this concept and for recommending an additional $100 million to expand the current program to assist the States in being more aggressive in improving intercity rail passenger service. This is one of those areas where Amtrak, the States, Congress and the administration can all agree needs to move forward and we hope this subcommittee will do its best to fully fund this proposal.

Your continued support for rail passenger service is good public policy and good for the Nation.

Thank you for the opportunity to present our views.

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 subcommittee over the past 13 years. The support of this subcommittee has enabled Foothill Transit to construct two operating and maintenance facilities and to initiate replacement of our aging bus fleet with new compressed natural gas coaches, as well as to embark upon providing commuter parking to encourage transit ridership. These initiatives have greatly enhanced our service to our riders, and continue to do so.

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 2009 funding request is for $5 million in Discretionary Bus Capital funding to assist Foothill Transit in our aggressive efforts to continue the conversion of our entire 314-bus fleet to cleaner burning compressed natural gas (CNG) buses. To date, Foothill Transit's fleet consists of 232 CNG buses and 82 diesel buses. The funds requested here would be utilized for the purchase of both 40-foot buses, and additional 60-foot articulated buses to add to the new "Silver Streak" service just introduced in March 2007. This successful new service includes 58-passenger buses which board faster, save riders substantial commuting time, have state-of-the-art safety features, and offer onboard WiFi (Internet) service.

The conversion of transit fleets to alternative fuel sources multiplies the benefits that transit service already contributes to our national energy conservation goals. The Federal Government has recognized the importance of such energy-saving initiatives by providing Federal matching funds and incentives to assist local agencies, such as Foothill Transit, with the procurement of alternative fuel buses.

The agency's Pomona Operations Yard is now running a 100 percent CNG fleet with 170 buses. Diesel fueling infrastructure has been dismantled at this yard as the use of diesel fuel buses has been phased out at this facility.

Foothill Transit's Arcadia/Irwindale Operations Yard runs the remaining 144 buses, with the goal of converting to a cleaner burning CNG facility as soon as possible. This funding request will enable the retirement of a portion of the older diesel-fueled vehicles and advance the "green" goals of the agency, furthering its role in improving regional air quality through the cleaner fuel technologies and congestion reduction in Los Angeles County.

Since its introduction in March 2007, the Silver Streak service mentioned above has become a great success. The service saves riders approximately 40 minutes of commute time from one end of the county to the other. Ridership has increased rapidly since its inception and has improved overall system access on connecting lines. This funding, if approved, will enable the purchase of an additional 10 60-foot CNG "articulated" buses, as well as additional 40-foot CNG buses.

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. The agency provides public transit service 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 805 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 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 structure 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 currently have two operating contracts, with First Transit at our Pomona facility, and MV Transportation at our Arcadia/Irwindale facility.

Mr. Chairman, thank you for the opportunity to provide testimony and for your consideration of this 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 ILLINOIS DEPARTMENT OF TRANSPORTATION

Madam Chairwoman and members of the subcommittee, we appreciate the opportunity to submit testimony concerning the fiscal year 2009 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 and Housing and Urban Development, and Related Agencies. We thank Chairwoman Patty Murray 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 recommendations for overall funding priorities and our requests for transportation funding for projects of special interest to Illinois are discussed below.

HIGHWAY

Highway Obligation Limitation

IDOT urges the subcommittee to set the obligation limitation for highway and highway safety programs at no less than the guaranteed SAFETEA–LU level of $41.2 billion for fiscal year 2009—the same funding level approved in fiscal year 2008. As you are aware, these guarantees/funding levels were also approved in both the House and Senate fiscal year 2009 budget resolutions. Moreover, 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).

IDOT is aware of the implications of supporting increased transportation funding when the long-term viability of the trust fund is in question. However, IDOT is responsible for securing the Federal funding that is needed to address the immediate highway and bridge deficiencies in Illinois and to preserve Illinois' transportation system for succeeding generations. To paraphrase the recent findings of the National Surface Transportation Policy and Revenue Study Commission, the consequences of inaction, at any level, will lead to further deterioration of the Nation's transportation system assets.

Rescission of Unobligated Highway Apportionments

IDOT urges the subcommittee to suspend its practice of rescinding unobligated highway apportionments. Since fiscal year 2002, Congress has enacted language requiring Illinois to rescind a total of $466 million in unobligated apportionments. Rescissions undermine the SAFETEA–LU principles of guaranteed funding and budgetary firewalls by withdrawing promised Federal funding to offset increased non-transportation funding in other areas of the budget. The accumulated impact of numerous rescissions since fiscal year 2002 has exacted burdensome programmatic consequences. With large-scale rescissions, such as the one implemented in fiscal year 2008 for $3.15 billion, States have less flexibility to shift funding toward unique State needs and to meet individual highway program priorities. Moreover, State transportation departments are being pressured by various transportation interests to make rescissions based on that group's particular preference.

Lastly, the members of the Senate Appropriations Committee should be reminded that the $8.6 billion rescission enacted in SAFETEA–LU, which becomes effective on the last day of the bill, represents a 22 percent reduction of the estimated $38.3 billion to be apportioned to the States in fiscal year 2009. Illinois' share of the fiscal year 2009 rescission is estimated in the range of $285 million to $300 million.

Funding Requests for Meritorious Projects

If the subcommittee finds the flexibility to fund meritorious projects in existing discretionary SAFETEA–LU categories or outside the authorized categories, IDOT requests funding for the following projects (noted throughout the testimony) for highway, Intelligent Transportation Systems (ITS), transit and rail funding:

—*Rehabilitation of Congress Parkway Bridge.*—IDOT requests $20 million for rehabilitation and construction of the bridge, which crosses the South Branch of the Chicago River, and is currently classified as structurally deficient.

—*New Mississippi River Bridge.*—IDOT requests $9.6 million for the land acquisition required for the construction of a new eight-lane Mississippi River Bridge in the St. Louis, Missouri and East St. Louis, Illinois area.

—*Remote Control Bridge Monitoring for Des Plaines River.*—IDOT requests $6 million to provide automated remote monitoring and control for a group of six movable bridges crossing the Des Plaines River in the Joliet region.

Other IDOT Highway Priorities Include.—$20.5 million for expansion of US 51 between Decatur and Centralia; $62.5 million for expansion of US 67 between Macomb and Alton; $10 million for I–39/I–90 Interchange Reconstruction in Rockford; and $12.6 million for development of an east-west IL Route 120 Corridor.

Other IDOT ITS Priorities Include.—$6 million for a traffic surveillance system for I–80; $2 million for dynamic message signs at the I–39/I–80 Interchange; $1.5 million for I–270 fiber network and other ITS devices; $6 million for a traffic surveillance system for I–55; and $9 million for Vehicle Infrastructure Integration along Route 66.

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 2009 at $10.4 billion.

—*Bus and Bus Facilities.*—IDOT and the Illinois Public Transportation Association jointly request a Federal earmark of $30 million ($6.1 million for downstate bus and $23.9 million for downstate facilities) in fiscal year 2009 section 5309 bus capital funds for downstate Illinois.

The request will provide $6.1 million for downstate Illinois transit systems to purchase up to 43 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 $23.9 million to Illinois to undertake engineering, land acquisition or construction for eight maintenance facilities and two transfer facilities that will enhance efficient operation of transit services.

Illinois transit systems need discretionary bus capital funds. Regular formula funding is inadequate to meet all bus capital needs. IDOT believes that Illinois' needs justify a much larger amount of discretionary bus funds than the State has received in recent years. Under SAFETEA–LU, Illinois is expected to receive approximately 6.5 percent of the needs-based formula funds but Illinois has only received between 1 percent and 3 percent of appropriated bus capital funds in the past.

New Systems and Extensions—Chicago Transit Authority (CTA)

IDOT supports the CTA's request for an earmark totaling $30.5 million in New Starts funding to assist in upgrading the Ravenswood Brown Line. The match for these funds has been 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 $30.5 million in New Starts funds for fiscal year 2009. A Full Funding Grant Agreement 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 2009 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.

Formula Grants

IDOT urges the subcommittee to set appropriations for transit formula grant programs at levels that will allow full use of the anticipated 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 three 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. With section 5311 funding increases already authorized in SAFETEA–LU, Illinois is in the process of expanding service into 24 counties not currently served.

Any decrease in Federal funding below the SAFETEA–LU authorized levels could jeopardize the much needed service expansion. 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 grant request of $1.671 billion in funding from general funds for fiscal year 2009 to cover capital, operating and debt service costs. In addition, IDOT supports Amtrak's supplemental request for $114 million to cover 60 percent of the labor settlement amount (40 percent was funded within fiscal year 2008) determined by the Presidential Emergency Board.

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 3.6 million passengers annually. Of the total, Illinois subsidizes 28 State-sponsored trains which provide service in four 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 Railroad Grand Crossing Connection.*—IDOT requests $10 million in fiscal year 2009 for design and construction of a railroad connection between the CN and Norfolk Southern Railroads at 75th Street in Chicago—also know as the Grand Crossing.

—*Passenger Rail-Freight Congestion Relief.*—IDOT requests $1 million in fiscal year 2009 for engineering and capital improvements to relieve passenger and freight train congestion/delays on the three State-supported downstate corridors.

AVIATION

Airport Improvement Program Obligation Limitation

IDOT supports a fiscal year 2009 Airport Improvement Program (AIP) obligation limitation of $3.9 billion, thereby continuing the 4-year VISION–100 pattern of increasing the obligation limitation each year by $100 million. This level of funding is supported by the American Association of Airport Executives and the National Association of State Aviation Officials.

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.

Despite challenges that include high fuel prices and concerns about the economy, U.S. commercial aviation is on track to carry one billion passengers by 2016, as predicted by the Federal Aviation Administration in a recently released forecast for the period 2008–2025. In addition, 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. Lower AIP obligation levels translate into 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 in fiscal year 2009, at a level of no less than at the full authorized fiscal year 2008 level of $35 million. Illinois airports have received funding from this program in the past.

Other IDOT Non-Modal Priorities

Resource Center for Disadvantaged Business/Minorities/Women.—IDOT requests $450,000 for an IDOT resource center for disadvantaged, minority and women owned businesses aimed at increasing participation on all IDOT projects as well as CREATE.

Height Modernization.—IDOT requests $3.5 million to establish a Height Modernization (HM) program in Illinois. This will be requested through the Appropriations Subcommittee on Science, State, Justice, Commerce and Related Agencies.

Finally, should Congress develop a second stimulus package IDOT would support the inclusion of an infrastructure component. IDOT has identified approximately 295 highway, transit, rail and aviation projects at a value of $2.5 billion that would be ready-to-go in a short timeframe to not only stimulate the economy by creating good paying jobs, but provide long-term improvements to our transportation infrastructure.

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.

LIST OF WITNESSES, COMMUNICATIONS, AND PREPARED STATEMENTS

SUBJECT INDEX

AMTRAK

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

FEDERAL RAILROAD ADMINISTRATION

FEDERAL TRANSIT ADMINISTRATION

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