

**NOMINATIONS TO THE  
DEPARTMENT OF TRANSPORTATION,  
THE DEPARTMENT OF COMMERCE, AND  
THE EXECUTIVE OFFICE OF THE PRESIDENT**

---

---

**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE**

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

APRIL 21, 2009

Printed for the use of the Committee on Commerce, Science, and Transportation



U.S. GOVERNMENT PRINTING OFFICE

52-165 PDF

WASHINGTON : 2010

---

For sale by the Superintendent of Documents, U.S. Government Printing Office  
Internet: [bookstore.gpo.gov](http://bookstore.gpo.gov) Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

JOHN D. ROCKEFELLER IV, West Virginia, *Chairman*

DANIEL K. INOUE, Hawaii	KAY BAILEY HUTCHISON, Texas, <i>Ranking</i>
JOHN F. KERRY, Massachusetts	OLYMPIA J. SNOWE, Maine
BYRON L. DORGAN, North Dakota	JOHN ENSIGN, Nevada
BARBARA BOXER, California	JIM DEMINT, South Carolina
BILL NELSON, Florida	JOHN THUNE, South Dakota
MARIA CANTWELL, Washington	ROGER F. WICKER, Mississippi
FRANK R. LAUTENBERG, New Jersey	JOHNNY ISAKSON, Georgia
MARK PRYOR, Arkansas	DAVID VITTER, Louisiana
CLAIRE McCASKILL, Missouri	SAM BROWNBACK, Kansas
AMY KLOBUCHAR, Minnesota	MEL MARTINEZ, Florida
TOM UDALL, New Mexico	MIKE JOHANNNS, Nebraska
MARK WARNER, Virginia	
MARK BEGICH, Alaska	

ELLEN L. DONESKI, *Chief of Staff*

JAMES REID, *Deputy Chief of Staff*

BRUCE H. ANDREWS, *General Counsel*

CHRISTINE D. KURTH, *Republican Staff Director and General Counsel*

PAUL NAGLE, *Republican Chief Counsel*

## CONTENTS

---

	Page
Hearing held on April 21, 2009 .....	1
Statement of Senator Inouye .....	1
Prepared statement of Hon. John D. Rockefeller IV submitted by Hon. Daniel K. Inouye .....	2
Statement of Senator Hutchison .....	3
Statement of Senator Kerry .....	5
Statement of Senator Dorgan .....	41
Prepared statement of Hon. Ellen O. Tauscher, U.S. Representative from California, Tenth District, submitted by Hon. Byron L. Dorgan .....	63
Statement of Senator Warner .....	49
Prepared statement .....	49
Statement of Senator Johanns .....	52
Statement of Senator Begich .....	53
Statement of Senator Lautenberg .....	55
Statement of Senator Klobuchar .....	56
Statement of Senator Thune .....	58
Statement of Senator Cantwell .....	90

### WITNESSES

Hon. Richard Durbin, U.S. Senator from Illinois .....	6
Peter H. Appel, Administrator-Designate, Research and Innovative Tech- nology Administration, Department of Transportation .....	8
Prepared statement .....	10
Biographical information .....	10
Hon. Joseph C. Szabo, Administrator-Designate, Federal Railroad Administra- tion, Department of Transportation .....	17
Prepared statement .....	18
Biographical information .....	20
Dana G. Gresham, Assistant Secretary-Designate of Transportation for Gov- ernmental Affairs, Department of Transportation .....	26
Prepared statement .....	27
Biographical information .....	28
Robert S. Rivkin, General Counsel-Designate, Department of Transportation ..	32
Prepared statement .....	34
Biographical information .....	34
Roy W. Kienitz, Under Secretary-Designate, Department of Transportation ...	41
Prepared statement .....	42
Biographical information .....	43
April Boyd, Assistant Secretary-Designate, Office of Legislative and Intergov- ernmental Affairs, Department of Commerce .....	64
Prepared statement .....	65
Biographical information .....	66
Letter, dated February 20, 2009, from April S. Boyd to Barbara S. Fredericks, Assistant General Counsel for Administration, U.S. Depart- ment of Commerce .....	72
Cameron F. Kerry, General Counsel-Designate, Department of Commerce .....	73
Prepared statement .....	75
Biographical information .....	76
Sherburne B. Abbott, Associate Director-Designate of Environment, Office of Science and Technology Policy, Executive Office of the President .....	90
Prepared statement .....	92
Biographical information .....	94

IV

APPENDIX

	Page
Response to written questions submitted to Peter H. Appel by:	
Hon. John D. Rockefeller IV .....	109
Hon. Mark Begich .....	111
Response to written questions submitted to Joseph C. Szabo by:	
Hon. John D. Rockefeller IV .....	111
Hon. Byron L. Dorgan .....	113
Hon. John Kerry .....	114
Hon. Frank R. Lautenberg .....	114
Hon. Mark Begich .....	115
Hon. Tom Udall .....	115
Hon. Sam Brownback .....	116
Response to written questions submitted by Hon. John D. Rockefeller IV to Dana G. Gresham .....	117
Response to written questions submitted to Robert S. Rivkin by:	
Hon. John D. Rockefeller IV .....	118
Hon. Frank R. Lautenberg .....	119
Response to written questions submitted to Roy W. Kienitz by:	
Hon. John D. Rockefeller IV .....	119
Hon. Byron L. Dorgan .....	120
Hon. Tom Udall .....	121
Hon. John Thune .....	122
Hon. David Vitter .....	123
Response to written questions submitted by Hon. John D. Rockefeller IV to Cameron F. Kerry .....	124
Response to written questions submitted to Sherburne B. Abbott by:	
Hon. John D. Rockefeller IV .....	124
Hon. Tom Udall .....	125
Hon. Mark Begich .....	126
Hon. John Thune .....	127

**NOMINATIONS TO THE  
DEPARTMENT OF TRANSPORTATION,  
THE DEPARTMENT OF COMMERCE, AND  
THE EXECUTIVE OFFICE OF THE PRESIDENT**

TUESDAY, APRIL 21, 2009

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:30 p.m., in room SR-253, Russell Senate Office Building, Hon. Daniel K. Inouye, presiding.

**OPENING STATEMENT OF HON. DANIEL K. INOUE,  
U.S. SENATOR FROM HAWAII**

Senator INOUE. The Committee will come to order.

Unfortunately, Chairman Rockefeller cannot be here with us today. He had a very serious, painful knee injury last week, and he has to be hospitalized and underwent surgery. I think we all wish him the best for a speedy recovery.

I hope you will forgive me for my voice. That is what happens to politicians who talk too much.

[Laughter.]

Senator INOUE. The Committee will consider nominees for the United States Department of Transportation, the United States Department of Commerce, and the Office of Science and Technology Policy.

If confirmed, these men and women will be charged with leading the Federal Government's efforts to promote transportation mobility, advance commerce, strengthen ocean management, and improve environmental science and technology throughout the Nation and the world.

Working together, we have the opportunity to creatively reform our entire transportation system. Mr. Robert Rivkin, Mr. Dana Gresham, Mr. Roy Kienitz, Mr. Joseph Szabo, and Mr. Peter Appel will face many important issues and challenges as we work to improve our Nation's transportation and infrastructure in an environmentally sustainable manner.

The two nominees for the Department of Commerce, Mr. Cameron Kerry and Ms. April Boyd, have enormous tasks ahead in support of diverse responsibilities for the Department, ranging from fisheries management to the census.

I would also like to welcome Ms. Sherburne Abbott, the nominee for Associate Director for Environment at the Office of Science and

Technology Policy. This important position has been left vacant for the past 8 years, and I am pleased that this Administration has made filling this position a priority. Climate change is a critical long-term issue this country must address. Therefore, it is important that we have coordination across the many Federal agencies responsible for developing the solution.

I wish to congratulate the nominees and express the Committee's appreciation for their commitment to public service.

Before I proceed any further, I have a statement for the record by Senator John D. Rockefeller IV, the Chairman of this Committee. Without objection, it will be made part of the record.

[The prepared statement of Senator Rockefeller follows:]

PREPARED STATEMENT OF HON. JOHN D. ROCKEFELLER IV,  
U.S. SENATOR FROM WEST VIRGINIA

I wish to congratulate all of you on your nomination for positions in the United States Department of Transportation (DOT), the United States Department of Commerce, and the Office of Science and Technology Policy. It is a true honor to be selected by President Obama to serve in these important positions, and, if confirmed, you will be emboldened with leading the Federal Government's efforts to promote transportation mobility, advance commerce, strengthen ocean management, and improve environmental science and technology throughout the Nation and the world.

Mr. Appel, Mr. Gresham, Mr. Kienitz, Mr. Rivkin, and Mr. Szabo—the timely and efficient movement of people and goods is an integral component of our daily lives. Given the current economic climate, considerable energy and resources must be devoted to make sure the severe challenges our transportation system faces do not inhibit the flow of national and global commerce. Carbon emissions—both from the transportation choices we make and the growing congestion across the system—contribute significantly to climate change. Increased freight and passenger demand has begun to overwhelm our entire transportation network, creating congestion and bottlenecks at our ports, in our skies, and on our roads and rails. Safety continues to plague our roadways—in 2007 alone, over 41,000 people were killed in highway accidents, with more than 2,400,000 injured. Out of this total, nearly 5,000 people were killed in large truck crashes alone and over 10,000 people were killed in vehicle roll-over accidents.

Together with the Congress, President Obama, and Secretary LaHood, we have the opportunity to creatively reform our entire transportation system and address the many challenges it faces. We must rethink the way that the transportation network operates, the way projects and programs are funded, what technologies must be incorporated into the system, and the proper role for Federal involvement in developing and managing the system. Mr. Rivkin, the upcoming reauthorization of our surface transportation policies and programs is an opportunity to prepare our infrastructure for 21st century demands and reprioritize our travel methods in a more environmentally sustainable way. Similarly, I hope to continue modernizing our aviation system with the reauthorization of the Federal Aviation Administration (FAA). In both these situations, and others facing the DOT, Mr. Appel, we will have to rely on trustworthy research and data in order to accurately incorporate technological solutions into our expanding transportation system.

As the Committee responsible for establishing the Nation's policies and goals for all modes of transportation, I plan for this Committee to be very active in setting clear objectives for our Federal surface, aviation, and maritime transportation programs, Mr. Gresham, and hope that we can build the strong partnership needed to accomplish the type of change that President Obama and Vice President Biden have discussed and that we all agree must occur.

The attention this Administration is devoting to passenger rail is unprecedented. Mr. Szabo, I applaud the Department's high-speed rail strategic plan released last week for implementing the \$8 billion investment included in the American Recovery and Reinvestment Act. We will be closely monitoring the implementation of this plan to make sure it achieves the goals set forth in the Passenger Rail Investment and Improvement Act passed last fall, including furthering the development of a national rail system. We will also work with the Federal Railroad Administration to make sure that the aggressive goals in the Rail Safety Improvement Act for the establishment of positive train control systems and the improvement to rail workers hours of service are successfully implemented.

Finally, I am concerned about the strength of our maritime and freight systems. In this increasingly competitive global economy, America must maintain efficient access to the world's markets. Far too many of our ports and trade corridors are mired by inadequate infrastructure and limited capacity. We need to develop a strong multimodal program that will provide investments in essential port and freight infrastructure projects that have national significance and will be looking to you, Mr. Kienitz, and your Policy office, to work with us to move this critical issue forward.

For our two distinguished nominees for the Department of Commerce, Mr. Kerry and Ms. Boyd, I would again like to congratulate you on your appointments and also remind you of the enormous tasks which you are nominated to oversee. The mission of the Department of Commerce is wide-ranging. It affects almost all sectors of our Nation's economy, from international trade to local economic development. The Department's programs literally touch each of our lives, whether providing daily weather forecasts, aiding communities with economic development, or conducting the decennial Census. The Department of Commerce is preparing to undertake a massive and critically important 2010 U.S. Census. It goes without saying that a tremendous amount of pressure and many eyes will be on this Department and its leaders until its successful completion. This is only one important area that you both will be vested in overseeing.

In these difficult economic times, I hope you use your talents to promote U.S. exports, our country's unbeatable travel and tourism industry, and stand up for U.S. manufacturers by vigorously enforcing our international trade laws. For too long, we have seen a slow weakening of these laws and in some instances have seen the World Trade Organization overstepping its jurisdiction through its misinterpretation of the Antidumping laws. Though we cannot deny our interdependence on foreign countries for trade—in fact I heartily welcome trade with our foreign friends—we cannot do so at the expense of running roughshod over our own laws and putting U.S. companies at a comparative disadvantage. This includes addressing countries that have instituted retaliatory tactics on certain goods and services. I hope you can tell us today that you plan on remaining vigilant in these areas.

Our oceans and climate are significant economic drivers for our economy. The National Oceanic and Atmospheric Administration's (NOAA) programs and services affect more than one-third of the Nation's gross domestic product, including supporting our fisheries, farmers, and maritime industry. NOAA makes up the largest part of the Department of Commerce's resources, accounting for more than fifty percent of the Department's overall budget. The economic health of our Nation depends on our coastal economies, which generate one-half of our Nation's Gross Domestic Product and are home to more than 50 percent of the Nation's population. Our Nation's fisheries generate \$111 billion for state economies, yet the United States currently has an \$8 billion seafood trade deficit. There is great untapped wealth in our oceans. Maintaining the economic and ecological viability of our coastal communities and oceans, rebuilding our wild fisheries, promoting sustainable aquaculture, and monitoring our Nation's weather and climate are vital to building our Nation's economic and environmental wealth. Unfortunately, NOAA's value to our communities often goes unrecognized. I hope that you will make it a priority to work with Congress to strengthen NOAA's critical programs and services and its role within the Department of Commerce.

I look forward to your quick confirmation and excellent work at the Department of Commerce.

I would like also like to welcome Ms. Shereburne Abbott, nominee for Associate Director for Environment at the Office of Science and Technology Policy. This important position has been left vacant for the past 8 years, and so I am pleased to see it finally filled. Since climate change will be a critical long issue this country will be addressing, it is important that we have coordination across the many Federal agencies responsible for developing the solution.

I look forward to hearing your testimony and will do my best to facilitate a quick confirmation process so that we can get started with the work ahead of us.

Senator INOUE. And now may I call on our Ranking Member, Senator HUTCHISON.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,  
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Well, thank you very much, Mr. Chairman. I really appreciate, as I know all of us do, that you are presiding

over this hearing in Senator Rockefeller's absence, and we all wish him well with his recovery.

I want to thank all of you for coming. I am so pleased that we are having a hearing and putting these nominees forward because we know that the agencies need all of you to start taking some of the load off the beleaguered Secretaries.

Let me say I also want to introduce my Texas constituent before us today, Shere Abbott, who you mentioned earlier is the nominee for Associate Director of Environment for the Office of Science and Technology Policy. She has had 25 years of human development and environmental research education and policy experience and has been an active faculty member of the University of Texas at Austin for 3 years where she has served as Director of the Center for Science and Practice of Sustainability in the Office of the Executive Vice President and Provost.

She has also worked as a consultant before that, advising the World Bank, private foundations, and nongovernmental foundations. She was Chief International Officer for the American Association for the Advancement of Science from 2003 through 2005 and has vast experience in this field.

She graduated from Goucher College and earned her Masters of Forest Science from Yale University where she was a Dodge Fellow in human animal ecology.

In 2000, she was appointed Senior Research Fellow at Harvard's Kennedy School of Government.

I am very pleased that she is a nominee to be a part of this Administration.

I just want to make a general statement that the Committee cannot do the work that we are expected to do without the cooperation and help from the legal and governmental affairs officers at all of our agencies and our cabinet offices. These offices are charged with the task of keeping us aware of activities and undertakings at the agencies and responding to our information requests, often within a very short timeframe. This Committee has successfully maintained a productive and bipartisan working relationship with the agencies within our jurisdiction, and I look forward to continuing that bipartisan cooperation during this Administration.

I also note that we have a number of important positions at the Department of Transportation that we will consider today. It is very important that we have a lot of input from the nominees here because we have both the FAA reauthorization and the highway reauthorization bills, both very important for our transportation infrastructure. I hope very much that we will be able to work through getting the NextGen air traffic control system at the Department of Transportation enacted. We also hope to be able to move on the highway reauthorization legislation, which is so important to so many States.

So I appreciate all of you for being here and thank you, Mr. Chairman, for subbing for our Chairman.

Senator INOUE. Thank you very much.

I am pleased to call upon Senator Kerry. He has a statement and introductions.



**STATEMENT OF HON. JOHN F. KERRY,  
U.S. SENATOR FROM MASSACHUSETTS**

Senator KERRY. Thank you, Mr. Chairman.

Obviously, we wish Senator Rockefeller were here, but we are also pleased to see you back in the chair, though temporarily.

Mr. Chairman, this is a great pleasure for me and, obviously, a special privilege. I am going to recuse myself from the vote because I think that is the appropriate thing to do, but I am not going to recuse myself from the introduction to the Committee of my brother.

And we are in that rare situation where an introducer gets to actually say, "I have known somebody all my life."

[Laughter.]

Senator KERRY. Here, there is not much question about that. I think he was the first person I ever babysat for and some might allege that I am here doing that again, but I do not think so.

He is accompanied by his wife who is an attorney in her own right and, in fact, President of the Boston Bar Association, Kathy Weinman. They are joined by my niece, his daughter, Jessica, who is a recent graduate of Brown and has been deeply involved in guess what—politics—for the last year or so and more.

But, Mr. Chairman, what is important here is whether or not Cameron Kerry is qualified for this job, and I believe, through all my years of service on this Committee and knowing what the job is about, that he is highly qualified. He is a thoroughly public service-minded person. He is a gifted and capable lawyer who will make a terrific legal counsel for the Department of Commerce. He has spent all his life in the private sector as a lawyer, navigating very complicated legal issues ranging from environmental law to toxic torts, privacy, insurance regulation.

As we know, the Department of Commerce has a very broad, diverse portfolio. It calls for a general counsel who is able to bring public judgment tested in public policy. In fact, Cameron has all his life been involved in supporting other people, myself included, who have run for office and is very, very knowledgeable about those issues. I think he brings a judgment and a facility with a range of issues, and that has been the nature of his career as a litigator, as a regulatory lawyer at leading law firms in both Boston and Washington, D.C. and also as a teacher of communications law.

I think he has a special appreciation of the needs and interests of the Department's business stakeholders. He has represented the private sector. He has been on the front lines of seeing the kinds of conflicts and tensions and needs that businesses have, and he has a deep understanding of the economic crisis that our country and our people are facing today.

He also, I might add, has a very strong sense of the Internet and technology because we come from Massachusetts where we are privileged to have an extraordinary network of colleges and universities and research laboratories and people who are on the front lines of much of the business that comes before this committee.

So I know that he believes deeply in President Obama's agenda, and he will roll up his sleeves and put everything he has into serving the Administration and our country. He will uphold the best

standards of legal judgment and of the Constitution of the country. I think he will put country ahead of politics, which is an important ingredient in all of this.

Senator INOUE. Will you yield at this point?

Senator KERRY. Yes, sir.

Senator INOUE. Since I will not be here to hear Mr. Kerry speak, may I ask that Mr. and Mrs. Kerry stand to be recognized?

Senator KERRY. Thank you, sir.

Senator INOUE. Welcome. Congratulations.

Senator KERRY. Thank you, Mr. Chairman.

Senator INOUE. He is a good-looking fellow.

[Laughter.]

Senator KERRY. We have argued about that for 57 years.

[Laughter.]

Senator KERRY. Mr. Chairman, can I also say I am also very proud of another nominee before the Committee today, April Boyd, who has been nominated, as we know, to head up the legislative and intergovernmental affairs at Commerce. I have not known April her whole life, but I have known her long enough to share the President's confidence in her skills that she brings to this job.

She served as my national press secretary between 2004 and 2006, and before that, she was Chief of Staff to Representative Ellen Tauscher of California, and before that, a Special Assistant in the Department of Energy and a Media Liaison at GSA. I think the President in nominating her has found someone who will work with us on the Hill with knowledge of the Hill, of our lives and of the intersection of the requirements of the Department of Commerce.

So I am really pleased to be able to commend both nominees, maybe one slightly more than the other, but both nominees. And I thank you, Mr. Chairman, for the courtesy. Thank you.

Senator INOUE. I thank you very much.

Senator KERRY. I have another meeting going on right now, so I need to excuse myself. I apologize.

Senator INOUE. It is my great pleasure to call upon Senator Durbin. He has introductions to make.

**STATEMENT OF HON. RICHARD DURBIN,  
U.S. SENATOR FROM ILLINOIS**

Senator DURBIN. Chairman Inouye, Ranking Member Hutchison, Members of the Committee, thank you for the opportunity to introduce two Illinoisans, Robert Rivkin and Joe Szabo for their nominations to the Department of Transportation. Both men have made significant contributions to the State of Illinois, and I believe they will make a significant contribution to our Nation at the federal Department of Transportation.

First, a few words about Bob Rivkin. He has a long, successful legal career, and his experience will serve him well. He recently served as Vice President and Deputy General Counsel of Aon Corporation, a Chicago-based management and financial services firm. In this capacity, he has been responsible for all litigation, employment law, and regulatory and government affairs for Aon's businesses in North and South America.

In addition to his work at Aon, Bob Rivkin has developed a long resume working on transportation issues. From 2001 to 2004, Bob was General Counsel to the Chicago Transit Authority, the second largest public transportation system in America. There, Bob was instrumental in negotiating a \$530 million full-funding agreement between the Federal Transit Administration and the CTA for the massive overhaul of the Brown Line. Today, that project enables thousands of commuters to have quality access to public transportation. Because of Bob's work early in the process, the project has been on budget and on schedule.

I would like to mention one more thing about Bob. It is something that he is going to bring to this position of General Counsel at DOT. That is his family's dedication to public service. Bob's father, William R. Rivkin, served this country honorably, as the Chairman did, as a Lieutenant Colonel in the U.S. Army during World War II, where he earned the Bronze Star. Following his decorated service in the military, President Kennedy appointed William Rivkin Ambassador to Luxembourg where he served from 1962 to 1965. President Johnson then appointed William Rivkin Ambassador to Senegal and Gambia where he served until 1967.

Bob begins the process of Senate confirmation today with this hearing, a process his father underwent more than 40 years ago. I am sure this Committee will learn today that Bob Rivkin is ready to serve this country and continue his family's legacy of distinguished public service.

Mr. Chairman and Members of the Committee, I am also pleased to introduce Joe Szabo of Chicago, Illinois, the nominee for the Administrator of the Federal Railroad Administration. Joe is here today with his father, Joseph F. Szabo, and three sisters, Jo Clark, Susan Stables, and Peggy Szabo.

The FBI investigation found only one major flaw when it came to Joe Szabo, and I think we should put that on the record early in the hearing. And that flaw is that Joe Szabo is a die-hard Cubs fan.

[Laughter.]

Senator DURBIN. Luckily for all of us, the Cubs are playing a night game so they will not miss any of the action at Wrigley Field to come here to Washington.

Seriously, I am pleased they could join us today for this important and proud moment for Joe and his family.

Joe Szabo understands better than most the long days, unpredictable schedules, and sometimes hazardous working conditions that come with the railroad industry. He has worked for the railroad, both the Illinois Central and METRA, since he was 18 years old, including stints as yard switchman, road trainman, and commuter passenger conductor. Five generations of his family have worked in the railroad. Joe learned firsthand about the railroad from his dad. His father instilled in him a passion for rail work that has helped Joe become a trusted and respected voice in rail labor and in the industry. Joseph F. Szabo, a 40-year switchman for the Illinois Central Railroad, today is watching from the front row as his son, Joe Szabo, goes through this confirmation hearing to be the chief railroad official in the Obama Administration, a job he is uniquely qualified to hold.

Joe has a distinguished career in public service and many accomplishments. As an elected mayor of Riverdale, Illinois and State Legislative Director for the United Transportation Union, UTU, Joe has developed a reputation as a passionate advocate of freight and passenger rail and its workers. During his tenure as UTU's State Director, Joe's work was integral to the State of Illinois doubling its investment in passenger rail. This additional State investment allowed Illinois to double the frequency of Amtrak trains leaving Chicago for Quincy, Carbondale, and St. Louis and lay the groundwork for expanding Amtrak service. His advocacy helped Illinois passenger rail achieve the fastest growth in ridership and revenue in the entire Amtrak system.

Joe now brings his passion for the railroad industry and his experience with rail labor to a national stage. As all of us know, President Obama, Vice President Biden, and this Congress have made the single largest investment in passenger rail in our country's history. The \$8 billion we included in the stimulus for high-speed rail and outlined by the President last week represents a commitment to taking the next step in the next generation of intercity passenger rail. Implementing this vision will not be easy. It will be monumental. It will take a good faith working relationship between Congress, the Administration, the railroads, State and local government.

Joe has earned the confidence and full support of President Obama. They worked closely together when the President served as State Senator in Springfield. And I am here to tell you what President Obama and I already know. When it comes to making high-speed rail a reality and ensuring that millions of Americans have access to safe, reliable passenger and freight rail, there is no one better for the job than Joe Szabo.

Chairman Inouye and Members of the Committee, I want to thank you for the opportunity to introduce my good friend and neighbor and fellow Illinoisans, Joe Szabo and Bob Rivkin. As you conduct this hearing and the strong oversight that is to follow, I can assure you that you will find that both of them understand their unique responsibilities at the Federal level and look forward anxiously to serving our Nation in this new capacity. I thank you very much for giving me this opportunity.

Senator INOUE. I thank you very much, sir. Will Mr. Rivkin rise so that we may recognize him and your family?

And Mr. Szabo and your family?

Mr. SZABO. My father, Joseph Szabo.

Senator INOUE. Congratulations. Thank you very much.

And now may we have the panel? I would like to call upon our first nominee, Peter Appel.

**STATEMENT OF PETER H. APPEL, ADMINISTRATOR-  
DESIGNATE, RESEARCH AND INNOVATIVE TECHNOLOGY  
ADMINISTRATION, DEPARTMENT OF TRANSPORTATION**

Mr. APPEL. Thank you. Mr. Chairman and Ranking Member Hutchison, distinguished Members of the Committee, it is a privilege to appear before you today. Thank you very much for your time and your consideration.

I would also like to wish Chairman Rockefeller a very speedy recovery.

I want to express my appreciation to President Obama for nominating me and to Secretary Ray LaHood for his confidence in me.

And I would like to thank my wife Barbara who has provided tremendous support as I pursue further public service. Barbara is sitting right here behind me.

The U.S. Department of Transportation today faces challenges and opportunities unlike any it has seen in its 42-year history. Never before has the DOT had a better opportunity to leverage the talents of its people and the commitment of Congress and the Administration to improve the lives of the American people. We see frequent reminders of the need to continually improve safety, the pressing need to achieve economic recovery, the critical need to rebuild our infrastructure and to improve mobility, and the imperative of sustainability. The Department is well positioned to simultaneously advance the goals of safety, mobility, livability, sustainability, and economic growth through well-thought-out policies and investments in transportation systems and infrastructure.

DOT's Research and Innovative Technology Administration, known as RITA, is in an ideal position to help ensure that our investments make the best use of our taxpayers' dollars. RITA sets out to bring together first-rate transportation research and training, thorough data and analysis, and an innovative spirit to ensure the safest, most efficient, most sustainable, and robust transportation network across every mode of transportation.

My background in transportation research and analysis and Federal transportation policy, management consulting to large and complex organizations, and innovative problem-solving across every mode of transportation, positions me well to lead this agency at this critical time.

One of RITA's mandates is to foster top-notch transportation education through its University Transportation Centers, and another is to bring together some of the country's best engineers and scientists to do multimodal research at the Volpe National Transportation Systems Center. I am a product of one of those University Transportation Centers, the MIT transportation program, and my studies there 22 years ago, just a few hundred yards from what is now called the Volpe Center, allowed me to see firsthand the kind of advanced thinking that this Department produces. In these challenging times for our Nation, we must ensure that all this great thinking is brought to bear in tackling the complex issues that we do face.

I very much look forward to the opportunity to work with this Committee and the Secretary to advance our Nation's transportation interests. Thank you very much for the opportunity to appear before you, and I welcome any questions the Committee may have.

[The prepared statement and biographical information of Mr. Appel follows:]

PREPARED STATEMENT OF PETER H. APPEL, ADMINISTRATOR-DESIGNATE, RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Chairman Rockefeller, Ranking Member Hutchison, Distinguished Members of the Committee, it is a privilege to appear before you today. Thank you very much for your time and consideration.

I want express my appreciation to President Obama for nominating me and to Secretary LaHood for the confidence he has placed in me. I would also like to thank my wife Barbara, who has provided tremendous support as I pursue further public service.

The U.S. Department of Transportation faces challenges and opportunities unlike any it has seen in its 42-year history. Never before has DOT had a better opportunity to leverage the talents of its people and the commitment of Congress and the Administration to improve the lives of the American people. We see frequent reminders of the need to continually improve safety, the pressing need to achieve economic recovery, the critical need to rebuild our infrastructure and to improve mobility, and the imperative of sustainability. The Department is well positioned to simultaneously advance the goals of safety, mobility, livability, sustainability, and economic growth through well thought-out policies and investments in transportation and infrastructure.

DOT's Research and Innovative Technology Administration (RITA), is in an ideal position to help ensure that our investments make the best use of the taxpayers' dollars. RITA sets out to bring together first-rate transportation research and training, thorough data and analysis, and an innovative spirit to ensure the safest, most efficient, most sustainable, and most robust transportation network across every mode. My background—in transportation research and analysis, Federal transportation policy, management consulting to large and complex organizations, and innovative problem-solving across every mode of transportation—positions me well to lead this agency at this critical time.

One of RITA's mandates is to foster top-notch transportation education through its University Transportation Centers, and another is to bring together some of the country's best engineers and scientists to do multi-modal research at the Volpe National Transportation Systems Center. I am a product of one of those University Transportation Centers—the MIT transportation program. My studies there 22 years ago, just a few hundred yards from what is now called the Volpe Center, allowed me to see firsthand the kind of advanced thinking that this department produces. In these challenging times for our nation, we must ensure that all this great thinking is brought to bear in tackling the issues we face.

I very much look forward to the opportunity to work with this Committee and the Secretary to advance our Nation's transportation interests. Thank you for the opportunity to appear before you. I welcome any questions that the Committee may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Peter H. Appel.
2. Position to which nominated: Administrator, Research and Innovative Technology Administration, U.S. Department of Transportation.
3. Date of Nomination: 4/20/09.
4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: A.T. Kearney, Inc., 8100 Boone Blvd. Suite #400, Vienna, VA 22182.

5. Date and Place of Birth: 08/20/64; Princeton, NJ.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Barbara Zamora-Appel (spouse, not employed); I have no children.

7. List all college and graduate degrees. Provide year and school attended.

Master of Science, Transportation, Massachusetts Institute of Technology, 1987.

Bachelor of Arts, Economics and Computer Science, Brandeis University, 1985.

General Course Certificate, London School of Economics and Political Science, 1984.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

1997–Present, A.T. Kearney, Inc. (Management Consulting); Principal, Manager, Associate.

*Relevance to RITA Position:* Consultant to senior executives at large corporations and public sector agencies, on strategy, operations improvement, and other management initiatives, with particular focus on transportation and infrastructure. Managed teams of consultants and joint consultant/client project teams. Significant focus on transportation, technology, and infrastructure.

1993–1997, U.S. Dept. of Transportation, Federal Aviation Administration; Special Assistant to the Administrator.

*Relevance to RITA Position:* Advised and assisted the FAA Administrator on a range of management and strategic planning activities associated with overseeing 47,000 person DOT modal administration. Coordinated outreach and intra-governmental initiatives between the FAA, the office of the Secretary of Transportation, and other agencies.

1989–1993, Amtrak; Assistant Director, Pricing and Yield Management; Manager, Pricing Policy and Analysis; Associate Economist.

*Relevance to RITA Position:* Managed staff and a range of analytical activities to increase revenue to the railroad, leveraging complex computer models and extensive transportation data.

1987–1989, Dukakis for President Campaign and Dukakis/Bentsen Committee Inc., Director of Information Systems.

*Relevance to RITA Position:* Managed information technology acquisition, contracts, and staff.

1985–1987, Massachusetts Institute of Technology, Flight Transportation Laboratory; Research Assistant.

*Relevance to RITA Position:* Conducted research to improve asset utilization in transportation operations using information systems technology. This and other research done at MIT's Flight Transportation Laboratory relates to the kind of research coordinated by RITA.

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

As a management consultant with A.T. Kearney, Inc., provided consulting services to U.S. Department of the Navy, Naval Sea Systems Command, in 2005–2007.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Principal, A.T. Kearney, Inc. (Management Consulting), 1997–Present.

As an employee of A.T. Kearney, provided management consulting services to the following clients in the last 5 years:

CenterPoint Properties (2008).

Eclipse Aviation (2008).

Brookfield Asset Management (2008).

Goldman Sachs (2008).

Morgan Stanley (2008).

Landrum and Brown (2008).

Credit Suisse (2006–2007, 2008).

Dubai Aerospace Enterprise (2006).

CSC, in conjunction with work for the U.S. Department of the Navy (2005–2007).

A.T. Kearney, Inc. (2004).

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any or-

ganization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

- Member, Aero Club of Washington (1998–2009).
- Member, National Aeronautical Association (1998–2009).
- Member, Intermodal Association of North America (2008–2009).
- Member, Belle Haven Citizens Association (1998–2009).

None of these organizations restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

I have been appointed to one public office, as a Schedule C appointee of the U.S. Department of Transportation, in the position of Special Assistant to the Administrator, FAA, 1993–1997.

I have never been a candidate for elected public office.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

- Obama Victory Fund, \$496, 10/26/2008.
- Obama Victory Fund, \$500, 10/23/2008.
- Obama Victory Fund, \$1,000, 7/31/2008.
- Obama for America, Primary Fund, \$1,000, 3/31/2007.
- Obama for America, Primary Fund, \$1,300, 10/12/2007.
- James Webb for U.S. Senate, \$350, 11/01/06.
- James Webb for U.S. Senate, \$250, 8/28/06.
- Kaine for Governor, \$500, 9/15/05.
- A Lot Of People Supporting Tom Daschle/New Leadership for America PAC, \$1,000, 9/10/2004.
- John Kerry for President, \$1,000, 7/14/04.
- John Kerry for President, \$325, 7/7/2004.
- John Kerry for President, \$500, 1/14/04.
- DNC Services Corporation, Democratic National Committee, 10/26/2000, \$1,000.

In addition, in the last 10 years I have performed volunteer work for political campaigns as follows:

#### Volunteer Roles on Political Campaigns

Political Campaign Organization	Year	Key Roles
Obama for America	2007–2008	Delegate Analysis and Strategy Development Voter Targeting Analysis Boiler Room Operations Fundraiser Host Committee Chair
Fenty for Mayor (DC)	2006	Fundraiser Host Committee Member
John Kerry for President	2004	Voter Targeting Analysis Delegate Analysis and Strategy Development Get-Out-The-Vote Planning and Boiler Room Operations, Florida
Booker for Mayor (NJ)	2002	Get-Out-The-Vote/Field Operations
Gore for President	2000	Delegate Analysis and Strategy Development Get-Out-The-Vote Planning and Boiler Room Operations, Missouri

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

- Sigma Gamma Tau, Aerospace Honor Society, 1987.
- Sigma Xi, Scientific Research Honor Society, 1987.
- Magna Cum Laude, Brandeis University, 1985.



Highest Honors in Computer Science, Brandeis University, 1985.

Michtom Prize for Outstanding Honors Work in Computer Science, 1985.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Made presentation on “Transportation in the New Economy” to a conference of the Association of Railway Communicators, 2000.

Published article “Facilitating International Air Freight Hubs” in *Transportation & Distribution*, August, 1997.

Made presentation on “Yield Management in the Railroad Industry” at conference of the Transportation Research Forum, October 1992.

Made presentation on “Amtrak at 20” Transportation Research Board, 1991.

Authored MIT Report “A Flexible Scheduling Environment using Dynamic Exception Handling”, MIT Flight Transportation Laboratory, 1987.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

I have not testified orally or in writing before Congress.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

The Research and Innovative Technology Administration sets out to bring together first-rate transportation research, the most thorough and relevant data, and an entrepreneurial and innovative spirit to ensure the safest, most efficient, and most robust possible transportation network across every mode. My background—in transportation research and analysis, Federal transportation policy, management consulting to large and complex private and public sector organizations, and innovative problem solving across every mode of transportation—positions me well to lead this agency in a time when its mission is more critical than ever.

Throughout my career, I have worked extensively with transportation research and statistics. In my graduate work at MIT in the Flight Transportation Laboratory, I developed computer models to improve air carrier scheduling efficiency. At Amtrak, I built analytical models using railroad operational data and passenger demand data to develop effective rail product offerings such as for the Northeast Corridor. At the FAA, I got to know firsthand the implications of how new technology—and the frequent issues associated with its implementation—can have a profound impact on the transportation system and the commerce that relies on it. In my work for many management consulting clients across rail, air, highway, and ocean transportation, I have incorporated a thorough understanding of available technology and robust data to help clients make sound business decisions affecting billions of dollars of investments.

My background in Federal transportation policy as Special Assistant to the FAA Administrator positions me well to address the sensitive inter-agency issues that RITA faces. During 4 years at FAA—in which I worked to coordinate policy development on behalf of the Administrator across divisions within the FAA, and between the FAA and the rest of the DOT—I gained experience in managing policy initiatives that must reflect the views of a range of stakeholders. RITA can only be effective if it works well across each modal administration and the rest of DOT—and my experience with and understanding of the priorities and unique issues of each part of DOT will help me achieve its potential.

For the last twelve years, I have been a management consultant at the global management consulting firm of A.T. Kearney, Inc. A.T. Kearney, which works globally across every industry, has worked in transportation since its founding in 1926. My clients come to our firm both to solve operational issues and to develop strategies to grow in the marketplace. I have worked with the private and public sectors to significantly improve operational efficiency and to identify the best ways to grow. RITA is a large organization that needs to maximize its efficiency and identify how to bring the most value to its customers, and I want to bring my management experience to bear in achieving this goal.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

If confirmed at the Administrator, I will be fully responsible—to the Secretary and the President—to ensure that RITA makes the most effective use of taxpayer dollars, both those directly budgeted to it and those for which it plays a coordinating role. I believe strongly in ensuring strong management reporting capabilities, clear metrics to show success or failure in achieving goals, and full accountability in each unit within an organization. I have served as a management consultant helping leaders of large organizations drive toward major efficiency improvements, have led teams to achieve aggressive goals, and have worked closely with the FAA Administrator to build organizational and management models to ensure executive accountability across a 47,000 person agency.

20. What do you believe to be the top three challenges facing the department/agency and why?

1. RITA must identify ways that it can accelerate and amplify the economic impact of the 2009 stimulus package and other transportation investment. By bringing to bear technologies—such as Intelligent Transportation Systems—for which it has been leading ongoing research and deployment, RITA can help ensure that when the Administration invests in infrastructure such as roads and transit, that investment will have the maximum impact on mobility, resulting economic activity, and ultimate job creation in our communities.

2. RITA must establish and articulate a clear value proposition to the rest of DOT and the Federal Government to show how it can ensure that RD&T programs across DOT are aligned to achieve the goals of the department—including safety, mobility, and sustainability.

3. RITA must fully identify the needs of its customers—such as the users of the data and analysis produced by the Bureau of Transportation Statistics, its transportation safety training programs, and research across every mode—and ensure that the government's investment in these products are effectively aligned with those customer needs. By clearly understanding who uses its products, who might potentially use its products if they were modified or enhanced, and what value its customers derive. RITA can expand its customer base and its impact. RITA has an excellent opportunity—with the top-notch research performed at the Volpe National Transportation Systems Center and the University Transportation Centers—to remove barriers to technological innovation, and it is important to demonstrate to a broader audience how RITA can address needs across every mode.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

My only financial arrangements with my employer are:

- a. to receive my normal compensation from A.T. Kearney while still employed with the firm until and if I am confirmed for the prospective position.
- b. to receive the second of two installments of my 2008 A.T. Kearney bonus, scheduled to be paid in second quarter of 2009.
- c. my ownership of stock shares in ATK Holdings, for which a sale will be executed following my departure from the firm and the proceeds will be distributed to me over a 3-year period.

My retirement accounts are 100 percent vested and are maintained by investment funds outside of my employer organization.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or

acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

In 2000, under while performing management consulting services at A.T. Kearney, Inc., I conducted business analysis of potential railroad operations associated with the proposed merger of the Canadian National Railway and the Burlington Northern—Santa Fe Railroad. The results of my analysis were used in conjunction with Canadian National Railway's application to the Surface Transportation Board for approval of the proposed merger, which was ultimately not approved.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination. None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

**Work Experience**

A.T. Kearney, Inc., April 1997–present, Principal.

Led over 40 management consulting engagements to develop and implement strategic initiatives for private sector and public sector clients in Transportation, Infrastructure, and Aerospace, focusing on:

- Strategic Planning.
- Public-Private Partnerships.
- Acquisition Due Diligence.
- Organizational Design.
- Operations Improvement.
- Post-Merger Integration.

For a major North American railroad, assessed potential growth markets, developed acquisition strategies, and managed successful post-merger integration initiatives.

Led strategy engagements for two major North American airports, identifying specific ways to improve asset performance and achieve significant commercial revenue growth opportunities.

Developed intermodal transportation strategy for major investor in rail, trucking, and maritime transportation.

Re-engineered onboard service procedures to reduce costs and improve service at major U.S. airline.

For a global maritime shipping company and port operator, assessed transportation networks and trade growth across several regions to identify and quantify market growth opportunities.

Developed trucking operations improvement program for major U.S. manufacturer—encompassing improved fleet allocation and network strategies.

Led an initiative to improve supply chain efficiency for a major U.S. Navy shipbuilding program.

Developed business strategy for space launch vehicle division of major aerospace systems manufacturer.

Federal Aviation Administration, May 1993–April 1997, Special Assistant to the Administrator.

Assisted head of FAA in strategic planning and operational aspects of managing 47,000-person agency, including supporting successful initiatives to overhaul the agency's personnel and acquisitions systems.

Coordinated a major agency-wide reorganization that more clearly defined executive accountability.

Managed outreach on policy decisions to airlines, aerospace industry, Congress, and government agencies.

Coordinated FAA involvement in major cross-departmental White House initiatives.

National Railroad Passenger Corporation: Amtrak, Feb. 1989–May 1993, Assistant Director for Pricing and Yield Management.

Directed pricing and inventory control activities for national railroad.

Managed staff in pricing analysis, yield management, and operations research to develop targeted pricing strategies to optimize revenue on a route-by-route basis.

Designed and executed targeted marketing programs, generating several million dollars in incremental revenue.

**Education**

Massachusetts Institute of Technology, M.S. Transportation I Aeronautics, 1987.

Brandeis University, B.A., Economics & Computer Science, Highest Honors, 1985.

London School of Economics, General Course, Economics and Transportation, 1983–84.

**Additional Experience**

Obama for America, April 2007–Nov. 2008.

*National Delegate Operations*

Managed campaign's national delegate count throughout primary season and provided analysis and rationale to support correction of any inaccuracies in media delegate counts.

Built detailed targeting model to identify delegate win opportunities across congressional districts, territories, and other sources, and used this analysis to inform resource allocation.

Advised Director of National Delegate Operations on delegate tracking and national convention operations.

*Iowa Caucus*

Developed detailed turnout-tracking systems and forecasting models to develop earliest estimates of caucus turnout for use in caucus-night strategy.

Supported development and execution of statewide Boiler Room operation.

*Targeting and Analysis National Boiler Room Operations*

Worked with targeting staff for each region to develop and update statewide turnout forecasts and targets across each demographic group.

Managed analysis of Early Vote across battleground states to support resource allocation.

As part of national Boiler Room team, tracked turnout levels across targeted groups to develop real-time recommendations for election day resource allocation.

Office of the President-Elect and Vice President-Elect, Dec. 1992–Jan. 1993.

*Member, Clinton-Gore Presidential Transition Team, Transportation Policy Cluster*

Developed strategic recommendations and policy briefings for incoming U.S. Secretary of Transportation focusing on key pending issues associated with airline and rail industries.

Senator INOUE. May I now call upon Mr. Joe Szabo?

**STATEMENT OF HON. JOSEPH C. SZABO, ADMINISTRATOR-  
DESIGNATE, FEDERAL RAILROAD ADMINISTRATION,  
DEPARTMENT OF TRANSPORTATION**

Mr. SZABO. Thank you, Chairman Inouye, and I would also like to thank Chairman Rockefeller and Ranking Member Hutchison for calling this hearing today and, of course, the Members of the Committee for the privilege of appearing here today.

Certainly also I would like to thank Secretary LaHood for his trust in offering me an opportunity to serve the Administration and, of course, to thank Senator Durbin for the incredibly kind introduction.

As a fifth-generation railroader, it is certainly an honor to have been nominated by President Obama and have the opportunity to serve.

And I am especially pleased to have with me members of my family today, especially my father, who is a 40-year rank-and-file switchman for the Illinois Central. It is from him that I inherited my genetic affinity for railroading, as well as for the Chicago Cubs. It was from my father, as well as my mother, that I learned the importance of civic duty.

When I hired out on the railroad and first began breaking in as a railroad switchman, on my very first day it was my father that

was training me out there in that rail yard. And that is when I learned firsthand the dangers of railroading.

The mission that FRA has is very, very personal for me. I have had friends and coworkers killed in the line of duty. I have been on the locomotive when we have been involved in grade crossing accidents that have caused fatalities to motorists. I have been the mayor of a community that had two major railroad yards and so, from a public safety perspective, I understand the issues of railroading and public safety.

If confirmed, heading FRA would allow me to enforce the Federal rail safety laws to protect rail workers and enhance public safety. But equally as important, it would allow me to help grow an industry that I truly love. It would give me the opportunity to implement financial assistance programs that would help both freight and passenger rail and help the industry prosper. And this, in turn, would improve the mobility of goods and people, reduce vehicle congestion, and reduce greenhouse gas emissions.

If confirmed, I will make it a priority to implement the many new statutory requirements of the Rail Safety Improvement Act of 2008, and this includes more than 40 rail safety rulemakings, studies and model State laws. Obviously, it includes a high priority of this Committee implementing positive train control on major freight railroads and passenger railroads no later than the end of 2015. It means implementing the mandates of hours of service reform passed by this Committee and, of course, the opportunity for more creative risk reduction programs.

It also means implementing those statutes and mandates in the Passenger Rail Investment and Improvement Act of 2008 which, of course, reauthorizes Amtrak for the first time since 1997. It provides capital grants for States, congestion relief programs, and the development of high-speed rail corridors.

And if those were not enough, add to it the requirements of the American Recovery and Reinvestment Act of 2009, which includes the \$8 billion in capital grants for high-speed rail. Truly what we are seeing is a renaissance in rail as part of a balanced transportation network in our Nation.

If confirmed, it would be my duty to ensure that all of these programs are carried out effectively, efficiently, and in a timely and transparent manner. Obviously, the plate is full, but I truly cannot think of a better time, a more exciting time to be leading FRA.

I look forward to your questions, comments, and any guidance that you might provide.

[The prepared statement and biographical information of Mr. Szabo follows:]

PREPARED STATEMENT OF HON. JOSEPH C. SZABO, ADMINISTRATOR-DESIGNATE,  
FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Chairman Rockefeller, Ranking Member Hutchison, and other Members of the Committee, thank you for the privilege of appearing before you today. Thank you, Senator Durbin, for your gracious introduction. I am honored to have been nominated by President Obama to serve as the Administrator of the Federal Railroad Administration (FRA), and if I am confirmed, I will do my best to bring my substantial experience, as a railroad operating employee, as a union representative of railroad employees, and as a public servant in my hometown and home state, to Secretary LaHood's management team at the Department of Transportation. Today I would like to let you know what my approach would be to serving as FRA Adminis-

trator, if I am confirmed, and then learn from you which issues and matters you believe are most important for our country's freight and passenger rail transportation system.

I am excited about the possibility of serving as FRA's Administrator because of my long, possibly genetic affinity for railroading and my equally deep-seated desire to make government work even better for the many dimensions of the public good. I would like to serve FRA because of what the agency is commissioned to do: to enforce the Federal railroad safety laws and prescribe new regulations that will enhance railroad safety; to implement railroad financial assistance programs to help address the needs of the freight railroads and stimulate the development of high-speed intercity passenger rail service; to conduct research and development necessary to improve railroad safety; and to consolidate government support of rail transportation activities while ensuring that rail plays a continuing role in meeting the challenges of moving people and goods safely and efficiently. Leading such a broad range of missions would be exhilarating enough, but the prospect of becoming FRA's Administrator is particularly appealing to me given where the agency stands at this juncture in time: today it is FRA's job to carry out not only most of the provisions of two very significant reauthorization statutes enacted last fall, but also to play a central role in managing historic investments provided for in this year's economic recovery legislation. If confirmed, I will make it a priority to implement the many new statutory measures that Secretary LaHood has assigned to FRA.

With regard to the Rail Safety Improvement Act of 2008, which became law in October 2008, it would be a special honor to play a role in its implementation because of my longstanding involvement in rail safety issues both as an operating employee and as a union representative of other employees. Despite both recent and long-term improvements in rail safety, the September 2008 collision between a commuter train and a freight train in Chatsworth, California, underscores the clear need to act aggressively for safety in the rail mode, as well as in the other modes of transportation. As Secretary LaHood told this Committee in his confirmation hearing, "safety . . . has always been and must continue to be the central focus of the Department of Transportation." My understanding is that this new law mandates more than 40 rail safety rulemakings, studies, and model state laws. These statutory mandates include a rulemaking to establish the essential functionalities required for positive train control systems that the Act requires to be installed on major freight and passenger railroads by 2015. The Act also improves the statutory protections afforded by the hours of service laws and, for the first time, grants the Secretary the authority to set hours of service standards for passenger train crews. If confirmed, I plan to make the implementation of these new safety provisions a priority.

The other legislation enacted last fall that is primarily FRA's to carry out is the Passenger Rail Investment and Improvement Act of 2008. That Act represents the first reauthorization of Amtrak and rail passenger programs since 1997, and the most comprehensive Amtrak legislation in recent decades. The Act authorizes very substantial levels of funding for Amtrak capital investments, operating expenses, and repayment of principal and interest on the railroad's long-term debt. It also authorizes significant new funding programs, including capital investment grants to States to support improved intercity passenger rail service, a congestion relief program, and a high-speed rail corridor development program. Again, if confirmed, I plan to make the successful implementation of these new provisions a priority.

The last set of legislative mandates that are FRA's responsibility to carry out were established by the American Recovery and Reinvestment Act (ARRA) and entail two major types of rail grant programs. One is funded at \$1.3 billion for capital grants to Amtrak, of which \$450 million is for security improvements, including life safety improvements. The other grant program is funded at \$8 billion for capital grants for high-speed rail corridors and intercity passenger rail service, programs authorized in the Passenger Rail Investment and Improvement Act of 2008. President Obama has proposed to reshape the Nation's transportation system by building a world-class network of high-speed passenger rail corridors to complement our other modes. This new strategy begins with the \$8 billion provided in ARRA and continues with the President's proposed budget for Fiscal Year 2010, which calls for a \$5-billion, 5-year high-speed rail grant program. I am thrilled at the possibility of leading FRA's implementation of these programs so necessary to the restoration and growth of our economy.

Finally, as we look to the next surface transportation reauthorization, I would, if confirmed, advocate that rail be considered an integral part of a larger solution for reducing highway and airway traffic congestion as well as promoting environmental protection, energy independence, and livable communities. The benefits of moving passengers and freight by rail can support reductions in emissions and greenhouse

gases while at the same time providing the much needed capacity enhancements that help to promote improved mobility and economic growth.

Thank you so much for inviting me to speak with you today. I would be happy to respond to any questions you may have.

---

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Joseph (Joe) C. Szabo.
2. Position to which nominated: Administrator, Federal Railroad Administration, United States Department of Transportation.
3. Date of Nomination: 03/26/2009.
4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: United Transportation Union, 304 Pennsylvania, SE, Washington, DC 20003.

5. Date and Place of Birth: December 26, 1957; Evergreen Park, Cook County, IL.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage). None.
7. List all college and graduate degrees. Provide year and school attended.

Bachelors of Arts, Personnel Management and Labor Relations, 1990, Governors State University.

Associate of Applied Science, Accounting, 1984, South Suburban College.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Management experience as related to each position is highlighted in italics:

Alternate National Legislative Director, United Transportation Union, 01/09 to Present: *Assist in providing direction to rail safety and regulatory issues in the United States, as well as advocacy for improving passenger and freight rail service.*

Illinois State Legislative Director, United Transportation Union, 02/96 to 01/09: *Provided direction to rail safety and regulatory issues in Illinois, as well as advocacy for improving passenger and freight rail service.*

Vice President, Illinois AFL-CIO, 10/06 to Present.

Mayor, Village of Riverdale, 1997–2000: *Served as CEO of a community of approximately 15,000 residents, 90 full-time and 35 part-time employees, and an annual \$9 million budget.*

Village Trustee, Village of Riverdale, 1987–97: *Drafted annual budgets for the Village and assisted in negotiating labor contracts from a management perspective.*

Train Conductor, Metra/Illinois Central Railroads, 1976–96: *Performed railroad duties as a yard switchman, freight road trainman, and commuter passenger conductor in accordance with Federal railroad regulations and operating rules.*

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

Mayor Emeritus, Village of Riverdale, 11/2000–4/2009.

Federal Railroad Administration, Rail Safety Advisory Committee (RSAC), 9/2000–2/2009.

State of Illinois, Climate Change Advisory Group, 1/2007–12/2007.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Metropolis 2020, Executive Council Member, 2/99 to Present.

Illinois AFL-CIO, Vice President. 10/06 to Present.

Historic Pullman Foundation. Board of Directors. 4/00 to 9/07.



12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Transportation For Illinois Coalition, Member, 12/07 to Present, No restrictions.

Dolton Elks, Member 02/88 to 03/01, No restrictions.

Metropolitan Planning Council, Member 02/01 to Present, No restrictions.

Business Leaders for Transportation, Member 02/20011 to Present, No restrictions.

Eugene V. Debs Society, Member 11/96 to Present, No restrictions.

National Association of Railroad Passengers, Member 12/03 to Present. No restrictions.

AARP, Member, 04/08 to Present, No restrictions.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

Ivanhoe Park Board, Commissioner, 1982–87; no debt.

Candidate for State Representative, Illinois 33rd District, 1984: no debt.

Village Trustee, Village of Riverdale, 1987–97; no debt.

Mayor, Village of Riverdale, 1997–2000; no debt.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

As of April 15, 2009:

United Transportation Union PAC

1998—\$1,200

1999—\$1,200

2000—\$1,200

2001—\$1,200

2002—\$1,200

2003—\$1,200

2004—\$2,100

2005—\$2,400

2006—\$2,400

2007—\$2,500

2008—\$2,400

2009—\$600

Friends of Dick Durbin

1996—\$1,000

1999—\$500

2000—\$500

2001—\$500

2002—\$500

2005—\$1,000

2006—\$1,000

2007—\$1,000

2008—\$1,350

John Kerry for President

2004—\$1,000

Obama for America

2008—\$4,600

Volunteer Work: Knocked on doors in precincts to get out the vote

Jesse Jackson, Jr. for Congress

1999—\$1,000

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

2000, Village of Riverdale Employee of the Year awarded by the Riverdale Chamber of Commerce.

1999, Golden Eagle Award by the Riverdale Redevelopment Corporation.

1982, Outstanding Local President by the Illinois Jaycees.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Mayor's Column, Riverdale Review, Quarterly 1997–2000.

State Director's Column, UTU Illini-Line, Irregularly 1996–08.

"U.S. 66 Coal-Mining Town Gets Recognized After 106 Years: The Battle of Virden at Last Gets Its Monument," Route 66 Federation News, Spring 2007.

"Four Miles of Futility: How Railroad Improvements Can Solve Chicago's Highway Congestion Problems," Speech to the Council of Mayors—Chicago Area Transportation Study, April 29, 2003.

"CREATE: Improvements to Chicago's Rail Infrastructure," Speech to the UTU Tri-State Rail Conference, June 4, 2004.

"California's Passenger Rail Success Story," Speech to Illinois Municipal League Rail Workshop, September 24, 2005.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

Testified before the House Transportation & Infrastructure Subcommittee on Railroads, April 25, 2001, in support of H.R. 1020 the Railroad Track Modernization Act of 2001.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I bring a blend of hands-on experience in governmental management, railroad safety, passenger and freight rail advocacy and practical railroad operating experience. My goal is to apply the full spectrum of my experience toward carrying out the President's stated policies for rail development and safety.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting, controls, and what experience do you have in managing a large organization?

The agency must follow all applicable regulations governing financial and accounting matters and be responsible in all expenditures—they must return value. I am quite conscious of my fiduciary responsibility due to my experience as the Mayor of Riverdale where I confronted these issues on a daily basis. As a result of my years in managing local government and managing people, I have learned how to effectively set direction and utilize delegation to allow staff to perform to the best of their capabilities. I will be responsive to the direction and oversight of Congress and the Senate Commerce Committee in executing my duties.

20. What do you believe to be the top three challenges facing the department/agency and why?

Implementing provisions of the Rail Safety Improvement Act of 2008, the Passenger Rail Investment Act of 2008, and the American Recovery and Reinvestment Act of 2009. FRA is a relatively small agency that has 3 significant pieces of legislation to deal with in a cost effective and timely manner. There are several complex regulatory issues that will have a profound effect on the safety of our Nation's railroads as well as statutory deadlines for completing this important work. Just as important is FRA's ability to shape the future high-speed rail opportunities that are a centerpiece to the Recovery and Reinvestment Act and included in President Obama's 2010 budget as a Presidential initiative. This is both a challenging and exciting time for FRA.

## B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I have a pension with the United Transportation Union.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: None.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

As Alternate National Legislative Director for the United Transportation Union I assist in providing direction to rail safety and regulatory issues in the United States, as well as advocate for improving passenger and freight rail service.

As State Legislative Director for the United Transportation Union, and Vice President for the Illinois AFL-CIO, I have been involved in advocating for rail safety legislation in Illinois, and passenger and freight rail advocacy. This included the passage of a state statute for railroad crew van safety standards; railroad walkway safety standards; trauma counseling for rail workers involved in serious incidents; prohibition of rail carriers from delaying, denying or interfering with the medical treatment of injured workers; and amendments to the Railroad Police Act to provide objective oversight. I also worked to increase state and Federal funding for freight, commuter, and intercity passenger rail service, and for modifications to the Federal Railroad Retirement system. I also discussed with Congressional staff the language regarding delaying, denying or interfering with the medical treatment of injured rail workers in S. 1889, Rail Safety Enhancement Act of 2007 and had a limited role in its passage.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

## C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain.

May 1976, I was arrested in Macomb, Illinois, for attempting to use a false I.D. to purchase beer. I was 18 and the drinking age at the time for beer and wine was 19. The charges were dropped.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

I have not personally been named in any administrative agency proceeding or civil litigation. As State Legislative Director for the United Transportation Union, I have signed rail safety complaints on behalf of the union and its members that were adjudicated before an Administrative Law Judge of the Illinois Commerce Commission and have occasionally testified at the hearings.

While Mayor, the Village of Riverdale was party to a number of lawsuits. To my knowledge I was not personally named in any of those lawsuits.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination. None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

#### RESUME OF JOSEPH C. SZABO

Seeking the position of Administrator, Federal Railroad Administration

##### **Summary of Qualifications**

Broad experience in railroad safety and development. Proven success in drafting and enactment of state rail safety laws and contributing to the adoption of Federal regulations. Experience in implementing state supported rail service and expanding rail service to populations in need. Experience in managing budgets and working with state and local elected officials, as well as Members of Congress.

##### **Professional Highlights**

United Transportation Union, 1996–present, Alternate National Legislative Director.

From January 2009 to present, assisted the National Legislative Director with rail safety and regulatory issues, and provided leadership and direction for UTU State Legislative Directors.

Illinois State Legislative Director.

From 1996 to 2009, provided vision and direction to rail safety and regulatory issues in Illinois, drafted safety laws and regulations, and prepared and delivered testimony before Illinois House and Senate Committees on rail safety issues. Served on the Federal Railroad Administration's Rail Safety Advisory Committee participating in the development of Federal regulations on rail safety. Provided advocacy for improving passenger and freight rail service in Illinois.

##### **Key Contributions:**

Provided leadership to the coalition that doubled intercity passenger rail service in Illinois, creating the Nation's second largest state-sponsored passenger rail program.

Provided state-wide vision as co-chairman of the Freight Rail Subcommittee for Illinois Governor Rod Blagojevich's 2002 Transition Team.

Contributed practical rail safety insight as a national United Transportation Union representative for the Federal Railroad Administration's Rail Safety Ad-

visory Committee regulatory efforts covering Operating Rules, Locomotive Safety Standards, Passenger Safety, and Medical Standards.

Drafted and coordinated enactment into state law key safety legislation to provide injured rail employees prompt medical treatment, and which language was adopted in the Federal Rail Safety Improvement Act of 2008.

Strategically led one of three coalitions that modernized the Illinois Railroad Facilities Code.

Prepared language and led discussions with the rail industry for agreed-to regulatory language for walkway safety standards in Illinois.

Drafted and coordinated enactment into Illinois law crew van safety standards, hours of service for crew van drivers and inspection requirements for crew vans.

Provided training to United Transportation Union staff on Effective Workplace Safety Programs; developed in partnership with the University of Illinois a training module on Effective Documentation and Writing.

Village of Riverdale, 1987–2000, Mayor.

From 1997–2000, elected to serve as Chief Executive Officer of a community of approximately 15,000 residents, 90 full-time and 35 part-time employees, and an annual \$9 million budget.

Village Trustee.

From 1987–1997, elected to serve as a member of the Village Board, chairing Finance, Personnel, and Economic Development Committees. Reviewed and adopted ordinances and policies. Drafted annual budgets and served on labor contract negotiating committees. Acted as Mayor *pro tempore* in absence of the Mayor.

Key Contributions:

Provided regional leadership as member of the Executive Board of the South Suburban Mayors and Managers Association (SSMMA) and expertise in freight and passenger rail issues as a member of the SSMMA Transportation Committee.

Provided expertise on commuter and freight rail matters as Member and Vice Chairman of the Executive Committee of the Chicago Area Transportation Study.

In conjunction with the Chicago Area Transportation Study, assisted the Federal Railroad Administration in grade-crossing safety discussions with communities across Chicago metro region.

Initiated Reinvestment in Riverdale program to acquire eyesore properties, revitalize decaying neighborhoods, and institute principles of Transit Oriented Development.

Through careful budgeting and cost containment, eliminated an accumulated deficit in the Village General Fund.

Achieved Certificate of Excellence in Financial Reporting from the international Government Finance Officers Association six consecutive years.

In an effort to address diversity in the Riverdale Police and Fire Departments and ensure ethical enforcement of laws, partnered with Operation PUSH, the local NAACP, and neighborhood churches to create the Citizens Policy Review Committee.

Developed a sense of volunteerism and ensured strict community standards by involving residents as volunteer property maintenance code inspectors and also in the Community Awareness Policing Academy.

Provided vision to the region as Riverdale's member on the Board of Directors of the Calumet Region Enterprise Zone.

#### **Other Positions**

Vice President, Illinois AFL–CIO, 2006–present.

Executive Council, Chicago Metropolis 2020, 1998–present.

Focusing on regional issues of Education, Economic Development, Governance, Land Use and Housing, Transportation and Taxation.

Train Conductor, Metra/Illinois Central Railroads, 1976–1996.

Performed railroad duties as a yard switchman, freight road trainman, and commuter passenger conductor in accordance with Federal railroad regulations

and operating rules for the Illinois Central Railroad from 1976 to 1987, and Metra from 1987 to 1996. Served as a member of the Metra Labor-Management System Safety Oversight Committee.

Commissioner, Ivanhoe Park District, 1982–1987.

Riverdale Zoning Board of Appeals, 1980–1985.

Served as Chairman, 1982–1985.

#### **Education**

Governors State University

Bachelors of Arts, Personnel Management and Labor Relations, 1991.

Candidate for Masters in Public Administration, 2002–2004.

South Suburban College

Associate of Applied Science, Accounting, 1984.

University of Wisconsin—Extension

Continuing Education Units, Land Use Management and Administration, 1983 and 1984.

Senator INOUE. I thank you very much, Mr. Szabo.

And now may I call upon Mr. Dana Gresham. Mr. Gresham?

#### **STATEMENT OF DANA G. GRESHAM, ASSISTANT SECRETARY-DESIGNATE OF TRANSPORTATION FOR GOVERNMENTAL AFFAIRS, DEPARTMENT OF TRANSPORTATION**

Mr. GRESHAM. Mr. Chairman, with your permission, I would like to summarize my remarks and ask that my full statement be entered into the record.

Senator INOUE. Without objection, so ordered.

Mr. GRESHAM. Thank you, Mr. Chairman.

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today to discuss my nomination for the position of Assistant Secretary for Governmental Affairs at the Department of Transportation. I am deeply honored to be here as President Obama's nominee for this important position, and I am also grateful for Secretary LaHood's support of my nomination.

In addition, I would like to thank my wife, Kathy, who is here with me today—stand up, Kathy—for all of her support throughout this process.

Mr. Chairman, this is an extraordinary moment in our Nation's history. While there is no doubt that we are faced with enormous challenges, we are also presented with enormous opportunities to improve the lives of our fellow citizens. This is particularly the case in matters related to transportation. In the coming months, the Department and the Congress will have an opportunity to work together on many important initiatives, including both the aviation and surface reauthorization bills.

As work begins in earnest on these and other major initiatives, it is critically important that there be clear and open lines of communication between the Department and Congress. Indeed, in his testimony before this very committee, Secretary LaHood made a commitment to be available to you and to be receptive to your ideas and input.

Mr. Chairman, I share Secretary LaHood's commitment. If confirmed, I will work diligently to ensure that we are responsive and available to you and that your voices are heard within the Department, that we effectively communicate the Department's efforts to

implement the legislative mandates passed by the Congress and signed into law by the President, and that we work closely with the modal administrations throughout the Department and the White House to ensure that the Department is not only speaking with one voice to Congress, but also to State and local elected officials, other Federal agencies, and all of the relevant transportation stakeholders.

Mr. Chairman, Ranking Member Hutchison, and members of the Committee, it is an honor and a privilege to appear before you today. Should I be confirmed, please know that I will always be available to answer your questions and will maintain an open line of communication with you. Thank you for your consideration of my nomination. I will be pleased to answer your questions.

[The prepared statement and biographical information of Mr. Gresham follows:]

PREPARED STATEMENT OF DANA G. GRESHAM, ASSISTANT SECRETARY-DESIGNATE OF TRANSPORTATION FOR GOVERNMENTAL AFFAIRS, DEPARTMENT OF TRANSPORTATION

Chairman Rockefeller, Ranking Member Hutchison, and distinguished Members of the Committee, thank you for the opportunity to appear before you today to discuss my nomination for the position of Assistant Secretary for Governmental Affairs at the Department of Transportation. I am deeply honored to be here as President Obama's nominee for this important position. I am also grateful for Secretary LaHood's support of my nomination.

In addition, I would be remiss if I did not thank my wife for her patience and steadfast support as I have continued to pursue a career of public service.

Mr. Chairman, this is an extraordinary moment in our Nation's history. While there is no doubt that we are faced with enormous challenges, we are also presented with enormous opportunities to improve the lives of our fellow citizens. This is particularly the case in matters related to transportation. Indeed, already the Administration and Congress have come together to pass an Economic Recovery bill that is creating jobs and spurring additional investment in transportation infrastructure in every region of the country. In addition, in the coming months, the Department of Transportation and the Congress will have an opportunity to improve communities throughout the country for years to come by working together to reauthorize both the aviation and surface authorization bills.

As the Congress and the Department work together on these major initiatives, it is critically important that there be clear and open lines of communication. In his testimony before this very committee, Secretary LaHood made a commitment to be available to you and receptive to you and your colleagues' ideas and input. As the nominee for the position of Assistant Secretary of Governmental Affairs, I share Secretary LaHood's commitment. If confirmed, I will work diligently to ensure that the Department is responsive and available to you and your staff and that your voices are heard within the Department.

Mr. Chairman, as you know, I am a product of the House of Representatives. Over the course of more than 14 years, I've worked for three different Members of Congress, starting as a Staff Assistant and culminating as a Chief of Staff. My experience working on transportation issues for these Members has given me a great affinity for Congress as an institution. If confirmed, I intend to make sure that the Office of Governmental Affairs responds quickly and accurately to your inquiries; that we effectively communicate the Department's efforts to implement the legislative mandates passed by the Congress and signed into law by the President; and that we work closely with the modal administrations throughout the Department and the White House to ensure that the Department is not only speaking with one voice to the Congress, but also to state and local elected officials, other Federal agencies, and all the relevant transportation stakeholders.

Mr. Chairman, Members of the Committee, it is an honor and a privilege to appear before you today. I am profoundly grateful for this opportunity to serve alongside such a respected public servant as Secretary LaHood and his entire team at the Department. Should I be confirmed, please know that I will always be available to answer your questions and will maintain an open line of communication with you. I look forward to working closely with you and your staff to move our Nation's transportation agenda forward.

Thank you for your consideration of my nomination. I would be pleased to answer your questions.

---

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Dana Grant Gresham.
2. Position to which nominated: Assistant Secretary for Governmental Affairs, United States Department of Transportation.
3. Date of Nomination: March 10, 2009.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

5. Date and Place of Birth: August 12, 1971; Birmingham, Alabama.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Spouse: Kathryn Shelton Gresham, Trial Attorney, U.S. Department of Transportation; child: Justin Nathaniel Gresham—Age 2.

7. List all college and graduate degrees. Provide year and school attended.

B.S., Foreign Service—Georgetown University, 1994.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Summer 1994—Temporary Employee.  
Washington, D.C. based Temporary Employee Placement Firm.

September 1994 to July 1997—Office of Representative Eva Clayton.

*Positions held:* Staff Assistant and Legislative Assistant.

*Relevant experience:* As Legislative Assistant, I handled transportation issues during the reauthorization of the Intermodal Surface Transportation and Equity Act (ISTEA).

July 1997 to December 2002—Office of Representative Bud Cramer.

*Positions held:* Legislative Assistant and Legislative Director.

*Managerial experience:* As Legislative Director, I gave legislative and strategic guidance to staff.

*Relevant experience:* During my tenure in the office, Rep. Cramer was a Member of the Transportation and Infrastructure Committee as well as a Member of the House Appropriations Committee. As a Legislative Assistant and then Legislative Director, I handled his transportation authorization committee work and then his transportation appropriations committee work.

January 2003 to January 2009—Office of Representative Artur Davis.

*Positions held:* Chief of Staff and Senior Advisor.

*Managerial experience:* As Chief of Staff, I was the direct supervisor of staff in the Washington, D.C. office and exercised general oversight over the District office staff. I also managed a budget of approximately \$1.3 million.

November 2008 to January 2009—Presidential Transition Team.

*Positions held:* Liaison, Congressional Relations staff and Legislative Liaison, Department of Transportation Secretary Designate Confirmation Team.

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years. None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Member, DKG Associates, LLC—October 2004 to November 2005.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.



## Congressional Black Associates (CBA)

Member, 1995 to 2000; 2004 to 2005; 2007 to 2008 (est.)

Chair, Membership Committee, 1996.

President, 1997.

(No restrictions on Membership based on sex, race, color, religion, national origin, age or handicap).

## Alpha Phi Alpha Fraternity, Inc.

Member, 1997 to Present.

(No restrictions on Membership based on sex, race, color, religion, national origin, age or handicap).

## Emerging Leaders Institute

Member, 1997 to 1998.

(No restrictions on Membership based on sex, race, color, religion, national origin, age or handicap).

## House Chiefs of Staff Association

Member, 2003 to 2006 (est.)

(No restrictions on Membership based on sex, race, color, religion, national origin, age or handicap).

## Congressional Legislative Staff Association

Member 1996 to 1998 (est.)

(No restrictions on Membership based on sex, race, color, religion, national origin, age or handicap).

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt. No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period. None.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements. None.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed. None.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony. None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I believe my 14 years of experience working on Capitol Hill for three Members of the House of Representatives affirmatively qualifies me to be Assistant Secretary for Governmental Affairs. Over the course of this period, I've served in almost every legislative position there is to serve in a Member's personal congressional office, beginning my career on the Hill as a Staff Assistant for Representative Eva Clayton and culminating as Chief of Staff for Representative Artur Davis.

Throughout my tenure on the Hill, I've worked on transportation issues. In particular, first as a Legislative Assistant and then as the Legislative Director for Representative Bud Cramer, I worked on transportation issues from both the authorization and the appropriations standpoint. In these capacities, I served as Representative Cramer's primary transportation staffer when he was a Member of the House Transportation and Infrastructure Committee and then later when he moved to the House Appropriations Committee, initially serving on the Transportation Appropriations Subcommittee. As Chief of Staff to Representative Artur Davis, a position I held for nearly 6 years, I maintained my substantive involvement with transportation issues while taking on a much broader managerial and policy portfolio. As such, I managed a budget of approximately \$1.3 million and directly supervised a staff of seven in the D.C. Office, while exercising general oversight over an average of eleven District employees spread across five District Offices. Moreover, as Chief

of Staff to a Member who served in a leadership position with the New Democrat Coalition (NDC), while also being a Member of the Congressional Black Caucus (CBC), I worked closely with the Leadership of the House of Representatives and the various organized caucuses within the Democratic Caucus (*i.e.*, the CBC, the New Dems, and the Blue Dogs).

Over the course of a 14-year career on the Hill, I believe I have developed strong relationships with key institutional players and decisionmakers both on and off of the Hill. Consequently, I will bring to the job a broad and sophisticated knowledge of the legislative process and an understanding of the connection between policy and politics that drive decision-making on Capitol Hill. These qualities and experiences, I believe, make me qualified for the position to which I've been nominated.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

As I understand the position, my primary responsibilities will be to: (1) supervise and coordinate all legislative and non-legislative matters between the Department and Congress; (2) Serve as the liaison with state and local elected officials, as well as the local and state transportation planning organizations; and (3) coordinate activities with other Federal Agencies, as necessary.

I have 6 years of managerial experience serving as Chief-of-Staff to Representative Artur Davis with the responsibility of managing a staff of almost 20 employees and a budget of approximately \$1.3 million.

20. What do you believe to be the top three challenges facing the department/agency, and why?

I believe the top three challenges facing the Department today are:

1. Improving transportation safety. This is an on-going Departmental responsibility and one of the Department's highest priorities. Making sure that Americans are safe, whether on the roads, the rails, or in the air must continue to be a central guiding principal for the Department. Technological advancement must be a key component of this mission. In this regard, the implementation of the FAA's NextGen system is essential;
2. The Department must ensure that the economic recovery funds are being monitored and used efficiently and effectively; and
3. It is critical to our Nation's infrastructure and overall economy that the Administration work with Congress to pass both the aviation and surface reauthorization bills this Congress.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I have no financial arrangements, deferred compensation agreements, or other continuing dealings with business associates, clients, or customer. My only retirement account is the Federal Government's Thrift Savings Plan.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

Over the course of the past 10 years, I have served in senior legislative positions for two Members of Congress. I served as Legislative Director for Congressman Bud Cramer from 1999–2002. In addition, I served as Chief of Staff and Senior Advisor for Congressman Artur Davis from 2003–2009. I was directly involved in drafting legislation and devising a legislative strategy to get legislation passed to further my Office's legislative agenda. This includes being actively involved in transportation legislation.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

Should any conflict of interest arise, I will immediately recuse myself from all activities concerning that conflict.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

#### RESUME OF DANA G. GRESHAM

##### **Professional Experience**

Obama-Biden Presidential Transition Team, Washington, D.C.; Congressional Relations Team, November 2008–January 2009.

Served as the Legislative Liaison on the Confirmation Team for the Department of Transportation Secretary Designate, Congressman Ray LaHood. In this capacity, helped to successfully guide Secretary Designate LaHood through the Senate Confirmation process.

Primary liaison within the Transition Team for the following Committees of the U.S. House of Representatives: Transportation, Judiciary Science, and Agriculture. This entailed coordinating and attending meetings between the leadership of these four committees and the members of the Agency Review Teams within the Transition in order to identify legislative and regulatory issues to be addressed by the Obama Administration.

Office of Representative Artur Davis (AL–7), Washington, D.C.; Senior Advisor, November 2008–January 2009; Chief of Staff, January 2003–November 2008.

Primary political and policy advisor to Member of Ways and Means.

Served as lead staffer for Member in his role as Vice Chair of the New Democrat Coalition. In this capacity, helped guide overall legislative and political direction of the coalition. This included working closely with the House Democratic Leadership to further the legislative agenda of the coalition.

Staffed Member in his role as Recruitment Committee Chair and Co-Chair of the Red to Blue Program of the Democratic Congressional Campaign Committee.

Developed and maintained relationships with outside interest groups and coalitions, as well as internal Democratic Caucus groups in order to fulfill Member's legislative and political agendas.

Developed overall legislative agenda, provided broad strategic counsel, and coordinated all activities of the legislative staff, with emphasis placed on legislative activities Member's committee assignments.

Oversaw all legislative matters related to Transportation issues and the Appropriations process.

Directly supervised 7 employees in the Washington, D.C. Office and exercised general oversight over 11 employees in 5 District Offices. Responsibilities included, planning and executing \$1.3 million annual budget.

Office of Representative Bud Cramer (AL-5), Washington, D.C.; Legislative Director, May 1999–December 2002.

Primary legislative advisor to a Founding Member of the Blue Dog Coalition. Exercised general oversight over all legislative activities within Congressional Office. This included developing and implementing legislative strategy as it relates to assignment on the House Appropriations Committee and pursuing funding for Alabama specific projects in the various Appropriations Subcommittees—specifically Transportation, and VA–HUD.

Legislative Assistant, June 1997–May 1999.

Performed duties related to Member's assignment on Appropriations Subcommittee on Transportation, including but not limited to, securing funding for District specific projects in DOT budget accounts. In the absence of earmarks, developed directive report and bill language, and crafted committee amendments as necessary.

Exercised primary responsibility over several legislative issues, including Transportation. In particular, managed transportation issues while Member was on the Transportation and Infrastructure Committee.

Office of Representative Eva Clayton (NC-1), Washington, D.C.; Legislative Assistant, October 1995–June 1997.

Researched, analyzed, and summarized legislation pertaining to Small Business Committee with a special emphasis on minority business development and the SBA's 8(a) program.

Managed Member's transportation legislative issues during the reauthorization of the ISTEA legislation.

Staff Assistant, September 1994–October 1995.

#### **Education**

Georgetown University, Washington, D.C., Bachelor of Science in Foreign Service, May 1994.

Major: International Politics with a concentration in Diplomacy and International Security.

#### **Affiliations**

Member and Past President, Congressional Black Associates (CBA).  
Member, Alpha Phi Alpha Fraternity, Incorporated.

Senator INOUE. Thank you very much and congratulations.  
May I now call upon Mr. Robert Rivkin?

#### **STATEMENT OF ROBERT S. RIVKIN, GENERAL COUNSEL-DESIGNATE, DEPARTMENT OF TRANSPORTATION**

Mr. RIVKIN. Thank you, Chairman Inouye, Ranking Member Hutchison, and Members of the Committee. I am proud to appear before you today as President Obama's nominee to serve as General Counsel of the Department of Transportation. I deeply appreciate, as do my colleagues, Secretary LaHood's confidence in my ability to assist him, if confirmed, with the exciting challenges and opportunities facing our Nation's transportation system.

I would also like to thank Senator Durbin for taking the time out of his busy schedule to introduce me to the Committee today.

I would like to introduce my wife, Cindy Moelis, who is here to support me today. Our three children, Stephanie, Claire, and Alexander Rivkin, are at school back in Chicago and could not be here today.

Transportation is the lifeblood of our economy, the foundation for economic development and job growth, and the tie that binds our communities. It is fundamental to farmers and manufacturers who ship their goods to markets around the world, as well as to urban families trying to get their kids to school, parents to work, grandparents to doctors' appointments. Helping move people and goods affordably, efficiently, sustainably, and most important, safely is at the core of our national transportation policy.

More than any time in recent memory, this moment offers the opportunity to return our roads, bridges, and rails to a state of good repair, to bring our aviation system into the 21st century, to rediscover, reinvigorate, and reinvent freight and passenger rail, to better utilize and integrate our maritime assets, and to more tightly knit our transportation resources into a system that is defined not by its modes, but by its contribution to our economy, our environment, and our quality of life.

If confirmed, members of the Committee, I will do my very best to bring the skills I developed as a lawyer in private practice, a Federal prosecutor, a municipal legal policy director, the general counsel of our Nation's second largest transit system, and a legal executive at a multinational financial services company to provide the very highest quality legal advice and representation to the Department of Transportation. I will address Congressional mandates expeditiously, work to harmonize the efforts of DOT's operating administrations, seek creative solutions to complex problems, listen thoughtfully to the ideas and concerns of others, and work closely with the Congress, the EPA, HUD, DHS, Energy, Commerce, and other Departments of Government to implement the transportation policy goals of this Administration.

If I am entrusted with the position of DOT General Counsel, I will look forward to working closely with the members of this Committee and their staffs, as well as engaging all stakeholders in respectful consultation about the challenges we face together in the spirit of openness and fairness that is the hallmark of Secretary LaHood's leadership.

As Senator Durbin mentioned, I was raised in a family that honored public service, accounting in part for my having left the private sector on prior occasions to work in government. I believe that the mission of the Department of Transportation is crucial to the economic vitality, environment, and safety of our country, and the opportunity to serve as its chief legal officer would be the highest honor of my career.

Thank you very much.

[The prepared statement and biographical information of Mr. Rivkin follows:]

PREPARED STATEMENT OF ROBERT S. RIVKIN, GENERAL COUNSEL-DESIGNATE,  
DEPARTMENT OF TRANSPORTATION

Thank you, Chairman Rockefeller, Ranking Member Hutchison, and Members of the Committee.

I am proud to appear before you today as President Obama's nominee to serve as General Counsel of the Department of Transportation. I deeply appreciate Secretary LaHood's confidence in my ability to assist him, if confirmed, with the exciting challenges and opportunities facing our Nation's transportation system.

I'd like to thank Senator Durbin for taking the time out of his busy schedule to introduce me to the Committee today. I'd also like to introduce my wife, Cindy Moelis. Our three children, Stephanie, Claire and Alexander Rivkin, are at school back in Chicago and couldn't be here today.

Transportation is the lifeblood of our economy, the foundation for economic development and job growth, and the tie that binds our communities. It is fundamental to farmers and manufacturers who ship their goods to markets around the world. It remains crucial to urban families trying to get their kids to school, themselves to work, their parents to doctor's appointments. Helping move people and goods affordably, efficiently, sustainably and—most important—safely is the core of our national transportation policy. More than any time in recent memory, this moment offers the opportunity to return our roads, bridges and rails to a state of good repair; to bring our aviation system into the 21st century; to rediscover, reinvigorate, and reinvent freight and passenger rail; to better utilize our maritime resources; and to more tightly knit our transportation resources into a system that is defined not by its "modes," but by its contribution to our economy, our environment and our quality of life.

If confirmed, I will do my very best to bring the skills I have developed as a lawyer in private practice, a Federal prosecutor, a municipal legal policy director, the general counsel of our Nation's second largest transit system and a legal executive at a multinational financial services company to provide the highest quality legal advice and representation to the Department of Transportation. I will address Congressional mandates expeditiously, work to harmonize the efforts of DOT's operating administrations, seek creative solutions to complex problems, listen thoughtfully to the ideas and concerns of others, and work closely with the Congress, the EPA, HUD, DHS and other departments of government to develop and implement the transportation policy goals of this Administration.

If I am entrusted with the position of DOT General Counsel, I will look forward to working closely with the members of this Committee and their staffs, as well as engaging all stakeholders in respectful consultation about the challenges we face together, in the spirit of openness and fairness that is the hallmark of Secretary LaHood's leadership.

I was raised in a family that honored public service, accounting in part for my having left the private sector on prior occasions to work in government. I believe that the mission of the Department of Transportation is crucial to the economic vitality, environment and safety of our country, and the opportunity to serve as its chief legal officer would be the highest honor of my career.

---

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):  
Robert Samuel Rivkin (Bob).
2. Position to which nominated: General Counsel of the Department of Transportation.
3. Date of Nomination: 4/20/09.
4. Address (List current place of residence and office addresses):  
Residence: Information not released to the public.  
Office: 200 E. Randolph, 8th Floor, Chicago, IL 60601.
5. Date and Place of Birth: December 6, 1960 at Highland Park, Illinois.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
Spouse: Cindy S. Moelis, Director, White House Fellows Program (as of 4/13/09); children: Stephanie Moelis Rivkin, 18; Claire Welk Rivkin, 13; Alexander Moelis Rivkin, 11.

7. List all college and graduate degrees. Provide year and school attended.

Harvard College, A.B., 1982.  
Stanford Law School, J.D., 1987.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated. (\* denotes management position)

9/82–6/83, Paralegal at Sidley & Austin, London, England.  
12/82–6/83, Aide to Member of Parliament Greville Janner, London, England.  
2184–8184, Intern at the European Commission, Brussels, Belgium.  
6/85–8/85, Summer Associate at Mayer Brown & Platt, Chicago.  
6/86–8/86, Summer Associate at Cleary Gottlieb Steen & Hamilton, New York & Paris, France.  
9/86–1/87, Law Student Intern (unpaid), Public Defender Service, Washington, D.C.  
6/87–8/87, Summer Associate at Jenner & Block, Chicago.  
9/87–9/88, Law Clerk to Joel M. Flaum, U.S. Court of Appeals for the 7th Circuit, Chicago.  
10/88–4/89, Associate, Sachnoff Weaver & Rubenstein, Chicago.  
4/89–10/94, Assistant U.S. Attorney, Northern District of Illinois, Chicago.  
10/94–1/97, Director of Programs and Policy, City of Chicago Department of Law.  
1/97–4/98, Issues Director, John Schmidt for Governor.  
7/98–4/01, Partner, Schiff Hardin & Waite, Chicago.  
4/01–2/04, General Counsel, Chicago Transit Authority.\*  
2/04–Present, Vice President & Deputy General Counsel, Aon Corporation, Chicago.\*

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Vice President and Deputy General Counsel—Aon Corporation, 2/04 to present.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Director, Harvard Club of Chicago, approx. 1992 to 2008, and Regional Director of the Harvard Alumni Association, 2001–2004.

Director, City Year Chicago, 2007–present.

Director, Leadership Greater Chicago, 2005–present.

Director, Illinois Chamber of Commerce, 2005–present.

Board of Governors (2008–present), Transportation Committee (approx. 2002–2008) and Business Leaders for Transportation (approx. 2000–2004), all of the Metropolitan Planning Council, Chicago.

Chicago Council on Global Affairs, President's Circle (and predecessor committees) and 1999 Young Leader, 1999–present.

Chicago Inn of Court, 2002–present.

Economic Club of Chicago, 2005–present.

Standard Club, Chicago, approx. 1999–present.

Chicago Bar Association, 1998–2007.

American Bar Association, 1998–present.

International Bar Association, 2007–2008.

Personal PAC, 1998–2003.

Temple Shalom, approx. 1998–present.

None of these organizations restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? No. If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: Not applicable.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

7/14/99, \$1,200 in-kind contribution (week at vacation home) to Personal PAC.

10/6/99, \$500 to Obama for Congress 2000.

12/8/99, \$500 to Obama for Congress 2000.

10/11/00, \$500 to Personal PAC.

6/6/01, \$500 to John Schmidt for Attorney General.

7/13/01, \$500 to Personal PAC.

11/8/01, \$500 to Personal PAC.

1/11/02, \$500 to John Schmidt for Attorney General.

9/3/02, \$600 in-kind contribution (food) to Lisa Madigan for Attorney General.

10/3/02, \$500 to Personal PAC.

12/23/02, \$1,000 to Friends of Barack Obama.

12/22/03, \$1,000 to Friends of Barack Obama.

1/16/04, \$500 to John Kerry for President, Inc.

6/18/04, \$2,000 to Obama for Illinois, Inc.

8/6/04, \$1,000 to Kerry Victory 2004.

5/17/05, \$1,000 to Obama for Illinois Inc.

1/27/06, \$500 to Citizens for Claypool.

1/27/06, \$500 to Friends of Eisendrath.

10/19/06, \$500 to Friends of Dick Durbin Committee.

1/16/07, \$2,100 to Obama for America.

8/24/07, \$500 to Markell for Delaware.

9/28/07, \$500 to Melissa Bean for Congress.

10/26/07, \$500 to Citizens for James M. Houlihan.

7/22/08, \$500 to Markell for Delaware.

9/25/08, \$2,300 to Obama for America.

Obama for America, National Finance Committee Member, 2007–2008; Policy Coordinator—helped Policy Director set up volunteer policy committees, spring 2007; Transportation Policy Committee Convenor, 2007–2008; Department of Transportation agency review team. September–October 2008; Canvassing and GOTV efforts in Iowa, Nevada, Ohio, Pennsylvania, Indiana, Michigan.

Democratic National Convention, Credentials Committee, August 2008.

Presidential Transition Agency Review Team, Department of Transportation, November–December, 2008.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Special Achievement Award, U.S. Department of Justice, 9/90.

FBI—recognition in appreciation of invaluable contributions, 10/94.

IRS—award in appreciation for outstanding assistance, 10/94.

DEA—recognition in appreciation of outstanding contributions, 10/94.

ATF—citation in recognition of outstanding assistance, 11/91.

Cook County Medical Examiner certificate of commendation for outstanding and dedicated service during heat wave of 1995.

Leadership Greater Chicago, Fellow, 1993–1994.

Chicago Council on Foreign Relations, Young Leader, 1999.



## Chicago Transit Board, Resolution in Appreciation, 2004

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

I have written no books or publications, and have given no public speeches. I wrote two letters to the editor of the *International Herald Tribune* in 1983–1984, and another to the *Chicago Sun-Times* in the mid-1980s, but I can find no record of them. I co-wrote an article in the July–August 2008 *Foreign Service Journal*, entitled “Telling Truth to Power,” commemorating the 40th Anniversary of the William R. Rivkin Award. I have participated as a panelist at small professional gatherings over the years, including on litigation and accessibility at the American Public Transit Association Meetings in Monterrey in February 2002; on disclosure in the insurance industry at the University of Chicago Business School in September 2005; on corporate social responsibility at the International Bar Association in 2007; and on government investigations at an Association of Corporate Counsel lunch in October 2008. On December 21, 1994, I appeared on the local Chicago public television show “Chicago Tonight” to discuss the city’s carbon monoxide detector ordinance. On June 30, 2007, a National Public Radio story on the William R. Rivkin Award featured a brief sound bite from my presentation of the award.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: Not applicable.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

First, my diverse experience in private practice, Federal prosecution, local government and at a fortune 250 company have provided me with a broad perspective on how best to provide effective, practical and ethical legal guidance in a fast-moving environment.

Second, I have successfully managed large legal operations. I was the Chief Legal Officer of public agency with \$925 million operating budget, \$2.8 billion capital program and 11,500 employees, managing a department with 130 employees and a \$15 million budget. In that role supervised inside and outside counsel on legal matters including public finance, labor and employment, real estate, contracts, construction, information technology, procurement, intellectual property, all categories of litigation and appeals. I also provided strategic direction on key issues facing the agency as part of five-member executive management team. As a manager, I re-engineered the Law Department to focus on client service and support, and installed new personnel, structure, technology and processes to increase quality and efficiency of the legal support function. More recently, as a corporate officer of Aon, an \$8 billion NYSE insurance brokerage, consulting and risk management company with offices in 120 countries, I am responsible for Aon’s legal functions in the Americas, including business counseling, litigation, regulatory affairs, employment law and government affairs. I currently manage over 60 employees and expenditures of over \$50 million for outside counsel. I have helped improve the efficiency and effectiveness of Aon’s legal services by adopting and implementing a series of best practices.

Finally, I have substantial experience dealing with transportation issues and challenges. I was the Chief Legal Officer of the Nation’s second largest public transportation system, the Chicago Transit Authority. For many years I participated in Business Leaders for Transportation and the Transportation Committee of Chicago’s Metropolitan Planning Council, on whose board now serve. I was the co-leader of Obama for America’s Transportation Advisory Committee, and a member of Obama for America’s and the Presidential Transition’s Department of Transportation review teams.

I was raised in a family that honored public service, accounting in part for my having left the private sector on prior occasions to engage in government service. I believe that the mission of the Department of Transportation is crucial to the economic vitality, environment and safety of our country, and the opportunity to serve as its counsel would be the highest honor of my career.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

As general counsel, I would consider it a top priority to ensure that the Department maintains clear and effective management and accounting controls. As de-

scribed above in my answer to question 18, I have experience with managing large organizations in the government and private sector, and appreciate the importance of clear controls and responsibilities in ensuring efficient and ethical operations.

20. What do you believe to be the top three challenges facing the department/agency, and why?

I believe the top three challenges facing the Department of Transportation are to effectively and efficiently implement the portion of the stimulus package falling under DOT's jurisdiction; to help Congress develop new surface transportation and aviation reauthorization bills reflecting the Nation's transportation priorities and needs; and to provide strong leadership at the FAA leading to better labor relations and the development of a new air traffic control system for the Nation.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I have a 401(k) account with Aon (the Aon Savings Plan).

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? No. If so, please explain: Not applicable.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

In 2001, while I was a lawyer at Schiff Hardin, a client engaged me to make some inquiries of the City of Chicago regarding the disposition of what I recall was a city-owned industrial park. I registered as a lobbyist with the City of Chicago and made a few phone calls on behalf of the client. I do not remember the details of the engagement, which was brief. I have not been engaged by any person or entity since then for the purpose of influencing legislation or public policy.

As an officer of Aon Corporation I supervised company efforts, thus far unsuccessful, to pass Illinois legislation or regulation requiring greater disclosure in the commercial insurance field. I had discussions on this topic with members of the Attorney General's office, the Division on Insurance of the Illinois Department of Financial and Professional Regulation, and various state legislators.

Also as a Vice President of Aon Corporation, from 2004 through 2009. I had occasional discussions with Members of Congress and their staffs regarding potential legislation to reform the regulation of what are called "surplus lines" of insurance, as well as in support of an Optional Federal Charter for the insurance industry.

In September 2008, I joined an agency review team within the Obama for America campaign to identify challenges facing the Department of Transportation. In November, I joined the Presidential Transition Agency Review Team for the DOT which prepared a report on these challenges for the incoming Secretary-designee.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in

accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No. If so, please explain: Not applicable.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

Yes. During, the time I have been an officer of Aon Corporation, Aon and its subsidiaries have had on average over 400 pending matters in U.S. litigation, as well as a number of other matters in litigation around the world. As an insurance "producer" regulated by the states. Aon also has a number of administrative matters (e.g., premium tax calculation matters, licensing matters, audits) pending with state insurance and revenue departments.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No. Not applicable.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No. Not applicable.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

---

#### RESUME OF ROBERT S. RIVKIN

##### Legal Experience

Aon Corporation, Vice President and Deputy General Counsel; For Aon Americas, 1/08–present; For Litigation and Government Affairs, 2/04–1/08.

Corporate officer of \$8 billion NYSE insurance brokerage, consulting and risk management company. Report directly to the global general counsel. Responsible for Aon's legal functions in the Americas, including business counseling, litigation, regulatory affairs, employment law and government affairs.

Manage 60 employees, annual budget of over \$14 million, and outside counsel expenses of over \$50 million.

Respond to and resolve investigations by Federal agencies, state attorneys general and insurance commissioners. Lead Aon attorney responding to insurance industry investigations.

Established state and Federal Government affairs function.

Established legal functions for Canada and Latin America.

Improved efficiency and effectiveness of legal services by implementing new preferred provider, matter management, early case assessment, and electronic billing programs.

Chicago Transit Authority, 4/01–2/04, General Counsel.

Chief Legal Officer of public agency with \$925 million operating budget, \$2.8 billion capital program and 11,500 employees, reporting to the President and Board of Directors. Managed a department with 130 employees and a \$15 million budget; supervised inside and outside counsel on legal matters including public finance, labor and employment, real estate, contracts, construction, information technology, procurement, intellectual property, all categories of litigation and appeals.

Provided strategic direction on all key issues facing the agency as part of five-member executive management team.

Re-engineered Law Department to focus on client service and support.

Installed new personnel, structure, technology and processes to increase quality and efficiency of the legal support function.

Schiff, Hardin & Waite, 7/98–4/01, Partner.

Litigated commercial cases for clients such as Pepsi, Outboard Marine, AT&T, Allegiance Telecom, and the City of Chicago.

Conducted corporate internal investigations relating to alleged fraud, theft and misappropriation of funds.

Represented clients in state regulatory enforcement actions.

Defended corporations, targets, subjects, and witnesses in state and Federal white-collar criminal investigations of healthcare, contracting and tax fraud.

City of Chicago Department of Law, 10/94–1/97, Director of Programs and Policy.

Advised Office of the Mayor and City commissioners on broad range of legal policy matters.

Managed special projects relating to the 1996 Democratic National Convention, administrative adjudication system, internal investigations, and other matters.

Office of the United States Attorney, Northern District of Illinois, 4/89–10/94, Assistant United States Attorney.

Investigated and prosecuted white collar fraud—including mail, wire, insurance and securities fraud—as well as RICO, tax and public corruption violations.

Tried 24 jury trials and numerous appeals.

Received Special Achievement Award from U.S. Department of Justice and commendations from the FBI, IRS, DEA, and ATF.

Sachnoff & Weaver, 10/88–4/89, Litigation Associate.

U.S. Court of Appeals for the Seventh Circuit, 9/87–9/88, Law Clerk to Judge Joel M. Flaum.

### **Education**

Stanford Law School, J.D., 1987; Associate Editor, *Stanford Law Review*.

Harvard College, A.B., 1982; Magna Cum Laude in Social Studies.

### **Other Experience**

John Schmidt for Governor Campaign, Issues Director (Chicago), 1/97–4/98.

Commission of the European Communities. Stagiaire (Brussels), 2/84–8/84.

Greville Janner, QC, MP, Parliamentary Aide (London), 12/82–6/83.

U.S. Senator Charles Percy, Senate Intern (Washington, D.C.), 6/81–8/81.

### **Boards/Affiliations**

City Year Chicago, Director.

Illinois Chamber of Commerce, Director.

Leadership Greater Chicago, Director and Fellow.

Metropolitan Planning Council, Board of Governors and Transportation Committee.

Chicago Council on Global Affairs, President's Circle and Young Leader 1999.

Chicago Inn of Court, Member.

Economic Club of Chicago, Member.

William R. Rivkin Award (American Foreign Service Association), Judge.

Democratic National Committee, Credentials Committee, 2008.

Obama for America, National Finance Committee, Policy Development Committees, 2007–2008.

Federal Defender, N.D. IL, Panel Attorney. 1999–2001.  
 Harvard Club of Chicago. Director, 1992–2008.  
 Harvard Alumni Association, Regional Director, 2001–2004.  
 Personal PAC, Director, 1998–2003.

Admitted to practice in Illinois, the Northern District of Illinois (trial bar) and the U.S. Seventh Circuit Court of Appeals. Languages: French (fluent), Spanish (fair).

Senator INOUE. I thank you very much, Mr. Rivkin.

I will have to relinquish the chair to Senator Dorgan. I have a prior commitment. Mr. Chairman, may I ask that my questions be submitted?

**STATEMENT OF HON. BYRON L. DORGAN,  
 U.S. SENATOR FROM NORTH DAKOTA**

Senator DORGAN [presiding]. Without objection.

The next order of business will be to hear from Mr. Roy Kienitz. Mr. Kienitz, you may proceed. Your entire statement will be made a part of the permanent record.

**STATEMENT OF ROY W. KIENITZ, UNDER SECRETARY-  
 DESIGNATE, DEPARTMENT OF TRANSPORTATION**

Mr. KIENITZ. Thank you, sir. Good afternoon, Mr. Chairman, Ranking Member Hutchison. Once again, my name is Roy Kienitz, and I am the President's nominee for Under Secretary of Transportation for Policy.

A little about myself. I began my professional career in this building two floors up working for Senator Daniel Patrick Moynihan of New York, and for those of you who knew him, knew him to be a great advocate of many things in transportation policy. And I learned many of my most valuable lessons from him.

Since then, I have worked in the nonprofit sector and in State government in the State of Maryland and most recently for Governor Ed Rendell in Pennsylvania where I was Deputy Chief of Staff, another well-known advocate of infrastructure investment.

So I have helped shape transportation policy at the staff level here in the Senate in the Federal Government and then had to help implement it at the State level, and I hope that that will give me a balanced perspective of what is required to take the ideas we have here and turn them into practical policies on the ground.

My primary goal at the Department working in the policy area will be to implement the President's and the Secretary's policy ideas. So far, I think that that can be summarized in four key areas, many of which have already been mentioned, the first of which is, obviously, the economy. We have lost millions of jobs over the last 2 years, and the Department has been fortunate enough to participate in the economic recovery bill, which included \$48 billion in transportation investment. So far, \$37 billion of that has actually been made available to grantees of one kind or another and projects are already getting underway. Just last week, the President came to the Department's building and with Secretary LaHood announced the 2,000th transportation project being released by the Federal Government. So that work is already underway.

Obviously, however, the short-term investments that are necessary for economic recovery also need to have long-term benefits, and that will be, obviously, a big focus of the Department.

Second, when we make investments, we need to improve the sustainability of the transportation system. This is, obviously, a key priority for the President across the Government and will, as such, be a key priority for the Department of Transportation. Examples of those kinds of investments include the strategic plan for high-speed rail that was announced by the President last week, as called for in the Recovery Act, and billions of dollars of investment that will go into that.

A third priority and one of particular concern to the Secretary is something that many people call livability, and these are sort of transportation investments that are uniquely tailored to the communities into which they are put. In more populated areas, that can be things like walking, biking, public transportation, things that make it easier for people to avoid traffic. In less populated communities, that can be reviving main streets or connecting rural communities. The key idea there, I think, is tailoring the investment very carefully to the place where it is made rather than a one-size-fits-all solution.

On March 19, Secretary LaHood and Secretary Donovan announced the beginning of a partnership between the Department of Housing and Urban Development and Transportation on this very subject.

Finally, obviously, something that has been mentioned. Safety is one of the first missions that was given to the Department of Transportation upon its creation in 1966, and that continues to be a major focus today. That will, obviously, be part of my focus if I have the good fortune to be confirmed.

So these areas, economic competitiveness, sustainability, livability, and safety, are priorities, and I believe if we can focus our transportation policy around those areas, it will be successful for the country. As Senator Hutchison mentioned, we will have the opportunity potentially for both aviation and surface reauthorization this year, and if I have the honor of being confirmed, I look forward to working with the members of the Committee on those issues.

I will be happy to respond to any questions the members have. Thank you, sir.

[The prepared statement and biographical information of Mr. Kienitz follows:]

PREPARED STATEMENT OF ROY W. KIENITZ, UNDER SECRETARY-DESIGNATE,  
DEPARTMENT OF TRANSPORTATION

Chairman Rockefeller, Ranking Member Hutchison, Members of the Committee, it is an honor for me to appear before you today as President Obama's nominee for Undersecretary of Transportation for Policy.

I began my professional career in this very building, working for Senator Daniel Patrick Moynihan of New York. Those of you who knew him will remember his great passion for transportation policy. I learned many of my most valuable lessons from him. Since then I have worked in the non-profit sector and in state government. I ran the State Department of Planning in Maryland and most recently served as Deputy Chief of Staff to Governor Ed Rendell of Pennsylvania, another man with a passion for infrastructure investment. I have helped shape transportation policies at the Federal level and helped implement them at the state level,

and I hope this experience will help me take on the policy role at DOT with a balanced perspective if I have the honor of being confirmed.

My primary goal at the Department, if confirmed, will be the implementation of President Obama and Secretary LaHood's priorities for transportation. So far this seems to break down into four key areas.

First is the economy. As we all know, millions of jobs have been lost in 2008 and 2009. The inclusion of \$48 billion for transportation projects in the American Recovery and Reinvestment Act has allowed the Department to be part of the recovery effort. Of the \$48 billion provided, nearly \$37 billion has already been released to states and other grantees. On April 13, the President and Secretary LaHood announced the 2,000th transportation project funded by the Recovery Act. Jobs are already being created across the country. The right investments today will also pay dividends over the long term by, for example, repairing existing infrastructure in all modes of transportation and improving the efficiency of freight movement so our exports are more competitive.

Second, as we make these investments, we must improve the environmental sustainability of our transportation system. President Obama and Secretary LaHood are committed to this goal and so am I.

A third priority is the pursuit of what some call livability. For surface transportation, this means finding ways to make investments that meet the needs of each individual community. Every city and small town across the country has its own unique transportation concerns. For more populated areas, a main consideration may be better opportunities for public transportation, biking, walking or other methods to help people avoid traffic congestion. For rural areas, we might focus more on safety and ensuring connectivity to surrounding communities. We must be mindful of these varying needs and realize that we cannot create a one-size-fits-all method of funding transportation projects.

On March 19, Secretary LaHood and Secretary Donovan announced an inter-agency partnership between HUD and the Department of Transportation to address sustainable and livable communities. Work is already underway.

Finally, safety in all modes of travel has always been and must continue to be a central focus of the Department of Transportation. This goal will remain the highest priority for the Department and its work force. If confirmed, you can rely on my full dedication to ensuring American citizens are provided with safe and secure means of transportation.

The areas of economic recovery, sustainability, livable communities, and safety are high priorities for Secretary LaHood and, if confirmed, will be my priorities as well. I believe a transportation system that meets these goals is vital to our long-term national interest.

In 2009, Congress and the Obama administration will have the opportunity to set long term policy goals for both our aviation and surface transportation programs. If I am confirmed, I hope to be actively engaged with you in these discussions.

To conclude, Mr. Chairman, thank you again for scheduling this hearing. I would like to reiterate my desire to work with this Committee as policy and funding matters are discussed and debated, and I will be happy to respond to any questions you and the members of the Committee may have. Thank you.

---

#### A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Roy Warren Kienitz.
2. Position to which nominated: Under Secretary of Transportation for Policy, United States Department of Transportation.
3. Date of Nomination: March 16, 2008.
4. Address (List current place of residence and office addresses):  
Residence: Information not released to the public.
5. Date and Place of Birth: September 14, 1962; Mountain View, CA.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
Spouse: Katherine L. Kincade, Self-employed consultant to DC Housing Enterprise.  
Children: Simon D. Kienitz Kincade, Age 12; Asa M. Kienitz Kincade, Age 9.
7. List all college and graduate degrees. Provide year and school attended.  
University of California at Santa Barbara, BA, 1983.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

United States Peace Corps, Volunteer, 1983–1986.

Senator Daniel Patrick Moynihan, various positions including Chief of Staff, 1987–1988, 1993–1994.

U.S. Senate Committee on Environment and Public Works, Professional Staff Member, Deputy Staff Director, 1988 to 1993.

Center for Clean Air Policy, Director of International Transportation Program, 1995.

Surface Transportation Policy Project, Assistant Director, Executive Director, 1995 to 2001.

Maryland Department of Planning, Secretary, 2001 to 2003.

Governor Ed Rendell, Pennsylvania, Deputy Chief of Staff, 2003 to March 2009.

Senior Advisor to the Secretary, U.S. Department of Transportation, March 2009—Present.

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Chairman of the Board, Building America's Future.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Franklin Knolls Swim Club, 2003 to present. No membership restrictions.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

I have never been a candidate for elective office. I have been a political appointee in my last two jobs (Office of Governor Rendell and Maryland Department of Planning.) There is no debt.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

\$500 to John F. Kerry For President, 7/11/2004.

\$500 to Friends of Kathleen Kennedy Townsend, candidate for Governor of Maryland, 5/30/02.

\$500 to Friends of Kathleen Kennedy Townsend, candidate for Governor of Maryland, 10/20/02.

No party offices held.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Governor's Citation, for assistance to LaPlata, MD in rebuilding after the most severe tornado in Maryland history, 2002.

Special Recognition Award, National Park Service, U.S. Department of the Interior, 2000. For work promoting new transportation strategies for National Parks.

Award, for Leadership in Intergovernmental Cooperation, National Association of Regional Councils, 1992 (In recognition of work on Intermodal Surface Transportation Efficiency Act of 1991).

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics rel-



evant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

“Blueprint for ISTEA Reauthorization”, Surface Transportation Policy Project, 1997.

“TEA-21 Users Guide”, Surface Transportation Policy Project, 1998. “Road Work Ahead: Is Construction Worth The Wait?”, Surface transportation Policy Project, 1999.

“Minority Report”, Governor’s Transportation Solutions Group, State of Maryland, 1999, signatory.

“Mean Streets”, Surface transportation Policy Project, 2000.

“Driven to Spend”, Surface Transportation Policy Project, 2000.

“Greetings From Smart Growth America”, Smart Growth America, 2001, co-author.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

Senate Environment and Public Works Committee, March 18, 1999; transportation policy.

Senate Environment and Public Works Committee, April 15, 1999; transportation policy.

Senate Environment and Public Works Committee, April 29, 1999; transportation policy.

House Transportation and Infrastructure Committee, July 27, 1999; transportation policy.

Senate Banking, Housing and Urban Affairs Committee, October 8, 2002; transportation policy.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have 20+ years experience in transportation policy at the Federal and state level in both executive and legislative positions, have authored multiple reports on transportation policy, and have testified before Congress on multiple occasions as a transportation policy expert.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

Along with the other managers at USDOT, if confirmed I will be responsible for assuring proper management and accounting controls. I have management experience from helping to guide and manage large capital projects in my work in state government, have been the head of a state government agency, and have run a non-profit organization.

20. What do you believe to be the top three challenges facing the department/agency, and why?

1. Effective and open implementation of the nearly \$50 billion in transportation funding included in the American Recovery and Reinvestment Act.

2. Prompt reauthorization of the FAA’s programs to allow for quick and effective implementation of upgrades to the Nation’s air traffic control system.

3. Reauthorization of the Nation’s surface transportation programs.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

PA state retirement, expected payments for immediate retirement.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

As part of my employment with the Surface Transportation Policy Project (1995–2001) a portion of my work consisted of making recommendations on behalf of the organization regarding funding and policy in Federal transportation legislation. These recommendations related most directly to the Transportation Equity Act for the 21st Century (TEA–21), P.L. 105–206. STPP also made recommendations regarding the execution of laws and policy-making by USDOT.

As part of my employment for Governor Rendell, I have been part of various efforts to support, oppose or affect legislation and the execution of laws as they affect the State of Pennsylvania, up to and including the Congressional debate over what later became the American Recovery and Reinvestment Act.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

If confirmed, I will follow the advice of USDOT counsel to assure that no conflict of interest occurs.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

#### RESUME OF ROY W. KIENITZ

##### **Experience: Government**

Deputy Chief of Staff, Governor Edward G. Rendell, Pennsylvania, 2003–Present.

Team leader for major initiatives on transportation, alternative energy, environment. Oversee major capital projects: PA Convention Center expansion, Pittsburgh sports arena, Port of Philadelphia. Guide media strategy and appear on TV, radio and in print. Politics, strategy, budgeting, problem solving.

##### *Transportation:*

*Fix It First.* Implemented policy prioritizing repair of existing roads over new construction.

*Public-Private Partnership.* Personally structured terms for 75-year lease of PA Turnpike Leading to winning bid of \$12.8 billion, largest such bid in the U.S. so far.

*Tolls.* Negotiated legislation to add \$1+ billion/year in new funding and authorize new tolls on 1–80; first state to approve tolls for existing free Interstate highway.

*Labor.* Personally mediated round-the-clock negotiations on labor contracts for Philadelphia and Pittsburgh transit authorities; ended strike in Philadelphia, prevented strike in Pittsburgh.

*Transit.* Developed and implemented plan to ‘flex’ \$450 million of road funds to transit after legislature blocked original transit funding proposal. Prevented service cuts and layoffs.

*Alternative Energy:*

*Conservation.* Led administration effort to enact new energy savings mandates for all electric utilities.

*Renewables.* Enacted legislation requiring 18 percent of electricity to come from alternative sources.

*Investment.* Developed a negotiated passage of \$625 million alternative energy fund.

*Green Jobs.* Helped attract wind turbine maker Gamesa to build 2 plants and create 1,000 green jobs.

*Environment:*

*Growing Greener.* Personally developed \$825 million plan for open space preservation and community reinvestment. Proposal was approved by legislature and voter referendum.

*Clean Cars.* Implemented plan for PA to opt-in to CA car regulations, including CO<sub>2</sub> limits.

*Mercury.* Won approval for plan to cut mercury emissions below limits allowed by Bush Administration.

Secretary, Maryland Department of Planning, 2001–2003.

Implemented state’s Smart Growth policies. Staff of 130, \$10 million budget.

*Redevelopment.* Emphasis on getting mixed-use, transit-oriented projects funded and built.

*Land Preservation.* Guided state funding for preserving agricultural a sensitive lands.

*Local Government.* Led state participation in key local government development decisions.

Chief of Staff, Senator Daniel Patrick Moynihan, 1993–1995. Ran personal staff of 50 for Senior Senator from New York and Senate Finance Committee Chair.

*Politics.* Coordinated with successful 1994 campaign.

*Legislation.* Oversaw legislative agenda including budget, taxes, health care.

*Media.* Guided press strategy for Washington, New York and national media.

Deputy Staff Director, Environment and Public Works Committee, U.S. Senate, 1992–1993; Professional Staff Member, 1988–1992. Staff of 30, \$2 million budget.

*Transportation.* Conceived, drafted and managed landmark 1991 transportation bill (ISTEA).

*Other Issues.* Major work on Clean Air Act, water quality, Corps of Engineers, nuclear energy.

**Experience: Research and Advocacy**

Executive Director, Surface Transportation Policy Project, 1998–2001; Deputy Director, 1996–1998.

Advocated for innovation in transportation policy: smart growth, better use of transit, environmental sensitivity, Less reliance on one-size-fits-all highway design.

*Policy.* Primary voice for progressive transportation policy at the national level.

*Coalition Building.* Coordinated with 200 partner organizations.

*Management and Fundraising.* Ran four offices; raised and managed \$2 million/year budget.

Director, International Transport Program, Center for Clean Air Policy, 1995–1996.

Worked with policymakers in U.S., Canada and Europe on new transportation, land use and air quality strategies.

#### **Education**

B.A., Aquatic Biology, University of California at Santa Barbara, 1980–1983. Graduated in 3 years.

#### **Honors and Awards**

Governor's Citation, for assistance to LaPlata, MD after the state's worst recorded tornado, 2002.

Special Recognition Award, National Park Service, U.S. Department of the Interior, 2000. For work promoting new transportation strategies for National Parks.

Award, for Leadership in Intergovernmental Cooperation, National Association of Regional Councils, 1992, in recognition of work on the 1991 transportation bill (ISTEA.)

#### **Affiliations**

Building America's Future, Board of Directors, 2008. Non-profit started by Gov. Rendell, Gov. Schwarzenegger and Mayor Bloomberg to promote smarter investment in infrastructure.

Pennsylvania Green Ribbon Commission, Member, 2004. Assessed methods to invest in open space, community revitalization and environmental improvement. Smart Growth America, Founding Chair, 2000–2001. National coalition to promote smart growth.

National Neighborhood Coalition, Board of Directors, 2001.

Center for Transportation & the Environment, North Carolina State University, Board of Advisors, 1998–2001.

Environmental Excellence Awards, Federal Highway Administration, Judge, 1999.

Maryland Transportation Solutions Group, Member, 1998–1999. Appointed by Governor to panel assessing investment options for Montgomery and Prince George's Counties, MD.

Congressional Observer Group, United Nations Conference on Environment and Development (The Earth Summit), Rio de Janeiro, 1992.

Subcommittee on Planning and Policy Review, Transportation Research Board, National Academy of Sciences, 1992.

#### **Publications**

*Driven To Spend: The Impact of Sprawl on Household Transportation Expenses*, Surface Transportation Policy Project (with Barbara McCann, Ryan Tracey-Mooney, Scott Bernstein and Reid Ewing), 1999.

*TEA-21 User's Guide*, Surface Transportation Policy Project (with Elizabeth Thompson), 1998.

*A Blueprint for ISTEA Reauthorization: A Common Sense Guide to Transportation Priorities for the 21st Century*, Surface Transportation Policy Project, 1997.

#### **Personal**

Married, father of two

Former Peace Corps Volunteer, Ecuador

Fluent Spanish

Aspiring triathlete

Senator DORGAN. Mr. Kienitz, thank you very much.

I have asked whether those of you who are here for your nomination hearing had introduced your families or whether you wished to introduce your families. I suspect that some of you have your families present. Would any of you wish to do that at this point?

Mr. RIVKIN. We did, Mr. Chairman.

Senator DORGAN. You have. All right.

My understanding also is that Senator Warner wished to introduce or say a few words about one of the——

**STATEMENT OF HON. MARK WARNER,  
U.S. SENATOR FROM VIRGINIA**

Senator WARNER. Mr. Chairman, I wanted to simply indicate my support for Peter Appel who is from Virginia and as somebody from Virginia, understands the enormous challenges we have in transportation. I would like to submit for the record my introduction comments, as he has already spoken.

Senator DORGAN. Without objection.

[The prepared statement of Senator Warner follows:]

PREPARED STATEMENT OF HON. MARK WARNER, U.S. SENATOR FROM VIRGINIA

Chairman Rockefeller and Ranking Member Hutchison, thank you for holding this important hearing. I want to introduce and lend my support to Mr. Peter Appel, of Alexandria, Virginia, who has been nominated by President Obama to be the Administrator of the Research and Innovative Technology Administration (RITA) at the U.S. Department of Transportation.

Peter has focused for more than 20 years on innovative problem solving and forward-looking policy development in transportation and is the right person to lead RITA at this critical time. He brings a deep background in both technology and transportation. Following his studies in Computer Science and Economics at Brandeis University, he completed his Master of Science in Transportation at MIT, focusing on using computer technology to optimize transportation networks. Since then, he has worked in both the public and private sectors across every mode of transportation. Peter has led key initiatives at Amtrak, at the Federal Aviation Administration, and as a management consultant for clients in ocean shipping, rail, aviation, trucking, and transportation infrastructure development. His work has helped these organizations improve their day-to-day operations and develop and implement long-term strategic plans.

Coming from Virginia, which faces some of the most significant transportation challenges in the nation, I understand the critical need to bring our Nation's best thinking to address transportation issues. And having been a business leader in the high-tech industry for twenty years, I can attest to the importance of applying innovative technology to address our Nation's challenges. The Research and Innovative Technology Administration is positioned to play a key role in ensuring that our transportation investments effectively use technology and solid analysis to ensure the most positive impact on the lives of Americans. In Virginia, we embraced accountability and technology to fix and restore public confidence in Virginia's transportation system.

With Peter's background in technology, rigorous analysis, and innovative problem solving, we look forward to a similar approach which will help our Nation reestablish a sound and effective transportation policy. I look forward to working with Peter Appel on the transportation challenges we face, and I urge my colleagues to quickly confirm him. Thank you, Mr. Chairman.

Senator DORGAN. Although I was not here for the first part of the hearing, let me thank all of you for your willingness to serve your country and serve in the Department of Transportation in some very, very important positions.

Senator Hutchison?

Senator HUTCHISON. Thank you, Mr. Chairman.

I would like to ask each of you to answer individually, starting with Mr. Appel, if you will work with members of this Committee on both sides, the Republicans and the Democrats, to provide the information that we would ask for and to give us any updates that you think are relevant to our oversight role. Mr. Appel?

Mr. APPEL. Yes, I will absolutely work with this Committee. I consider it an extremely valuable part of doing the job for which I am nominated.

Senator HUTCHISON. Thank you.

Mr. Szabo?

Mr. SZABO. Senator, I most definitely look forward to working with the Committee in a very open manner.

Senator HUTCHISON. Thank you.

Mr. Gresham?

Mr. GRESHAM. Yes, absolutely. I would consider that a primary responsibility of this office.

Senator HUTCHISON. Thank you.

Mr. Rivkin?

Mr. RIVKIN. Yes, Senator.

Mr. KIENITZ. Yes, ma'am. Obviously, that is a big priority of the Secretary as well, to do that on a bipartisan basis.

Senator HUTCHISON. Thank you.

I have a question for Mr. Szabo. Amtrak, our national rail system, is very important to many states, mine included. At Secretary LaHood's confirmation hearing, I asked him if he was committed to a national system for Amtrak to continue to pursue, and I will ask you that same question because, of course, you have a major role in Amtrak. I want to know if you are committed to a national system that covers all of the lines that are now in existence and what would be your thoughts, if you do, on how you would go forward helping to further develop those lines.

Mr. SZABO. Well, Senator, most definitely I believe in a national network. I believe that that needs to be the backbone of our passenger rail program, and obviously, then the development of the high-speed rail corridors and such which start overlaying on top of that national network. In many ways, this is very similar to what has been done in Europe where the different levels of rail overlay each other, feed each other, supplement each other. So you will have your commuter railroads. You will have your regional corridors, and then you will have your national rail network. We consider that a priority.

Senator HUTCHISON. Thank you. I certainly agree with you, and I think it is so important that we look at it from the national perspective and not just one line in the Northeast, which is important, but it is not everything.

Let me ask you about the stimulus package, which allocated \$8 billion for high-speed rail projects. How would you, working with the Secretary, propose to designate funds for communities that have the best prospects for a high-speed rail projects, and how would you envision that funding being allocated?

Mr. SZABO. Obviously, if confirmed, I think it is imperative that we have a merit-based application process that is very fair, very transparent, and we ensure that the dollars go to where we get the best return on our investment.

Senator HUTCHISON. So you would be working with the Secretary to come up with criteria that you think would be a fair and open process.

Mr. SZABO. Absolutely.

Senator HUTCHISON. Thank you.

Mr. Kienitz, one of the areas where Senator Rockefeller and I have worked very hard in the last Administration, and we almost passed the FAA reauthorization with NextGen included. In fact, we also worked on an amendment in the stimulus to try to get a head start on NextGen, but it was not put in the bill. There was a resistance to having amendments to that bill. So we did not get that. But it is important to both the Chairman and myself that we have the NextGen and a concept and a funding mechanism to go forward.

What is your thought about how we might jump start NextGen for the FAA?

Mr. KIENITZ. Thank you, ma'am. I think there are two pieces to it from my perspective, the first of which, obviously, is a funding source. And that was the source of the disagreement last year, I think, in Secretary LaHood's private conversations with you that I was present at and in his public statements has indicated a very strong desire to achieve agreement on that question. I think last year, it is fair to say, there was a lot of interest in the topic and then perhaps not quite enough interest in reaching agreement on the topic. And I think his view is there are a lot of good ideas about how to finance it, but the most important idea is the idea of let us agree to something and get it done so we can start down the road.

The second piece is an implementation strategy by the Department and the FAA that inspires confidence, and that is something also that the Secretary has identified as one of the chief assignments that he will give the FAA Administrator when that person is confirmed and on board to roll out a plan that contains schedules that you all can have confidence and bring that system to fruition as quickly as possible.

Senator HUTCHISON. Well, I think we finally came to pretty much an agreement on the funding, and we were still working on it. But one of the issues that held it up was a disagreement about air traffic control contracts and reopening a contract that has been negotiated. Are you going in with a view about reopening the air traffic controllers contracts or do you consider that settled and we should go forward? What is your view on that?

Mr. KIENITZ. I think that the Secretary's view has been that the current situation is perhaps not perfect although, as you say, the terms that were imposed a couple of years ago are currently in place. I think that he takes the optimistic view that perhaps we could come to some kind of understanding about terms going forward that will inspire a higher level of morale among controllers and more confidence going forward in the future. He has not described in any specifics what exactly he thinks that needs to be, but once again, that is, I think, one of the two top priorities he has identified for the FAA Administrator, is to look into that issue to see if some kind of change that improves morale among controllers can be agreed to.

Senator HUTCHISON. Well, we will have an FAA Administrator, I am sure, to discuss that with, and it will be a major topic of interest because there is much disagreement. That is what really held up the NextGen and the FAA reauthorization, and there was strong disagreement. So I will just put that out there and we will talk to the FAA Administrator about it at a later time.

Thank you, Mr. Chairman.

Senator DORGAN. Senator Johanns.

**STATEMENT OF HON. MIKE JOHANNS,  
U.S. SENATOR FROM NEBRASKA**

Senator JOHANNS. Mr. Chairman, thank you very much, and to the panel, congratulations. It is a great honor just to be here, and having sat where you sat 4 or 5 years ago, I just want to underscore that.

I am going to ask a question to the whole panel, if I could, because I am kind of searching for some expertise here. Has anybody on this panel ever worked rural transportation issues, roads, intrastate, air service, that sort of thing? Does somebody want to jump in on that one?

Mr. KIENITZ. In my prior work, I worked for Governor Rendell in Pennsylvania, and although we have big metropolitan areas, a lot of Pennsylvania is very, very rural. So a big area of focus was really three things, I would say, the first of which was trying to maintain commercial air service to our small airports. Regardless of whatever the EAS program does or does not allow, we had major struggles with our major airlines trying to serve those smaller communities.

The second of which is really a lot of money invested in rural roads which, anyone who has driven in Pennsylvania knows, are not that great in a lot of places.

The third of which is we struggled very much to support rural transit systems, particularly for people with disabilities or others who do not have the ability to drive. I think by now, we have almost all the counties covered by rural transit of one kind or another.

Senator JOHANNS. Both areas that you mentioned, transportation via air and roads, are hugely important in the State that I come from. We have really no intrastate air transportation system, and the difficulty with roads in rural areas is, of course, that they will not have the traffic count that a major metropolitan area would have.

How would you deal with that issue as we start thinking about the highway reauthorization bill and funding? How do you get money into these rural communities that desperately need these roads for farm to market, just simple transportation needs?

Mr. KIENITZ. I think, Senator, the Senate in particular has a tradition of making sure that that issue receives—there are a lot of Senators who represent a lot of rural communities—to make sure that initially formula allocations are not, for example, based entirely on where traffic is or population or something. So the highway funding formulas have traditionally been perhaps somewhat more friendly to very rural areas which do not have the ability to generate tax receipts on their own from traffic to support roadway investment.

If you look at the profile of where there are roads in poor condition that need repair across the country, you see huge concentrations of it in some very rural areas. And I think the highway program, in particular, so far has been structured to recognize that. The struggle is how to figure out a program that does that well but



also deals with the terribly complicated issues you find in a place like Chicago or Los Angeles or something like that.

Senator JOHANNNS. Anyone else have any thoughts? Yes, sir.

Mr. SZABO. Senator, to a certain extent, I have been involved with advocating for funding for short line railroads, which are the smaller mom-and-pop operations that tend to serve rural communities. So, obviously, we consider that a bloodline to those communities and part of a network that feeds into the larger rail system. So we consider that an important linkage.

Senator JOHANNNS. Anyone else want to offer any thoughts?

Mr. RIVKIN. Senator, though I have not worked on rural transportation issues in a rural area, I think we are well aware that the Administration's policy and the Secretary's intent is to make sure that all of America is served with a unified transportation system. The importance of things like EAS and bus service and train service, as well as rural roads—all of us are well aware of that.

Senator JOHANNNS. Great.

I will just wrap up, Mr. Chairman, with this thought. I asked that question mostly to use this opportunity to highlight the importance of these issues. \$8 billion for transit relating to trains that run back and forth between metropolitan areas is great. I certainly do not have any problem with it. I do not know that it will help a lot in Nebraska, if you know what I am saying. Not to say that it is not insignificant because we do have Amtrak that goes through the State, but when you focus on rural transportation issues moving from one small community to another, it is going to be roads. It just simply is roads that make that work.

So as you enter into your new assignments, if there is ever an opportunity to influence that discussion for these small communities, it will be greatly appreciated.

And I look forward to working with all of you. Best of luck.

Senator DORGAN. Senator Begich?

**STATEMENT OF HON. MARK BEGICH,  
U.S. SENATOR FROM ALASKA**

Senator BEGICH. Thank you very much, Mr. Chairman. Thank you all very much for your willingness to serve and be part of the Obama Administration.

First, I do want to say, Mr. Szabo, as a former mayor as of January of this year, I am glad to see another mayor within the Department of Transportation. That will help, I think, influence the perception that local governments know how to do it best and know how to deliver.

I am going to follow up on what Senator Johanns said in regards to rural. His comment I liked is: "Roads make it work." We do not have roads in lots of our areas in Alaska. So air makes it work also. So I want to augment that. Rural in Nebraska is nothing like rural in Alaska.

I think your resumes are all very strong, and I have no problem with all of your appointments. So I am looking forward to working with you.

But I did notice that most of you were kind of from the Midwest to the East, and I think the point Senator Johanns is saying is when you look at the Southwest, the deep Midwest, rural Alaska,

we have very different kinds of situations. In southeast Alaska, we have the marine highway system. It never gets really any funding from the Federal Government even though it is the only way to move from one community to the next for food, services, medical.

So as you take on these new roles, I would hope you would keep that rural aspect, what I would call the extreme rural aspect—and I would encourage you to come to Alaska, not on a cruise—though there are really good prices right now. But I would encourage you to come on up and kind of see what we have to deal with when it is literally life and death with regard to rural transportation.

But I am anxious to get your appointments moving forward.

Mr.—is it Appel?

Mr. APPEL. Yes.

Senator BEGICH. Your role in research innovation—in the last TEA-LU bill there were, I believe, 10 research institutes established. I am not sure how familiar you are with these, but one is in Alaska on very unique, cold climate conditions. This center would benefit states like mine and others that are very rural and have cold climate conditions in the winter, pavement conditions and so forth.

I would be interested in your comment now or later how you see those playing in. As you know, they were authorized only for a 5-year period of funding under the TEA-LU bill. So reauthorization will have an impact on those 10. So I would be curious how you see you see those research centers across the country. I think there are 10, and they usually are working with universities. I do not know if you have a comment now on that.

Mr. APPEL. Well, just in general, RITA has within it a number of different great sources of research, whether it is the Volpe Center within RITA or the 60-odd University Transportation Centers or focused research institutes that get funding from it. They all are playing a very important role. One of my priorities when I get there is to really understand what the complementary roles across all these different sources of thinking are to make sure that we align them to address the issues we have and to make sure we take advantage of the unique skills and qualifications and resources that each one brings.

I enjoyed your remarks about Alaska. When I was with the FAA in the 1990s, I had a chance to spend some time with my boss, Administrator David Hinson, visiting—we must have visited 15 FAA facilities in Alaska in the course of about 4 or 5 days. And I—

Senator BEGICH. A unique experience.

Mr. APPEL.—in terms of the amazing dedication that the people there have to maintaining very complex electronics, very complex facilities in conditions that are just so much more difficult than what their colleagues in the rest of the United States have to face.

So I respect that and I also realize the unique issues that are faced in Alaska, and the institute in Alaska will be something that I will take a look at to really understand how they all play together. But I am confident that there are unique contributions coming from each.

Senator BEGICH. Well, thank you very much. We will look forward to talking with you in more detail. It is just that we have very unique, climate conditions, especially around winter.

Again, the last comment I will make. I really encourage folks, as you deal with rapid transit rail—you know, in Alaska we have literally one rail system. But the big question in the long term is how do we connect rail to the Lower 48 for transportation of goods. That is a very new item. Alaska is aggressively looking at it. The military is also looking at it because it will move military goods from the Lower 48 into very strategic locations. So maybe at a later time, Mr. Szabo, you could give us some feedback on how you see that or if you do not see that. It has kind of a dual purpose. It is commerce, but it is also military equipment and movement. So just food for thought and a later discussion on that.

Thank you very much.

Senator DORGAN. Senator Lautenberg?

**STATEMENT OF HON. FRANK R. LAUTENBERG,  
U.S. SENATOR FROM NEW JERSEY**

Senator LAUTENBERG. Thanks, Mr. Chairman. Rarely do we see such a distinguished panel of people ready to take on these important jobs, and I welcome all of you who are ready to take on these important assignments. That does not mean you are confirmed.

[Laughter.]

Senator LAUTENBERG. But you have got a good step forward.

In my State of New Jersey, we are looking to break ground on the largest mass transit project in the country, a new rail tunnel under the Hudson River. It is not a regional thing. It is a national thing in terms of the services that are provided around these States. It is a very densely populated area of the country. The project will take 22,000 cars off the road each day, create 6,000 construction jobs each year for 10 years. They are shovel-ready, pick-ready, drill-ready. It is all ready. And I think this totally meets the President's commitment to getting people to work. Nothing can be as ready to go as this tunnel project is. We hope that it will.

Mr. Kienitz, how do you kind of ensure that projects like the Hudson River tunnel that reduce commutation time and reduces emission—how do we get them going as quickly as might be possible?

Mr. KIENITZ. Thank you, sir. I will say a few things, the first of which is your continuing advocacy for this project has made it sure that all the senior leadership of the Department knows all about what the ARC project is. So you have succeeded on that count.

The difficulty, of course, as you know, and as your conversations with the Secretary have indicated, is the Federal share of that project is the largest commitment of transit dollars that there ever would have been to one project, and it is larger than the amount that is available to commit right now.

So, obviously, as you say, the project is ready to go, and in terms of the internal evaluation criteria of the Department, it scored very well on all of the objective criteria. So I think your conversations with the Secretary indicate that they are looking for a way to allow the project to keep on track in terms of going forward, recognizing the fact that there is just not enough authority right now to give it the full promise of Federal support. I think that comes with the reauthorization.

But your question is a good one, which is how in the reauthorization you create a structure whereby things that are big can get funded because what we have had up until now I think is system of—

Senator LAUTENBERG. You have had wonderful experience working for Pat Moynihan, who was one of the great United States Senators.

Mr. KIENITZ. Yes, sir.

Senator LAUTENBERG. Ed Rendell, someone else. And I would like to fill in their footsteps. So I urge you to do what you can to remind the Secretary, in case he did not hear what I had to say these last few days—

[Laughter.]

Senator LAUTENBERG.—to go ahead and take out the starter's gun and shoot it off and let us go.

Mr. Szabo, welcome to you. You are going to be an important person in the railroad system of the country. In my Amtrak bill, which was signed last year, we required that the Northeast Corridor be brought into a state of good repair by 2018.

Now, as Administrator of the FRA, how do you see the priority getting fulfilled to meet this deadline and to be sure that we do accomplish the goal that we want for the Northeast Corridor?

Mr. SZABO. Well, obviously, if confirmed, it is my obligation to make sure the statutory mandates from the laws that you have passed are implemented in a timely manner and to provide the appropriate level of feedback to you of our progress or, of course, any hurdles that we might be facing. But it is our obligation to deliver.

Senator LAUTENBERG. Thank you.

Mr. Rivkin, Aon—they have substantial presence in New York and the World Trade Center.

Mr. RIVKIN. Yes, tragically.

Senator LAUTENBERG. That was the firm that you joined.

Mr. RIVKIN. Yes, Senator Lautenberg, and 175 colleagues from Aon perished in the World Trade Center.

Senator LAUTENBERG. I remember that very well.

That brings certainly the question of safety right squarely in front of you when you look at the things that we are doing now to make sure that we are going to operate as efficiently and safely and securely as we possibly can. We welcome all of you.

Thank you very much, Mr. Chairman.

Senator DORGAN. Senator Klobuchar?

**STATEMENT OF HON. AMY KLOBUCHAR,  
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Mr. Chairman, and thank you to all of you.

I think we will be working a lot together because I do not just serve on this Committee but, like Senator Lautenberg, also serve on the Environmental Committee where we are doing the transportation bill in the coming year.

So I had some questions, which I know I talked to Secretary LaHood about when he visited me with the two of you, Mr. Gresham and Mr. Kienitz, and that was about bridge maintenance. I told you I live six blocks from the bridge that fell in the middle of the

Mississippi River that day. And so whether I wanted to or not, I became something of an expert on bridge funding.

One of the things that Congressman Oberstar and I have learned is that there is supposed to be money set aside for bridge maintenance, but oftentimes that money goes to building new projects. We have a belief that sometimes it is more fun to cut ribbons at new projects and celebrate new projects, and some of our infrastructure is crumbling and needs to be inspected better and also needs to be maintained better. I wondered if you could comment about that, Mr. Kienitz and whoever else wants to join in.

I also thought, Mr. Appel, there is some new technology that could be used more effectively to inspect bridges, and maybe you want to talk about that part.

Mr. KIENITZ. Thank you, ma'am. My aunt and uncle actually live about eight blocks from that bridge and have a very good view of it from their highrise there.

Yes, obviously, I am very familiar with the issue that you raised, and that is something that has been debated and ultimately not changed in the last three reauthorizations by my count. I know, for example, in Pennsylvania, our program—the history was exactly you are allowed to take 50 percent of the bridge money and not spend it on bridges, and that was the tradition.

Senator KLOBUCHAR. Put it on like flowers.

Mr. KIENITZ. Or whatever.

Our response to that really was to try to spend money on bridges in proportion to their need as part of the system and how many of them required repair. So we tripled, I think, the amount of spending on deficient bridges in Pennsylvania because we have more deficient bridges than any other state. So I am very aware of that problem and look forward to working with you, if confirmed, on that particular legal issue as the way the law is written now.

Senator KLOBUCHAR. Thank you.

Mr. APPEL, the technology?

Mr. APPEL. Certainly. Well, what RITA is all about is taking the best technology that we can either do research in-house for or identify the research and technology from outside to make sure that when we make those investments in transportation infrastructure, we are doing it well.

I have not looked specifically at the civil engineering types of research that relate to what you are asking, but it is one of the first things I will do when I get there.

Senator KLOBUCHAR. Great. There are just some very antiquated methods right now that are still being used to check bridges for safety, and I think we could use some advanced methods that are available.

And then another thing I want to talk about—and actually I have talked to Senator Warner about it. He had a little to do with telecommunications in his past. But as we look at the infrastructure issues with broadband and what I call the rural electrification of our generation, I am working on some legislation—and I hope others will join me—with the upcoming reauthorization of the transportation bill to look at ways to integrate the broadband infrastructures and road construction with the work that is going on with transportation infrastructure—this is the whole digging up

the streets 50 times issue—to see if there are ways we can save taxpayer money, as well as reduce disruptions on the roads and also just facilitate the laying of this broadband.

I just wondered if anyone wanted to comment on that, if anyone had any thoughts on that. Have you driven on these streets when they are digging them up?

Mr. APPEL. Absolutely. I want to talk from an intermodal perspective which can be—in other words, the agency, RITA, looks a lot at how work done with one particular mode of transportation impacts another mode of transportation and trying to find efficiencies such that when projects are done, they are integrated well. And integration between one mode and another mode has very much in common with the integration between a mode of transportation and some other type of commerce. So what you are describing is absolutely the kind of thing we would want to make sure we understand at RITA.

Senator KLOBUCHAR. Thank you very much.

Mr. Szabo, I know everyone has been talking about their rail projects, and I loved how Frank described his as “truly national” instead of regional. And I would think rail through the Midwest, which is in the middle of the country, would truly be national, as we have to connect both sides of the country. So I wanted to point that out, as well as the good inter-city projects that are out there. Our Vice President Biden recently visited Minnesota, and I think he was kind of stunned by all the questions in St. Cloud, Minnesota, which is in the middle of our State on adding an extra part to the rail to connect Big Lake to Saint Cloud. So I just wondered if you could comment a little on the inter-city rail piece of this.

Mr. SZABO. Well, Senator, obviously, I am aware that there is a very healthy debate in Minnesota about passenger rail. Frankly, it is one of the most exciting challenges before FRA right now. It has become one of the keystone pieces of the Administration’s efforts in the recovery, and it truly is a renaissance for passenger rail. So I look forward to working with you on trying to make these projects become a reality.

Senator KLOBUCHAR. Thank you very much. I will say, Mr. Chairman, I learned a new term today from Senator Begich. I always thought we had something in common with rural areas, but now I know his are “extreme rural.”

[Laughter.]

Senator KLOBUCHAR. But I do not know where North Dakota fits in.

Senator BEGICH. It is up there.

Senator DORGAN. Senator Thune from South Dakota?

Senator KLOBUCHAR. Extreme rural.

[Laughter.]

**STATEMENT OF HON. JOHN THUNE,  
U.S. SENATOR FROM SOUTH DAKOTA**

Senator THUNE. Thank you. We would be happy to take you to some extreme rural areas of our States.

[Laughter.]

Senator THUNE. Thank you, Mr. Chairman and Senator Hutchison, for holding today’s hearing, and I want to thank our

panel for their willingness to serve. These are important positions, important to the operation of our Government, and obviously, we may not always agree on every policy, but it is important the positions be filled in a timely manner by qualified nominees who are ready to take on many of the challenges that face our country. And we have many. We have an over-dependence upon foreign energy. Infrastructure is aging. There is no shortage of issues that we need to take on. So thank you for your willingness to serve. I look forward to working with all of you and hope that we can find some solutions and some good results for the American people.

I would like to pose, if I could, a question to Mr. Kienitz, and it has to do with the—some of which has already been alluded to—but the upcoming highway bill debate. Just to get your overall thoughts and without drilling down and getting real specific about how we should address the shortfall in the Highway Trust Fund that is so critical to our Nation's infrastructure.

I do not know if you are familiar with it or not, but Senator Wyden and I have a bill, the Build America Bonds Act, which would supplement funding that States currently receive via the Highway Trust Fund.

I am curious if I might get your overall thoughts with respect to that issue and where you see us going with regard to funding.

Mr. KIENITZ. Yes, sir. Thank you. Yes, I think that is the biggest obstacle right now in the way of the kind of debate over surface reauthorization that I think a lot of people want to have, which is how to create a program that looks to the future and what are the new opportunities available to us. As you know, the gasoline tax as a source of predictable, year-over-year growth in funding has sort of collapsed, as it were. I think everyone feels that it is going to come back eventually. The economy will come back and driving will come back. But even over the last 10 or 12 years, there has been a growing mismatch between the rate at which project costs go up and the rate at which revenue goes up.

So the Secretary is committed to and I think is already engaged in a process inside the Administration of looking at all the many possible options there are about how to fund reauthorization at the levels that I think the members are expecting. That conversation is not complete, and so I am not sure what I can really say about it other than I know they are talking about a whole bunch of different ways to do it. I think he is well aware of the great difficulty there will be in reauthorizing the program if the funding were to go down substantially from the last reauthorization rather than grow, for example.

Senator THUNE. That was sufficiently vague.

[Laughter.]

Mr. KIENITZ. Those are my instructions.

[Laughter.]

Senator THUNE. I understand.

Just one other thought about that, though. There was injected into the stimulus bill debate this whole notion of no new capacity policy, and I am a little concerned we are going to be dealing with it in the surface transportation bill. It seems to me that when you have roughly 85 percent of your highway funds spent on maintenance activities, that this could be a solution in search of a prob-

lem. I guess my question is if you can explain why, on one hand, we want increased flexibility for State and local governments and yet, on the other hand, we are trying to constrain that flexibility to only certain activities.

Mr. KIENITZ. Well, I guess I am not familiar with that conversation as part of the Recovery Act discussion. I know there was a debate on the Recovery Act over what the total amount would be, how much would go to rail, how much would go to transit, and how much would go to roadways, but as far as I knew, the conversation on highway funding was really provided to the States according to the usual system whereby projects are selected at the State level.

I will tell you from my experience working at the State level in Pennsylvania, our ability to fund big new capacity projects just grew less and less every year as funding stayed level and needs grew and we had 6,000 deficient bridges and tens of thousands of miles of deficient roadways. And so as a practical matter, that is sort of where the squeeze ends up, but as sort of a particular mandate at the Federal level, I guess I have not seen that yet.

Senator THUNE. I do not mean to ignore the rest of you. We are trying to drill down on some of these highway issues.

But I do have a question for the second panel if I could submit it for the record. I do not know if I am going to be able to be around for that panel.

Senator DORGAN. Without objection.

Senator THUNE. If I could enter that into the record, that would be great.

So thank you all very much again for your willingness to serve.

Thank you, Mr. Chairman.

Senator DORGAN. Senator Thune, thank you.

Senator Warner?

Senator WARNER. Thank you, Mr. Chairman. Let me add my voice to my colleagues' in saying, hopefully, a prospective congratulations on your nominations and hopefully very quick approval.

I have got two areas I want to take my time on. One is while I am not a mayor, I have dealt with State-level transportation challenges, and one of the most frustrating things at a State level is the silo nature of our transportation funding. One of the things that I particularly was happy to finally see in the Recovery Act was a pot of resources, albeit smaller than I would have liked, that would be supportive of multimodal transportation projects. I believe if we are really going to think in a prospective way about how we fund how we not only connect our road system with our rail system but the airports and ports in a State like Virginia where we have one of the gateway ports for the east coast and an international gateway airport at Dulles, this multimodal notion I think, even maybe for extreme rural States, is part of the mix.

And I would like to hear any members of the panel, Mr. Kienitz, perhaps starting with you, comment about the commitment to multimodal and how, on a going-forward basis, the Recovery Act will not be a one-off time and that we do not get back to a funding cycle. Even as Senator Thune, I think, has appropriately pointed out, current funding is not going to get us where we need to be. And fighting over our ever-diminishing pot of dollars is going to get tougher and tougher.



Is there going to be any chance that we are going to be able to have multimodal as a real transportation policy for the country?

Mr. KIENITZ. Thank you, sir. I guess I will start with that.

Personally I would say I could not agree with you more. I think that that small funding program, though, is a great way to sort of show people what policymaking without consideration for the source of the funds being directed to one mode or another, what that can actually look like. And it means doing things where there is more than one mode involved in a project and not having to go through a horrible legal exercise to say, OK, this is the airport dollar, this is the transit dollar, this is the roadway dollar, but rather look at the project as a whole.

When I spoke earlier to Senator Thune about the idea of what does the challenge for the 21st century look like for rewriting the transportation program, I think that is partly it, is to be able to set overall national objectives, economic competitiveness, safety, environmental sustainability, things like that, and then make funding decisions that drive the country toward those outcomes.

It would certainly be my hope that by making funding available through that discretionary program, it can be demonstrated that that does not end up being an anti-rural program but it may be that the funds you spend in very congested urban areas get spent in different ways than they might have done in the past and that the connections between passenger rail and freight rail and airports are perhaps a greater source of interest to that funding than might have traditionally been in the past when you are spending money in places that have those complicated systems.

Senator WARNER. I would simply add on that. Amen to what you said, but I would hope that those jump-ball dollars that the Department is going to allocate soon, that you look at how the criteria will be established. I mean, there was a group that I was involved in before my election to the Senate, a bipartisan policy group, looking at transportation and what ought to be those new metrics. This would be a great opportunity, I think, with these early dollars to set out some new policy goals that could become part of the active debate next year or later this year on the Surface Transportation Reauthorization Act.

I apologize. I want to get one question. I want to hear multimodal from everybody else. If you could perhaps submit any answers for the record.

But I do want to get back to Mr. Appel on one question about technology, and that is that Senator Klobuchar mentioned the notion of combining roads and broadband so that when you make those changes, you lay in the broadband. We started an initiative like that in Virginia. There has been little real advancement in surface transportation technology.

A little bit earlier today I was looking at what I hope will be one of the first generations of new electric vehicles that may have plug-in capabilities. There is Hawaii and Israel. Denmark has got a proposal to actually retrofit their whole transportation system. And my time is going to run out.

But please comment on how we make sure we really push the technology edge, and from a parochial standpoint, as you look at locations to push that, Virginia Tech has been one of the leaders

in this area with the Smart Road down in Blacksburg. And I hope that that would get on your radar screen, along with those Alaska projects, in terms of how we can push this technology.

I think I have actually used up about all my time, but if you have got a quick response, I would appreciate it.

Mr. APPEL. Absolutely. First of all through the transportation infrastructure investment going on right now, we have a great opportunity to combine a lot of goals at the same time. Sustainability, which relates to the electrical vehicles, is a huge priority of the Department, as is safety, as is capacity. And a lot of the technology—the research that is being done at these universities, working with RITA, and the research being done at RITA itself at the Volpe Center, are geared toward trying to identify technologies that will increase the capacity of existing highways but also bring about the sustainability, bring about safety at the same time.

Basically, if you take a look at what the Volpe Center up in Cambridge is doing right now, they are perhaps the most cross-modal group within the Department. There are engineers and researchers across every mode of transportation. They are working with their counterparts at the universities. And the kind of issues you are talking about are the kind of issues that they are looking at not just applying to roadways or surface transportation, but really across the modes.

So these are exactly the kind of issues that I am going to take a look at as soon as I get there and really try to make sure that our priorities at RITA are aligned with the overall priorities of the Department and the Administration in those areas.

Senator WARNER. Thank you. Thank you, Mr. Chairman.

Senator DORGAN. Senator Warner, thank you very much.

Let me thank all of the nominees. I intend to support all of the nominees. I think you are of extraordinary quality. All of you aspire to join an agency that is part of a big bureaucracy, including bureaucracy within the specific agency to which you aspire to work. Let me urge you, to the extent you can, because every bureaucracy around this town is filled with the cholesterol that blocks the arteries of progress every single day. I hope you will just tip it upside down and shake it when you get there. You have got a lot of big issues on the plate. I mean, really a lot of big issues. I want you to transform the bureaucracy rather than having the bureaucracy transform you.

I have a lot of questions that I would ask, but I think I will defer and submit some questions. But the issue of the modernization of the FAA system—I chair the Aviation Subcommittee here in the Commerce Committee. We have got a lot of issues there with respect to how do we fund modernization. Amtrak is very important, essential air service. There are just so many issues, rural roads.

I am not going to get into the issue of extreme rural. Let me observe that—I mean, I come from a town of 300 people, and on the Fourth of July at the parade, we just parked the float and had people walk around the float.

[Laughter.]

Senator DORGAN. Where I come from, they call that real rural.

So let me thank all five of you and I appreciate very much your appearance here today. You are dismissed.

We will ask that the next nominees come to the table. We will call to the table Mr. Cameron Kerry who is nominated to be General Counsel at the Department of Commerce. Let me hold just for a moment while we clear the table. Ms. April Boyd, Assistant Secretary for Legislative and Intergovernmental Affairs at the Department of Commerce, and Ms. Sherburne Abbott to be Associate Director of the Office of Science and Technology Policy in the Executive Office of the President.

If we can clear the room quickly, we would appreciate that. We would like to begin with the second panel, please.

[Pause.]

Senator DORGAN. Let me thank all of you for your cooperation. We are pleased here to receive the nominations of Mr. Cameron Kerry to be General Counsel of the Department of Commerce. Ms. April Boyd is nominated to be the Assistant Secretary for Legislative and Intergovernmental Affairs at the Department of Commerce, and Ms. Sherburne Abbott to be Associate Director of the Office of Science and Technology. I thank all three of you for being here.

My understanding is that Congresswoman Tauscher wishes to have a statement entered into the record at this point with respect to the nomination of Ms. Boyd.

[The prepared statement of Ms. Tauscher follows:]

PREPARED STATEMENT OF HON. ELLEN O. TAUSCHER,  
U.S. REPRESENTATIVE FROM CALIFORNIA, TENTH DISTRICT

Mr. Chairman and Ranking Member Hutchison, thank you for the opportunity to introduce to the Committee today April Boyd. During the time April worked for me in the House of Representatives, she was known as one of Capitol Hill's most conscientious, dedicated and well-liked staff members, and I know she will fill the same role in the Obama Administration if confirmed as the Assistant Secretary for Legislative and Intergovernmental Affairs within the Department of Commerce.

April served as my indefatigable Communications Director from 2001 to 2004. In 2006, when my long-time Chief-of-Staff was leaving, I asked her to come back in that capacity. As my chief of staff, April not only capably managed my dedicated staff, but she played a key leadership role with the 67-Member House New Democrat Coalition, which I am privileged to chair. In this role, April was my strong voice for economic policies that foster the competitiveness and technological growth imperative to American businesses and workers.

Throughout my tenure, I have worked with many bright, talented staffers on Capitol Hill, and April is among the best. She is a true team-player and, above all, a delight to work with. She is a responsible manager, a dedicated professional, and I am proud to also call her a friend.

If confirmed by the Senate, I know April will be an asset to the Obama Administration's open, honest, accountable Federal Government. She understands the needs of Capitol Hill and will always put her credibility and dedication to our country first.

Mr. Chairman, thank you for your time, and I hope you and your distinguished colleagues will see fit to confirm April Boyd as Assistant Secretary of Commerce for Legislative and Intergovernmental Affairs.

Senator DORGAN. We will begin with Ms. Boyd. I would ask any of you, if you have members of your family who you wish to identify for the Committee, please feel free to do so.

**STATEMENT OF APRIL BOYD,  
ASSISTANT SECRETARY-DESIGNATE, OFFICE OF  
LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,  
DEPARTMENT OF COMMERCE**

Ms. BOYD. Sure. Thank you, Mr. Chairman. In the interest of time, I would like to summarize my prepared remarks and ask that my full statement be submitted for the record.

Senator DORGAN. Without objection.

Ms. BOYD. Thank you.

If I may, I would like to thank you, Chairman Rockefeller, and Ranking Member, Hutchison, for holding today's hearing, and especially Ellen Doneski, for her graciousness throughout this process.

I would also be remiss if I did not thank the career staff at the Department of Commerce for their help thus far, especially Jim Schufreider and Karen Swanson-Woolf, and the General Counsel's Office, and acknowledge my large contingency of family here today. My husband Rob who, without his support, I could not even think about taking on this incredible responsibility. My daughter Adeline, who is probably going to practice her walking in the back of the hearing room. My mom Claudia, and my sister Monica.

Senator DORGAN. Welcome.

Ms. BOYD. Thank you.

I am honored and humbled to have been nominated by President Obama and have Secretary Locke's support to appear before you this afternoon. If confirmed by the Senate, I would be honored to serve as the Assistant Secretary for Legislative and Intergovernmental Affairs and play a role in tapping the Department of Commerce's vast potential to help address our Nation's economic challenges.

Whether it is the \$4.7 billion in broadband grants the NTIA will distribute in communities throughout our country, to NOAA, the upcoming census, or efforts to spur economic development and the growth of new industries, it is hard to find even one American whose life is not impacted or cannot be improved by the work of the Department of Commerce.

If confirmed, I believe my top priority at the Commerce Department should be to be as responsive as possible to Congress and other elected officials, in keeping with President Obama's call for the Federal Government to be open, accountable, bipartisan, transparent, and efficient.

The opportunity to serve as a liaison with Congress and State and local governments is one I take very seriously. As someone who spent the last 8 years working in both the House and Senate, I respect and understand the role of the Congress in ensuring our Government is accountable to the people you and the President represent.

I was fortunate to work for two amazing people on Capitol Hill: Representative Ellen Tauscher of California, and Senator John Kerry. I particularly want to thank Senator Kerry and his staff for teaching me about this incredible chamber and also that the Department of Commerce has a lot to do with our oceans and fisheries.

I most recently served as Chief of Staff to Congresswoman Ellen Tauscher, the Chair of the House New Democrat Coalition. There

I devoted much of my time to working to help enact policies that focus on strengthening America's competitiveness in the global marketplace and fostering the innovation that has always put our workers and businesses at the forefront.

I believe my skills and experiences on the Hill and previously in the Executive Branch have prepared me well for this Assistant Secretary position. If confirmed, I would be honored to serve the President, Secretary Locke, and you at this unique time in our country's history.

Thank you. I would be happy to answer any questions you may have as well.

[The prepared statement and biographical information of Ms. Boyd follows:]

PREPARED STATEMENT OF APRIL BOYD, ASSISTANT SECRETARY-DESIGNATE, OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS, DEPARTMENT OF COMMERCE

Thank you Mr. Chairman, Ranking Member Hutchison, and Members of the Committee. It is an honor both to have been nominated by President Obama and to appear before you this morning. Chairman Rockefeller, during Secretary Locke's confirmation hearing you pointed out that it is "extraordinarily important" the Department and this Committee remain in close contact. I couldn't agree more and, if confirmed, you have my whole-hearted commitment to being open and accessible.

I would like to acknowledge my family here today, beginning with my incredibly supportive husband, Rob, and our daughter Adeline. I'd also like to thank my mom; she raised my sister and me on her own and really instilled in us the value of hard work. And hopefully my grandmother's Internet is working so she can be watching today in Fremont County, Iowa. I would not be here today without any of them.

I would also like to thank Secretary Locke, Phil Schiliro and everyone who has made possible this once-in-a-lifetime opportunity to serve. And I would briefly like to thank the dedicated career staff at the Department, particularly the Acting Assistant Secretary Jim Schufreider, Karen Swanson-Woolf, Jen Costanza and Matt Stout in the Office of Legislative and Intergovernmental Affairs, and the General Counsel's office.

In his confirmation hearing, Secretary Locke talked about the Department of Commerce as "an engine of innovation, job growth, and economic renewal." I believe his vision and energy are exactly what the Department and our country need in these difficult times. If confirmed by the Senate, I would be honored to serve as the Assistant Secretary for Legislative and Intergovernmental Affairs and play a role in tapping the vast potential of the Department to address our Nation's economic challenges.

Because it impacts every sector of our economy, the Department of Commerce touches the life of virtually every American in some way. Under the Department's purview are the upcoming Census; the National Oceanic and Atmospheric Administration's crucial work in climate change, oceans, fisheries, and satellite programs; \$4.7 billion in broadband grants the National Telecommunications and Information Administration will distribute in communities throughout our country; stimulus efforts to spur economic development and the growth of new industries through the efforts of the Economic Development Administration and Minority Business Development Agency; and the International Trade Administration's work to encourage economic growth and provide a level playing field for American businesses. Include with those vital areas the Patent and Trademark Office's work to protect Americans' intellectual property; the science being done at the National Institute of Standards and Technology; and the critical and continual economic policy analyses and statistics produced by Commerce's bureaus, and it's hard to find even one American whose life is not impacted or cannot be improved by the work of the Department.

I believe my top priority at the Commerce Department should be to be as responsive as possible to Congress and other elected officials, in keeping with President Obama's call for the Federal Government to be accountable, transparent and efficient.

The opportunity to serve as a liaison with Congress and state and local governments is one I take very seriously. As someone who spent the last 8 years working in both the House and Senate, it would be a privilege and an honor to be able to reach out and respond to you and your colleagues, Representatives, Governors, May-

ors, and their staffs, and I would ensure that everyone reporting to me shared my same open, responsive philosophy.

I was fortunate to work for two amazing people in Congress: Representative Ellen Tauscher of California and Senator John Kerry. I particularly want to thank Senator Kerry and his brilliant staff for teaching me about this incredible chamber and, in particular, that the Department of Commerce has a lot to do with our oceans and fisheries.

Most recently, I served as the Chief of Staff to Congresswoman Tauscher, the Chair of the House New Democrat Coalition. There, I devoted much of my time to working to help enact policies that focus on strengthening America's economic competitiveness in the global marketplace and fostering the innovation that has always put our businesses and workers at the forefront. In this capacity, the issues on which I focused are some of the most important issues facing American businesses and workers today—passing the economic stimulus packages, expanding broadband deployment, protecting Americans' intellectual property around the globe, expanding trade in a way that creates jobs here at home and expands markets for American goods, and working to promote a regulatory environment that is fair and, above all, predictable.

I believe my skills and experiences on the Hill and previously in the Executive Branch have prepared me well for the Assistant Secretary position, and I look forward to working with the Senate and House to ensure our government is accountable to the people you and the President represent.

If confirmed, I will be honored to serve at this unique time in our country's history. The Department of Commerce's success is vital to America's economic recovery. You have my word that I will work aggressively to address the challenges and maximize the opportunities facing the Department.

---

#### A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):  
 April Susanna Boyd (married name).  
 Prior names: April Susanna Kingery (childhood name) and April Susanna Kaufman (legally took stepfather's last name).
2. Position to which nominated: Assistant Secretary for Legislative and Intergovernmental Affairs, Department of Commerce.
3. Date of Nomination: Intent to nominate announced February 23, 2009.
4. Address (List current place of residence and office addresses):  
 Residence: Information not released to the public.  
 Office: Office of Congresswoman Ellen Tauscher, 2459 Rayburn House Building, Washington, DC 20515 (Note: Through January 31, 2009).
5. Date and Place of Birth: August 8, 1975; Hamburg, Iowa.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
 Spouse: Robert Newton Boyd, III, Associate Attorney, Holland & Knight LLP, 2099 Pennsylvania Avenue, NW, Suite 100, Washington, DC 20006; child: Adeline Anna Boyd, age 1 year.
7. List all college and graduate degrees. Provide year and school attended.  
 BA in Political Science, Magna Cum Laude, Loyola Marymount University, Los Angeles 1997.  
 Also attended: Pepperdine University, Malibu, California, August 1993—December 1994 (first three semesters of college).
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.  
*Congresswoman Ellen Tauscher, Chief of Staff, August 2006 to January 2009.*  
 Served as top strategic advisor to leader of the 68-Member House New Democrat Coalition, the largest bloc of moderates in Congress.  
 Managed annual budget of \$1.3 million and diverse staff of 17 in Washington and three district offices.

Directed all aspects of active Congressional operation, including policy, communications, scheduling, political and outreach.

Oversaw development of international bipartisan Congressional Delegation trips to ensure policy goals were achieved.

Built targeted public outreach program, including strategies to grow opt-in e-mail list and redesign of website, requiring three-fold increase in outreach budget achieved through budgeting and staffing efficiencies.

*Senator John Kerry, National Press Secretary, November 2004 to August 2006.*

Responsible for daily management of responses to media inquires in fast-paced press office, including supervising and coordinating daily activities of Deputy Press Secretary, Committee Communications Director and Massachusetts Press Secretary.

Developed roll-out strategies for major policy initiatives, involving speeches, targeted op-eds, background briefings for media, and website content.

*Senator John Kerry, Official Press Secretary, April 2004 to November 2004.*

Identified legislative communications opportunities.

Developed and edited rapid response communications to clarify Senator's record and distribute to Hill surrogates.

*Congresswoman Ellen Tauscher, Communications Director, January 2001 to April 2004.*

*U.S. Department of Energy, Press Officer and Special Assistant, February 2000 to January 2001.*

Played lead communications role in successful strategy for landmark legislative proposal to compensate sick nuclear workers, including coordinating with press offices at field sites in 12 states, placing surrogates in key markets and briefing reporters and editorial boards.

*U.S. General Services Administration, Media Liaison, April 1998 to February 2000.*

*The Hauser Group, Public Relations Consultant, March 1998 to April 1998.*

*The White House, Presidential Advance, March 1998 to April 1999.* Note: Unpaid position, periodic work around specific events/not full-time employment.

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

My husband and I own four rental units which we lease out, two apartments in our home on 6th Street, SE and a two-unit home on 4th Street, SE, both in Washington, D.C.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

House Chiefs of Staff Association, 2007.

American Legion Auxiliary, lifetime member (inactive). Note: This is a women's organization.

Daughters of the American Revolution, member 2002–present (inactive). Note: This is a women's organization.

Kappa Kappa Gamma sorority, alumna 1996–present (inactive). Note: This is a women's organization.

Atean Society, board 1999–2000 (This organization no longer exists but at the time was a group of young professionals who organized an annual charity benefit.)

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding

debt, the amount, and whether you are personally liable for that debt: No; not applicable.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

*Political Contributions over \$500:*

Obama for America, \$2,300 to general election campaign.  
Richardson for President, \$1,000 to primary campaign.  
Richardson for Governor, \$500.

*Services and Affiliations:*

*Democratic Congressional Campaign Committee*—In my personal time, I have co-hosted events, raised funds and attended events benefiting the DCCC's efforts in the 2006 and 2008 cycles.

*NewDemPAC and Center Stage*—I met with prospective House candidates, made fundraising calls and attended fundraisers and other events for the NewDemPAC (the Political Action Committee of the House New Democrat Coalition) in my personal time during the 2006 and 2008 cycles. I have attended events held by Center Stage, an LLC which primarily held events at the 2008 Democratic Convention.

*Tauscher for Congress and Democrats for the Future*—In my personal time, I have made fundraising calls and attended fundraisers and other events for Congresswoman Tauscher's reelection committee and her Leadership PAC during the 2006 and 2008 cycles.

*Presidential Debates 2004*—I assisted the Kerry-Edwards campaign in a volunteer capacity with media booking and surrogate staffing at the three Presidential debates in 2004.

*Democratic National Convention 2004*—I volunteered as a Network Liaison at the Democratic Convention in 2004. In this capacity, I booked Kerry campaign officials on the networks assigned to me and briefed them for their interviews during the week of the Convention.

*DNC Convention Response Team*—In this volunteer capacity, I assisted in the Democratic response to 2004 Republican National Convention.

*Gore-Lieberman 2000*—In this volunteer capacity, I assisted the Ohio Press Secretary with statewide surrogate pitching efforts.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

*Scholarships:*

I received several merit and need-based scholarships to attend college.

*Other Special Recognition for Outstanding Service or Achievements:*

Secretary of Energy's Award for Excellence for the Energy Employees Occupational Illness Compensation Program Act, 2000.

Named one of the best press officers in the Clinton administration by the Regional Reporters Association, 2000.

Stanley Chan Award for the Outstanding Political Science Graduate, Loyola Marymount University, 1997.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

All columns, op-eds and speeches I have written have been in the name of my employers.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: Not applicable.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?



As Governor Locke said when nominated by President Obama to serve as Secretary of Commerce, “We will harness the resources and the talent of the Department of Commerce to help you fulfill your commitment to the American people to build a stronger and more prosperous nation.” If confirmed by the Senate, I would be honored to serve as the Assistant Secretary for Legislative and Intergovernmental Affairs at the Department of Commerce and play a role in that. The Department has tremendous work ahead of it to help get our economy back on track. I understand that American workers are the best and most industrious in the world and that when American businesses thrive, so will American workers. The President and Congress have undertaken an aggressive stimulus plan to create every opportunity for economic recovery. As the Chief of Staff to the Chair of the House New Democrat Coalition, I have devoted much of my time in the House to working to help enact policies that focus on strengthening America’s economic competitiveness in the global marketplace and fostering the innovation that has always put our businesses at the forefront. In this capacity, the issues on which I focused are some of the most important issues facing American businesses today—passing the economic stimulus packages, expanding broadband deployment, protecting Americans’ intellectual property around the globe, expanding trade in a way that creates jobs here at home and expands markets for American goods, and working to promote a regulatory environment that is fair and, above all, predictable.

In addition, before returning to the House, I worked for Senator John Kerry, who serves on the Senate Commerce, Science and Transportation Committee. While there, I became versed in many of the issues facing the Department.

The opportunity to serve as a liaison with Congress and state and local governments is one I take very seriously. As someone who spent the last 8 years working in both the House and Senate, it would be a privilege and an honor to be able to reach out and respond to the Senators, Representatives, Governors, Mayors, and their staff, and I would ensure that everyone reporting to me shared my same open, responsive philosophy.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

While the Department will be well run by the Secretary and his top managers, I would take great care to ensure taxpayer dollars are wisely spent in the Legislative and Intergovernmental Affairs office. In my most recent position, I was responsible for managing a \$1.3 million annual operating budget and a diverse staff of 17. I have had to make hard staffing and budget decisions in the past, and I am prepared to do so again.

20. What do you believe to be the top three challenges facing the department/agency, and why?

I believe the top priority for the Commerce Department is to be as responsive to the American people and Congress as possible, in keeping with the President’s call for the Federal Government to be accountable, transparent and efficient. Implementation of the American Recovery and Reinvestment Act presents historic challenges and opportunities for the Department, which I look forward to working with the Committee to ensure are met.

The individual challenges in the Department will all benefit from a Department that operates in a way that reflects the Obama Administration’s priorities—whether it is the upcoming Census; the National Oceanic and Atmospheric Administration’s (NOAA) crucial work in climate change, oceans, fisheries, and satellite programs; or the dire need to spur economic development and the growth of new industries through the efforts of the Economic Development Administration, Minority Business Development Agency, National Institute of Standards and Technology, International Trade Administration, and the Patent and Trademark Office.

If confirmed I will be as responsive to Congress and state and local governments as possible, and I will aggressively work to address all challenges and maximize all opportunities facing the Department.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

My husband has mutual fund retirement accounts that are not self-directed, and I participate in the Federal Government’s Thrift Savings Plan program. He continues to hold individual stocks he purchased prior to our marriage. In addition, we own rental property described above and in my SF-278.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: None.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated: None.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

Throughout my career in government—eight years on the Hill and nearly 3 years in the Clinton administration—I have held positions in which I have worked to pass and impact legislation and public policy. Below I have highlighted key activities in each position.

As the Chief of Staff to Congresswoman Ellen Tauscher, I have worked to pass and shape legislation. Specific examples include legislation she sponsored in the 110th Congress to:

Bring greater transparency and accountability to commodity markets without preventing pension funds and other institutional investors from engaging in the futures markets (H.R. 6976);

Ensure that every crib sold in the United States is safe for infants (H.R. 5692); Mandate our troops have sufficient “dwell time,” or periods of rest and retraining, between deployments for Operation Iraqi Freedom or Operation Enduring Freedom (H.R. 3159); and

Repeal the 2002 Congressional Resolution authorizing the use of force in Iraq (H.R. 2450).

In addition, because of the Congresswoman’s role as Chair of the 68-Member House New Democrat Coalition, I have been involved in that organization’s efforts to enact legislation that strengthens U.S. competitiveness, meets the challenges posed by globalization in the 21st century, and bolsters America’s standing in the world. The organization played an active role in the Speaker’s Innovation Agenda—including longstanding New Dem efforts to promote “green tech” jobs, simplify and extend the research and development tax credit, and implement Healthcare Information Technology to reduce healthcare costs and provide savings for patients and businesses. The New Dems also played a lead role in the bipartisan new U.S. trade policy, which includes enforceable core labor and environmental standards, announced in May 2007. A summary of the New Dems’ accomplishments in the 110th Congress can be found at [http://www.house.gov/apps/list/press/ca10\\_tauscher/110th\\_Accomplishments.html](http://www.house.gov/apps/list/press/ca10_tauscher/110th_Accomplishments.html).

As the National Press Secretary to Senator John Kerry, I worked to generate public support for passage of his Kids First bill (S. 114). This legislation would have ensured health care coverage for the then 11 million uninsured children in America by encouraging states to expand coverage under Medicaid and the State Children’s Health Insurance Program and by providing tax incentives for parents to insure their children.

At the Department of Energy, I had primary communications responsibility for the administration’s landmark proposal to compensate sick nuclear workers, the Energy Employees Occupational Illness Compensation Program Act, which was signed into law by President Clinton in 2000. This legislation became only the fourth Federal workers’ compensation program in history.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

See attached Ethics Agreement.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees?

Yes. As someone who has spent the last 8 years on the Hill, I respect and understand the role of the Senate and House in ensuring our government is accountable to the people they represent.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures?

Yes. During my work at the Department of Energy (DOE), I was sympathetic to the men and women who for decades before were blowing the whistle on unsafe working conditions at Atomic Energy Commission and DOE sites. The refusal of the government to acknowledge their claims resulted in decades of our Cold War warriors being left sick or dying as a result of their service in the production of our country's nuclear deterrent. I am proud to have had a role in ensuring their voices were finally heard, and I would work to ensure all congressional witnesses and whistle blowers are heard and protected.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

---

#### RESUME OF APRIL BOYD

##### **Professional Experience**

Congresswoman Ellen Tauscher, *Chief of Staff*, Washington, D.C., August 2006 to January 2009.

Served as top strategic advisor to leader of the 68-Member House New Democrat Coalition, the largest bloc of moderates in Congress, and House Armed Services Subcommittee Chair.

Managed annual budget of \$1.3 million and diverse staff of 17 in Washington and three district offices.

Directed all aspects of active Congressional operation, including policy, communications, scheduling, political and outreach.

Oversaw development of international bipartisan Congressional Delegation trips to ensure policy goals were achieved.

Built targeted constituent outreach program, including strategies to grow opt-in e-mail list and redesign of website, requiring three-fold increase in outreach budget achieved through budgeting and staffing efficiencies.

Reduced mail response time from 120 to 10 days by better utilizing technology and streamlining approval process.

Senator John Kerry, *National Press Secretary*, Washington, D.C., November 2004 to August 2006.

Served as spokesperson for Senator in national and international media outlets.

Developed multi-pronged roll-out strategies for major policy initiatives involving speeches, press events, targeted op-eds, interviews, background briefings with reporters and columnists, press packets, and website content.

Responsible for daily management of media inquires in fast-paced office, including supervising Deputy Press Secretary, Committee Communications Director and Massachusetts Press Secretary.

*Official Press Secretary*, Washington, D.C., April 2004 to November 2004.

Developed and edited rapid response communications to clarify Senator's record and distribute to Hill surrogates.

Identified potential legislative communications opportunities.

Responsible for daily management of press inquires on Senator's record and votes.

Congresswoman Ellen Tauscher, *Communications Director*, Washington, D.C., January 2001 to April 2004.

Devised and implemented redistricting communications strategy to introduce Congresswoman to 200,000 new constituents.

Leveraged Congresswoman's appointment as National Vice Chair of the Democratic Leadership Council to elevate her national profile, including being named one of the "50 most powerful people in Washington" by *George* magazine.

U.S. Department of Energy, *Press Officer and Special Assistant*, Washington, D.C., February 2000 to January 2001.

Played lead role in media strategy for landmark legislative proposal to compensate sick nuclear workers, including coordinating with press offices at field sites in 12 states, placing surrogates in key markets, and briefing reporters and editorial boards.

Acted as traveling press secretary to Secretary Bill Richardson on foreign and domestic trips.

Served as spokesperson for agency and Secretary on nuclear safety, electricity crisis and other issues.

Worked with Communications Director to develop crisis management strategies for breaking public health stories.

U.S. General Services Administration, *Media Liaison*, Washington, D.C., April 1998 to February 2000.

The Hauser Group, *Public Relations Consultant*, Washington, D.C., March 1998 to April 1998.

The White House, *Presidential Advance*, Washington, D.C., March 1998 to April 1999.

### **Political Experience**

Presidential Debates 2004—Assisted Kerry-Edwards campaign with media booking and surrogate staffing Democratic National Convention 2004—Network Liaison.

DNC Convention Response Team—Assisted in Democratic response to 2004 Republican National Convention.

Gore-Lieberman 2000—Assisted Ohio Press Secretary with statewide surrogate pitching efforts.

### **Education**

Loyola Marymount University, Los Angeles, Bachelor of Arts, 1997, Magna Cum Laude.

### **Distinctions**

Named one of the best press officers in the Clinton administration by the Regional Reporters Association, 2000 Secretary of Energy's Award for Excellence for the Energy Employees Occupational Illness Compensation Program Act, 2000.

February 20, 2009

Ms. BARBARA S. FREDERICKS,  
Assistant General Counsel for Administration,  
U.S. Department of Commerce,  
Washington, DC.

Dear Ms. Fredericks:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Assistant Secretary for Legislative and Intergovernmental Affairs, United States Department of Commerce.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(10)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Within 90 days of my confirmation, my spouse and I will reduce our interests in Exxon Mobil and Johnson & Johnson sufficiently to allow my participation in matters of general applicability, consistent with 5 C.F.R. § 2640.202(c). We will divest enough shares of Exxon Mobil to reduce the value of our interest to no more than \$20,000. We will divest enough shares of Johnson & Johnson to reduce the value of our interest to no more than \$20,000, with the aggregate value of our interests in Johnson & Johnson, General Electric, and Pfizer being reduced to no more than \$45,000. With regard to Exxon Mobil and Johnson & Johnson, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of these entities until we have divested our interests to a value below the ceiling of the regulatory exemption allowing participation in matters of general applicability, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). After these initial divestitures, I will monitor the values of my interests in these companies carefully to ensure that I remain eligible to participate in matters of general applicability affecting them.

Moreover, if I rely on a *de minimus* exemption under 5 C.F.R. § 2640.202 with regard to any of my financial interests, I will monitor the value of all such interests. If the aggregate value of interests affected by a matter of general applicability increases and exceeds the *de minimus* threshold or if the value of an individual holding exceeds the *de minimus* threshold, I will not participate in the matter, unless I first obtain a written waiver under 18 U.S.C. § 208(b)(1).

My spouse is employed as an associate by the law firm Holland & Knight, LLP, from which he receives a fixed salary and an annual bonus. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my spouse's, compensation or employment with Holland & Knight, LLP, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1). I also will not participate personally and substantially in any particular matter involving specific parties in which the firm or any client of my spouse is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, for the duration of my appointment to the position of Assistant Secretary for Legislative and Intergovernmental Affairs, my spouse has agreed not to communicate with the Department of Commerce on behalf of the firm or any client.

Sincerely,

APRIL S. BOYD

Senator DORGAN. Ms. Boyd, thank you very much.

Mr. Kerry, your entire statement will be made a part of the permanent record, as well as Ms. Abbott's when she testifies.

**STATEMENT OF CAMERON F. KERRY, GENERAL COUNSEL-  
DESIGNATE, DEPARTMENT OF COMMERCE**

Mr. KERRY. Thank you, Chairman Dorgan and Ranking Member Hutchison and Members of the Committee. I am honored to be here today, and I am humbled by the trust that President Obama and Secretary Locke are placing in me. I am grateful for this opportunity to serve the American people as General Counsel at the Department of Commerce.

I am also very honored to join a distinguished group of lawyers from both parties who have held this post who have set the bar very high.

I do want to thank my brother, Senator Kerry, for his very generous introduction today. Sometimes, between siblings, words like

that do not come easily, so I am certainly enjoying the occasion. I think the Committee can rest assured that I will be very attentive to this body because if I am not, my big brother is going to beat me up.

[Laughter.]

Mr. KERRY. In truth, I have always looked up to my big brother because of the way that he has invested his life in public service, and I have seen up close the sacrifices that public servants, both elected officials and government workers, make and how hard they work. I am awed and humbled by their example and gratified by the opportunity to serve myself.

I would like to take a moment to introduce to the members of the Committee who were not presented to my family earlier, my wife, Kathy Weinman. Kathy and I actually met here in the City of Washington as young associates at a law firm. This is where we fell in love. So this city has romantic associations for us. Since we have made our home in Boston, she has, as my brother mentioned, become a distinguished lawyer there and now heads the Boston Bar Association, which is the Nation's oldest. It was founded by John Adams.

Our youngest daughter, Laura is keeping her college class schedule in Senator Snowe's State, but we are proud to have with us here my daughter Jessica as well.

The Department of Commerce, as April Boyd has discussed, has a broad mandate of stewardship of knowledge, of innovation, and of economic growth. As the agency's chief legal officer, the General Counsel faces an array of complex problems from trade to climate science, to Internet technology, to fisheries, to intellectual property, among many others. And the General Counsel has to manage some 400 lawyers in 14 bureaus and face the difficult issues ahead immediately of the 2010 Census, the stimulus program, and patent reform.

All this will be a challenge, but it is a challenge that I welcome. In 30 years as a regulatory lawyer, as a litigator, I have had to master a number of complex areas of the law from the time that I started practice here in Washington at Wilmer, Cutler as a communications and antitrust lawyer, to teaching communications at Suffolk Law School, to reaching beyond those boundaries to litigate complex cases in environmental cleanup and toxic torts, in insurance regulation, all of which demanded the mastery of expert witnesses in a variety of scientific and professional disciplines. And I have appeared in various jurisdictions not just in New England but around the country and here in the District of Columbia.

So I come before you today with much to learn, but I believe also with the skill, the judgment, and the range to address the broad array of issues at the Department of Commerce. I plan to give this job every bit of energy, creativity, versatility, curiosity, and intellect that I can muster.

As I do that, I will have the help of an experienced career staff. A law office depends on its intellectual capital, and that is something that the General Counsel's Office has in abundance.

My goal, members of the Committee, if I am confirmed, is to make sure that this intellectual capital is harnessed in the service of economic recovery in the national task of creating jobs and eco-

conomic growth. The lawyers of the Department can support that task by turning to it urgently with their most thorough analytical skills, their most creative imagination, and their most careful ethical judgment.

If I am confirmed, I will also bring the experience—in politics and in my brother’s national campaign. This has bearing because each of the members of this Committee and of this body knows well that campaigns are a crucible, and in some small measure, I have been through that crucible and had the opportunity to deal with national issues, to advise on national issues, and to have, as I have gotten to know the States of some of the members here, the opportunity to have some of the conversations you have had with people who wonder how they are going to be able to pass on to their children what our parents passed on to us.

I believe I can be a better advisor to the Secretary, a better Counsel to the Department, and more attentive to the members of this body because of those experiences.

This is an extraordinary time of challenge, a time to be in public service. I am honored to be asked to serve as General Counsel, and I am grateful for the opportunity not just to be here today but to the members who have shared their time, their insights on the issues before the Department of Commerce, and I hope that those conversations are just a beginning, that Secretary Locke and the Department of Commerce can look forward to a productive partnership with this Committee, with this body in the work of lifting the Nation out of its economic crisis and renewing prosperity and opportunity.

I would be happy to answer any questions the Committee has.

[The prepared statement and biographical information of Mr. Kerry follows:]

PREPARED STATEMENT OF CAMERON F. KERRY, GENERAL COUNSEL-DESIGNATE,  
DEPARTMENT OF COMMERCE

Chairman Rockefeller, Senator Hutchison and Members of the Committee, thank you. I am honored to be here and humbled by the trust President Obama and Secretary Gary Locke are placing in me. I am grateful for the opportunity to serve the American people in the challenging post of General Counsel of the Department of Commerce.

I am also honored by the chance to join the distinguished group of lawyers from both parties who have held the same post. They have set the bar high.

I want to thank my brother for his generous introduction. Sometimes between siblings words like those don’t come easily, so I certainly am enjoying the occasion. You can rest assured that I will always be attentive to this Committee.

I have always looked up to my brother. He has invested his life in public service. Too many people put down elected officials, and government workers, too easily. But I have seen up close the sacrifices that public servants make and how hard they work. I am awed and humbled by their example, and gratified to have this opportunity to make some contribution myself.

I’d like to take a moment to introduce my wife Kathy Weinman. We met and fell in love here in Washington as young associates at a law firm. Since we made our home in Massachusetts, she has become a leading litigator there and now serves as President of the Boston Bar Association, the Nation’s oldest, founded by John Adams.

Our youngest daughter Laura is keeping her college class schedule in Senator Snowe’s state, but Kathy and I are proud to have with us today our other daughter Jessica.

The Department of Commerce has a broad mandate for stewardship of knowledge, innovation, and economic growth. As the agency’s chief legal officer and a counselor to the Secretary and other officers of the Department, the General Counsel faces an

array of complex issues, from trade to the environment to Internet technology to intellectual property, among others. The General Counsel must manage some 400 lawyers in 14 bureaus and divisions. Right away, the next General Counsel will face difficult and important issues arising from the 2010 Census, the stimulus program, and patent reform.

All this is will be a challenge, but it is a challenge I welcome. In my 30 years of practice as a regulatory lawyer and a litigator, I have had to master a number of diverse and complex areas of the law. I began practice here in Washington at Wilmer, Cutler & Pickering as a communications and antitrust lawyer. I broadened my communications practice when I returned to Boston and joined Mintz Levin, and also taught in this rapidly-changing field as an Adjunct Professor at Suffolk University Law School. But I have reached out beyond the boundaries of a single field of law to try challenging cases in areas such as environmental litigation, toxic torts, and insurance regulation. One of the demands of such cases was master expert testimony in a variety of scientific and professional disciplines. I have appeared in courts and agencies in most of the New England states as well as New York, Illinois, Florida, and here in the District of Columbia, among other venues. Though I have more to learn, I believe I come before you with the range, the skill, and the judgment to address the broad array of legal issues at the Department of Commerce.

If confirmed, I will give this job every bit of energy, curiosity, creativity, versatility, and intellect I can muster. And I will have the help of a talented and experienced career staff. A law office depends on its intellectual capital—the store of the knowledge and experience of its professionals. This is one resource the Office of General Counsel, like much of the Department of Commerce, has in abundance.

My goal if I am confirmed is above all to make sure this intellectual capital is fully harnessed in the service of economic recovery. The programs of the Department of Commerce are invaluable tools for the national task of creating jobs and jump-starting economic growth, and the lawyers of the Department can support this essential task by turning to it urgently with their most thorough analytical skills, their most creative imagination, and their most careful ethical judgment.

I also bring with me my experience in politics and my brother's national campaign. It's relevant because, as each one of you knows well, campaigns are a crucible. And in some small measure, I have been through that crucible. I have been afforded the opportunity to grapple with and advise on a range of difficult national issues. I have been given the opportunity of getting to know many of your states, and having some of the same conversations you have had with people who wonder how they will be able to pass on to their children what our parents passed on to us. If I am confirmed, I will be a better adviser for the Department and the Secretary—and more attentive to members of this body—because of these experiences.

This is a time of challenge such as few generations in American history have faced. This is a time to be in public service. I am honored that President Obama has asked me to serve as the General Counsel of the Department of Commerce, and I am ready to do so if I am confirmed.

I am grateful for the opportunity to be here today, and grateful to members of this Committee and their staffs who have shared their insights on issues facing the Department. I hope our conversations are just a beginning, and that Secretary Locke and the Department of Commerce can look forward to a productive partnership with this Committee and the Congress in the work of lifting the Nation out of its economic crisis and restoring opportunity and confidence.

I would be pleased to answer any questions.

---

#### A. BIOGRAPHICAL INFORMATION

1. Name (include any former names or nicknames used):

Cameron F. Kerry (Cam Kerry).

Position to which nominated: General Counsel, Department of Commerce.

3. Date of Nomination: April 20, 2009 (expected).

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: Mintz Levin Cohn Ferris Glovsky & Popeo. P.C., One Financial Center, Boston, MA 02111.

5. Date and Place of Birth; September 6, 1950; Washington, D.C.



6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

I am married to Kathy B. Weinman, who is a partner at Dwyer & Collora, LLP in Boston, MA. We have two daughters, Jessica Weinman Kerry, 23; and Laura Weinman Kerry, 19.

7. List all college and graduate degrees. Provide year and school attended.

Boston College Law School, 1975–78, J.D., *magna cum laude*.

Harvard College 1968–72, B.A., *cum laude* in General Studies (concentration in American History).

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

*Member, Mintz Levin Cohn Ferris Glovsky & Popeo, P.C., Boston, MA (Associate, 1983–1987; Member 1987–present).*

*Adjunct Professor, Suffolk University Law School, Boston, MA (1997–2002).*

*Associate, Wilmer, Cutler & Pickering, Washington, D.C. (1979–1982; on leave of absence 1982).*

*Campaign Manager, John Kerry for Lieutenant Governor, Boston, MA (1982).*

*Law Clerk to Senior Judge Elbert P. Tuttle, U.S. Court of Appeals for the Fifth Circuit, Atlanta, GA (1978–79).*

Summer Associate, Ropes & Gray, Boston, MA (Summer 1977).

Intern, Massachusetts Executive Office Consumer Affairs, Boston, MA (Summer 1976).

*Campaign Director, Paul Guzzi for Secretary of State, Newton, MA (1973–74).*

Freelance Writer and Political Consultant, Cambridge, MA (1973).

Taxi Driver, Cambridge Yellow Cab, Cambridge, MA (part-time. 1973–74).

*Strategy Director, John Kerry for Congress, Lowell, MA (1972).*

(Because the position of General Counsel involves a wide range of legal duties, I have highlighted all the full-time legal positions as well as those positions that involved management-level jobs.)

9. Attach a copy of your resume. Attached as Attachment A.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

Member, Civic Engagement Working Group, Massachusetts, Patrick-Murray Transition Committee (December 2006).

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

#### *Employers*

Mintz Levin Cohn Ferris Glovsky & Popeo, P.C., Boston, MA, Member of firm (April 1987 to present; Associate since 1983).

Suffolk University Law School, Boston, MA, Adjunct Professor (January 1997 to May 2002)

#### *Non-profit board memberships*

Citizen Schools Boston, Boston, MA, Council of Champions Advisory Board Member (November 2006 to present).

New England Nordic Skiing Association, New Gloucester, ME, Member of Board of Directors (December 1999 to present)

National Jewish Democratic Council, Washington, D.C., Vice-Chair (January 2008 to present); Executive Committee (January 2006 to February 2008); Board Member (February 2005 to present).

#### *Law Firm Clients*

Adelphia Cable Communications, Coudersport, PA, outside attorney (May–September 2005).

Alticom, Inc., Canton, MA, outside attorney (February 2001 to May 2004).

Comcast Corporation (and subsidiaries), Philadelphia, PA, outside attorney (February 2002 to present).

Coyote Springs investments LLC, Sparks, NV, outside attorney (January 2005 to May 2007).

Fibertech Networks, LLC, Rochester, NY, outside attorney (March 2001 to February 2005).

Virginia Fruh, Newburyport, MA, outside attorney (January 2002 to present).

Greater Boston Interfaith Organization, Boston, MA, outside attorney (March 2006 to March 2008).

The Hartford, Hartford, CT, outside attorney (April 2006 to September 2007).

Infinity Broadband Ltd., Grand Cayman, outside attorney (November 2006 to May 2007).

Inside Cable, Inc., Billerica, MA, outside attorney (June 2004 to present).

Maurice Khawam, NextFund Capital, Paris, France, outside attorney (December 2006).

Massachusetts Property Insurance Underwriting Association, Boston, MA, outside attorney (July 1991 to present).

MetroPCS Communications, Inc., Richardson, TX, outside attorney (December 2008 to present).

New England Sports Network, Watertown, MA, outside attorney (March 1993 to present).

New England Cable & Telecommunications Association, Braintree, MA, outside attorney (June 1985 to July 2006).

SAS Institute, Cary, NC, outside attorney (September 2007 to March 2008).

Terra Mark, LLC, Stamford, CT, outside attorney (January 2006 to January 2008).

Time Warner Cable, Inc., New York, NY, outside attorney (July 1992 to present).

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

A list of memberships is attached as Attachment B. It includes organizations such as public radio stations where "membership" involves primarily making a contribution but also provides some membership benefits such as a magazine subscription or a discount card, but does not include general contributions. To the best of my knowledge, none of these organizations restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has an outstanding debt, the amount, and whether you are personally liable for that debt.

Yes. During 2005, I was an active candidate for Secretary of the Commonwealth (Secretary of State) in Massachusetts but ended the candidacy when the incumbent decided not to run for other office. The campaign committee (The Cam Kerry Committee) has no outstanding debts.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

A list of such contributions since 1998 is attached as Attachment C. It includes contributions made by The Cam Kerry Committee, the Massachusetts political committee formed for the candidacy described in response to Question A.13.

In 2003-04, I was a traveling surrogate and senior advisor to John Kerry for President, Inc. and the Democratic National Committee, in connection with which I also served as Co-Chair of Lawyers for John Kerry and Lawyers for Kerry-Edwards, and Chair of the Kerry-Edwards Middle East Advisory Committee. My expenses were paid.

In 2006, I co-chaired Massachusetts Victory 2006, the coordinated campaign of the Massachusetts Democratic Party from March through November. This was a volunteer position.

In 2008, from October to November I was senior advisor to the Ohio Campaign for Change, the Democratic coordinated campaign, working on voter protection. This

was a volunteer position. I was also a member of the Obama National Finance Committee and New England Finance Committee, and a Chair of the New England Jewish Leadership Committee.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Fellow, American Bar Foundation.

Honored by Mass Vote (voter engagement nonprofit) as a “Champion of Democracy” (September, 2008).

Cited by the National Press Photographers Association for “outstanding support in promoting and protecting the First Amendment freedoms for working photojournalists with legal action in America’s courtrooms” (July 1990).

Order of the Coif.

Executive Editor, Boston College Law Review (1977–78).

Overall winner and winner of Best Speaker and Best Brief awards, Grimes Moot Court Competition, Boston College Law School (1978).

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

#### *Publications*

Obama Is Calling to Jews, Jewish Telegraphic Agency (April 18, 2008).

Unpacking the Massachusetts Preliminary Injunction Standard, Massachusetts Law Review (Winter 2007).

Contributor, Report and Recommendations, Civic Engagement Working Group, Patrick-Murray Transition Committee (December 2006).

Voting Made Easy, Boston Globe Op-Ed (Oct. 3, 2005).

Counting Every Vote, Boston Globe Op-Ed (Jan. 6, 2005).

Coordinating editor, Special Millennium Issue, The Constitution in The 21st Century, 44 Boston Bar J. No. 1 (Jan. 2000) (a collection of articles by judges and prominent BBA members on current constitutional issues).

Door Left Open For Operators to Sue for Access to Rights of Way, 17 Cable TV & New Media Law & Finance 1 (Sept. 1999), with Frank W. Lloyd and Scott A. Samuels (a note on a First Circuit decision on provisions of the Telecommunications Act of 1996).

*Kumho Tire* Widens The Gate, Toxic Torts & Environmental Law (Summer, 1999)(analysis of Supreme Court decision on admissibility standards for expert testimony under Fed. R. Evid. 702).

Feds Finding That Old Rules Don’t Work on Net, Mass High Tech (April 5–11, 1999) (reporting on communications regulation issues affecting the Internet).

A Sword And A Shield: The Effect of New Standards on Lead Liability Litigation, in Conference Materials, Lead and the Law Conference presented by IAQ Publications, Washington, D.C., and conference presentation on Lead Exposure—A Critical Examination of Legal, Medical, and Bureaucratic Models (March 1997) (analysis of the impact of HUD and EPA regulations on liability standards in lead litigation).

Playing The Odds in Lead Litigation, in Conference Materials, Lead Tech Conference presented by IAQ Publications in Arlington, Virginia, and conference presentation (Oct. 1996) (statistical analysis of verdicts).

A Statistical Analysis of Lead Litigation Verdicts, Mealey’s Litigation Reports—Lead (July 3, 1996 ) (same).

*Lanigan’s* Wake: Has a New Standard Emerged for Admitting Scientific Evidence in Massachusetts Court? 40 Boston Bar, J. 8 (Jan.-Feb. 1996), with Andrew N. Nathanson (review and analysis of Massachusetts SJC’s adoption of *Daubert* standards in *Commonwealth v. Lanigan*).

Franchise Fees Enforcement Under The Cable Act: An FCC Responsibility, 39 Fed. Communications Law J. 53 (1985), with Frank W. Lloyd (analysis of Communications Act provisions and FCC authority relating to local cable television franchise fees).

Principal author and editor, State and Municipal Regulation of Cable Television, and editor, Federal Regulation of The Content of Programming Ori-

nated by Cable Systems, in C. D. Ferris, F. W. Lloyd & T. Casey, *Cable Television Law* (Matthew Bender & Co., 1983 & Supps. 1984–96) (treatise chapters and periodic updates on title subjects).

Regulation of Internal Union Affairs—Access to the Union Ballot Under the LMRDA; and Certification of a Discriminatory Bargaining Representative—*Bekins* Overruled: *Handy Andy, Inc.*, in *Annual Survey of Labor Relations and Employment Discrimination Law*, 18 *Boston College L. Rev.* 1045, 1090 (1977) (notes on NLRB decisions).

Note, Advertising of Prescription Drug Prices as Protected Commercial Speech—*Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 18 *Boston College L. Rev.* 276 (1997) (a comment on First Amendment standards of review applicable to commercial speech).

*Professional Lectures and Presentations*

Panelist, Review of the 2008 Election And Its Impact on Telecommunications, Boston University College of Communications and Federal Communications Bar Association New England (November, 2008).

Colloquium Presentation, Economic Warfare on the Internet: The Case of The 2004 Presidential Election, Ecole de Guerre Economique, Paris, France (April 2007, in French).

Guest Lecturer, Telecommunications Regulation in the United States, Masters in Telecommunications Law Program, Universidad Pontificia de Las Comillas de Madrid/ICADE Madrid, Spain (May 1999).

Program Chair, The 1996 Telecommunications Act: A Guide to The Changing Landscape, Conference presented by Massachusetts Telecommunications Council and Mintz Levin Cohn Ferris Glovsky & Popeo, P.C. (January 1999).

Conference Presentation, Sources and Impact of Lead: An Update of Environmental Factors, Lead Tech Conference presented by IAQ Publications, Inc., Baltimore, Maryland (October 1998).

Conference Presentation, Lead and the Law Conference presented by IAQ Publications, Baltimore, Maryland (May, 1998).

Conference Presentation, Mealey's Publications National Lead Litigation Conference, Philadelphia, Pennsylvania (April 1998).

Chair, Mealey's *Dauber* and Expert Admissibility Conference, Philadelphia, Pennsylvania (October 1997).

Program Faculty, New Opportunities in The Changing Communications Industry, Suffolk University Law School Advanced Legal Studies Program (April 1997).

Co-Chair, Mealey's Publications National Lead Litigation Conference, Philadelphia, Pennsylvania (May 1996).

Co-Chair, Mealey's Publications National Lead Litigation Conference, Philadelphia, Pennsylvania (May 1995).

Panelist, Massachusetts Property Insurance Underwriting Association Seminar on Lead Poisoning Claims and Litigation, Braintree, MA (June 1994).

Panelist, Coping with the Cable Television Consumer Protection and Competition Act of 1992, New England Cable Television Association (January 1993).

Panelist, Massachusetts Property Insurance Underwriting Association Seminar on Lead Poisoning Claims and Litigation, Braintree, MA (November 1992).

Lecturer, Discovery and Investigation of Sources of Exposure and Causes of Injuries, Mealey's Publications National lead litigation Conference, Philadelphia, Pennsylvania (May 1992).

Panelist, How to Try a Lead Poisoning Case, Massachusetts Continuing Legal Education Program (February–March, 1992).

Panelist, Waste Disposal Liability Workshop, Massachusetts Municipal Association, Westborough, MA (November, 1986).

In addition to these individually-identified presentations or lectures, I have regularly appeared as a panelist on current regulatory developments at semi-annual conferences of the New England Cable & Telecommunications Association; on similar topics at occasional other cable television trade association or continuing legal education conferences; and at Mintz Levin presentations for clients and others on communications regulation, litigation, and environmental exposure issues.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

In June 1986, as counsel for Grant Gear Works, Inc., I appeared before the Senate Committee on Environment and Public Works in connection with testimony given by John F. Hurley, President of Grant Gear Works, Inc. on CERCLA (Superfund) liability standards.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

The Department of Commerce has a broad and diverse portfolio. It calls for a General Counsel who is able to bring judgment and facility to a range of complex and often novel problems. That has been the nature of my practice in my 30 years as a litigator and regulatory lawyer at leading law firms in Boston and Washington.

Trial practice has demanded accelerated and intensive mastery of changing subjects and fact patterns, from remediation of PCB pollution to the epidemiology of lead poisoning to environmental insurance coverage to telecommunications inter-carrier billing to hurricane modeling (among others). At the same time, my continuous years of practice as well as my teaching in communications law has grounded me in issues of technology, regulation, and competition that are central to the role of the Department in promoting innovation and broadband development.

More specifically, my work in this field familiarizes me with the industry and issues that are front and center in the National Telecommunications and Information Administration's work as it oversees the digital transition and distribution of stimulus funds for broadband development. This familiarity with technology, with electronic communications, and with communications networks carries over into the work of the Bureau of Industry and Security (cyber-security and privacy), trade promotion in the International Trade Administration (e-commerce and privacy), and the National Institute of Standards and Technology (standards). I understand the importance and challenges of these sectors to the future of the American economy because they have been part of my working life for 30 years.

In addition to this specific involvement in technology and telecommunications, my practice has given me tools to deal with the more general role of the Department of Commerce in the promotion of science and stewardship of the environment. Although I pursued a training in the liberal arts, I have found that my work using or challenging expert witnesses and applying the Supreme Court's decision in *Daubert v. Merrell Dow Pharmaceuticals Corp.* On the admissibility of scientific evidence has demanded an understanding of science and scientific method. In the course of my practice, disciplines I have had to cope with include accountants, actuaries, economists, engineers, epidemiologists, hydrogeologists, metallurgists, meteorologists, neuropsychologists, occupational therapists, pediatricians, and toxicologists. Most recently, work on insurance regulation involving hurricane risk has delved into catastrophe models based on extensive hurricane data developed by the National Hurricane Center of the National Weather Service.

My legal experience and judgment is informed both by my representation of clients in the private sector and by my involvement in national and state politics. From my clients, I have an appreciation of the needs and interests of the Department's business stakeholders, and of the frustration they sometimes have with government. At the same time, my involvement in politics has engaged me with communities, issues, and people outside the usual confines of law practice, and deepened my understanding of the issues that America and its people face. Political campaigns are a form of conversation between government and the people. I will be a better adviser for the Department and the Secretary because I have been part of this conversation.

My work in the political arena reflects my abiding concern for public issues and government. Even though I have spent much of my career in the private sector, I regard public service as the highest calling. This is a time of challenge such as few generations in American history have faced. It is a time to be in public service. I am honored that President Obama has asked me to serve in the job of General Counsel at the Department of Commerce, and I am ready to do so.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

The most important management responsibilities of the Office of General Counsel, both as counselor to the Secretary of Commerce and secretarial officers and as the chief legal officer for the Department's operating units, are to anticipate risks that

may develop into legal problems and to ensure compliance with the Department's legal authorities. This responsibility calls above all for a high standard of legal judgment and—through leadership and engagement, clear communications and accountability—creating a culture within all of the Department's legal offices that fosters the exercise of such judgment in all their work.

The direct staff of the Office of General Counsel is comparable to (and in some cases smaller than) staffs I have run for cases or clients or in political campaigns. The advisory role for the Secretary is similar to the roving advisory role I had in the Presidential campaign of 2004, where I was able to leverage a similarly-scaled personal staff to work with a variety of operating units in a variety of roles. Having handled the challenges of that role gives me confidence I am capable of the job of General Counsel of Commerce.

A critical element in managing an organization of any scale is seeing that the right people are in the right jobs. I have found that people I myself have hired or selected for jobs have generally succeeded in those jobs. I believe that judgments I have made about people associates, partners, assistants, campaign staff, opposing counsel, witnesses—more often than not have proved out over time. Recognizing and recruiting talented personnel in the Commerce Department's legal offices will be key to success as General Counsel.

20. What do you believe to be the top three challenges facing the department/agency, and why?

The Department of Commerce has a key role in promoting knowledge, innovation, and economic growth across many economic sectors. This role is essential in these challenging economic times when job creation must be job one. Within this broad frame, here are three immediate challenges that the Department has thrust on it:

First and foremost is to focus the Department's mission on the critical task of economic recovery and job creation. This challenge is urgent and will be overriding for the foreseeable future. The programs of the Department of Commerce are key tools for the Nation's task of creating jobs and jump-starting economic growth, and the Department needs to make the most of these tools by ensuring that the priorities of each operating unit put recovery and job creation first.

Second, the Department is entrusted with specific responsibilities under the American Recovery and Reinvestment Act that require immediate and concentrated attention. These include in particular preparing for \$4.7 billion in wireless and broadband infrastructure grants by the National Telecommunications and Information Administration, as well as for research, for construction, and for development grants by the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, and the Economic Development Administration (which the 2010 budget proposal increases). The Department needs to make sure these funds are used quickly, fairly, and effectively to meet the goals of the Act.

Third, the Department has only a short time to complete its ramp-up to the 2010 census. The Inspector General's September 2008 Report to Congress identifies this as "the most significant challenge facing the Department," and the Government Accountability Office has placed the census on its list of high-risk programs. At this stage, much of the planning and procurement for the 2010 census has already been set by the systems, technology and personnel in place during the planning since the 2000 census. Nevertheless, the Department still has to put more than one million Americans to work on the census. This important task presents a challenge to hire, train, and manage such a large number of temporary employees and conduct outreach in the very near future.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

Please see Schedule C, Part II of my financial disclosure report.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with a business, association or other organization during your appointment? If so, please explain: None.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Over the course of the nomination process, I have consulted with the Department of Commerce's designated agency ethics official and the Office of Government Ethics to identify potential conflicts of interest and have entered into an ethics agreement

with the Department's designated agency ethics official. Any potential conflicts of interest will be resolved in accordance with the terms of this agreement. I am not aware of any other potential conflicts of interest.

4. Describe an business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

A list of employers and of clients I have represented in the past 5 years is included in my response to Question A.11. Organizations and clients that might present a conflict of interest have been disclosed to the Office of Government Ethics and to the Department of Commerce designated agency ethics official.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

During this time, I have not engaged in any such activity that would trigger registering as a lobbyist under Federal or state law. In the course of my law practice, I have represented clients in adjudicatory proceedings, rulemakings, and policy advocacy before the Federal Communications Commission and state and local regulatory bodies in Massachusetts, New Hampshire, New York, and Rhode Island, as well as in judicial review of agency decisions.

In addition, I have been involved since 2005 as a citizen in seeking the passage of legislation to permit Election Day registration in Massachusetts. As a member of the Massachusetts bar, I have participated from time to time in lobbying days for legal services funding. As Co-Chair of Lawyers for John Kerry, I have organized public advocacy for the Federal Count Every Vote Act and opposition to the nomination of Samuel Alito to be a Supreme Court Justice. In a broad sense, most of my political involvement in this period has sought to affect the administration and execution of law and public policy.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In addition to the specific steps detailed in the ethics agreement, I will consult with ethics officials of the Department of Commerce to resolve any potential ethics issues that may arise.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain.

In 1972, to considerable notoriety, Thomas J. Valley (later elected to the Massachusetts Legislature) and I were arrested in Lowell, Massachusetts on the eve of a Congressional primary in the basement of a building that contained the telephone junction box for our campaign headquarters—and also the headquarters of another candidate. We were arrested and charged with breaking and entering in the nighttime with intent to commit a felony. After a probable cause hearing in Lowell District Court, the matter was bound over to a grand jury in Middlesex County, Massachusetts. The grand jury returned an indictment on the same charge. Following arraignment in Middlesex County Superior Court, the case was continued without a finding (with no admissions), and dismissed on the prosecution's motion in 1973.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

In 1991, I was the named defendant and gave deposition testimony in a personal injury claim in Manhattan County, New York alleging that a car registered in my name was involved in hit-and-run accident. The case was dismissed on summary judgment in 1995 based on evidence that I was at my office in Boston on the day in question, that the car in question was in its garage at home and that, while my car was a red subcompact, the car in the accident was described as white and mid-sized.

In 1986, I was sued in Superior Court for Suffolk County, Massachusetts, in my capacity as an escrow agent for proceeds from the liquidation of assets of a closed corporation of which a client was one of two 50-percent shareholders. These funds were held in escrow pending agreement on the distribution of these proceeds. When no agreement was reached, the other shareholder, represented by my co-escrow

agent, brought suit against my client and me. The case was resolved with an agreement between the shareholders on distribution of the funds at issue.

In 1986, I was the petitioner in an administrative proceeding before the Board of Appeal of the Massachusetts State Merit Rating Board to challenge a Safe Driver Program Insurance Plan surcharge. The surcharge was deleted.

In 1978, I was a party to a landlord-tenant proceeding before the Cambridge, Massachusetts Rent Control Board arising from my withholding rent based on a furnace defect and the landlord in turn commencing eviction. The matter was resolved by agreement.

In 1976, I was one of several defendants in a defamation action in Middlesex Superior Court that was dismissed on summary judgment. The action arose out of the 1975 city election in Cambridge. Members of an organization for which I was consulting received information that absentee ballot fraud was taking place in certain precincts. Based on this information, I was one of several people who challenged all absentee ballots cast in those precincts. An election inquest subsequently determined that ballot fraud had taken place, and at least one candidate involved was prosecuted and disqualified from office. Another candidate who was not involved later sued everyone who challenged ballots, claiming that we defamed him by challenging ballots in precincts where his support was concentrated. Summary judgment was granted in 1977 on the grounds that the communication was privileged.

In 1971, I was a plaintiff in an action in District Court in Ayer, Massachusetts to rescind a contract I made while still a minor for the purchase of a car from Union Square Motors of Somerville. The action was settled.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain.

No. Although my law firm has been named as a defendant in such matters, these are not cases in which I was personally involved or implicated.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees?

Yes. I will work with management of the Department of Commerce to help this and other Congressional committees fulfill their responsibilities for legislation and oversight.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures?

Yes. It is a specific responsibility of the Office of General Counsel, working with the Assistant Secretary for Administration, to ensure that witnesses and whistleblowers are not subject to retaliatory action. As someone who has been engaged in First Amendment matters and represented the plaintiff in a whistleblower case, I take this responsibility seriously.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

#### ATTACHMENT A (QUESTION A-9)

##### RESUME OF CAMERON F. KERRY

#### Curriculum Vitae

Business Address: One Financial Center, Boston, MA 02111; 701 Pennsylvania Avenue, NW, Washington, DC 20004

#### Professional Background

Member, *Mintz Levin Cohn Ferris Glouksky & Popeo, P.C.*, One Financial Center, Boston, MA. Practice before state and Federal courts, administrative agencies, and municipal boards in litigation and regulatory law, with emphasis on communications, environmental, and toxic tort law. Member of American Arbitra-



tion Association mediation panel. Associate since 1983. Member since April 1987.

*Adjunct Professor, Suffolk University Law School, Boston, MA.* 1997 to 2002, part-time. Professor in telecommunications law, covering regulation, the 1996 Telecommunications Act and First Amendment issues in broadcasting, cable television, and telephony.

*Associate, Wilmer, Cutler & Pickering, Washington, D.C.* October 1979 to November 1982, Trial, agency, and appellate litigation of antitrust, communications, and First Amendment matters; antitrust counseling; practice before the Federal Communications Commission, (On leave of absence to manage a political campaign 1/82–11/82.)

*Law Clerk to Senior Judge Elbert P. Tuttle, U.S. Court of Appeals for the Fifth Circuit, Atlanta, GA.* August 1978 to August 1979. Drafted and edited opinions and wrote bench memoranda for cases in Fifth and Ninth Circuits and for Special Master's Report in *Arizona v. California* (Supreme Court, Orig. No. 8).

*Member of the Boston Bar Association* (current Steering Committee of Civil Rights/Civil Liberties Committee); *Massachusetts Bar Association*; *Federal Communications Bar Association* (current Steering Committee, New England Chapter; Co-Chair, New England Chapter 2001–2003), and *American Bar Association* (Litigation, Communications Law, Administrative Law, Antitrust, and Tort and Insurance Practice sections); *Defense Research Institute* (Co-Chair, Publications Subcommittee of Committee on Toxic Tort and Environmental Litigation, 1999–2000); *International Bar Association* (1999–2003).

*Admitted to practice:* Massachusetts (1978); District of Columbia (1979); United States District Court for the District of Columbia (1980); United States Court of Appeals for the D. C. Circuit (1980); United States District Court for the District of Massachusetts (1983); United States Court of Appeals for the Second Circuit (1983); United States Court of Appeals for the Sixth Circuit (1996); U.S. Supreme Court (1998); United States Court of Appeals for the First Circuit (2000).

### **Educational Background**

Boston College Law School 1975–78, J.D., *magna cum laude*. Executive Editor, Boston College Law Review, 1977–78, Best Speaker, Best Brief and Finals Winner, Grimes Moot Court Competition (1977), Order of the Coif.

Harvard College 1968–72, B.A., *cum laude* in General Studies (concentration in American History). Member, Student Advisory Board, John F. Kennedy Institute of Politics, 1971–72. President, Harvard-Radcliffe Young Democrats, 1970–71. Skiing Team, 1968–69.

### **Professional Lectures and Presentations**

Various presentations at communications industry conferences, 1989–present.

Panelist, Review of the 2008 Election And Its Impact on Telecommunications, Boston University College of Communications and Federal Communications Bar Association New England (November 2008).

Colloquium Presentation, Economic Warfare on the Internet: The Case of The 2004 Presidential Election, Ecole de Guerre Economique, Paris, France (April 2007, in French).

Guest Lecturer, Telecommunications Regulation in the United States, Masters in Telecommunications Law Program, Universidad Pontificia de Las Comillas de Madrid/ICADE, Madrid, Spain (May 1999).

Program Chair, The 1996 Telecommunications Act: A Guide to The Changing Landscape, Conference presented by Massachusetts Telecommunications Council and Mintz Levin Cohn Ferris Glovsky & Popeo, P.C. (January 1999).

Conference Presentation, Sources and Impact of Lead: An Update of Environmental Factors, Lead Tech Conference presented by IAQ Publications, Inc., Baltimore, Maryland (October 1998).

Conference Presentation, Lead and the Law Conference presented by IAQ Publications, Baltimore, Maryland (May 1998).

Conference Presentation Mealey's Publications National Lead Litigation Conference, Philadelphia, Pennsylvania (April 1998).

Chair, Mealey's *Daubert* and Expert Admissibility Conference, Philadelphia, Pennsylvania (October 1997).

Program Faculty, New Opportunities in The Changing Communications Industry, Suffolk University Law School Advanced Legal Studies Program (April 1997).

Co-Chair, Mealey's Publications National Lead Litigation Conference, Philadelphia, Pennsylvania (May 1996).

Co-Chair, Mealey's Publications National Lead Litigation Conference, Philadelphia, Pennsylvania (May 1995).

Panelist, Coping with the Cable Television Consumer Protection and Competition Act of 1992, New England Cable Television Association (January 1993).

Lecturer, Discovery and Investigation of Sources of Exposure and Causes of Injuries, Mealey's Publications National Lead Litigation Conference, Philadelphia, Pennsylvania (May 1992).

Panelist, How to Try a Lead Poisoning Case, Massachusetts Continuing Legal Education Program (February and March 1992).

### Publications

Obama Is Calling to Jews, Jewish Telegraphic Agency (April 18, 2008).

Unpacking the Massachusetts Preliminary Injunction Standard, Massachusetts Law Review (Winter 2007).

Contributor, Report and Recommendations, Civic Engagement Working Group, Patrick-Murray Transition Committee (December 2006).

Voting Made Easy, Boston Globe Op-Ed (Oct. 3, 2005).

Counting Every Vote, Boston Globe Op-Ed (Jan. 6, 2005).

Coordinating editor, Special Millennium Issue, The Constitution in The 21st Century, 44 Boston Bar J. No. 1 (Jan. 2000) (a collection of articles by judges and prominent BBA members on current constitutional issues).

Door Left Open for Operators to Sue for Access to Rights of Way, 17 Cable TV & New Media Law & Finance 1 (Sept. 1999), with Frank W. Lloyd and Scott A. Samuels (a note on a First Circuit decision on provisions of the Telecommunications Act of 1996).

*Kumho Tire* Widens The Gate, Toxic Torts and Environmental Law (Summer, 1999) (analysis of last year's U.S. Supreme Court decision on admissibility standards for expert testimony under Fed. R. Evid. 702).

Feds Finding That Old Rules Don't Work on Net, Mass High Tech (April 5–11, 1999)(reporting on communications regulation issues affecting the Internet).

A Sword And A Shield: The Effect of New Standards on Lead Liability Litigation, in Conference Materials, Lead and the Law Conference presented by IAQ Publications, Washington, D.C., and conference presentation on Lead Exposure—A Critical Examination of Legal, Medical, and Bureaucratic Models (March 1997) (analysis of the impact of HUD and EPA regulations on liability standards in lead litigation).

Playing The Odds in Lead Litigation, in Conference Materials, Lead Tech Conference presented by IAQ Publications in Arlington, Virginia, and conference presentation (Oct. 1996) (statistical analysis of verdicts).

A Statistical Analysis of Lead Litigation Verdicts, Mealey's Litigation Reports—Lead (July 3, 1996) (same).

*Lanigan's* Wake: Has a New Standard Emerged for Admitting Scientific Evidence in Massachusetts Court? 40 Boston Bar, J.8 (Jan.-Feb. 1996), with Andrew N. Nathanson (review and analysis of the SJC's adoption of *Daubert* standards in *Commonwealth v. Lanigan*).

Franchise Fees Enforcement Under The Cable Act: An FCC Responsibility, 39 Fed. Communications Law, J. 53 (1985), with Frank W. Lloyd (analysis of Communications Act provisions and FCC authority relating to local cable television franchise fees).

Principal author and editor, State and Municipal Regulation of Cable Television, and editor, Federal Regulation of The Content of Programming Originated by Cable Systems, in C. D. Ferris, F. W. Lloyd and T. Casey, Cable Television Law (Matthew Bender & Co., 1983 & Supps. 1984–96) (treatise chapters and periodic updates on title subjects).

Regulation of Internal Union Affairs—Access to the Union Ballot Under the LMRDA: and Certification of a Discriminatory Bargaining Representative—*Bekins* Overruled: *Handy Andy, Inc.*, in Annual Survey of Labor Relations and

Employment Discrimination Law, 18 Boston College L. Rev. 1045, 1090 (1977) (notes on NLRB decisions).

Note, Advertising of Prescription Drug Prices as Protected Commercial Speech—*Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 18 Boston College L. Rev. 276 (1997) (a comment on First Amendment standards of review applicable to commercial speech).

#### **Professional Awards and Honors**

Fellow, American Bar Foundation.

Listed in “Who’s Who in America.”

Honored by Mass Vote voter engagement nonprofit as a “Champion of Democracy”, (September 2008).

Cited by the National Press Photographers Association in 1990 for “outstanding support in promoting and protecting the First Amendment freedoms for working photojournalists with legal action in America’s courtrooms.”

#### **Political Background**

*Member, Obama for America National Finance Committee and New England Steering Committee; Chair, New England Jewish Community Leadership Committee; and Senior Adviser to Ohio Campaign for Change Voter Protection Team, 2008.*

*Member, Civic Engagement Working Group, Patrick-Murray Transition Committee.* November 2006–January 2007. Conducted public meetings and developed policy proposals to expand citizen participation in state government and engagement in Massachusetts communities.

*Co-Chair, Massachusetts Victory 2006.* 2006. Led successful joint campaign on behalf of Democratic ticket leading to election of Deval L. Patrick as Governor of Massachusetts.

*Prospective Candidate for Secretary of The Commonwealth of Massachusetts.* 2005. Assembled campaign for putatively open seat and terminated candidacy when incumbent chose to run for re-election.

*Senior Advisor, John Kerry for President.* 2002–2004. Diverse roles as member of campaign leadership, traveling surrogate, and fundraiser.

*Senior Advisor, John Kerry for U.S. Senate, Boston, Massachusetts.* 1984, 1990, 1996 and 2002 campaigns.

*Campaign Manager, John Kerry for Lieutenant Governor, Boston, Massachusetts.* January 1982–November 1982.

*Self-Employed Political Consultant, Cambridge, Massachusetts.* January–October, 1975. Consulted on communications and fundraising for local political campaigns and organizations.

*Campaign Director, Paul Guzzi for Secretary of State, Newton, Massachusetts.* November 1973–November 1974.

*Strategy Director, John Kerry for Congress, Lowell, Massachusetts.* April–November, 1972.

*Field Director and Communications Director, Chester Atkins for State Representative, Concord, Massachusetts.* July–November, 1970.

*Regional Coordinator, Joseph Bradley for Congress, Newton, Massachusetts.* July–September, 1968.

*Full-Time Volunteer and Office Manager, The Vietnam Summer Project, Cambridge, Massachusetts.* June–September, 1967. Local community organizing project on Vietnam War canvassing, local referendum signature drive.

#### **Other Employment**

*Freelance Writer and Political Consultant, Cambridge, Massachusetts.* January 1973–November 1973. Articles published in *Boston Phoenix*; direct mail and display advertising.

*Taxi Driver, Cambridge Yellow Cab, Cambridge, Massachusetts.* August 1973–January 1974 (part-time).

#### **Other Activities**

Council of Champions, Citizen Schools, 2006–present, member; Vice-Chair, National Jewish Democratic Council, 2008–present and Board Member, 2005–present; Chair, Boston College Law School Class of 1978 25th Reunion, 2002–04; New England Nordic Skiing Association, 1999–present, board member; Writing Coach, Citizen Schools 8th Grade Academy, 2001–03; Boston Police Founda-

tion, 1995–2000, board member and Clerk; Brookline Soccer Club and Brookline Youth Soccer, 1993–2002, coach; Brookline Democratic Town Committee; competitor active in endurance sports (Gold Medalist, 2001 National Master's Cross-Country Ski Championship, Men's Relay, Age 50–55).

Married to Kathy B. Weinman, 1983. Two children: Jessica (b. 1986) and Laura (b. 1990).

ATTACHMENT B (QUESTION A–12)

Organizational Memberships

Organization	Dates	Positions
American Bar Association	1998–present	Fellow
American Bar Foundation	2005–present	
American Cross-Country Skiers	1998–2001	
American Civil Liberties Union	1998–present	
Anti-Defamation League	2001–present	
Appalachian Mountain Club	1998–present	
Boston Bar Association	1998–present	
Boston College Law School Alumni Association	1998–present	
Brookline Soccer Club	1999–2002	
Brookline Greenspace Alliance	1998–present	
Brookline Democratic Town Committee	1998–present	
Cambridge Sports Union	1998–present	
Charles River Wheelmen	2005–present	
Defense Research Institute	1997–2001	
Emerald Necklace Conservancy	2000–present	Section Steering Committee 2007–present Major Gifts Committee, 2002–2003 Coach
Environmental League of MA	1998–present	
Federal Communications Bar Association	1998–present	
Friends of the Arnold Arboretum	1998–present	Co-Chair, Publications Subcommittee, Committee on Toxic Tort and Environmental Litigation
Friends of the Muddy River	1998–present	
High Street Hill Association	1998–present	
Massachusetts Audubon Society	2003–2007	
Massachusetts Bar Association	1998–present	
Massachusetts Horticultural Society	1999–2003	
National Jewish Democratic Council	2005–present	
New England Nordic Skiing Association	1998–present	
Supreme Court Historical Society	1999–2000	
Temple Israel, Boston	1998–present	
WBUR	1998–present	New England Chapter Co-Chair 2001–03; Steering Committee 2007–08
WGBH	1998–present	
USA Track & Field	1998–2000	
		Board of Directors, 1995–96
		Board of Directors, 2005–present; Executive Committee 2006–07; Vice-Chair 2008–present
		Board of Directors, 1999–present

ATTACHMENT C (QUESTION A–14)

Political Contributions

1998	
Harshbarger for Governor (MA)	1,500
Lois Pines Election Committee (MA Attorney General)	500
Shannon O'Brien for Treasurer (MA)	500
Warren Tolman for Lt. Governor (MA)	500
Friends of Harry Reid (NV, Federal)	500
Schumer '98 (NY, Federal)	1,000
Tierney for Congress (MA, Federal)	500
1999	
Kennedy for Senate (Federal)	500
Friends of Wade Sanders (CA, Federal)	1,000
2000	
Martha Coakley Committee (MA, District Attorney)	500
Gore 2000, Inc. (Presidential)	1,000
Gore-Lieberman GELAC (Federal)	500
Licht 2000 Committee Senate (RI, Federal)	500
Kennedy For Senate (MA, Federal)	1,000

## Political Contributions—Continued

<i>2001</i>	
Friends of Carl Levin (MI, Federal)	500
John Kerry Committee (MA, Federal)	1,000
The Markey Committee (MA, Federal)	500
<i>2002</i>	
James Segel for Treasurer (MA)	500
O'Brien for Governor (MA)	500
Chris Gabrieli for Lt. Governor (MA)	500
John Kerry for President, Inc. (Federal)	1,000
New Hampshire Senate 2002 (Federal)	500
<i>2003</i>	
John Kerry for President, Inc. (Federal)	1,000
James Segel for Treasurer (MA)	500
Leahy for U.S. Senator Committee (VT, Federal)	500
Kennedy for Senate (MA, Federal)	1,250
<i>2005</i>	
Kennedy for Senate (MA, Federal)	850
Kathleen Sebelius Committee (KS, state)	500
Harold Ford for Tennessee (TN, Federal)	500
Allen for Congress (ME, Federal)	500
Stabenow for U.S. Senate (MI, Federal)	500
Chet Culver Committee (IA Governor)	500
Bob Casey for PA (PA Senate, Federal)	500
Friends of Chairman McAuliffe (Federal)	500
Friends of Hillary (NY, Federal)	1,000
<i>2006</i>	
Granholt for Governor (MI, state)	1,000
Tierney for Congress (MA, Federal)	500
Keeping America's Promise (Federal PAC)	2,000
Kendrick Meek Campaign for Congress (FL, Federal)	500
Perlmutter for Congress (CO, Federal)	500
Klein for Congress (FL, Federal)	500
Patrick Murray Victory Fund (MA)	2,500
Cahill for Treasurer (MA)	500
Paul Hodes for Congress (NH, Federal)	1,550
Friends of Sherrod Brown (OH, Federal)	1,000
Barney Frank for Congress (MA, Federal)	500
Democratic Congressional Campaign Committee	2,500
Tim Murray for Lt. Governor (MA)	500
The Deval Patrick Committee (MA Governor)	500
<i>2007</i>	
Powers for Congress	1,500
Barney Frank for Congress (MA, Federal)	500
Niki Tsongas Committee (MA, Federal)	2,300
Footlik for Congress (IL, Federal)	1,000
The Reed Committee (RI, Federal)	500
Katherine Clark for State Rep (MA, state)	500
John Kerry for Senate (MA, Federal)	2,300
Paul Hodes for Congress (NH, Federal)	1,000
The Martha Coakley Committee (MA Attorney General)	500
Jeanne Shaheen for Senate (NH, Federal)	1,300
Friends of Max Baucus (MT, Federal)	500
Al Franken for Senate (MN, Federal)	500
Tom Allen for Senate (ME, Federal)	1,500
MA Democratic State Committee (State Account)	1,500
Democratic Senate Campaign Committee	5,000
Democratic National Committee	2,500
The Deval Patrick Committee (MA Governor)	500
<i>2008</i>	
We The People PAC (Federal)	500
Obama for America (Federal)	2,300
Udall for Us All (NM, Federal)	500
Democratic National Committee	2,500

## Political Contributions—Continued

Courtney for Congress (CT, Federal)	500
Patrick Murphy for Congress (PA, Federal)	500
Tom Allen for Senate	500
Al Franken for Senate (MN, Federal)	500
Massachusetts Democratic Party (Federal)	500
Obama Victory Fund (Federal)	7,500
Jeanne Shaheen for Senate (NH, Federal)	1,500
Jeff Merkley for Oregon (OR, Federal)	1,000
Friends of Senator Carl Levin (MI, Federal)	500
Musgrove for U.S. Senate (MS, Federal)	500
The Coakley Committee (MA, AG)	500
Cahill for Treasurer (MA)	500
The Deval Patrick Committee (MA Governor)	500
Franken Recount Fund (MN Federal)	500
Katherine Clark for State Rep. (MA)	500
<i>The Cam Kerry Committee—2006</i>	
Committee to Re-elect Governor Baldacci (ME, state)	500
Massachusetts Victory '06 (Federal account)	1,000
Midwest Values PAC (MN, state)	1,000
Paul Aronson for Congress (NJ, state)	1,000
The Chet Culver Committee (IA, state)	500
Democratic Congressional Campaign Committee	1,000
Vote Vets (Federal PAC)	500
New Hampshire Democratic Party (Federal account)	1,000
Friends of Sherrod Brown (OH, Federal)	1,000
Paul Hodes for Congress (NH, Federal)	1,000
Friends of Jim Marshall (GA, Federal)	500
Meeks for Congress (NY, Federal)	1,000
<i>The Cam Kerry Committee—2007</i>	
Footlik for Congress (IL, Federal)	1,000
Massachusetts Democratic Party (Federal account)	1,000
Niki Tsongas Committee (MA, Federal)	1,000
Re-Elect McGovern Committee (MA, Federal)	500
Lautenberg for Senate (NJ, Federal)	1,000
<i>The Cam Kerry Committee—2008</i>	
Klein for Congress (FL, Federal)	500
Powers for Congress (NY, Federal)	1,000
Hillary Clinton Debt Retirement Fund (Federal)	1,000
Massachusetts Democratic Party (Federal account)	1,000
Martin for Senate (GA, Federal)	500
Shulman for Congress (NJ, Federal)	500
Rural Votes (Federal PAC)	500

**STATEMENT OF HON. MARIA CANTWELL,  
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL [presiding]. Thank you, Mr. Kerry. Thank you for your testimony, and welcome to your wife. Thanks for coming back to Washington, D.C. Thanks to both of you for Mr. Kerry's willingness to serve.

So, Ms. Abbott, would you like to make a statement?

**STATEMENT OF SHERBURNE B. ABBOTT  
ASSOCIATE DIRECTOR OF ENVIRONMENT-DESIGNATE  
OFFICE OF SCIENCE AND TECHNOLOGY POLICY  
EXECUTIVE OFFICE OF THE PRESIDENT**

Ms. ABBOTT. Thank you, Madam Chairman. If the Committee will indulge me, I will introduce my family in waves because there are several here.

Thank you, Senator Hutchison, for your kind remarks of introduction and other members of the Committee.

I am honored to appear before you as President Obama's nominee for Associate Director for Environment of the Office of Science and Technology Policy within the Executive Office of the President. If confirmed, I look forward to working with all of you to support and improve our Nation's environmental science and technology efforts.

My presence here today represents a journey in science and the natural world that began with a little girl's curiosity. It was guided by a crew of mentors and was shored up by the support of family and friends. Some of my fondest childhood memories were of walks with my brother in the woods of New England, discussions with my grandfather and father, both engineers, about the power of technology, and talks with my mother and grandmothers about the improbable women scientists who are nested in our family tree. I am grateful to introduce my father, my mother, my brother at this moment.

Along the way to the present, I have been privileged to encounter some remarkable educators and practitioners who shaped my view of science and public service, from a high school physics teacher who danced on lab tables to show that science had a human side, to Nobel Laureates who used their celebrity to promote hands-on science teaching across the globe, and to many individuals all over the world who volunteer their time in pursuit of international scientific cooperation so the benefits of their knowledge accrue to everyone.

For the final and central leg of the journey to this table, I have been accompanied by my husband whose intellect and integrity I admire more with each day and by my kids whose future on this planet and the planet of the future is what our work is about. Jim Steinberg and Emma and Jenna Steinberg.

Senator CANTWELL. Welcome to all of you.

Ms. ABBOTT. Thank you.

I am hoping that if confirmed by the Senate, I can draw from these lessons of optimism and opportunity to refine our national strategy for environmental research and development with the primary goal of moving the Nation toward a clean energy economy and on a path toward sustainability. This is the vision President Obama and the Director of OSTP, Dr. John Holdren, have presented to the Nation and to you and one that I enthusiastically share.

I am currently a faculty member and Director of the Center for Science and Practice of Sustainability at the University of Texas at Austin. I work with all departments and colleges to build university-wide research and education programs focused on sustainability issues. These efforts and others like it in higher education institutions are breaking down the barriers between the academic disciplines and between scholarship and practice. They are building new, integrative, and interdisciplinary problem-solving approaches to the complex concerns of environment and development. They call for rethinking the ways we teach, the ways we support research, and the ways we partner with the private sector and other stakeholders.

Most important, they are revealing that we no longer have to choose between the economy and the environment. Providing en-

ergy that is reliable, affordable, and clean will have the intended and added benefits of reducing the emissions that contribute to global climate change, as well as create jobs and reduce our dependence on foreign oil.

Considering the challenges ahead on all fronts of the economy and environment where science matters, OSTP has an opportunity to help produce information and analysis that contributes both to the resolution of the environmental issues of today and to the better management of natural resources for future generations. Though climate change is at the center of these discussions, we cannot overlook the quality of our air and watersheds, the toxins in our soil and foods, the conditions of our forests and oceans, and the diversity of life that inhabits our planet. Tomorrow's celebration of Earth Day provides a well-timed reminder of this.

For the past 25 years, I have worked at the intersection of science and public policy on environmental issues ranging from global climate change to regional issues of high latitudes, to the health of marine mammal populations and fisheries. I believe that science should inform our decisions. Therefore, I believe we need strong and balanced Federal research programs that support the promising areas of R&D that contribute to understanding and solving these environmental concerns. There are substantial tools at our disposal and enormous talent across our Nation. We must find imaginative ways to better deploy the tools and bring new perspectives and experience to the challenges facing our Government. We also need to reach out to communicate findings and warnings in ways that build confidence in our ability to protect the health and the safety of the public, as well as preserve and restore the ecosystems on which their livelihoods depend.

If confirmed by the Senate, I look forward to working with the exceptional science and environment team assembled by President Obama, with the Congress, and particularly with the members of this Committee on the environmental challenges and opportunities facing our Nation. I am grateful for the courtesy shown by your staff over the past several weeks and I look forward to continuing and deepening our discussions.

I will be pleased to try to answer any questions that you may have.

[The prepared statement and biographical information of Ms. Abbott follows:]

PREPARED STATEMENT OF SHERBURNE B. ABBOTT, ASSOCIATE DIRECTOR-DESIGNATE OF ENVIRONMENT, OFFICE OF SCIENCE AND TECHNOLOGY POLICY, EXECUTIVE OFFICE OF THE PRESIDENT

Mr. Chairman, Senator Hutchison, and distinguished Members of the Committee, I am honored to appear before you as President Obama's nominee for Associate Director for Environment of the Office of Science and Technology Policy (OSTP) within the Executive Office of the President. If confirmed, I look forward to working with all of you to support and improve our Nation's environmental science and technology efforts.

My presence here today represents a journey in science and the natural world that began with a little girl's curiosity. It was guided by a crew of mentors, and was shored up by the love and support of family and friends. Some of my fondest childhood memories are of walks with my brother in the woods and salt marshes of New England, discussions with my grandfather and father, both engineers, about the power of technology, and talks with my mother and grandmothers about women's



roles and the improbable women scientists who are nested in our family tree. I am grateful that my family is here with me today.

Along the way to the present, I have been privileged to encounter some remarkable educators and practitioners who shaped my view of science and public service—from researchers who took time from field studies to bestow their passion for nature on young children like myself (at the time) at a summer science school; to a high school physics teacher who danced on lab tables to show that science had a human side; to college professors who offered flexible labs so students, including myself, did not have to choose between majoring in biology and playing competitive sports; to Nobel laureates who used their celebrity to promote “hands on” science teaching across the globe; and to many individuals all over the world who volunteer their time in pursuit of international scientific cooperation so the benefits of their knowledge accrue to everyone.

For the final and central leg of the journey to this table I’ve been accompanied by my husband whose intellect and integrity I admire more with each day, and by my kids whose future on this planet and the planet of the future is what our work is about.

I am hoping that if confirmed by the Senate, I can draw from these lessons of optimism and opportunity to refine our national strategy for environmental research and development, with the primary goal of moving the Nation toward a clean energy economy and on a path toward sustainability. This is the vision President Obama and the Director of OSTP, Dr. John Holdren, have presented to the Nation and to you, and one that I enthusiastically share.

I am currently a faculty member and director of the Center for Science and Practice of Sustainability at the University of Texas at Austin. I work with all departments and colleges to build university-wide research and education programs focused on sustainability issues. These efforts and others like it in higher education institutions are breaking down the barriers between the academic disciplines and between scholarship and practice. They are building new, integrative and interdisciplinary problem-solving approaches to the complex concerns of environment and development. They call for rethinking the ways we teach, the ways we support research, and the ways we partner with the private sector and other stakeholders.

Most important, they are revealing that we no longer have to choose between the economy and the environment. Providing energy that is reliable, affordable, and “clean” will have the intended and added benefits of reducing the emissions that contribute to global climate change, as well as create jobs and reduce our dependence on foreign oil.

Considering the challenges ahead on all fronts of the economy and environment where science matters, OSTP has an opportunity to help produce information and analysis that contributes both to the resolution of the environmental issues of today and to the better management of natural resources for future generations. Though climate change is at the center of these discussions, we cannot overlook the quality of our air and water sheds, the toxins in our soil and foods, the conditions of our forests and oceans, and the diversity of life that inhabits our planet. Tomorrow’s celebration of Earth Day provides a well-timed reminder.

For the past 25 years I have worked at the intersection of science and public policy on environmental issues ranging from global climate change, to regional issues of the high latitudes, to the health of marine mammal populations and fisheries. I believe science should inform our decisions. Therefore, I believe we need strong and balanced Federal research programs that support the promising areas of R&D that contribute to understanding and solving these environmental concerns. There are substantial tools at our disposal and enormous talent across our Nation. We must find imaginative ways to better deploy the tools, and bring new perspectives and experience to the challenges facing our government. We also need to reach out and communicate findings and warnings in ways that build confidence in our ability to protect the health and safety of the public, as well as preserve and restore the ecosystems on which their livelihoods depend.

If confirmed by the Senate, I look forward to working with the exceptional science and environment team assembled by President Obama, with the Congress, and particularly with the members of this Committee on the environmental challenges and opportunities facing our Nation. I am grateful for the courtesy shown by your staff over the past several weeks, and I look forward to continuing and deepening our discussions.

I will be pleased to try to answer any questions you may have.

## A. BIOGRAPHICAL INFORMATION

1. Name (include any former name or nicknames used):  
Sherburne Bradstreet Abbott.
2. Position to which nominated: Associate Director for Environment, Office of Science and Technology Policy.
3. Date of Nomination: March 10, 2009.
4. Addresses (List current place of residence and office addresses):  
Residence: Information not released to the public.  
Office: University of Texas at Austin, 1 University Station, Austin, TX 78712.
5. Date and Place of Birth: December 8, 1955; Brookline, MA.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
Spouse: James Braidy Steinberg, Dean, University of Texas at Austin; children: Jenna Yuanye Steinberg (age 6); Emma Lingling Steinberg (age 4).
7. List all college and graduate degrees. Provide year and school attended.  
Yale University, School of Forestry and Environmental Studies, August 1982 to June 1984, Master of Forest Science.  
Goucher College, September 1973 to June 1977, Bachelor of Arts.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.  
January 2006 to Present—Director, Center for Science and Practice of Sustainability, Office of the Executive VP and Provost, University of Texas at Austin, Austin, TX.  
Established center to build university-wide research and education programs focused on sustainability issues, and managed administrative research, and graduate research staff members. Co-chair UT President's Task Force on Sustainability, which develops university policies to promote environmental stewardship and sustainability.  
March 2003 to December 2005—Chief International Officer, American Association for the Advancement of Science, Washington, D.C.  
Managed programs to reflect the professional society's international interests in science and technology policy and managed administrative and research staff. Established an interdisciplinary center to advance science and innovation for sustainability.  
April 2000 to November 2007—Consultant. Worked with the World Bank (2001–2002; 2007) the Environmental Defense Fund (2002–2003), The Brookings Institution (2002), the John D. and Catherine C. Rockefeller Foundation (2001), the David and Lucille Packard Foundation (2000–2001), and The National Academies' National Research Council (2000–2001).  
Provided advice on environmental research, science and technology policy, and educational programs.  
January 1998 to July 2000—Executive Director, Board on Sustainable Development, The National Academies' National Research Council, Washington, D.C.  
Led advisory committees that reviewed and made recommendations on science and technology programs for sustainable development and a decadal research plan for the U.S. Global Change Research Program.  
August 1992 to December 1996—Director, Committee on International Organizations and Programs, The National Academies' National Research Council, Washington, D.C.  
Managed the U.S. program to support scientific planning and coordination efforts of the International Council for Science and other international scientific and engineering organizations, focusing on S&T policies, environmental research and science education.  
May 1989 to August 1992—Director, Polar Research Board, The National Academies' National Research Council, Washington, D.C.  
Supervised a wide-ranging advisory structure for Arctic and Antarctic S&T policy and research, including international committees.

December 1986 to April 1989—Assistant Scientific Program Director, U.S. Marine Mammal Commission, Washington, D.C.

Oversaw research program and provided analyses of science and policy issues bearing on the conservation and protection of marine mammals and their marine and coastal habitat.

June 1984 to December 1986—Program Officer, Polar Research Board, The National Academies' National Research Council.

Managed projects on Antarctic environmental research issues and Arctic science and technology policy.

September 1980 to June 1982—Science Teacher, Buckingham Brown and Nichols Upper School, Cambridge, MA.

Designed and taught a course on environmental science and taught biology.

September 1977 to August 1980—Laboratory Assistant, Tufts University School of Medicine, Boston, MA.

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

City of Austin, Community Advisory Committee, Austin Climate Protection Program (2008–2009).

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

2006 to Present—Director, Center for Science and Practice of Sustainability, University of Texas at Austin.

May 2007 to November 2007—Consultant, The World Bank.

2003 to 2005—Chief International Officer, American Association for the Advancement of Science.

2005—Treasurer, Leonard Rieser Interciencia Endowment Fund.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Member, American Association for the Advancement of Science (2003–Present).  
Contributing Editor, *Environment*, Heldref Publications (2001–Present) (unpaid).

Member, Priority Area Assessment Panel on Capacity Building in Science, International Council for Science (2004–2005).

Member, Lady Bird Johnson Wildlife Center (2006–Present).

Member, Austin Children's Museum (2006–Present).

Member, Austin Historical Society (2006–Present).

None of these organizations restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period: None.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Dodge Fellow in Human-Animal Ecology (1983–1984).

W. Alton Jones Foundation Fellowship (Summer 1983).

Cash Award for Exceptional Service, U.S. Marine Mammal Commission (December 1988).

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

*Publications:*

“The Dawn of an Urban Millennium,” Review article, Editor’s Picks, *Environment* (September/October 2008).

“A Contract with the Earth,” by Newt Gingrich and Terry L. Maple, Johns Hopkins University Press, Baltimore, MD, 2007, 256 pp. Book review, Books of Note, *Environment* (July/August 2008).

Abbott, S.B. and W.S. Benninghoff, 1990. Orientation of environmental change studies to the conservation of Antarctic ecosystems. In: *Antarctic Ecosystems*, K.R. Kerry and G. Hempel (eds), Springer-Verlag, Berlin, Germany.

National Academies’ Publications (authored with others):

Board on Sustainable Development, 1999. *Our Common Journey: A Transition Toward Sustainability*. National Academy Press, Washington, D.C.

Committee on Global Change Research, 1999. *Global Environmental Change: Research Pathways for the Next Decade*. National Academy Press, Washington, D.C.

Committee on Global Change Research, 1998. *Global Environmental Change: Research Pathways for the Next Decade: Overview*. National Academy Press, Washington, D.C.

Polar Research Board, 1993. *Arctic Contributions to Social Science and Public Policy*. National Academy Press, Washington, D.C.

Polar Research Board, 1991. *Opportunities and Priorities in Arctic Geoscience*. National Academy Press, Washington, D.C.

Polar Research Board, 1986. *Recommendations for a U.S. Ice Coring Program*. National Academy Press, Washington, D.C.

Polar Research Board, 1986. *Antarctic Treaty System: An Assessment. Proceedings of a Workshop Held at Beardmore South Field Camp, Antarctica, January 7–13, 1985*. National Academy Press, Washington, D.C.

Polar Research Board, 1985. *National Issues and Research Priorities in the Arctic*. National Academy Press, Washington, D.C.

U.S. Antarctic Report to the Scientific Committee on Antarctic Research (Numbers 32, 31, 30, 27, 26) 1989–1991, 1985–1987. National Academy Press, Washington, D.C.

*Speeches:*

“Environmental Trends and Sustainability Challenges,” November 18, 2008, Fire Protection Research Foundation, Washington, D.C.

“Sustainability: To Lead or LEED?,” September 9, 2008, Compass 2008, University of Texas at Austin.

The Buzz and the Biz of Sustainability,” October 29, 2008, Houston State Community College, Houston, Texas.

“The Buzz and the Biz of Sustainability,” May 27, 2008, National Institute for Staff and Organizational Development, Austin, Texas.

“University Sustainability: From Ideas to Actions,” April 29, 2008, Texas Association of Physical Plant Administrators, Austin, Texas.

“The Promise and Practice of Sustainability Science,” February 27, 2008, University of Texas Mexican Universities’ North American Conference, Mexico City, Mexico.

“The Challenge of Institutionalizing Sustainability Research and Education Programs in Higher Education,” September 1, 2007, Engineers Workshop, Austin, Texas.

“Science and Technology in the Americas,” March 24, 2006, S&T Policy in the Americas Conference, UT Mexican Center, Austin, Texas.

“Scientist-Practitioner Dialogue: Lessons for the Arab Region,” April 16, 2005, Arab Region Roundtable on Harnessing Science, Technology, and Innovation for Sustainability, Dubai, UAE.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

Our Nation confronts great challenges of economic and national security, environmental quality, and health that also present opportunities where science and technology can and will play an essential role. The White House Office of Science and Technology Policy's (OSTP) mission is to ensure that policies, budgets and partnerships advance the full capabilities of science, technology and innovation across all sectors, both public and private, to confront these challenges and seize the opportunities. The OSTP advises the President on the effects of science and technology on domestic and international affairs and coordinates the research and development necessary to harness the power of science and technology to improve the quality of life for the American people. With respect to the environment, the OSTP ensures a sound scientific and technical underpinning for policy formulation and an inter-agency research and development strategy for environment and natural resource issues.

I have spent most of my professional life at the crossroads of science and policy that intersects with OSTP's mission, with an emphasis on efforts that reach across the boundaries of knowledge to solve problems of environment and development. I have worked on environmental issues, ranging from global concerns about climate change and sustainability, to regional issues of the high latitudes or marine mammals and fisheries, to local considerations of ecosystem management and biodiversity protection. Over the past 25 years, I have held executive or senior positions in higher education (the University of Texas at Austin), non-profit scientific institutions (the National Academies and the American Association for the Advancement of Science), and government (the U.S. Marine Mammal Commission). Most of this work involved interdisciplinary environmental research planning and education.

While working at the National Academies, I directed studies that advised the government on science and technology for sustainability, global environmental change, polar research, and international science and organizations. These studies produced consensus reports and other documents on setting priorities for research. While serving as Chief International Officer of the American Association for the Advancement of Science, I forged relationships not only across the scientific disciplines, but across the continents to develop new approaches to environmental research focused on the challenges of sustainability. These efforts required extensive knowledge of Federal environmental R&D programs and coordination and communication with Federal agencies, the scientific community and the private sector. In addition, my academic background in environmental science, with a master's degree from Yale University, and an undergraduate degree in biological sciences from Goucher College, along with my more recent appointment at the University of Texas at Austin, provides the scholarly tools and substantive context to address the broad range of environmental issues that hinge on strong environmental R&D programs.

I feel that serving as the Associate Director for Environment of the Office of Science and Technology Policy would be a tremendous opportunity to work with the science community, the agencies and the Congress to improve Federal environmental science and technology programs. Considering the challenges ahead on all fronts of the economy and environment where science matters, the OSTP has an opportunity to help produce scientific information and knowledge for the Congress and other decisionmakers in the public and private sectors that contribute both to the resolution of the complex environmental issues of today and the better management of natural resources for future generations.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

The OSTP works on behalf of the American people to advise the President, and therefore, must establish management and accounting controls that uphold public scrutiny. First and foremost, if confirmed by the Senate, I will do this by working with the OSTP Director to attract a first-class professional staff with expertise and experience appropriate to the priorities of the office, whether they come from outside the government or are detailed from other government departments. Second, I will assure that we establish effective procedures for personnel management and accounting, and respond to all reporting requirements in a timely manner.

I have managed professional and administrative staff in almost every position I have held for the past 25 years, and I have always established clear lines of communication and authority to assure that there is full understanding of the responsibilities of each employee to fulfill their duties and to adhere to all rules and regulations of the parent organization. As a principal officer of the National Academies and the American Association for the Advancement of Science, I had fiduciary responsibility for my office or department and developed accounting procedures and conducted business audits to carry out that responsibility. I also served as the principal investigator on several million-dollar Federal agency contracts and grants over this period. I assured that the work was performed within the terms of the award and within budget.

20. What do you believe to be the top three challenges facing the department/agency, and why?

The most important task facing the Office of Science and Technology Policy is to help the Administration, the Congress and the public get the best outcomes from the wise use of science and technology. This requires policies that deploy science and technology to its full extent for the health and security of the Nation's economy, its environment and its citizens. It also requires policies for security, economy, health and the environment that are built on sound scientific foundations.

The first challenge that the Office of Science and Technology faces is how to meet the diverse and extensive responsibilities in assisting the development of these policies without adequate resources. The most important lever will be human capital—recruiting talented personnel to work with the Administration and Congress on priority areas and developing an efficient and outcome-driven interagency process for guiding policy development. Beyond sharing personnel, a strong interagency mechanism has the advantage of leveraging resources for developing joint initiatives to address priorities.

The second challenge is establishing effective networks across the White House—especially with the Office of Management and Budget, the National Security Council, and the National Economic Council—and across the agencies and the Congress to address the priority issues. Without productive working relationships that engage all stakeholders across the government and the Congress, the Office of Science and Technology Policy cannot do its job of establishing policies for science and technology or helping to build the base of science and technology knowledge with which to shape national policy.

The third challenge is how best to use science and technology to promote human well-being and security while protecting the environment—the challenge of sustainability. The pursuit of human well-being is no longer a choice between economic prosperity or environmental protection. Science and technology are engines of economic prosperity, tools for peace, and implements for advancing environmental knowledge. The challenge the Office of Science and Technology Policy faces is to find new ways of addressing all three issues (economy, security and environment) simultaneously to promote sustainability. This will require working across fields, across sectors, and across departments, and with the Congress to develop policies and programs for advancing our understanding of problems of the environment and sustainability and to find solutions.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

None, consistent with my SF-278 and ethics agreement. I have the following (defined contribution) retirement accounts:

- TIAA—Traditional Annuity
- Vanguard 500 Index
- TIAA—CREF Global Equities
- TIAA—CREF International Equity
- TIAA—CREF International Equity Index
- TIAA—CREF Stock
- TIAA—CREF Growth
- TIAA—CREF Equity Index
- University of Texas Saver TSA 403(b) Fidelity Balanced
- University of Texas Saver DCP-457(b) Fidelity Balanced

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain.

None. Per my ethics agreement, I will take a leave of absence from the University of Texas at Austin and am resigning my unpaid position with Heldref Publications.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Science and Technology Policy's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Office's designated agency ethics official.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Science and Technology Policy's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Office's designated agency ethics official.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

I have not personally been engaged in any activity for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. However, I was associated with the American Association for the Advancement of Science, which did work on behalf of unfettered climate and health research, enhancing the United States' innovation potential, and Federal R&D budget issues. While I was employed by the organization, I did not personally advocate any positions on these or other issues of science and technology policy.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Office of Science and Technology Policy's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Office's designated agency ethics official.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination.

I am not aware of any additional information that should be disclosed in connection with my nomination.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees?

Yes, I will ensure that all deadlines are met.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures?

Yes, I will ensure that OSTP protects Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee?

Yes, I will cooperate fully with the Committee in providing witnesses, technical experts, and career employees.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes, I am willing to appear and testify before any duly constituted committee of Congress if requested.

---

RESUME OF SHERBURNE BRADSTREET ABBOTT

Environmental scientist with 25 years of experience in research planning, assessment, education, and policy related to, and communicating about, human development and the environment. Held senior positions in higher education, non-profit institutions and government and developed an extensive network of high-level scientists and officials within the national and international community. Directed studies of science and technology for sustainability, global environmental change, polar research, and international science and organizations that produced consensus reports and documents on setting priorities for research and on building the capacity of international organizations to link scientific and technical knowledge with decision-making. Routinely invited to make presentations at major national and international conferences and events to promote the flow of innovative ideas and solutions to problems of globalization, sustainability and conservation of planetary resources.

**Professional Experience**

(January 2006–Present) *Director, Center for Science and Practice of Sustainability, Office of the Executive VP and Provost; Faculty, College of Liberal Arts, University of Texas at Austin.* Austin, TX. Direct program on sustainability science and policy that builds university-wide multidisciplinary approaches to problems of environment and development. The Center is developing a 2050 Initiative to promote research and innovation related to sustainability within the state, the Nation and the global community. Co-chair the President's Task Force on Sustainability, which was established to recommend policies and actions recognizing the university's commitment to sustainability and environmental stewardship. Additional activities include: lecturer in the Liberal Arts Honors Program, faculty panel member, Bridging Disciplines Program on Environment; Faculty Cluster on Science, Technology and Development Policy, Teresa Lozano Long Institute for Latin American Studies.

(March 2003–December 2005) *Chief International Officer, American Association for the Advancement of Science,* Washington, D.C.—the largest general science organization in the world, with over 120,000 members in 130 countries, and publisher of *Science* magazine. Directed the AAAS Office of International Initiatives (approximately \$1.3 million of activity and small staff), and designed and established the AAAS Center for Science, Innovation and Sustainability. Served as senior manager responsible for promoting AAAS leadership internationally, providing the central point of contact with senior representatives of international scientific and technical organizations and programs; developing and coordinating international programs to advance concerns of science education and careers, science and technology policy, and scientific communication, including promoting international participation in *Science* magazine; performing internal management functions, and working with other senior managers to implement overall goals of the professional society.

Established new center to advance science and technology for sustainability, build scientific capacities of developing countries to address the challenges of sustainable development and strengthen the links between science, engineering and development. Awarded \$350K grant from the National Science Foundation for a review of an international research institute promoting regionally and policy relevant research on global environmental change in the Americas.

Developed a 5-year strategic plan to improve international scientific cooperation and build global work forces to respond to the challenges of sustainable development, and secured funding for new projects. Managed approximately \$2M Na-



tional Science Foundation-supported program on Women's International Scientific Cooperation that provided some 400 grants to increase the participation of U.S. women scientists in international scientific collaboration.

Raised the profile of AAAS at major international meetings and events in Europe, Japan, China and the Middle East through speaking engagements, media interviews and proposed collaborative projects.

1999–Present *Consultant*.

Contributed to the World Bank's 2007 *Global Forum: Building Science, Technology and Innovation Capacity for Sustainable Growth and Poverty Reduction*, and wrote summary of session on gender and development for the proceedings volume.

Assisted the President of the Brookings Institution (Washington, D.C.) in developing an initiative on science and technology policy for economic and national security.

Evaluated the Environmental Science Program of the Environmental Defense Fund (New York, NY).

Conducted research, analysis and writing for the World Bank in preparation of its World Development Report 2003 on Transforming Growth: Neighbor, Nature, Future.

Carried out research and analysis on the governance of science in service of the poor and excluded for the Rockefeller Foundation's Global Inclusion Program.

Conducted research for the David and Lucile Packard Foundation, suggesting a rationale and grantmaking strategy for an initiative in conservation and sustainability science, and assessing research needs to meet objectives for grantmaking in fisheries, land management and energy.

Assisted the National Academies' Coordinating Committee for a Sustainability Transition in developing a long-term program of work and governance structure for the Academies in science, engineering and health for sustainable development.

(1996–2000) *Executive Director, Board on Sustainable Development, National Academies (National Academy of Sciences, National Academy of Engineering and Institute of Medicine)*, Washington, D.C. Managed oversight board of 25 members (leading scholars in natural and social sciences, former CEOs of Fortune 500 companies, former cabinet secretary and senior government officials, directors of research and policy institutions, university president) and subcommittees in conducting studies for U.S. Government agencies and private foundations. Directed the Sustainability Transition Study, Private Sector Initiatives in sustainable development and the Global Change Research Program.

Sustainability Transition Study assessed trends in social development and environmental change, threats to global sustainability and methods for analysis of possible future development pathways and their implications for sustainability. Undertaken over 4 years, involved the integration of commissioned research, workshop findings and summer studies. Produced the path-breaking report *Our Common Journey: A Transition Toward Sustainability*, which proposes a strategy for using scientific and technical knowledge to better inform future action in the areas of energy and materials use, fertility reduction, urban systems, agricultural production, ecosystem restoration and biodiversity conservation, including a research agenda for sustainability science and an action agenda to link science and technical innovation with internationally sanctioned goals for meeting human needs, preserving the planet and reducing hunger and poverty. Report used as framework for symposium on challenges for science and humanity in the 21st Century; an institution-wide focus on the transition to sustainability announced by the presidents of the National Academy of Sciences, Institute of Medicine, and National Academy of Engineering; an international conference and consensus statement of 63 academies of science on the transition to sustainability; and an emerging international initiative that aims to clarify concepts of sustainability science, assist capacity building of science and technology in developing countries and connect the results and outcomes to international programs and consultations.

Private Sector Initiatives, supported by the Turner Foundation, proposed to establish a dialogue among representatives of industry and the scientific and technical community to help inform business incentives and best practices with the latest scientific knowledge and information on sustainability, and explore common interests in technical innovation.

Global Change Research Program provided guidance to \$2 billion, multi-agency U.S. Global Change Research Program. Coordinated overall program (synthesis committee and study committees on climate, human dimensions, ecosystems, and data), directed synthesis committee staff, negotiated and managed multi-year contracts, and provided link with international programs. Oversaw review of global change research that produced the report *Global Environmental Change: Research Pathways for the Next Decade* and an overview volume of findings and recommendations which were used in formulating a Federal Government 10-year plan for global change research, developing new foci for international programs and guiding development of a summary report on global and regional change issues for the new U.S. Federal administration.

(1992–1996) *Director, Committee on International Organizations and Programs, National Academies*. Managed committee (2 Nobel Laureates, CEO of Global Environment Facility, former director of the U.S. National Science Foundation, foreign secretaries of National Academies, leaders of professional societies) to advise on international scientific affairs and U.S. participation in international scientific and engineering organizations. Directed program to strengthen U.S. participation in disciplinary unions and interdisciplinary programs of the Paris-based International Council for Science (ICSU). Staffed international review of the goals, structure and programs of ICSU to meet the changing needs of society and public policy; helped establish new international Program for Capacity Building in Science, focusing on primary and secondary science education in developing countries; and organized and hosted the 25th General Assembly of ICSU in the United States to increase the visibility of international science to Federal officials and expose U.S. academic and government scientists to new international partners and programs. Managed grants program for U.S. contributions to scientific and engineering programs of the U.N. Educational, Scientific, and Cultural Organization. Programs led to renewed interest of U.S. funding agencies in international science cooperation, as well as strengthening and reform of international organizations.

(1989–1992) *Director, Polar Research Board, National Academies*. Led projects in science and technology affecting public policy on environmental quality, natural resources, indigenous communities, and other issues in the polar regions. Produced reports on scientific priorities to advance national interests and meet international obligations and helped found an international organization for arctic scientific cooperation to serve regional needs for human and industrial development.

(1986–1989) *Assistant Scientific Program Director, U.S. Marine Mammal Commission*, Washington, D.C. Managed the research and arctic programs, reviewed environmental impact statements on offshore oil and gas activities, and formulated agency positions on issues bearing on marine conservation. Co-authored paper on environmental research and monitoring that served as a model for meeting requirements of a protocol to the Antarctic Treaty to monitor the environmental effects of scientific and other activities undertaken in Antarctica.

(1984–1986) *Program Officer, Polar Research Board, National Academies*. Managed studies of interdisciplinary polar science and resource policy, with emphasis on innovative tools for conservation and arctic research priorities. Helped develop a framework linking research priorities with national needs in the Arctic for the inter-agency committee of the U.S. Government charged with formulating arctic research policy for the Nation.

(1979–1982) *Science Teacher, Buckingham, Browne and Nichols Upper School*, Cambridge, MA. Taught environmental science and biology, coached 3 varsity sports teams and served on Admissions Committee, with responsibility for ninth grade admissions. Designed environmental science curriculum to build environmental awareness and community responsibility in student body.

#### **Education**

M.F.S., 1984, Yale University, School of Forestry and Environmental Studies, ecology and natural resource policy.

A.B., 1977, Goucher College, biological sciences.

#### **Fellowships and Awards**

Senior Research Fellow, J.F. Kennedy School of Government, Harvard University, 2000 (appointment only).

Dodge Fellow in Human-Animal Ecology, 1983–1984.

College Athlete of America, 1977.

**Professional Activities**

Contributing Editor, *Environment* magazine (December 1999–present).  
 Editor, AAAS/ISTS Forum on Science and Technology for Sustainable Development (2005–2008).

Member, Priority Area Assessment Panel, Capacity Building in Science, International Council for Science (2004–2005).

Treasurer, Leonard Rieser Endowment Fund for the Interciencia Association (2005).

## Selection Committees:

Environment, Health and Services Director Selection Committee, University of Texas-Austin (2007).

Facilities Services Director Selection Committee, University of Texas-Austin (2007).

Harry S. Truman Fellowship Selection Committee, University of Texas-Austin (2007).

AAAS Diplomacy Fellowship Program (2004, 2005).

AAAS Roger Revelle Fellowship in Global Stewardship (1998; 1999; Chairman, 2000).

Guest editor, March 2000 *Issues in Science and Technology*, “A Delicate Balance: Environment, Economics, Development.”

Group of Specialists on Environmental Affairs and Conservation, (1990–1993), Finance Committee (1989–1992), Subcommittee on Conservation (1984–1988) of the Scientific Committee for Antarctic Research, International Council for Science.

**Publications**

Abbott, S.B. and W.S. Benninghoff, 1990. Orientation of environmental change studies to the conservation of Antarctic ecosystems. In: *Antarctic Ecosystems*, K.R. Kerry and G. Hempel (eds.), Springer-Verlag, Berlin, Germany.

Articles in the *Antarctic Journal of the United States*, the *Arctic Journal of the United States*, and *Science International*, the newsletter of the International Council for Science, and *Environment*.

Lead staff contributor and editor of National Research Council reports, including:

Board on Sustainable Development, 1999. *Our Common Journey: A Transition Toward Sustainability*. National Academy Press, Washington, D.C.

Committee on Global Change Research, 1999. *Global Environmental Change: Research Pathways for the Next Decade*. National Academy Press, Washington, D.C.

Committee on Global Change Research, 1998. *Global Environmental Change: Research Pathways for the Next Decade: Overview*. National Academy Press, Washington, D.C.

Polar Research Board, 1993. *Arctic Contributions to Social Science and Public Policy*. National Academy Press, Washington, D.C.

Polar Research Board, 1991. *Opportunities and Priorities in Arctic Geoscience*. National Academy Press, Washington, D.C.

Polar Research Board, 1986. *Recommendations for a U.S. Ice Coring Program*. National Academy Press, Washington, D.C.

Polar Research Board, 1986. *Antarctic Treaty System: An Assessment*. Proceedings of a Workshop Held at Beardmore South Field Camp, Antarctica, January 7–13, 1985. National Academy Press, Washington, D.C.

Polar Research Board, 1985. *National Issues and Research Priorities in the Arctic*. National Academy Press, Washington, D.C.

U.S. Antarctic Report to the Scientific Committee on Antarctic Research (Numbers 32, 31, 30, 27, 26), 1989–1991, 1985–1987. National Academy Press, Washington, D.C.

**References** available upon request.

Senator CANTWELL. Thank you, Ms. Abbott. I am going to start with you. Thank you for your willingness to serve, and it is a pleas-

ure to have your family with you here at the hearing. So thank you for attending this hearing.

I wanted to ask specifically about NOAA and your role with NOAA in our efforts to make sure that oceans policy and particularly coastal science programs. What are your thoughts on how we improve those to work better with local governments? My main concern is that we talk a lot about climate mitigation and we have had legislation through this Committee to talk about adaptation and what we need to do to better plan for climate change. I do not know if you want to comment on how you think that we can provide better science and information through your agency and office to work with local governments.

Ms. ABBOTT. Thank you for that question, Senator Cantwell. President Obama has made it very clear that the cornerstone of his activity is a robust strategy for research dealing with climate change. And I see that the Office of Science and Technology Policy, together with the OMB, will provide a very strong and helpful, coordinated research program across the budgets and across the agencies. And I look forward, if confirmed, to helping that process.

NOAA is a very strong element of those agencies, and one of the great opportunities that we have ahead of us is that many of us, including myself—and I have known Dr. Lubchenko for some 20-odd years or longer than I care to admit, as well as other members of the team. And I think we will work very strongly together so that the coordination function across the agencies, I would assume, would be quite substantial and I think that there is a long way that we can go in that direction.

Senator CANTWELL. What do you think are some of the mistakes that we will make if we do not focus on the right kind of adaptation and climate information and how that information is shared?

Ms. ABBOTT. I think your point is well taken. I think adaptation research has been one of the overlooked or at least one of the less-funded efforts of the climate science program, and I think, going forward, we need to look at the various strategies that have been put forward to try to get the best out of our research activity, including an adaptation research strategy. We need to look at the national assessment that is mandated by the U.S. Global Change Research Act looking across the sectors and across the regions, and we also need to look at a strategy for addressing the climate services that all of our communities are going to depend upon to make decisions about their going forward.

Senator CANTWELL. You would agree that it is impossible for them to do that kind of research—the local communities.

Ms. ABBOTT. It is impossible for them to do it alone without help from the Federal Government.

Senator CANTWELL. Thank you.

Mr. Kerry, obviously, as General Counsel, part of your activities is lowering barriers to trade opportunities for U.S. companies as they look for market opportunities abroad. One of the issues is a lack of infrastructure of commercial law in those countries. My understanding is that the General Counsel's office provides commercial law assistance to those foreign officials. How do you think we should enhance that or change that or grow that function to better serve the United States?

Mr. KERRY. Well that, Senator, is part of one piece in an overall review that the Administration has undertaken of trade policy and all of its various components about the market access, the counter-vailing duties, and antidumping aspects, and review of the trade agreements. Certainly one of the functions that I look forward to, if confirmed, is the opportunity to work on the commercial law development program to try to promote transparency in other countries and to promote transparency in market access.

Senator CANTWELL. Would you say that the program could grow in our efforts on the international basis to support more activities?

Mr. KERRY. Well, I think, Senator, the role that that program is going to play in the overall trade strategy is something that will emerge from that review. I certainly look forward to a discussion with you and with your very capable staff of ways that that program can help advance the choices that we need to make in the area of trade.

Senator CANTWELL. Thank you. I see my time is up.  
Senator HUTCHISON?

Senator HUTCHISON. Thank you, Madam Chairman.

I want to ask each of you to answer the same question that I asked of the first panel, and that is, would each of you work with committee members on both sides of the aisle and give information and any answers to requests that are made so that we can do our job of oversight of your agencies? Ms. Boyd?

Ms. BOYD. Yes, Senator Hutchison, absolutely. I would see that as the primary function of my office. I would also like to note that I think our Federal Government works best when it has a healthy relationship with Congress. So I would absolutely do my part to ensure that.

Senator HUTCHISON. Thank you.

Mr. Kerry?

Mr. KERRY. Senator Hutchison, I took notes during your introductory comments when you said the Committee cannot perform its functions without information from the legislative and legal staff. So my answer to that question is yes.

Senator HUTCHISON. Ms. Abbott?

Ms. ABBOTT. And yes, Senator Hutchison, along with my fellow nominees, I share their view. Also, with respect to the fact that the President has made openness a very strong commitment on the part of the Government. So yes, I would.

Senator HUTCHISON. Thank you.

My only other question I have is for you, Ms. Abbott. The OSTP really is an office that can be whatever you make of it. It can be very active and productive and give the kind of guidance in science that we really need, and it would be a wonderful service if you do. But many times we never hear much from OSTP. So it would be very helpful for you all to be active because I think there are some areas where your input would move the ball forward.

One of those areas concerns a bill that I introduced in the last two Congresses to do more research in weather patterns and mitigation to determine how mitigation works, how it affects not only the area where it might be occurring, but other areas around it. For instance, cloud seeding—does it affect areas in the north, south, east, or west of the area where clouds would be seeded?

There are really no records that have been kept in the last few years. They used to keep them at OSHA and the Weather Service, but—not OSTP. NOAA and the National Weather Service used to do some of this record keeping, but they do not anymore.

I talked to the head of OSTP when he was here, and he was interested in participating and working with us on this bill. I have the bill's directives now housed at the National Science Foundation, but I would be pleased to work with OSTP on moving it forward so that we could get data to determine if the changes in weather and the violence of the weather that we have seen in the last few years can in any way be mitigated or let us look at the patterns and see if there is something that they might tell us.

So my question is, would you work with me on that and maybe help us push something through that would be helpful in gathering data in the beginning and then seeing if that leads us somewhere?

Ms. ABBOTT. Yes, Senator Hutchison, I would be pleased to work with you as we go forward.

The intensity of storms and frequency is obviously a very important problem and something that we have to address both from its impact on public welfare, as well as on the economy. About a third of our GDP comes from coastal communities and clearly any impact from hurricanes on coastal communities is felt across the Nation. So our understanding of the dynamics of these storms, together with their consequences, and also looking at the various strategies for mitigation and adaptation has to be a very strong part of the portfolio of research that we work with you in an effort to produce for the Nation.

Senator HUTCHISON. Well, thank you. I know that you have now lived in Texas, you have seen—

Ms. ABBOTT. We have experienced it firsthand.

Senator HUTCHISON.—and the surges. You know, Katrina. The big damage was from surge, not from the hurricane. Then, of course, Hurricane Ike, we saw it in Galveston just last year. So it is something that I think is high time we look at, study, see what the patterns are, if any, and then see if there is something we ought to be doing. But we cannot take that step until we know what the patterns are and if we can do something with that information.

So I thank you and I look forward to working with all of you in your capacities. Thank you.

Senator CANTWELL. Thank you and thank you, Senator Hutchison for being here today and allowing the hearing to go forward on these confirmations so that we can get the agency the personnel that it needs to do its job and to work with us here in Congress.

I want to remind my colleagues that the Committee does want to move on these nominees very quickly, so if they have questions for the nominees, to have them in by noon tomorrow so that they can get a response. And obviously, if members who were not here today have questions, you do not have to wait until noon tomorrow, you can start getting them to the Committee to get to these individuals sooner than that. The sooner you get them, the sooner the answers can come back.

So with that, again thank you all for being here and for your testimony and for willingness to serve.

This hearing is adjourned.

[Whereupon, at 4:21 p .m., the hearing was adjourned.]





## A P P E N D I X

### RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO PETER H. APPEL

*Question 1.* As RITA's strategic plan comes to an end in Fiscal Year 2010, what are the priorities you envision for the agency?

Answer. If confirmed, I plan to work closely with Secretary LaHood to advance the goals of safety, mobility, livability, sustainability, and economic growth. The Research and Innovative Technology Administration (RITA) is well-positioned to provide Departmental leadership on these priorities. If confirmed, I would charge RITA's Research, Development and Technology program with coordinating forward-thinking research priorities, including those on climate change, for the Department. Further, I would work with the Intelligent Transportation Systems (ITS) program to research cutting-edge technologies for deployment into our transportation system to help ensure that our infrastructure investments make the best use of the taxpayers' dollars. I would also look forward to working with the Bureau of Transportation Statistics to produce sound data upon which policy decisions could be made. There is an opportunity for RITA to bring together first-rate transportation research, technologies, and data to ensure a safe, efficient, sustainable and robust transportation network across every mode.

*Question 2.* How will you coordinate RITA's efforts between modal administrators to incorporate technological solutions to transportation problems?

Answer. I firmly believe that RITA can do a better job providing coordinated research and analytical results to Departmental decisionmakers, to support Administration and Secretarial policy initiatives. If confirmed, I will seek to reach across the modal administrations, and to outside research and technology organizations, to identify technology readiness; to promote those which may be commercialized; and to further develop those with the best chance of improving intermodal connectivity. This effort may only be successful if we have a full partnership with all modal administrations and their stakeholder partners.

*Question 3.* What is your assessment of the FAA efforts to use technology to address environmental issues, particularly through the NextGen, CLEEN and CAFFI programs?

Answer. I have not had an opportunity to assess these programs. If confirmed, I will work with the FAA to assist in any way I can to address aviation environmental issues, and bring the knowledge of the Volpe National Transportation Systems Center to bear on this topic. As you may know, the Volpe Center already provides significant support to the FAA in air traffic system design and research, and in aviation environmental assessment and modeling.

*Question 4.* What role do you believe RITA can play in supporting the FAA's environmental efforts?

Answer. Aviation emissions, noise and fuel use are three significant issues in which FAA is working to fulfill, or even lead, International Civil Aviation Organization (ICAO) environmental standards, as well as being an important part of the transportation environmental equation. If confirmed, I look forward to working with the FAA, through the DOT Center for Climate Change, through RITA's leadership in alternative fuel technology and standards, and in other ways to ensure that the work that FAA is doing both supports and is supported by what RITA does across all modes on this critical topic.

*Question 5.* How do you anticipate the Office of Intermodalism working to coordinate the development of a national intermodal transportation system?

Answer. RITA activities, cutting across all modes, need to provide an intermodal perspective. If confirmed, I plan to examine all RITA programs in terms of how they can promote intermodal thinking in the agency and within the Department. As part of that examination, I will look into the status and potential for the Office of Intermodalism to help coordinate the development of a national intermodal transpor-

tation system. As intermodalism involves all of the Department's Operating Administrations, I anticipate working closely with the Office of the Secretary.

*Question 6.* What will you do to advance the development and use of new technologies to improve the efficiency of freight flow through the marine transportation system and its intermodal connectors?

Answer. The conduct of applied research through nationally renowned institutions such as the National Academies is critical to the identification and development of ways to increase operational efficiency and throughput of the marine transportation system. If I am confirmed, RITA will continue to pursue and conduct such applied research opportunities to develop new reliable data, tools, and technologies through the National Cooperative Freight Research Program.

For example, one NCFRP project entitled *Preserving and Protecting Freight Infrastructure and Routes* will specifically address the state of maritime infrastructure including truck routes connections between manufacturers and ports and the state of intercity highway and rail networks around ports. The objective of this research project is to provide state and local officials, land use planners, etc. with state-of-the-practice review of current activities and best practices for use in planning and development of facilities in proximity to freight, port, and rail operations. RITA will continue to support the critical efforts of the Committee on Maritime Transportation System (CMTS) through the involvement of the Bureau of Transportation Statistics. RITA, through BTS, will continue to sponsor the Maritime Data Working Group which produces analytical and technical reports on maritime trade and transportation.

In addition, RITA will conduct the validation of the use of new technologies through deployment of proof-of-concept projects in several areas of freight transportation management ranging from applied technologies in intelligent transportation systems, remote sensing technologies to spatial information-based decision support systems to enhance the overall freight system performance. The Intelligent Transportation System Program also has technological developments which I will look at for applicability to intermodal connectivity. All of these efforts will be coordinated with the Federal Highway Administration's programs in intermodal connectors and freight management.

*Question 7.* What do you see as the greatest gap or deficiency in scientific research that your office can fill to address vehicle safety and transportation issues?

Answer. Today, when we drive, we are limited by human capabilities regarding what is happening on the roadway around us. In the future, we can greatly improve safety if our vehicles are smarter and aware of other cars on the roadway and potential hazards that drivers may not see. These capabilities require vehicles to be able to communicate with one another and with signals and other roadway features. Thus, technology offers the potential to transform vehicle safety.

Specifically, RITA's Intelligent Transportation Systems Joint Program Office, is working hand-in-hand with the National Highway Traffic Safety Administration (NHTSA) to research and develop vehicle-to-vehicle and vehicle-to-infrastructure communication technologies for safety applications. This suite of technologies, collectively referred to as IntelliDrive(SM), holds the potential to transform vehicle safety by giving the vehicle 360-degree awareness to warn the driver of hazards and, as technology advances, to ultimately take limited control to avoid a crash.

While research progress is being made, the business model that will provide a funding approach to equip vehicles and to deploy roadside infrastructure must be found. In addition, several key issues, such as privacy and security, must be addressed to bring this ground-breaking technology to fruition. However, the potential benefits of this technology fully justify the investment.

*Question 8.* In your opinion, what challenges do scientists face when attempting to produce vehicle safety research that is useful to the automotive industry?

Answer. The most recent challenge is to sustain the automotive industry's focus on research in the current business climate. Their attention is diverted and their resources are strained. Despite these challenges, the automotive industry must be a full partner in the technical and non-technical research. It is essential that USDOT nurture and maintain strong relationships with the automotive industry. Through that relationship, research can be cooperatively developed that will meet the needs of the industry. To this end, USDOT enabled the creation of the Vehicle Infrastructure Integration Consortium (VIIC) as a venue for the automotive industry to work with each other and with USDOT in a non-competitive environment to conduct research pertinent to the automotive industry. The research identified above must be designed with the support of the automotive industry so that it satisfies their needs for ultimate implementation.

*Question 9.* As the administrator of RITA, what approach will you take to addressing these challenges?

Answer. If confirmed as Administrator, I would use this leadership position to strengthen and sustain the relationship with the automotive industry. RITA can do much to reassure the industry of the government's commitment to this research and its belief in the potential to substantially improve safety. Further, RITA, as an agency with a multi-modal mission, can and will continue our strong relationship with the National Highway Traffic Safety Administration (NHTSA) in the development and execution of this research program. NHTSA has a long-standing relationship with the automotive industry and they are a key partner in the research.

*Question 10.* How will you adequately provide current and thorough reporting of your statistical research and analysis?

Answer. RITA, through the Bureau of Transportation Statistics (BTS), regularly communicates with stakeholders and customers in providing statistical products and services that meet priority needs of policy leaders and decisionmakers and ensures that decisionmakers have access to the relevant, accurate, timely, and reliable information and analyses needed to make informed decisions and improve safety and livability, reduce congestion, and boost overall transportation system performance. To achieve this goal, BTS engages in three central activities: *creating, managing, and sharing* transportation statistical knowledge.

BTS has already scheduled updates and online releases of airline data, international data, the Transportation Services Index and other key transportation indicators. BTS produces analytical reports on key transportation trends including passenger intermodal connectivity and national and state transportation statistics. BTS will continue to develop statistical products and services that enhance knowledge regarding other pressing domestic and international transportation topics as they evolve. BTS actively contributes to the Nation's geospatial knowledge by developing software to improve the estimation of travel routes and by collaborating with Federal agencies and stakeholders to advance geographic data efforts. The BTS also administers the National Transportation Library. The National Transportation Library maintains a substantial presence in both digital and traditional library environments.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO  
PETER H. APPEL

*Question 1.* What role do you see the University Transportation Centers (UTC) playing in the formulation of national transportation policy?

Answer. The University Transportation Centers continue to play an increasing role in forming national transportation policy, as evidence by several UTC directors testifying recently before the Congress on topics as diverse as livability, infrastructure maintainability, and rural transportation issues. It is becoming increasingly known that the UTCs house thoughtful knowledge creation and analysis capabilities upon which state Departments of Transportation, Metropolitan Planning Organizations, and private logistics firms are drawing increasingly. I am a firm believer in the value of the UTCs, and if confirmed, will seek to draw the UTCs, their research results and policy analysis skills, more into the national policy debate through the Department.

*Question 2.* More specifically, what role do you see the Alaska University Transportation Center playing in the formulation of the Nation's transportation policy and arctic policy?

Answer. The Alaska University Transportation Center is addressing extreme environment transportation issues in a way that few others can, yet is doing so in a collaborative manner with others who work in the field. Bringing this specific knowledge together will be useful in informing national transportation policy as it affects arctic environmental and transportation issues.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO JOSEPH C. SZABO

*Question 1.* While changes to the regulatory structure governing railroad rates matters are generally handled by the Surface Transportation Board, as Administrator of the Federal Railroad Administration, your actions will have a tremendous effect on the role that both freight and passenger railroads play in our surface transportation system. Are you willing to work with me to expand competition and

improve service in the rail industry while ensuring that railroads have the resources they need to serve the nation?

Answer. The economic regulatory structure governing railroads faces the difficult challenge of balancing the often conflicting needs of the railroads, shippers and communities. Adequate financial returns for the railroads are necessary to encourage investment in additional capacity and new technologies that will provide the safe, efficient and growing rail system we need for both freight and passenger service. Reasonable rates and reliable service are critical for the economic development of our communities. The impact on communities from changes in railroad service must also be considered. As you note, the responsibility for balancing these needs has been placed principally with the Surface Transportation Board (STB). FRA, in cooperation with the General Counsel (OST) and other DOT modes, participates in proceedings before the STB and this provides an opportunity for the agency to influence policy on these issues. I believe the Department's filings before the STB should continue to urge the STB to balance the needs of the railroads for adequate financial returns with the needs of shippers for reasonable rates and reliable service. If confirmed as FRA Administrator, I would be pleased to work with you and the Committee to consider ways to better achieve the goal of expanding competition and improving service.

*Question 2.* What will you do to make sure that the Federal Railroad Administration is an active participant in the Department of Transportation's (DOT) Office of Climate Change to make sure that rail is adequately represented in the Department's climate change efforts? What will you do at the Federal Railroad Administration to promote rail as an environmentally friendly transportation option?

Answer. If confirmed, I will work to assure that FRA is an active participant in the DOT Office of Climate Change to make sure that rail is adequately represented in the Department's efforts on this issue. I understand that FRA has been an active participant with that office in the past. With respect to efforts to promote rail as environmentally friendly transportation option, there are a number of initiatives currently planned or underway that I fully support. On April 16, the Department of Transportation released *Vision for High-Speed Rail in America*, its strategic plan for the use of the high-speed rail and intercity passenger rail funding provided through the American Recovery and Reinvestment Act of 2009. This Strategic Plan is just the first of several steps intended to further refine and elaborate on this high-speed rail corridor vision—including the program guidance, the President's detailed Fiscal Year 2010 budget request, the National Rail Plan called for by Congress, and discussions over upcoming surface transportation legislation. I believe that enhanced passenger rail can play an important role in our Nation's overall climate change strategy.

*Question 3.* How will you as Administrator help the Federal Railroad Administration meet the deadline for the new hours of service regime enacted in the Rail Safety Improvement Act of 2008? And the implementation of positive train control?

Answer. Mr. Chairman, I'm informed that FRA has already completed work with the Railroad Safety Advisory Committee toward issuance of a final rule on Hours of Service Record Keeping and Reporting and that they are finalizing partial agreements on Positive Train Control, as well. If confirmed, it would be my responsibility to work with FRA's safety staff and counsel to make sure that initial policy decisions on work such as this are made early in the process of regulatory development and that my colleagues in the Administration are kept fully briefed so that we do not lose time in "review and clearance" that could be spent implementing safety rules in the field. I know the FRA staff is working to be part of the solution here and to ensure that the detail work that Congress directed the agency to do is completed as quickly as possible. Nothing that I could do as Administrator could be more important than pushing to resolution the work the agency must do to implement the Rail Safety Improvement Act of 2008.

*Question 4.* The American Recovery and Reinvestment Act of 2009 provides funding to the several grant programs that the Federal Railroad Administration administers, such as the Amtrak capital grant program and the State Intercity Passenger Rail Grant program. How will you make sure projects that are selected to receive funds are the ones that are best suited to contribute to a national rail system? Similarly, how will you make sure that funds provided to these programs will be distributed quickly and efficiently so that projects can begin to be constructed as soon as possible?

Answer. On April 16, the Department of Transportation released *Vision for High-Speed Rail in America*, its strategic plan for the use of the high-speed rail and intercity passenger rail funding provided through the American Recovery and Reinvestment Act of 2009. As outlined in that strategic plan, and as specified by President

Obama's March 20 memorandum on the use of Recovery Act funds, projects will be selected based on transparent, merit based criteria, including projects' ability to produce economic stimulus, achieve the goals for high-speed rail and intercity passenger rail development specified in the Passenger Rail Investment and Improvement Act of 2008, and mitigate financial and implementation risks. It is my understanding that FRA will be providing addition details on these merit-based criteria as part of the interim guidance it will issue by June 17. If confirmed as Administrator, I look forward to working to develop and implement these merit-based criteria.

The expeditious management of the grant-making and construction processes will unquestionably be one of the greatest challenges facing FRA. I hope that the interim guidance, which will establish the exact procedures and standards to be applied under these programs, will serve as a first step to ensuring that projects move forward without delay, and are completed as quickly as is prudently possible.

*Question 5.* The Passenger Rail Investment and Improvement Act of 2008 included a requirement for the Federal Railroad Administration and Amtrak in consultation with other specified parties to develop metrics and standards for the performance and service of train operations. As Administrator, will you be committed to fully establishing fair metrics and standards for performance and service of train operations, including measurements of on-time performance and delays of intercity passenger rail on rail carrier's lines?

Answer. I understand that FRA has been working diligently with Amtrak to develop the required metrics and standards, and I look forward to reviewing the progress made in these efforts. Intercity passenger rail service can only be successful if the trains operate reliably, and the standards and metrics called for under the Passenger Rail Investment and Improvement Act of 2008 represent a key component of the efforts that are necessary to ensure improved intercity passenger rail reliability.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BYRON L. DORGAN TO  
JOSEPH C. SZABO

*Question 1.* While freight railroad rates and practices are generally handled by the Surface Transportation Board, as Administrator of the FRA, your actions will impact the role that both freight and passenger railroads play in our surface transportation system. How can you help us to expand competition and improve service in the freight rail industry?

Answer. The FRA, in cooperation with the General Counsel (OST) and other DOT modes, participates in proceedings before the Surface Transportation Board (STB). I believe the Department's filings before the STB should continue to urge the STB to balance the needs of the railroads for adequate financial returns with the needs of shippers for reasonable rates and reliable service.

Adequate financial returns for the railroads are necessary to encourage investment in additional capacity and new technologies that will provide the safe, efficient and growing rail system we need for both freight and passenger service. Reasonable rates and reliable service are critical for the economic development of our communities. I believe the Department should also continue to urge the STB to consider the impact on communities from changes in railroad service.

*Question 2.* How will you make sure projects that are selected to receive funds from the American Recovery and Reinvestment Act of 2009 are the ones that are best suited to contribute to a national rail system?

Answer. On April 16, the Department of Transportation released *Vision for High-Speed Rail in America*, its strategic plan for the use of the high-speed rail and intercity passenger rail funding provided through the American Recovery and Reinvestment Act of 2009. As outlined in that strategic plan, and as specified by President Obama's March 20 memorandum on the use of Recovery Act funds, projects are to be selected based on transparent, merit based criteria, including projects' ability to produce economic stimulus, achieve the goals for high-speed rail and intercity passenger rail development specified in the Passenger Rail Investment and Improvement Act of 2008, and mitigate financial and implementation risks. It is my understanding that FRA will be providing addition details on these merit-based criteria as part of the interim guidance it will issue by June 17.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN KERRY TO  
JOSEPH C. SZABO

*Question 1.* Last Congress, Senator Specter and I introduced the High-Speed Rail for America Act of 2008 which provides tax exempt bonds and tax credit bonds for high-speed rail. The American Recovery and Reinvestment Act of 2009 included \$8 billion for high-speed rail projects. I believe that more than \$8 billion is necessary to create a high-speed rail system and that tax exempt bonds and tax credit bonds would provide a constant source of funding that would complement the initial investment of \$8 billion. Would you support such a program?

Answer. As stated in *Vision for High-Speed Rail in America*, and emphasized in President Obama's April 16 remarks at the release of that strategic plan, the Administration views the \$8 billion provided under the Recovery Act and the \$1 billion per year funding proposal contained in the President's Fiscal Year 2010 budget as a down payment to jump-start the development of high speed rail in America, recognizing that additional funding will be required to realize the full potential of a nationwide high-speed rail system. As such, if confirmed, I would look forward to working with others in the Administration and with Congress to identify the precise sources and mechanisms for providing additional funding.

*Question 2.* I have proposed creating an Office of High-Speed Rail within the Federal Rail Administration to focus solely on developing high-speed rail. Do you think such an office is needed?

Answer. Faced with an unprecedented increase in grant funding and policy responsibilities, there is no question that FRA will require additional resources to guide the development of the Nation's high-speed rail system and oversee the use of Federal funding in that effort. If I am confirmed, I would look forward to working with Department of Transportation officials and the Congress to determine what organizational structure will best suit these needs.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO  
JOSEPH C. SZABO

*Question 1.* There has been little Federal investment in our freight rail infrastructure, even as we face a significant increase in freight traffic. What should be the Federal Government's role in maintaining and enhancing freight-related infrastructure?

Answer. The Federal Government provides limited financial assistance for investment in our freight rail infrastructure, most prominently through the loans and loan guarantees available in FRA's Railroad Rehabilitation and Improvement Financing Program (RRIF) and in Fiscal Years 2008 and 2009 the Rail Line Relocation and Improvement Program. The freight railroads are best positioned to determine their investment needs to meet anticipated demands on the freight rail system. The critical Federal role is to continue to support a rail regulatory environment that permits the freight railroads to earn an adequate return on their investment, thereby permitting and encouraging the freight railroads to invest in needed infrastructure. The Federal Government may have a role in providing additional support to foster capacity growth beyond what private investment provides in certain areas, for example, to support passenger rail, or in providing funding to accelerate the adoption of new technologies with safety or environmental benefits. However, no additional specific Federal funding role for freight rail has been identified at this point.

*Question 2.* In the Passenger Rail Investment and Improvement Act of 2008, we required that the Northeast Corridor be brought into a state-of-good-repair by 2018. As Administrator of the FRA, how will you implement this law to meet this deadline and ensure the Northeast Corridor can meet the increased demand for rail travel?

Answer. I understand that FRA works closely with Amtrak as part of its administration of the railroad's Federal capital grants to ensure that the funding provided to Amtrak is used to further the railroad's key strategic goals, including the bringing of the Northeast Corridor to a state-of-good-repair. As you know, Amtrak is also required under section 211 of the Passenger Rail Investment and Improvement Act of 2008 to prepare a capital spending plan identifying the capital projects required to achieve this important goal. If I am confirmed as Administrator I would like to see the final state-of-good-repair plan serve as a cornerstone in the process of identifying capital projects to be included future Federal capital grants to Amtrak.

*Question 3.* Last year, I worked to enact the Clean Railroads Act of 2008 in response to the proliferation of companies abusing a Federal loophole that prevented New Jersey from enforcing important public health, safety, and environmental standards at rail sites. As Administrator of the FRA, how will you ensure that rail

operators abide by Federal and State requirements preventing pollution, protecting the environment, and protecting the public health, especially laws governing solid waste?

Answer. If I am confirmed, I look forward to learning more about the Clean Railroads Act of 2008 and how FRA in carrying out its railroad safety responsibilities might assist the Surface Transportation Board as it implements the Clean Railroads Act and the Environmental Protection Agency in its role in preventing pollution, protecting the environment, and protecting the public health, especially with respect to laws governing solid waste.

*Question 4.* The Act to reauthorize the FRA signed into law last year included a number of important provisions to improve rail safety. One of these is the implementation of positive train control systems, which will help reduce collisions and derailments. What will you do as FRA Administrator to ensure this requirement is implemented effectively and on time?

Answer. I look forward to seeing that FRA finishes developing proposed performance-based regulations to govern the implementation and use of mandatory PTC systems. Under the law, each applicable railroad will have to submit a PTC implementation plan for approval by April 16, 2010. If confirmed, I will do everything I can to carry forward FRA's objective of issuing a final rule providing requirements for such plans no later than October 2009. I am aware that FRA is asking for plans describing the technology that the railroads will use by next April, as well; and I believe that this is necessary if we are going to ensure completion of these systems by the statutory deadline of December 31, 2015.

---

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARK BEGICH TO  
JOSEPH C. SZABO

*Question.* The Department of Defense has identified the Alaska Railroad as a part of the Strategic Rail Corridor Network (STRACNET) as a Defense Connector Line. You may be aware that the Alaska Railroad is proposing an expansion, the Northern Rail Corridor Extension Project, which may be relevant to the DOD, and is supported by many Alaskans. Can you explain to the committee what, if any, judgments you may have made about of the viability of the Alaska Railroad's Northern Rail Corridor Extension Project, as well as the STRACNET designation of this rail corridor by the DOD?

Answer. I have not as yet made any judgments about the viability of the Alaska Railroad's Northern Rail Corridor Extension Project but would be interested in learning more about the project if I am confirmed as FRA Administrator. It do understand that the FRA is a cooperating agency on the draft environmental impact statement (EIS) prepared by the Surface Transportation Board and published in December 2008 and that FRA has provided grant funds to the Alaska Railroad Corporation to advance the planning, design, and environmental review of the project.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
JOSEPH C. SZABO

*Question 1.* In my state, safety at railroad crossings is an important issue since we have had several fatal accidents. These accidents have taken place with cars at grade crossings and with people walking along tracks when they should not be. The Railroad Safety Enhancement Act of 2008 included grants to states for grade crossing safety and the "Operation Life Saver" program to raise public awareness of railroad safety hazards. Will you aggressively implement these programs to prevent rail crossing accidents? Will you work to introduce new technologies to improve rail safety, especially for tracks that cross roads and pass through populated areas?

Answer. Yes. Highway-rail grade crossing safety would be a priority for me as Administrator of FRA. If confirmed, I would continue FRA's longstanding partnership with Operation Lifesaver and countless other outreach efforts with the rail industry, State and local governments, and transportation organizations in schools, in workplaces, and in communities all across our Nation to raise public awareness about highway-rail grade crossing safety. As I have testified, given my railroad background it would be a special honor for me to help implement the measures in the Rail Safety Improvement Act of 2008 to improve railroad safety, including all measures to promote highway grade-crossing safety. If confirmed, I would indeed work with FRA staff to explore additional ways to improve highway-rail grade safety, taking advantage of new technologies that hold promise for reducing the risks posed to both highway and rail users in high traffic areas. Improving high-rail grade cross-

ing safety simply improves safety for all of us, and it would be a key focus for me as Administrator.

*Question 2.* Mr. Szabo, relocating freight rail out of congested urban areas is an issue across the country, including in the Chicago area where you are from. In the border areas of Texas and New Mexico, several proposed rail relocation projects could potentially reduce congestion, improve border security, and increase safety. My understanding is that the Federal Railroad Administration does assist with such rail relocation projects, primarily through loans and loan guarantees. Would you support increased FRA funding for rail relocation projects? Through what programs?

Answer. FRA currently administers the Rail Line Relocation and Improvement program, the purpose of which is to provide financial assistance through grants for exactly the type of projects highlighted in your question. FRA also manages the Railroad Rehabilitation and Improvement Finance program, which provides loans and loan guarantees to help finance a variety of railroad projects, including those involving railroad relocations. I understand that interest and participation in both of these programs has been very high, and in the case of the Rail Line Relocation and Improvement program, that demand has far outstripped the supply of available funding.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. SAM BROWNBACK TO  
JOSEPH C. SZABO

*Question 1.* In the past the U.S. DOT appears to have opposed the use of RRIF financing for refinancing. Refinancing is a stated eligibility under the statute and can be enormously helpful to short line railroads that generally have difficulty securing reasonably priced financing in the private market. What assurances can you give that this bias against refinancing will not resurface in the new Administration?

Answer. I am cognizant of the financing needs of the short line railroads, including the need to refinance various kinds of debt that are eligible under the RRIF program. I understand that in the past this program has not been implemented as widely as Congress would have liked. If confirmed, I will work within this Administration to make sure that RRIF is one of the many tools available to address the investment needs of the railroad industry.

*Question 2.* My next two questions for you are more of a statement, but I would appreciate your response. I know that your past work has allowed you to become very familiar with the Class I railroad industry and this experience and knowledge will no doubt be important as you make decisions concerning the industry. If you are not as familiar with the short line railroad industry, I want to encourage you to become so as quickly as possible. These small businesses are preserving rail service and rail jobs in areas of the country that the Class I no longer serves. In my own state of Kansas short lines operate 42 percent of the state's total rail network and are absolutely critical in moving grain for a huge number of area farmers. I want to make sure that you have a real appreciation for what short lines mean for vast areas of rural and small town America. In that regard, I commend for your reading file recent Congressional testimony given by Rick Webb, CEO of Watco Companies which own and operates 19 short lines across the country. The testimony was given on January 28 before the House Railroad Subcommittee and it does a good job of explaining why short lines are such an important part of the Nation's transportation network.

Answer. I and the Federal Railroad Administration (FRA) are well aware of the importance of the short line railroads. While the Class I railroads generate far more ton-miles of traffic, a significant portion of that traffic either originates or terminates on short line railroads. They form a critical link to the national economic system for many communities while reducing wear and tear on rural roads not designed for heavy truck traffic. The ability of short lines to provide local "retail" service, vital to small communities, assembling small shipments into larger blocks of cars that are then interchanged with the Class I's allows many smaller communities to receive good quality rail service despite their smaller size and gives them access to the world's markets. I am also aware of some of the unique challenges short line railroads face, including the lack of financing. The RRIF program was created to help address these needs. Funding the track and other improvements needed by short line railroads not only improves safety and service, it reduces pollution and puts people to work.

*Question 3.* In that same regard, I want to make sure that you are committed to working with the short lines with regard to implementing the recently passed Rail Safety Legislation. That legislation was aimed primarily at safety issues on the Class I railroads. While many of the provisions are relevant to all rail operations,



there are a number of rules regarding hours of service and the installation of Positive Train Control systems where the short lines are going to have to engage in very expensive compliance measures in areas where their operating characteristics do not match the Class I characteristics and where there is no safety benefit associated with the action. I hope you intend to pay close attention to this issue and to make regulatory adjustments where that is appropriate.

Answer. I certainly appreciate the fact that one size doesn't always fit all. Although FRA has an obligation to ensure that the law is enforced and that safety needs are met, the agency also has a responsibility to ensure that small entities, including small railroads, are not subject to requirements that are unnecessary. As a safety stakeholder in my current job, I have watched the FRA work closely with the American Short Line and Regional Railroad Association through the Railroad Safety Advisory Committee and in other forums. I know many short line and regional railroaders, and I respect the role that they play in the national rail system. If confirmed, I will welcome the chance to work closely with smaller railroads to ensure that the Rail Safety Improvement Act of 2008 is implemented in an effective but rational way which takes into account real differences in safety exposure.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO DANA G. GRESHAM

*Question 1.* How do you plan to facilitate open, honest, and timely communication between the Department of Transportation and Congress? What process will you establish to make certain that the Administration consults with this Committee in a timely fashion before implementing major policy shifts?

Answer. I recognize the facilitation of open, honest, and timely communication between the Departments of the Executive Branch and Congress, conducted in a bipartisan manner as emphasized by Ranking Member Hutchison at the Committee hearings on my nomination, to be a primary function of the Office of Governmental Affairs. Timely communications would be a focus of my management of the Office should I be confirmed, including notice to Congress of impending policy shifts. To make that happen, I would expect to work closely with the senior policy staffs of the Secretary, Deputy Secretary, and Under Secretary, as well as the Administrators, to remain cognizant of developing policy and to make clear the need for consultation, as appropriate, with the appropriate Senate and House committee leaderships.

*Question 2.* The Administration's FY 2010 budget is expected to be received by Congress in the coming weeks. Can we depend on more aggressive support of critical rural air service programs, both Essential Air Service (EAS) and the Small Community Air Service Development program, from the Obama Administration?

Answer. The President signaled his strong support for, and recognition of the value of, the Essential Air Service Program in his preliminary Budget message in February. From all that I have learned about the objectives of the EAS program and Small Community Air Service Development program since being nominated, I am convinced that these two programs can play a valuable role in maintaining a network of air service in areas that have historically been underserved.

*Question 3.* How will you work to improve relationships, communications and understanding between your Department and the Department of Homeland Security to ensure the DHS is well informed about the operational impacts to their security regulations?

Answer. I understand that DOT and DHS have developed a productive working relationship and coordinate often on matters that are relevant to or affect both Departments. For example, DOT coordinates frequently with DHS via quarterly staff-level meetings, and the Secretaries of Transportation and Homeland Security are in agreement on continuing the routine of quarterly meetings established by their predecessors. Any issues concerning security regulations are addressed at the appropriate coordination level, whether that is the working group level or Secretarial level. I commit to emphasizing the continued need for nurturing these close working relationships.

*Question 4.* How will you work to ensure efficient coordination between the Maritime Administration and Department of Homeland Security's Customs and Border Protection to ensure strong enforcement of the Jones Act?

Answer. I am told that the Department of Transportation's Maritime Administration is in regular, close contact with the Department of Homeland Security's United States Customs and Border Protection (CBP) element to assure vigorous enforcement. If confirmed, I will work to ensure that the relationship remains strong.

*Question 5.* Last fall, a 5-year Amtrak reauthorization was signed into law, which set an aggressive plan for improving Amtrak's network and operations. President Obama and Secretary LaHood have indicated that they are very supportive of development of high speed rail in the United States, as indicated by their \$1 billion per year budget request for high-speed rail development. Can we expect that the Secretary will also be supportive of fully funding Amtrak at the authorized levels?

Answer. Secretary LaHood has expressed his support for a vital Amtrak and I am convinced would press for the level of funding that permits the Corporation to fulfill the robust role Congress envisioned for it in last October's enactment.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO ROBERT S. RIVKIN

*Question 1.* What steps would you take to bolster the DOT's efforts to enforce passenger rights under existing statutes in order to address the consumer protection concerns that have arisen over the past several years?

Answer. The protection of airline consumers is the responsibility of the Office of the General Counsel and would be one of my priorities. Accordingly, I would ensure that the Department completes in a timely fashion its pending consumer protection rulemaking that proposes to enhance passenger protections in the following ways: by requiring carriers to adopt contingency plans for lengthy tarmac delays; by requiring air carriers to respond to consumer problems; by deeming the continued operation of a flight that is chronically delayed to be an unfair and deceptive practice; by requiring carriers to publish information on flight delays on their websites; and by requiring carriers to adopt customer service plans, and to audit their own compliance with their plans. I would also ensure that the Department takes into account the views of Congress and stakeholders on the appropriate definitions of tarmac delays and chronically delayed flights. It is important to recognize that we cannot rely solely on existing regulations, or in the sometimes lengthy process of enacting new regulations, to protect consumers in an industry as dynamic as the airline industry. If confirmed, I would work to ensure that the Department is vigilant in reviewing carriers' evolving practices to prevent unfair and deceptive practices or unfair methods of competition. I advocate strong enforcement action, as well, to provide air travelers the level of protection they deserve.

*Question 2.* Under the Bush Administration's leadership, the NHTSA has included language in rules stating that Federal safety regulations preempted state common law. Many of us on the Committee felt that it was highly improper for the Administration to include preemption in safety rules that are addressed once every two decades. When the Administration included language that removed private rights of action, it also eliminated incentives to push industry to innovate and improve safety standards outside of the requirements of the rules. Do you agree that safety rules should be floors, not ceilings?

Answer. I am aware that various NHTSA rules promulgated during the previous Administration contained language, in the preamble of the relevant rule, announcing that the rule was intended to preempt State regulatory authority and State common law remedies. Some NHTSA regulations can have a preemptive effect on a State's ability to provide for its own standards or remedies, and guidance as to the preemptive effect of DOT regulations in those limited areas can be helpful in explaining the reach of a Federal regulation. However, it is my belief that, as a general matter, NHTSA's safety rules should be viewed, consistent with NHTSA's statutory authority, as minimum standards. It is my understanding that the Administration is currently reviewing the prior Administration's expansive approach to the preemption of State regulations and common law remedies by Federal regulations.

*Question 3.* In light of the Supreme Court's decision in *Massachusetts v. EPA* that gave the Environmental Protection Agency the authority to regulate greenhouse gas emissions, how do you view the NHTSA's legal authority to regulate fuel economy?

Answer. Under the Energy Policy and Conservation Act of 1975 and the Energy Independence and Security Act of 2007, NHTSA retains independent statutory authority to set fuel economy standards for passenger cars and light trucks, with the requirement to achieve a minimum fleet-wide average of 35 miles per gallon by model year 2020. The Supreme Court decision recognized the Environmental Protection Agency's authority to regulate greenhouse gas emissions, but did not alter NHTSA's legal authority to regulate fuel economy. Because of the relationship between fuel use and greenhouse gas emissions, NHTSA is working closely with the Environmental Protection Agency in this area.

*Question 4.* Do you plan to advocate for the Department's continued leadership in regulating national fuel economy programs?

Answer. The Department plays an important role in regulating both the fuel economy and the safety of motor vehicles. These issues are intertwined and both require careful consideration. This is a challenging and evolving area, and we look forward to working with our colleagues across Government and in the Congress.

*Question 5.* As the Department of Transportation's General Counsel how do you intend to ensure that all modes and offices within the Department are compliant with our cargo preference laws?

Answer. If confirmed as General Counsel, I would work with the Maritime Administration (MARAD) as it uses new enforcement authority enacted in 2008 (P.L. 110-417) to ensure compliance by the Department of Transportation and all other government agencies or their subcontractors with cargo preference regulations. Under the new authority, MARAD may levy a fine of \$25,000 per day per violation for persons who violate the laws, as well as direct agencies who violate the laws to ship make-up cargoes. Specifically, I would work to ensure that 100 percent of military and Export-Import Bank cargoes, 75 percent of agricultural food aid cargoes, and 50 percent of all other impelled cargoes are shipped on U.S.-flag merchant fleet vessels crewed by American citizens.

---

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO  
ROBERT S. RIVKIN

*Question.* Air traffic controllers have been without a collective-bargaining contract since 2005. How do you recommend DOT move forward with air traffic controllers and other FAA unions to negotiate a collective bargaining agreement on pay and working conditions? If confirmed, will you make this a priority?

Answer. I can assure you that resolving the contract issues with the air traffic controllers is a top priority for this Administration. The President and the Secretary have made that very clear. If confirmed, I will work closely with the Secretary and the FAA to resolve disputes with the National Air Traffic Controllers Association (NATCA), which represents the controllers, and with other FAA unions so that going forward we are in the best possible position to meet the important challenges facing the FAA.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO ROY W. KIENITZ

*Question 1.* What is the current status of the second stage of the E.U.-U.S. Open Skies negotiations? What are the primary goals of the Administration for the second-stage negotiations?

Answer. Negotiating teams from the United States and the European Union are continuing to explore issues of priority interest to both sides, and a third round of negotiations on a second-stage U.S.-E.U. aviation agreement has been scheduled during the week of June 22 in Brussels. The Administration is still in the process of developing its position for these negotiations and will be coordinating with aviation stakeholders as part of this process.

*Question 2.* U.S. ports are the key modal connector for more than 95 percent of all overseas trade and currently have no national level strategy for development or funding. What do you plan to do to adequately prepare the Nation's ports, marine transportation system, and intermodal connectors to meet their current needs, to reduce congestion, decrease emissions, and to support the doubling of freight traffic in the coming decade?

Answer. There are likely to be shifts in the kinds of transportation demands that we will face. It is no secret that the economy is becoming increasingly dependent upon global sources of supplies, but exports have grown as well. Since 1970, exports as a percentage of GDP have almost doubled, and imports have tripled. Moreover, the U.S. manufacturing base is increasingly shifting to high-value, high-tech products like pharmaceuticals and instruments, in which we retain a comparative advantage. These high-value products require an expedited transportation system that relies increasingly on overnight truck and air freight delivery. Our increasing reliance on imports of lower-value manufactured goods (and parts for domestic manufacturers) places a growing reliance on key ports of entry, such as the San Pedro Bay ports of Los Angeles and Long Beach, and the Puget Sound ports of Seattle and Tacoma. Landside connections to these ports, linked to an efficient domestic intermodal rail and truck freight transportation system, will be important to keeping the

delivery costs of these commodities low. Overall, the shift in GDP from goods production to services production will cause freight vehicle-miles traveled (VMT) to grow more slowly than GDP, but the growth will still be large.

*Question 3.* In the past, the Department of Transportation's stove-piped nature has made it difficult for the modal administrations to coordinate on cross-cutting policy issues. What will you do to improve coordination between the modes on cross-cutting policy issues? What is your plan for coordinating the Secretary's Office of Policy's efforts with the modal administrations' policy offices on going work?

Answer. I recognize that the role of Under Secretary for Policy is inherently tasked with improving the communication and efficiency among the modes in the interests of multi-modal policy solutions. In that regard, I have been struck with the success the Secretary has engendered in the so-called "TIGER Team" effort to rapidly implement the terms of the American Recovery and Reinvestment Act of 2009. The combination of new IT technology and cross-modal teams has had remarkable success in making available in a mere 9 weeks \$37 billion of the overall \$48.1 billion appropriated to the Department. I would like to make that a model going forward for multi-modal initiatives.

*Question 4.* Do you support the Jones Act and how will you work to ensure strong enforcement of it?

Answer. If confirmed, I would work with the Maritime Administration (MARAD) as it uses new enforcement authority enacted in 2008 (PL110-417) to ensure compliance by the Department of Transportation and all other government agencies or their subcontractors with cargo preference regulations. Under the new authority, MARAD may levy a fine of \$25,000 per day per violation for persons who violate the laws, as well as direct agencies who violate the laws to ship make-up cargoes. Specifically, I would work to ensure that 100 percent of military and Export-Import Bank cargoes, 75 percent of agricultural food aid cargoes, and 50 percent of all other impelled cargoes are shipped on U.S.-flag merchant fleet vessels crewed by American citizens.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BYRON L. DORGAN TO  
ROY W. KIENITZ

*Question 1.* What key steps does the FAA need to take to speed up Air Traffic Control modernization?

Answer. Modernizing the Air Traffic Control system—or moving to NextGen as quickly as possible—is a top priority for the President and the Secretary. If confirmed, I will work with the Secretary to ensure the FAA has the highest level of support in implementing NextGen capabilities. To accelerate NextGen, the FAA must work to maximize the use of capabilities already resident in today's aircraft and throughout the infrastructure. FAA must also work collaboratively with industry to encourage equipage to support new aircraft capabilities.

*Question 2.* What specific programs should the FAA pursue over the next 3–5 years to achieve modernization benefits in the near-term?

Answer. The FAA should focus on programs that immediately improve safety, increase efficiency, and reduce emissions and noise—this means accelerating movement toward performance based navigation and surveillance, and I believe that those efforts should be the FAA's focus over the next 3–5 years. If confirmed, I look forward to working with the Secretary and the FAA to support NextGen implementation.

*Question 3.* What specific steps can Congress take to help the FAA accelerate the date of a complete transition to NextGen?

Answer. If confirmed, I will work closely with the Secretary and the FAA to quickly identify the challenges or obstacles to full implementation of NextGen. I believe that working closely with Congress, we can identify areas where Congress can help to facilitate acceleration. I understand that the FAA has been operating under a series of short-term authorizations since October 2007. An immediate step that Congress could take to support NextGen is to pass a multi-year FAA authorization bill, which is needed to clarify the funding for NextGen and provide stability over the next few years.

*Question 4.* What will you do to improve communication and efficiency across the modal administrations in order to create multi-modal policy solutions?

Answer. I recognize that the role of Under Secretary for Policy is inherently tasked with improving the communication and efficiency among the modes in the interests of multi-modal policy solutions. In that regard, I have been struck with the success the Secretary has engendered in the so-called "TIGER Team" effort to

rapidly implement the terms of the American Recovery and Reinvestment Act of 2009. The combination of new IT technology and cross-modal teams has had remarkable success in making available in a mere 9 weeks \$37 billion of the overall \$48.1 billion appropriated to the Department. I would like to make that a model going forward for multi-modal initiatives.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
ROY W. KIENITZ

*Question 1.* The Essential Air Service program currently ensures that there is commercial air service for five small communities in my state. While I agree that the program could probably be more efficient, could you tell me more about what changes DOT proposes for Essential Air Service? What steps would you take to provide a better foundation for the Essential Air Service program and otherwise ensure that small communities depending on it continue to benefit from airline transportation?

*Answer.* The Essential Air Service program provides a vital link to the national air transportation system for many communities across the country. Nonetheless, communities' eligibility for inclusion in the EAS program has never been based on individual needs, but, rather, only on whether the community was receiving scheduled air service at the time of airline deregulation in 1978. The EAS program has remained fundamentally unchanged since its inception while the aviation landscape has changed dramatically with the spread of the hub-and-spoke system, regional jets, and low-fare carriers. In order to ensure that the program remains responsive to the needs of rural America, we intend to review the challenges facing EAS and we look forward to working with Congress in an effort to develop a more efficient and sustainable program.

*Question 2.* In 2006, a man who was drinking before and during his flight to Albuquerque later killed a family of six while driving the wrong way down the highway. Although current Federal regulations prohibit an intoxicated person from boarding a flight, or from being served more alcohol, it is not mandatory for airlines to provide training to ensure that these important safety regulations are obeyed.

I have introduced legislation (S. 743)—supported by unions representing flight attendants and Federal air marshals, as well as Mothers Against Drunk Driving—that would require that airlines provide flight attendants and gate attendants training for identifying intoxicated passengers, serving alcohol, and managing drunk or belligerent passengers onboard. Do you agree that flight attendants and gate attendants should receive such training to help ensure passenger safety in the air and protect public safety on the ground?

*Answer.* While I am not familiar with the particulars of this safety issue, it is only reasonable that flight attendants and gate attendants should receive training in matters that affect the safety of the public in the air and on the ground.

*Question 3.* The State of New Mexico is aggressively addressing the problem of drunk driving through a combination of enforcement and education efforts. Yet in 2007 alone, there were still 133 fatalities involving alcohol impaired drivers in my state. Although the last highway bill provided grant programs to help states tackle the problem of drunk driving, it is a still a problem of great concern. What would you do as Under Secretary for Transportation Policy to further efforts to reduce drunk driving?

*Answer.* I commend the State of New Mexico for its steady progress over recent years in reducing drunk driving. I am aware of Governor Richardson's announcement in February that the number of DWI-related deaths in your State has decreased 35 percent since 2002. Yet I fully agree that 133 drunk driving deaths is far too many and we need to continue looking for every possible remedy for this problem, in New Mexico and across the Nation.

If confirmed as Under Secretary for Transportation Policy, I will work with the Secretary and Congress to maintain the Department's traditional leadership role in providing research, strategies, guidance and resources that States need to address the drunk driving problem. I will work with NHTSA and the Department to develop evidence-based programs that can address recidivist drunk driving behavior as well as first time offenders. I also believe the Department must continue its partnership with States and communities as laboratories of change and innovation to insure that we can evolve our countermeasure strategies to meet changes in the highway safety environment.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO  
ROY W. KIENITZ

*Question 1.* Mr. Kienitz, I would be interested to know your views concerning the current shortfall in the Highway Trust Fund and how you envision the Obama Administration will address the significant funding needs that exist across the country when it comes to highway and bridge infrastructure which is critical to our Nation's economy?

As a follow up to that question, I would be interested in knowing your thoughts when it comes to innovative funding proposals, such as the Build America Bonds Act that Senator Wyden and I have advocated, which would supplement the funding that States currently receive via the Highway Trust Fund, by providing \$50 billion in infrastructure funding to address critical needs when it comes to highway, bridge, transit, rail and waterway infrastructure?

Answer. There is no doubt that the condition of the Nation's roads and bridges is not what it should be. The funding sources that have supported investment, mainly the gasoline tax, are less able every year to carry the load. If conditions are to improve a change is needed. Options for how to handle this challenge are being reviewed within the administration, and recommendations may be forthcoming soon.

In my personal capacity I have worked extensively on innovative financing plans over the last several years, including the Better America Bonds proposal. President Obama has proposed an infrastructure bank as part of his FY2010 budget and hopefully this proposal could be part of a broad and inclusive conversation of how to finance infrastructure.

*Question 2.* Mr. Kienitz, while there was widespread support among Democrats and Republicans for infrastructure investment in the economic recovery bill, some outside interests attempted to inject a "no new capacity" policy with respect to the stimulus bill's highway funds. That perspective was widely rejected by Congress, but it appears we will be dealing with this again in the surface transportation reauthorization debate. Since roughly 85 percent of Federal highway funds are spent on maintenance activities, this seems to be a solution in search of a problem. Can you explain why on one hand some want increased flexibility for state and local government transportation decisions and on the other hand want that flexibility constrained to only certain activities?

Answer. The Obama Administration has not yet made specific proposals for the 2009 surface transportation reauthorization bill so I cannot comment on administration policy. For my own part, none of the transportation authorizations I have worked on—at the Federal and state levels going back more than 20 years—have included or even seriously contemplated such a limitation.

Secretary LaHood has spoken publicly about his desire to modernize Federal transportation investments, in part by choosing investments based on which projects best serve important national goals. In such a system, new capacity projects would compete for funding with other types of projects as they do now based on their ability to achieve agreed to goals.

Finally, given the current funding constraints affecting the Highway Trust Fund it will be increasingly hard to fund major transportation investments of all kinds, and so addressing this issue creatively can pay dividends in many areas.

*Question 3.* Mr. Kienitz, it has been estimated transportation contributes somewhere in the neighborhood of 30 percent of the Nation's total greenhouse gas emissions. One of the leading causes of these emissions is not necessarily transportation itself, but traffic congestion. Vehicles caught in stop-and-go traffic emit far more of these pollutants than they do operating without frequent braking and acceleration. To date, climate change initiatives have focused on getting people out of their cars as the primary way to reduce traffic congestion. Should efforts to reduce greenhouse gas emissions focus both on transportation alternatives and direct initiatives to relieve traffic congestion?

Answer. President Obama has said on many occasions that combating climate change will be a principal policy focus of his administration, and this will no doubt have consequences for the transportation sector. This will certainly begin with efforts to make motor vehicles more fuel efficient. When it comes to capital projects, investment decisions intended to reduce CO<sub>2</sub> emissions should be chosen based on the best available science as to what will be effective over the time-frame identified for reducing the country's CO<sub>2</sub> emissions.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DAVID VITTER TO  
ROY W. KIENITZ

*Question 1.* As Gov. Rendell's chief advisor for Transportation, you advocated leasing a Federal highway to a foreign entity and allowing that foreign entity to charge tolls. You also advocated adding tolls to another U.S. Highway, I-80. The Pennsylvania legislature did not approve the lease, and the U.S. Department of Transportation rejected this scheme. In your new position would you be inclined to support approval of these arrangements that you have previously advocated? Do you believe Americans should be required to pay a toll to a foreign business to drive on a Federal highway? Do you see any problem with entrusting our transportation infrastructure to foreign-based companies?

Answer. The policies advocated by Governor Rendell regarding tolls and toll roads in Pennsylvania were chosen by the Governor personally, not by me. He is a very hands-on manager.

The plan to add tolls to I-80 eventually turned down by USDOT did not originate with the Governor. However, the plan approved by the legislature included new tolls on I-80, and he chose to sign that legislation because the billions in road, bridge and transit funding it would provide was sorely needed. On the day he announced his intention to sign the bill he expressed that it was not his preferred course of action. The Governor was not an advocate of this plan in the legislative process and as a result neither was I.

If confirmed, I will follow the direction of the Secretary and Congress on tolling policy. Current law allows new tolls on the Interstate system in very limited circumstances, and if confirmed I will enforce the law as written.

The proposal to lease the Pennsylvania Turnpike was strongly supported by Governor Rendell. As his agent, my role was to help carry out his vision. The eventual winning bidder was a consortium that included both CitiBank and the Spanish company Abertis. Indeed, each of the bidding teams included both U.S. and foreign companies. The Pennsylvania DOT and the Office of General Counsel analyzed whether foreign companies could be held fully accountable to the terms of a lease contract, and once it was determined they could the Governor chose to allow bidding to be open to U.S. and foreign companies. As long as he could be assured that all rules on toll rates and road maintenance would be followed regardless of which bidder was successful, he was comfortable selecting the high bidder.

On this point, if confirmed it will be my duty to follow the laws of the United States, which as of now do not differentiate between bidders based on their country of origin. Congress will have the opportunity to debate this issue in the reauthorization process, and if the law should change I will faithfully implement any new requirements if confirmed.

*Question 2.* From the policies you advocated throughout your career in public policy and public service, which generally fall under what some call "Smart Growth," you seem to think that Americans need to drive less, in favor of other means of transportation. In your new position would you show greater favor to alternate means of transportation, when driving is still the means of transportation favored by most Americans?

In a paper on road congestion put out by the Surface Transportation Policy Project under your direction, the claim is made that road construction does not solve traffic congestion problems.<sup>1</sup> As Under Secretary for Policy, would you be inclined to recommend that funds be shifted away from road repair and expansion, and if so, to what would you shift those funds?

Answer. If I am confirmed my primary role will be to follow the policy direction provided by the President, Secretary LaHood and Congress. At this point the Administration has not made policy proposals for the reauthorization of surface transportation programs so I cannot speak directly to those issues.

For my own part, I believe investment in roads and bridges is vital to the country's future and will continue to support high levels of investment just as I did working for Governor Rendell. The condition of major roads and bridges steadily improved during the years I was in Pennsylvania because a sustained effort was made to invest at very high levels where needs were the greatest.

Driving is America's dominant form of transportation and will remain so for the foreseeable future. Secretary LaHood has said on many occasions that he supports highway investment. He also supports more attention to other types of investment, from high speed rail to transit to walking and biking.

<sup>1</sup><http://www.transact.org/report.asp?id=64> (Accessed April 20, 2009).

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO CAMERON F. KERRY

*Question 1.* As General Counsel, your primary job is to provide legal counsel to the Secretary of Commerce and senior Department leadership. As an active member of U.S. trade policy negotiations, how do you foresee your role in counseling Secretary Locke and the Agency in this role?

Answer. The Commerce Department is part of President Obama's interagency team that is reviewing strategic and programmatic choices for trade policy. As General Counsel, I would work with Secretary Locke, Commerce's Under Secretary for International Trade, Ambassador Kirk, and our other interagency colleagues to support their review with the best possible legal advice and ensure that we are using all available tools to address the economic crisis, including achieving access to new markets for American businesses large and small.

*Question 2.* What is your perspective on the effectiveness of Commerce's monitoring and enforcement of current trade agreements?

Answer. President Obama is determined to aggressively defend our rights and benefits under the rules-based trading system. The ongoing review of trade policy will include a careful review of existing trade agreements with this policy goal in mind.

*Question 3.* What would you do differently regarding these agreements and how they are monitored and enforced?

Answer. I have not yet had the opportunity to review how Commerce is monitoring and enforcing trade agreements, but Secretary Locke and I are committed to enforcement of these agreements. As Secretary Locke testified, "it is pointless to negotiate complex trade agreements if we don't intend to enforce them." I intend to support him and the Department's tradeofficers in this important work and to advise them of enforcement opportunities in existing trade agreements.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV  
TO SHERBURNE B. ABBOTT

*Question 1.* As the Associate Director for Environment for the Office of Science and Technology Policy, what role do you see yourself playing regarding the research, development, and adoption of Carbon Capture and Sequestration technologies?

Answer. OSTP plays a vital role in helping to facilitate and coordinate across the Executive Branch departments and agencies involved in shaping and implementing Federal research and development activities on climate technologies, including carbon capture and sequestration (CCS) technologies. There are a number of science-related challenges that must be overcome to enable wide-scale deployment of CCS, including development of more cost-effective carbon capture systems; monitoring, verification, and accounting systems for permanent CO<sub>2</sub> storage sites; a legal framework for CO<sub>2</sub> storage permitting and liability; public support; and a CO<sub>2</sub> pipeline infrastructure. OSTP has a vital role to facilitate interagency coordination on scientific aspects of these issues through the Climate Change Technology Program, which was created under the Global Change Research Act, and the National Science and Technology Council (NSTC), which is co-chaired by the Director of OSTP. For example, the NSTC Subcommittee on Water Availability and Quality, under OSTP's guidance, is investigating the impacts that geologic sequestration might have on drinking water and aquatic ecosystems now and into the future.

*Question 2.* The Joint Ocean Commission Initiative recently released a report that outlines twenty priority actions needed for improving ocean and coastal policy and management, strengthening ocean science, and funding ocean and coastal policies and programs. In the area of ocean science, the Commission recommended the Federal Government: (1) more closely align ocean and coastal science priorities with the needs of policymakers and managers; (2) integrate ocean and coastal science into the broader climate initiative; (3) improve the availability of ocean-related information, products, and services critical to the operations of key sectors of the U.S. economy; (4) develop a comprehensive strategy to guide marine-related, ecosystem-focused research, assessment, and management under the guidance of the Office of Science and Technology Policy; and (5) initiate an effort among governmental, academic, and private stakeholders engaged in ocean science to prioritize competing demands within the ocean and coastal science community.

How do you see the Office of Science and Technology Policy coordinating with the National Oceanic and Atmospheric Administration to strengthen ocean science programs within the Federal Government, prioritize ocean and coastal research efforts,



and make sure the ocean and coastal science programs meet the needs of managers at the local, state, and regional levels?

Answer. Oceans are crucial to our well-being because they play a central role in global weather and climate, are a major source of protein for much of the world's population, provide employment in fisheries and recreation, serve as home to much of the planet's biodiversity, and more. Given this, OSTP will be very active in promulgating policies that propel the United States into a leadership position in marine stewardship. Included among the Obama Administration ocean priorities are to reauthorize the Coastal Zone Management Act in ways that strengthen the collaboration between Federal agencies and state and local organizations, and strengthen and reauthorize the National Marine Sanctuaries and the Oceans and Human Health Acts.

If confirmed, I will work with NOAA and other relevant agencies, as well as with the Congress, to complete and implement the strong, integrated, well-managed program of ocean research and stewardship that is essential to sustain a healthy and productive marine environment and the local, state and regional communities that depend upon it.

As a general overview, the OSTP works with NOAA (and other Federal agencies and Executive Office of the President entities) through both the NSTC Joint Subcommittee on Ocean Science and Technology (JSOST) and the U.S. Group on Earth Observations (US GEO) to address a number of science and technology research issues pertaining to oceans. Reporting to the JSOST are a number of functional working groups that exist to develop the research and operational priorities for national missions. For example, the Interagency Working group on Ocean Observing monitors the progress of the U.S. Integrated Ocean Observing System (IOOS) and the Oceans Observatory Initiative (OOI) which spans the domain from global to the coastal and Great Lakes and functionally from research to operations within the ocean observing, monitoring and management of information. Additional working groups focus on specific functions, such as oceans and human health. The members for these structures also participate in the U.S. GEO to ensure that the ocean and coastal information is then included in the larger framework of observations from land and atmosphere.

The Ocean Research Priorities Plan and Implementation Strategy developed by the NSTC's Joint Subcommittee on Ocean Science and Technology in the last administration appears to provide a useful framework for analyzing research needs and moving ahead with meeting them. A process to refine and update it is underway and I will study it closely and seek input from the relevant Executive Branch agencies and committees of Congress before reaching any conclusions about what revisions in it might be warranted.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
SHERBURNE B. ABBOTT

*Question 1.* New Mexico is home to Los Alamos and Sandia National Laboratories. Our National Labs are crown jewels of our Federal science assets, and they play an essential role for national security. Their original mission of safeguarding the Nation's nuclear weapons assets is well known, but these labs are also at the forefront of energy and environmental science which also has very real and direct links to our national security. I would appreciate learning your thoughts on your role in working with our National Labs. How would OSTP support and leverage these scientific and national security assets in the fields of energy and the environment?

Answer. OSTP recognizes that Sandia, Los Alamos, and other national laboratories are leaders in the critical research that our Nation needs in the areas of energy and the environment. OSTP also recognizes that many sensors, analysis, and modeling capabilities developed for nuclear weapons and other national security requirements have energy and environmental applications.

Sandia and Los Alamos are leaders in the areas of measurements and sensors, data-gathering and analysis; natural system modeling; climate modeling and analysis with applications to regional prediction and sea-level rise; social, economic and political modeling with applications to economic impact of greenhouse gas policies, and dynamics of forced migration; energy and infrastructure with applications to energy demand and growth, and technology insertion. OSTP, through its leadership of the interagency process, will ensure that these valuable assets are fully utilized.

*Question 2.* Ms. Abbott, One of the key missions for the Office of Science and Technology Policy, as set out by Congress in its authorizing legislation, is to "work with the private sector to ensure Federal investments in science and technology contribute to economic prosperity, environmental quality, and national security."

A major component of President's Obama's recovery strategy is to promote the development of "green jobs." It appears that there's a clear role that the Federal Government can play to create jobs to get technology out of the laboratories and into the marketplace. How will your office promote the commercialization of technologies that will improve our energy independence and reduce the harmful effects of global warming?

Answer. Active U.S. Government leadership and coordination is necessary to help transition the Nation toward a clean energy economy that promotes our security through increasing independence from foreign oil and reduces our emissions of greenhouse gases. This transition also requires robust Federal support for energy R&D and a framework of energy policy that enables commercially attractive solutions. Federal investments in energy R&D are essential to ensure that the United States is on the cutting edge of clean-energy technologies, giving birth to new industries and opportunities that will create jobs. OSTP will work closely with the Federal agencies, OMB, and the Congress, to identify effective R&D investments and ensure that these investments produce results.

In his FY 2010 budget, the President has proposed a significant increase in R&D funding for clean energy technologies, including an investment of \$150 billion over 10 years using a portion of the auction revenues from a greenhouse gas cap-and-trade system. A significant fraction of these funds should support transformational research that could dramatically reduce cost and increase performance of energy technologies, such as solar cells, biofuels, batteries, and buildings. In addition, the Recovery and Reinvestment Act provides \$6 billion for loan guarantees, more than \$13 billion in tax credits and grants leveraging an estimated \$100 billion in private sector investment in clean energy and job creation, \$2 billion for advanced battery manufacturing, and \$4.5 billion for modernizing the electric grid. Transitioning to the clean economy requires the work of many Federal agencies in collaboration with the private sector, National laboratories, universities, and international partners. OSTP organizes interagency cooperation, with outreach to academia and industry, through the National Science and Technology Council (NSTC). Dr. Holdren has expressed his intention to revitalize the NSTC, including a greater focus on developing and commercializing technologies to address our dependence on oil and to reduce greenhouse gas emissions.

Another priority for OSTP is to educate the next generation of scientists and engineers. Increased investment in science, technology, engineering and mathematics (STEM) education at all levels is critical for building the workforce that will lead the way to a green energy economy.

---

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO  
SHERBURNE B. ABBOTT

*Question 1.* Are you aware of the work being done to create sustainable northern communities at the Cold Climate Housing Research Center (CCHRC)? How can the research at the CCHRC be applied to address the energy and sustainability challenges facing our country?

Answer. The applied research of the CCHRC in developing, advancing and promoting the efficient, safe, durable, and sustainable shelter for circumpolar people is an excellent example of how technology and the natural and social sciences need to come together to respond to societal needs for clean energy and concerns about sustainable development. The CCHRC and its partnership with the Arctic University of the University of Alaska, provides a model for promoting the integration of community needs and stakeholders with the research and development on sustainability issues.

*Question 2.* In what capacity will cold climate research and arctic policy play a role in the Office of Science and Technology Policy? What deficiencies exist in the current field of knowledge on these subjects?

Answer. The Arctic Research and Policy Act of 1984 provides for a comprehensive national policy dealing with national research needs and objectives in the Arctic, for a National Critical Materials Council, for development of a continuing and comprehensive national materials policy, for programs necessary to carry out that policy, including Federal programs of advanced materials research and technology, and for innovation in basic materials industries, and for other purposes. Cold climate research is an integral part of this R&D effort and OSTP plays a role in facilitating coordination among the agencies involved in arctic research.

OSTP is also involved in the interagency coordination of climate research and efforts to use observations and models to understand and quantify the rate and magnitude of the contributions of ice on land (Greenland and Antarctica) to sea-level

rise, what controls the rate of ice loss from Greenland and Antarctica, and other highly uncertain issues, such as carbon feedbacks at high latitudes and the likelihood of large releases of carbon from the heating of northern soils.

In her remarks to the recent (April 6) meeting of the Arctic Council, Secretary of State Clinton noted her strong intent to work with the Council to continue the international cooperation in research that was fostered during the recent International Polar Year. She noted that much remains to be learned about the cold regions. OSTP will assist in developing a coordinated inter-agency response to addressing the research needs, including deficiencies in current programs, related to strong U.S. participation in Arctic research related to the U.S. interests in the Council.

---

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN THUNE TO  
SHERBURNE B. ABBOTT

*Question.* Ms. Abbott, Do you believe investment in research of “high Energy Physics” should play a role in the Administration’s scientific agenda? Do you believe a deep underground science laboratory would benefit our knowledge of physics, geosciences, engineering and biology?

*Answer.* President Obama has expressed his strong belief that the pursuit of basic scientific research is essential to expand human knowledge, and demonstrated his commitment to research through his interest in doubling the Federal R&D effort and through \$21 billion in R&D investments in the Recovery Act. High energy physics research is key to expanding the frontiers. It describes the fundamental particles and interactions that govern the natural world. It tries to explain how the universe was formed, how it evolves, and how it functions at the most basic level. These are the kinds of questions that inspire the next generation.

The High Energy Physics community has recently recommended a long-range strategic plan that includes increased investments in the “Intensity Frontier.” A core component of that plan is a neutrino program with a large and sensitive detector in a deep underground laboratory. OSTP supports this program, and sees in it great discovery potential. The Deep Underground Science and Engineering Laboratory (DUSEL) is currently planned to support this experiment. The DUSEL facility could also enable a wider range of research areas including Geoscience, engineering, and microbiology, all of which would benefit from the unique underground conditions.

