

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS FOR FISCAL YEAR 2011

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

NONDEPARTMENTAL WITNESSES

[The following testimonies were received by the Subcommittee on Homeland Security for inclusion in the record. The submitted materials relate to the fiscal year 2011 budget request for programs within the subcommittee's jurisdiction.]

PREPARED STATEMENT OF THE MARINE CONSERVATION BIOLOGY INSTITUTE

Mr. Chairman and Members of the Subcommittee: Marine Conservation Biology Institute, based in Bellevue, WA, is a national, nonprofit environmental organization whose mission is to advance the science of marine conservation biology and protect ocean ecosystems. We advocate for effective ocean policy and adequate appropriations for marine programs that focus on understanding and conserving marine ecosystems, habitats and species. MCBI supports the United States Coast Guard in their efforts to reach their goals in providing maritime safety, security, mobility, national defense, and protection of natural resources.

I wish to thank the members of the Homeland Security Appropriations Subcommittee for the opportunity to submit written testimony on the fiscal year 2011 budget regarding appropriations for the United States Coast Guard (USCG). The USCG is a multi-mission, maritime agency ensuring the safety, security, and conservation of the Nation's territorial waters. The fiscal year 2011 President's request has decreased USCG's overall budget by over \$340 million, including a decrease of \$3.5 million for marine environmental protection. Without adequate funding, the Coast Guard will flounder in its mission and the maritime environment will be at risk of further degradation. MCBI recommends reinstating the fiscal year 2010 enacted USCG funding level of \$10.4 billion, to include an additional \$2 million for the USCG to play its part in preventing marine debris and aiding in its removal.

MARINE DEBRIS PROGRAM

Marine debris has become one of the most widespread pollution problems affecting the world's oceans and waterways. As highlighted by the Great Pacific Garbage Patch in the north Pacific gyre, and the recently identified garbage patch in the Atlantic, marine debris is a growing problem that is manifesting itself in all U.S. waters, including Hawaii, Alaska, and the Caribbean. Marine debris fouls beaches and marine ecosystems; kills coral reefs; causes death to marine mammals, seabirds, and sea turtles by entanglement and ingestion; transports non-native and invasive species to marine ecosystems; and creates navigation safety hazards by fouling engine propellers. Research has proven that debris has serious effects on the marine environment, wildlife, the economy, and human health and safety. Some of the most common types of marine debris are discarded or lost fishing lines and nets, household plastics such as disposable lighters, six-pack rings, plastic bags, and Styrofoam pellets. The number of marine debris related entanglement deaths of endangered and threatened seals, sea turtles, and seabirds continues to grow. Entanglement in debris is major cause of death for Hawaiian monk seals (population estimate is less than 1,200 individuals).

The United States Coast Guard (USCG) plays a crucial role combating marine debris by monitoring and enforcing compliance with MARPOL Annex V and the Act

to Prevent Pollution from Ships. Under this authority, USCG monitors discharge of waste from ships and oversees port waste receptor facilities. In addition, USCG provides critical support and leadership for a variety of anti-marine debris activities. For example, USCG has partnered primarily with the National Oceanic and Atmospheric Administration (NOAA), starting in 1998, to remove an estimated 600 metric tons (mt) of marine debris (mostly derelict fishing gear) from the Northwest Hawaiian Islands (NWHI) where marine debris continues to kill endangered Hawaiian monk seals and seabirds. As of 2006, NOAA has shifted marine debris removal in the NWHI to a “maintenance mode,” intended to keep up with new debris accumulation. In fiscal year 2006, NOAA and USCG removed an estimated 40 mt of debris. Yet, the annual accumulation rate is estimated at 52 mt of marine debris. Therefore, “maintenance” funding is not keeping up with the problem, and marine debris continues to be a perpetual threat to the endangered Hawaiian monk seal and seabirds in Papahānaumokuākea Marine National Monument.

To combat marine debris, the Marine Debris Research, Prevention and Reduction Act was enacted in 2006. The act established a national program led by NOAA and the USCG to identify, assess, reduce and prevent marine debris and its effect on the marine environment. The act authorizes \$10 million annually for NOAA’s Marine Debris Program and \$2 million for the USCG’s program. However, NOAA has been level funded at \$4 million since 2008; and the USCG has never requested nor received any direct funding for its marine debris efforts.

As the Nation continues to deal with economic challenges, MCBI recognizes that allocating new funds for projects may be difficult. However, we encourage the subcommittee to (minimally) reinstate USGS funding levels to fiscal year 2010 enacted levels to maintain the service’s operating capabilities, and include an additional \$2 million for the USCG to meet its responsibilities under the Marine Debris Act.

Additional monies are needed to enhance the ability of USGC to maintain support to current removal projects; develop best management practices; reduce derelict fishing gear; and conduct education and outreach measures.

In summary, MCBI respectfully requests that the subcommittee augment the United States Coast Guard funding to support the critical role they play fighting marine debris.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION FOR PUBLIC HEALTH
STATISTICS AND INFORMATION SYSTEMS

The National Association for Public Health Statistics and Information Systems (NAPHSIS) welcomes the opportunity to provide this written statement for the public record as the Homeland Security Subcommittee prepares its fiscal year 2011 appropriations legislation. NAPHSIS represents the 57 vital records jurisdictions that collect, process, and issue birth and death records in the United States and its territories, including the 50 States, New York City, the District of Columbia, and the five territories. NAPHSIS coordinates the activities of the vital records jurisdictions among the jurisdictions and with Federal agencies by developing standards, promoting consistent policies, working with Federal partners, and providing technical assistance to the jurisdictions.

The “near miss” of Flight 253 on Christmas Day reminds us that we must remain vigilant in protecting our Nation from terrorist attacks. In 2005, Congress passed the REAL ID Act in response to the 9/11 Commission’s recommendations that the Federal Government ensure a person “is who they claim to be” when applying for an official ID, yet 5 years later its implementation remains stalled due to strained State budgets and a lack of Federal investment. NAPHSIS respectfully requests that Congress provide the Federal Emergency Management Agency (FEMA) \$100 million over a period of 3–5 years to modernize the vital records infrastructure in support of REAL ID through grants to States.

PREVENTING FRAUD, IDENTITY THEFT, AND TERRORISM THROUGH VERIFICATION

Prior to the terrorist attacks on the United States on September 11, 2001, all but one of the terrorist hijackers acquired some form of identification document, some by fraud, and used these forms of identification to assist them in boarding commercial flights, renting cars, and other necessary activities leading up to the attacks. In its final report, the 9/11 Commission recommended implementing more secure sources of identification, stating that “Federal Government should set standards for the issuance of birth certificates and sources of identification, such as driver’s licenses. Fraud in identification documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft,

sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.”¹

Heeding the recommendations of the 9/11 Commission, Congress enacted the REAL ID Act in May 2005. Among other provisions, the REAL ID Act and its corresponding regulations (6 CFR Part 37) require that applicants for a driver’s license present their birth certificate to the motor vehicle agency to validate their U.S. citizenship and their date of birth, and that birth certificates must be verified by the State. Sec. 37.13 of the identification standards regulations recommends that States through their departments of motor vehicles (DMV) should use the Electronic Verification of Vital Events (EVVE) system, operated by NAPHSIS, to verify birth certificates presented by applicants.

EVVE is an online system that verifies birth certificate information. It provides authorized users at participating agencies with a single interface to quickly, reliably, and securely validate birth and death information at any jurisdiction in the country. In so doing, no personal information is divulged to the person verifying information—EVVE simply relays a message that there was or was not a match with the birth and death records maintained by the State, city, or territory.

VERIFICATION NEEDED NOW MORE THAN EVER

Many Federal and State agencies rely on birth certificates for proof of age, proof of citizenship, identification for employment purposes, to issue benefits or other documents (e.g. driver’s licenses, Social Security cards, and passports) and to assist in determining eligibility for public programs or benefits (e.g., Medicaid). Unfortunately, there are cases where individuals have obtained birth certificates of deceased persons and assumed their identity, created fraudulent birth certificates, and altered the information on a birth certificate, as documented in a Department of Health and Human Services Office of Inspector General Report of 2000.²

Most recently, the GAO documented several cases in which investigators created fraudulent birth certificates and were able to obtain passports based upon the fraudulent records because the passport office did not verify the birth certificate information.³ As a result, the Passport Office’s Fraud Prevention Managers commenced using the EVVE system in March 2009 for birth verifications. In their first 6 weeks of use, there were two instances where the Fraud Prevention Managers used the EVVE system to electronically verify the birth certificates, and EVVE returned a “no match.” Upon further follow up with the vital records offices that “issued” the birth certificates it was determined that indeed the birth certificates presented with those passport applications were fraudulent.

STATES NEED FEDERAL SUPPORT TO IMPLEMENT REAL ID

EVVE is currently installed in 19 vital records jurisdictions and is used by State DMVs and Medicaid Offices, the Social Security Administration, the Office of Personnel Management, and the Department of State Office of Fraud Prevention Programs in select jurisdictions. Users of EVVE are enthusiastic about the system, citing its capacity for:

- Providing protection against the potential use of birth certificates for fraudulent activities.
- Improving customer service by facilitating rapid access to accurate and verifiable vital record data in real-time.
- Safeguarding the confidentiality of birth and death data.
- Offering a secure mechanism for communication between agencies and vital records offices via the Internet.
- Easily integrating with current legacy systems that the Federal or State agencies may already be using, and for serving as a user-friendly interface for agencies that seek a stand-alone query system.

NAPHSIS is working on further upgrades to the EVVE system to meet the REAL ID requirements and to ensure that EVVE is installed in all 57 jurisdictions by May 2011. NAPHSIS is also in the process of procuring a data analysis and quality control tool that all jurisdictions can utilize to analyze their EVVE databases for anomalies, inconsistencies, accuracy, and completeness.

¹The 9/11 Commission Report, Final Report of the National Commission on Terrorist Attacks upon the United States, July 2004, p. 390.

²Department of Health and Human Services, Office of Inspector General, Birth Certificate Fraud, Sept. 2009 (OEL-07-99-00570).

³Government Accountability Office, Department of State: Undercover Tests Reveal Significant Vulnerabilities in State’s Passport Issuance Process, Mar. 2009 (GAO-09-447).

Despite EVVE's security, speed, and ease of use, the system is only as good as the underlying data infrastructure upon which it relies. Digitizing paper-based birth and death records, then cleaning and linking those records, will provide for secure, reliable, real-time identity verification using EVVE. Specifically,

- The majority of the 57 vital records jurisdictions have electronic birth records that extend back more than seven decades. To recognize EVVE's full potential to verify birth certificates, 100 percent of jurisdictions should have their records in electronic form.
- There are cases where an individual has assumed a false identity by obtaining a birth certificate of a person who has died. Therefore, it is also important that all jurisdictions' death and birth records be linked to flag individuals who are deceased and identify fraudulent birth documentation.

RECOMMENDATION ACTION: INVEST IN INFRASTRUCTURE TO FACILITATE ID
VERIFICATION

The jurisdictions' efforts to digitize, clean, and link vital records have been hindered by State budget shortfalls. In short, the jurisdictions need the Federal Government's help to complete building a secure data infrastructure and support identity verification required by REAL ID. Under the current authority established through REAL ID, we ask that Congress provide \$100 million to FEMA to support a new grants-to-States program for the purpose of modernizing vital records. Specifically, these funds would be used by vital records jurisdictions to digitize their birth records back to 1945, to clean these data to support electronic queries, and link birth and death records. We recommend the funding be appropriated over time according to one of two schedules:

- Option 1.*—\$33 million per year over 3 years. This option would provide roughly \$580,000 in fiscal year 2011 to each vital records jurisdiction, on average.
- Option 2.*—\$20 million per year over 5 years, providing roughly \$350,000 in fiscal year 2011 to each vital records jurisdiction, on average. The vital records modernization would progress more slowly than under Option 1, but the funding would nevertheless significantly enhance the ability of States and territories to support the goals of REAL ID.

As Congressman Bernie Thomson addressed the President earlier this year, we need to "ensure we have the best infrastructure in place to counter the threat of terror." We feel strongly that an investment of \$100 million is a small price to pay to strengthen Americans' safety and security by accurately, efficiently, and securely verifying birth data on the 245 million driver's licenses issued annually. Five years after REAL ID's enactment, isn't it time to implement the 9/11 Commission's recommendations and invest in the goals of REAL ID and identity verification?

NAPHSIS appreciates the opportunity to submit this statement for the record and looks forward to working with the subcommittee.

PREPARED STATEMENT OF THE NATIONAL EMERGENCY MANAGEMENT ASSOCIATION

INTRODUCTION

Thank you Chairman Byrd, Ranking Member Voinovich, and Members of the Committee for the opportunity to submit this statement for the record regarding the fiscal year 2011 budget for the Department of Homeland Security (DHS).

As President of the National Emergency Management Association (NEMA) I represent the emergency management directors of all 50 States, territories, and the District of Columbia. Members of NEMA are responsible to the Governors for myriad responsibilities including emergency preparedness, homeland security, mitigation, response, and recovery activities for natural or terrorism-related disasters.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

The highest priority for NEMA within the President's request is funding for the Emergency Management Performance Grants (EMPG). This program has existed since the 1950s in acknowledgement of the Federal interest in creating and maintaining a strong emergency management system at the State and local level. EMPG assists State and local governments in managing a variety of disasters and hazards providing the only source of Federal assistance to State and local government for all-hazards emergency management capacity building.

Grantees utilize EMPG funds for personnel, planning, training, exercises, warning systems, public outreach, and other essential functions in establishing effective preparedness, mitigation, response, and recovery. This program is of considerable economic value to the Federal Government as all Federal funds are matched 50-50 by

State and local governments. Such a matching requirement increases accountability and supplements the impact of valuable Federal dollars.

While the President's request of \$345 million marks a significant improvement in recognizing the criticality of this program, the amount remains far short of the national requirement. According to NEMA's 2010 Biennial Survey of State emergency management agencies, the total need for EMPG funding next year is actually \$530 million. The difference between the amount requested by the Administration and the results of our survey represents the shortfall needed to fund existing jurisdictions and establish emergency management programs in eligible jurisdictions not currently able to be included. We appreciate the resource constrained environment, but when compared to other grant programs, the 50-50 match allows EMPG to stand alone as a worthwhile investment of Federal funds.

HOMELAND SECURITY GRANT PROGRAM

The Homeland Security Grant Program (HSGP) provides funds to build capabilities at the State and local levels and to implement the goals and objectives included in State homeland security strategies and initiatives in the State Preparedness Report. Funding amounts must remain at pre-consolidation levels, and these grants must be used in support of building an all-hazard capability. We urge the Committee to provide States greater flexibility in use of homeland security funds for all-hazards activities. Such flexibility allows the grant funding to be utilized by each State according to need, existing resources, and capabilities. This flexibility will serve to increase preparedness for all hazards including terrorism. The effort to enhance and build the national emergency response system is a national effort and Federal resources should continue at the current level to maintain effectiveness. As the Committee considers funding for the HSGP, NEMA urges sustained appropriations levels on a multi-year basis to allow for long-range planning, maintenance, and implementation.

Our membership remains concerned regarding the proposed grant consolidation of the Metropolitan Medical Response System (MMRS), Citizen Corps Program, Driver's License Grant Program, and Interoperable Emergency Communications Grant Program within the President's request. While in theory the proposed combination may appear sound; in practice such consolidation remains impractical. For example, management of the Driver's License Grant Program occurs in various State agencies where consolidation would require added administrative burdens on State government. Furthermore, the proposed consolidation would bring these grant programs under the required 80-20 funding split between State and local governments thereby further diluting these programs where State coordination is critical. While FEMA intends to reduce reporting requirements, the proposed consolidation would actually have the opposite effect.

PRE-DISASTER MITIGATION

The Administration's request demonstrates a welcomed commitment to mitigation efforts through the request of \$100 million for the Pre-Disaster Mitigation Grant Program (PDM). This grant program was originally authorized as a program to provide every State with funding for mitigation efforts regardless of disaster history or current risk assessments, but changed in fiscal year 2002 appropriations legislation when PDM became a competitive grant program. The PDM program continues to be over-subscribed as more projects become eligible than can be funded in any given fiscal year at present funding levels.

NEMA continues working closely with authorizers to obtain a multi-year reauthorization for PDM which we would like to see achieved by the end of the fiscal year. In the meantime, NEMA encourages the Appropriations Committee to demonstrate a continued commitment to PDM and appropriate the requested \$100 million.

EMERGENCY OPERATIONS CENTERS

There remains a shortfall in the ability for States to build, retrofit, and upgrade primary and alternate Emergency Operations Centers (EOC). According to the 2010 NEMA Biennial Survey, an estimated \$398 million in requirements exist to bridge the shortfall. The current EOC Grant Program is intended to improve emergency management and preparedness capabilities by supporting flexible, sustainable, secure, and interoperable EOCs with a focus on addressing identified deficiencies and needs. This program provides funding for construction or renovation of a State, local, or tribal governments' principal EOC. Fully capable emergency operations facilities at the State and local levels stand as an essential element of a comprehensive national emergency management system and are necessary to ensure continuity

of operations and continuity of government in major disasters caused by any hazard. The continued viability of a strong and robust EOC Grant Program remains in the Nation's best interest.

EMERGENCY MANAGEMENT ASSISTANCE COMPACT

Finally, I wish to address funding for the Emergency Management Assistance Compact (EMAC). When States and the U.S. territories joined together and Congress ratified EMAC (Public Law 104-321) in 1996, it created a legal and procedural mechanism whereby emergency response resources such as Urban Search and Rescue Teams can quickly move throughout the country to meet disaster needs. All 50 States, the District of Columbia, and three territories are members of EMAC and have committed their emergency resources in helping neighboring States and territories.

To provide a sense of EMAC's value in the context of search and rescue, in 2005 the year of Hurricanes Katrina, Rita, and Wilma more than 1,300 search and rescue personnel from 16 States searched more than 22,300 structures and rescued 6,582 people. EMAC staff stood ready to offer support recently during the tsunami threat to Hawaii as well. Fortunately the need for mutual aid was never required in Hawaii, but the knowledge it remains available as a State asset is invaluable to emergency response officials.

The capabilities of EMAC remain sustained by the efforts of all the States and would be bolstered by direct support of EMAC. While EMAC currently receives FEMA grant funding, fulfilling NEMA's request for a \$4 million line item appropriation would codify the program for use in future disasters. These funds provide numerous benefits directly to the States. As the opportunity is afforded, EMAC intends to develop, maintain, and exercise State and regional mutual aid capabilities, train State and local emergency response personnel who may be deployed through EMAC, support the development of specialized emergency response capabilities among the regions, and ensure EMAC remains a viable resource for the States now and in the future. In my opinion, \$4 million in Federal funds stands as a minimal investment for maintaining a proven national emergency response capacity that day-to-day is equipped, trained, and ready to provide critical disaster response resources and support between States. All members of EMAC continue to rely on this asset as a critical tool in their response and recovery arsenal.

CONCLUSION

Again, I appreciate the opportunity to address these issues critical to the emergency management community. This Committee regularly affirms support for ensuring preparedness for our nation's vulnerabilities against all-hazards with additional investments in EMPG and EOCs. As you develop the fiscal year 2011 budget for the Department of Homeland Security, I encourage you to utilize our membership as a resource and continue efforts to build a strong and robust emergency management baseline in our country. Together, we will carry-on the initiatives so thoughtfully developed by this Committee over the years.

I thank you for the opportunity to testify on behalf of NEMA and appreciate your continued partnership.

PREPARED STATEMENT OF NATIONAL ENVIRONMENTAL SERVICES CENTER

Chairman Byrd, Ranking Member Voinovich, and Members of the Subcommittee: We request an appropriation of \$1.45 in fiscal year 2011 to support West Virginia University's Resilient Communities Initiative (RCI). This program is being developed by the National Environmental Services Center (NESC) in partnership with the State of West Virginia Department of Military Affairs and Public Safety (DMAPS), the Harley O. Staggers National Transportation Center, and the Canaan Valley Institute to help rural communities and small cities prepare for, and respond effectively to, disruptive events such as man-made or natural disasters.

The goal of the Resilient Communities Initiative (RCI) program is to improve the resilience capacity and mechanisms for mitigation in rural communities and small cities, beginning with the Corridor H region in West Virginia. Corridor H is the projected National Capitol Region (NCR) mass evacuation route, so communities in this region must be prepared for its impact in addition to the impact of potential natural disasters.

Using modeling scenarios, the RCI will predict the impacts of an uncontrolled NCR mass evacuation on the Corridor H Region. RCI will help communities in this region to address their economic development needs and their infrastructure resil-

agency issues (e.g., water, energy, transportation) by implementing a community outreach technical assistance program. NESC has 30 plus years working with small and rural communities through outreach and technical assistance. NESC and the RCI partners will help communities overcome the resource disparities and lack of planning capabilities that have historically been obstacles to their becoming resilient to disasters and returning quickly to normalcy. The outcomes of these efforts can be transferred to communities in other regions of the United States having issues similar to those of Corridor H in West Virginia.

Thank you for considering our request for \$1.45 million in fiscal year 2011 to initiate the Resilient Communities Initiative at West Virginia University.

PREPARED STATEMENT THE NATIONAL TREASURY EMPLOYEES UNION

Chairman Byrd, Ranking Member Voinovich, distinguished members of the Subcommittee: I would like to thank you for the opportunity to provide this testimony. As President of the National Treasury Employees Union (NTEU), I have the honor of leading a union that represents over 22,000 Customs and Border Protection (CBP) Officers and trade enforcement specialists who are stationed at 327 land, sea and air ports of entry (POEs) across the United States. CBP employees' mission is to protect the Nation's borders at the ports of entry from all threats while facilitating legitimate travel and trade. CBP trade compliance personnel enforce over 400 U.S. trade and tariff laws and regulations in order to ensure a fair and competitive trade environment pursuant to existing international agreements and treaties, as well as stemming the flow of illegal contraband such as child pornography, illegal arms, weapons of mass destruction and laundered money. CBP is also a revenue collection agency, expecting to collect an estimated \$29 billion in Federal revenue according to fiscal year 2010 estimates.

FUNDING FOR CBP SALARIES AND EXPENSES AT THE PORTS OF ENTRY

On October 1, 2009, a draft report of the Southwest Border Task Force, created by Homeland Security Secretary Janet Napolitano and reported by the Associated Press, recommended the "Federal Government should hire more Customs [and Border Protection] officers." The report echoes the finding of the Border-Facilitation Working Group. (The United States-Mexico Border Facilitation Working Group was created during the bilateral meeting between President George W. Bush and President Felipe Calderon held in Merida in March 2007.) "In order to more optimally operate the various ports of entry, CBP needs to increase the number of CBP Officers. According to its own estimate, the lack of human resources only for the San Ysidro POE is in the "hundreds" and the CBP Officer need at all ports of entry located along the border with Mexico is in the "thousands." ("CBP: Challenges and Opportunities" page 1 and 2. Memo prepared by Armand Peschard-Sverdrup for: Mexico's Ministry of the Economy: United States-Mexico Border Facilitation Working Group. January 2008.)

NTEU is disappointed that the Administration's fiscal year 2011 budget includes no increase in frontline CBP Officer or CBP Agriculture Specialist new hires, and instead projects a net decrease of about 500 positions this year, despite increased appropriations. The fiscal year 2011 budget request does include \$70 million to address "systemic salary shortfalls" and \$45 million for 389 CBP Officers to "maintain staffing for critical positions." Rather than funding an actual increase in new hires, however, the Administration is seeking appropriations to maintain CBP positions funded by user fees. CBP states that 37 percent of its inspection workforce at the POEs is currently funded by user fees. This is a precarious funding stream because user fees decrease during times of economic recession, even though security needs of the Nation have not decreased.

NTEU has become increasingly concerned as the number of positions funded by "surplus" user fee revenues has grown over time. According to GAO/GGD-94-165FS (page 17-18), "through fiscal 1993, surplus revenues have funded 472 full-time permanent positions . . ." Today the number of "surplus-funded" positions is over 7,000. Due to the recession, user fee collections are falling and CBP is facing a structural dilemma in its current funding of CBP inspection personnel.

NTEU believes that all CBP employees at the POEs should be funded by appropriated funds through the appropriations process, not with user fees that by statute are to be used primarily to pay for overtime, premium pay, agency contributions to the Civil Service Retirement and Disability Fund, preclearance services and Foreign Language Awards Program. CBP is now facing a serious structural funding shortfall for CBP salaries and expenses at the POEs due to its reliance on user fees rather than appropriations.

Also, in 2003, the Department of Homeland Security (DHS) created a new Customs and Border Protection (CBP) Officer position and announced the “One Face at the Border” initiative that purportedly unifies the inspection process for travelers and cargo entering the United States. Consolidating immigration and customs inspection functions has caused logistical and institutional weakness resulting in a loss of expertise in critical homeland security priorities. The “One Face” initiative should be ended, customs and immigration specializations should be reestablished within CBP, and overall CBP inspection staffing should be increased.

TRADE ENFORCEMENT AND COMPLIANCE STAFFING

When CBP was created, it was given a dual mission of safeguarding our nation’s borders and ports as well as regulating and facilitating international trade. It also collects import duties and enforces U.S. trade laws. In 2005, CBP processed 29 million trade entries and collected \$31.4 billion in revenue. In 2009, the estimated revenue collected is projected to be \$29 billion—a drop of over \$2 billion in revenue collected. Since CBP was established in March 2003, there has been no increase in CBP trade enforcement and compliance personnel and again, the fiscal year 2011 budget proposes no increase in FTEs for CBP trade operations personnel.

In effect, there has been a CBP trade staffing freeze at March 2003 levels and the maintenance of CBP’s revenue function has suffered. Recently, in response to an Import Specialists staffing shortage, CBP has proposed to implement at certain ports a tariff sharing scheme. For example, because CBP has frozen at 984 nationwide the total number of Import Specialists positions, CBP is reducing by 52 positions (from 179 to 127) the number of Import Specialists at the New York City area ports and shifting those positions to other ports. To address the resultant shortage of Import Specialists at New York area ports, CBP is implementing tariff sharing between the port of New York/Newark and the Port of JFK airport. Currently, each port (Newark and JFK) processes all types of entries and all types of commodities via the Harmonized Tariff Schedule (HTS). The reduction in trade personnel will result in each port being assigned only parts of the HTS. Tariff sharing will result in each port only processing half the commodities entering its port. Tariff sharing presents a number of operational problems with regard to trade personnel performing cargo exams on merchandise that is unloaded at the port of Newark, but the only commodity teams that are trained to process it are at JFK and, vice versa, when merchandise that can only be processed in Newark, is unloaded at JFK. CBP proposes that instead of physical examinations of the merchandise, digital photos can be exchanged between the ports. This is a short-sighted solution that short-changes taxpayers, trade compliant importers, and the Federal treasury. NTEU urges the Committee to increase funding to hire additional trade enforcement and compliance personnel, including Import Specialists, at the POEs.

In its fiscal year 2011 budget request, CBP is seeking \$25 million for Intellectual Property Rights enforcement including \$14.1 million in human capital investment. This request, however, includes no increase in FTEs to implement this new enforcement program. It is also unclear if the human capital investment is for the trade policy arm of CBP—the Office of International Trade, or the operational arm—CBP Office of Field Operations (OFO). NTEU urges the Committee to appropriate the requested \$14.1 million to increase the number of CBP OFO trade operations personnel at the POEs.

CBP CAREER LADDER PAY INCREASE

NTEU commends the Department for announcing an increase in journeyman pay for CBP Officers and Agriculture Specialists, initially scheduled to begin in March of this year. However, the funding for this increase was not secured and the journeyman pay increase has been delayed until late-September 2010. In addition, many deserving CBP trade and security positions were left out of this pay increase, which has significantly damaged morale. NTEU is relieved that full funding of the journeyman pay initiative is in the fiscal year 2011 budget request and strongly supports the inclusion of this funding in the fiscal year 2011 DHS appropriations bill.

NTEU also strongly supports extending this same career ladder increase from GS-11 to GS-12 to additional CBP positions, including CBP trade operations specialists and CBP Seized Property Specialists. The journeyman pay level for the CBP Technicians who perform important commercial trade and administration duties should also be increased from GS-7 to GS-9.

FOREIGN LANGUAGE AWARDS PROGRAM

The fiscal year 2011 DHS budget proposes to eliminate \$19.1 million to fund CBP’s Foreign Language Awards Program (FLAP), a congressionally authorized pro-

gram. Since its implementation in 1997, the Foreign Language Awards Program (FLAP), incorporating more than two dozen languages, has been instrumental in identifying and utilizing Customs and Border Protection (CBP) employees who are proficient in a foreign language. At CBP, this program has been an unqualified success, and not just for employees, but for the travelers who are aided by having someone at a port of entry who speaks their language, for the smooth functioning of the agency's security mission.

Rewarding employees for using their language skills to protect our country, facilitate the lawful movement of people and cargo across our borders, and collect revenue that our government needs makes sense. Congress agreed that employees should be encouraged to develop their language skills by authorizing FLAP. Not only does it improve efficiency of operations, it makes the United States a more welcoming place when foreign travelers find CBP Officers can communicate in their language.

Congress authorized a dedicated funding source to pay for FLAP—customs user fees pursuant to title 19, section 58c (f) of the U.S. Code. This statute stipulates the disposition of these user fees for the payment of overtime, premium pay, agency contributions to the Civil Service Retirement and Disability Fund, preclearance services and FLAP. Due to the recession, however, user fee collections have fallen and on February 4, 2010, NTEU received notice from CBP of the immediate suspension of its Foreign Language Awards Program (FLAP) for CBP Officers and CBP Agriculture Specialists (CBPAS). NTEU strongly opposed the mid-year 2010 suspension of FLAP and asks the Committee to ensure that FLAP is fully funded in fiscal year 2011.

FUNDING FOR DHS HUMAN RESOURCES MANAGEMENT SYSTEM

NTEU also commends the Committee for maintaining a provision, section 518, in the fiscal year 2010 DHS appropriations bill that prohibits the expenditure of funds to apply a new DHS human resources management system to employees eligible for inclusion in a bargaining unit. Because of this funding prohibition, DHS announced that the agency would rescind application of this new human resources system as of October 2, 2008. Even though DHS has rescinded the application of the human resource system, and DHS has no authority to issue any new regulations, regulations remain in place for adverse actions, appeals, performance management, and pay and classification and can be reactivated if the funding prohibition is lifted.

NTEU requests that identical language to Section 518, prohibiting the use of appropriated funds to implement any part of the regulations promulgated pursuant to Title 5, Chapter 97, is again included in the fiscal year 2011 DHS funding bill.

CONCLUSION

NTEU urges the Committee to include in its fiscal year 2011 DHS appropriations bill:

- funding to increase both port security and trade enforcement staffing at the Ports of Entry;
- full funding for the announced career ladder pay increases for CBP Officers and CBP Agriculture Specialists;
- funding to extend career ladder pay increases to additional CBP personnel including trade operations specialists, CBP Seized Property Specialists and CBP technicians;
- full funding of CBP's Foreign Language Awards Program;
- continuing the funding prohibition for implementation of U.S.C. 5, Chapter 97—the Homeland Security Act's alternative personnel management provisions and a prohibition on the continued funding of the One Face at the Border initiative.

The more than 22,000 CBP employees represented by the NTEU are capable and committed to the varied missions of DHS from border control to the facilitation of legitimate trade and travel. They are proud of their part in keeping our country free from terrorism, our neighborhoods safe from drugs and our economy safe from illegal trade. These men and women are deserving of more resources and technology to perform their jobs better and more efficiently.

Thank you for the opportunity to submit this testimony to the Committee on their behalf.

PREPARED STATEMENT OF THE UNITED STATES COUNCIL OF THE INTERNATIONAL
ASSOCIATION OF EMERGENCY MANAGERS

Chairman Byrd, Ranking Member Voinovich, and distinguished members of the Subcommittee: Thank you for allowing the United States Council of the International Association of Emergency Managers the opportunity to provide a statement on critical budget and policy issues for the Federal Emergency Management Agency/Department of Homeland Security.

I am Pam L'Heureux, the Director of Emergency Management for Waterboro, Maine, and the Assistant Director of Emergency Management for York County, Maine. I serve as the President of the United States Council of the International Association of Emergency Managers (IAEM-USA). I have 20 years of emergency management experience as a local director. I am also the founding President of the Maine Association of Local Emergency Managers.

IAEM-USA is our Nation's largest association of emergency management professionals, with 5,000 members including emergency managers at the State and local government levels, tribal nations, the military, colleges and universities, private business, and the nonprofit sector. Most of our members are city and county emergency managers who perform the crucial function of coordinating and integrating the efforts at the local level to prepare for, mitigate the effects of, respond to, and recover from all types of disasters including terrorist attacks. Our membership includes emergency managers from large urban areas as well as rural areas.

We deeply appreciate the support this subcommittee has provided to the emergency management community over the past few years, particularly your support for the Emergency Management Performance Grant Program (EMPG) as well as strengthening the Federal Emergency Management Agency (FEMA). We have also appreciated your continued direction to the Department of Homeland Security (DHS) and FEMA to consult with their primary local and State stakeholders.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS (EMPG)

The President's fiscal year 2011 budget request includes \$345 million for EMPG. We urge that EMPG funding be increased to a minimum of \$530 million, that the program be retained as a separate account, and that report language be included continuing to make it clear that the funding is for all hazards and can be used for personnel.

EMPG which has been called "the backbone of the Nation's emergency management system" in an Appropriations Conference Report constitutes the only source of direct Federal funding for State and local governments to provide basic emergency coordination and planning capabilities for all hazards including those related to homeland security. The program supports State and local initiatives for planning, training, exercise, mitigation, public education, as well as response and recovery coordination during actual events. All disasters start and end at the local level, which emphasizes the importance of building this capacity at the local level. Funding from EMPG frequently makes a difference as to whether or not a qualified person is present to perform these duties in a local jurisdiction.

We appreciate that the subcommittee has recognized that EMPG is different from the post September 11, 2001, homeland security grants. Specifically, EMPG has existed, though under different names, since the 1950s. It was created to be a 50 percent Federal cost share-50 percent State or local cost share program to ensure participation by State and local governments to build strong emergency management programs. The program has been under funded for decades and remains so today. The \$530 million request is based on the documented shortfall as indicated by the National Emergency Management Association (NEMA) Biennial Report.

The program is authorized at \$815 million in Public Law 110-53, which also outlines the formula for apportioning EMPG funding to the States and Territories as follows: .25 percent of the appropriation will be apportioned to each of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands and .75 percent to the States. The Administrator of FEMA will apportion the remaining EMPG appropriations in the ratio that the population of each State bears to the population of all States. In addition, there is a provision holding States harmless from EMPG losses until fiscal year 2013. However we note that the language in the FEMA Congressional Budget Justification on page SLP-10 describes the award allocation methodology for EMPG as incorporating risk. This is not consistent with the provision of Public Law 110-53.

The legislation creating EMPG is purposefully broad to allow jurisdictions to focus their attention on customizing their capabilities. Therefore it is important that FEMA guidance not try to make one size fit all but is written so as to allow max-

imum flexibility in meeting the specific capability requirements within each local jurisdiction.

We would particularly and positively note the efforts of the FEMA Grants Office to involve key stakeholders in improving the fiscal year 2010 EMPG guidance. We believe this should be captured as a “best practice” and incorporated in the process of generating grant guidance for each fiscal year in the future.

Funding from EMPG has always been important to local government emergency management offices, but it is becoming even more so during the current economic downturn. Many of our IAEM–USA members have told us that their programs are facing budget reductions which will result in reduced staffing, reduced or eliminated training, and reduced public outreach. Perhaps most importantly, our members have told us that many emergency management programs are at the point where local elected officials are considering reducing their commitment from a full time emergency manager to a part time emergency manager, or moving the emergency management functions as added duties to other departments. This would have the effect of actually reducing emergency management services—and potentially preparedness—in many areas of the country—all this at a time when disasters and emergencies threaten more people and property than ever before.

Many local emergency management programs have historically provided significantly more than the 50 percent match that is required for their EMPG allocations. Simply receiving the entire 50 percent Federal match of their contributions would make a big difference in maintaining their programs.

EMERGENCY MANAGEMENT INSTITUTE (EMI)

We appreciate that the Appropriations Conference Committee on the DHS fiscal year 2010 budget agreed to increase the funding for the Emergency Management Institute (EMI) to \$9 million. We also appreciate the specific mention of EMI in both your committee and conference reports. However, we are disappointed that the President’s budget request for EMI for fiscal year 2011 is \$7.1 million. We request the Committee to support an increase in funding for EMI of \$4.8 million over the President’s request for a total of \$11.9 million. We urge you to again specifically designate funding for EMI in your Committee report.

The Emergency Management Institute (EMI) provides vitally needed training to State and local government emergency managers through on-site classes and distance learning. This “crown jewel” of emergency management training and doctrine has suffered from lack of funding and loss of focus on the primary objectives of the Integrated Emergency Management System (IEMS).

A renewed focus on continuing education for emergency managers is vital. The new funds we are requesting will support continued enhancement of the field (G) and on-campus (E) courses, the development of other vital programs especially an Executive Emergency Management Program for State, local and tribal emergency managers, and the conversion of 13 CORE positions to full time positions. These courses and the personnel to support their development and delivery are essential to the professional development of career emergency managers and to support State level training programs.

We are extremely encouraged at the renewed focus and efforts to update and enhance training programs over the past year with the funding support of Congress. We have observed commendable progress at EMI in the review of existing training programs, the revision of outdated courses, and the focus on the current and future needs in emergency management training. The highest priority for fiscal year 2011 continues to be the revision and upgrade of the EMI core curriculum, including the Master Trainer Program, E-Courses and G-Courses essential to the professional development of career emergency managers and State level training programs.

We also continue to support the highly successful Emergency Management Higher Education Program at EMI. This program, though under-staffed and under-funded, has produced significant improvements in the preparation of emergency managers at the over 180 colleges and universities now offering emergency management academic programs. In addition they interact with over 700 colleges and universities. The program has also established and maintained the essential collaboration between emergency management practitioners and the academic and research disciplines so essential to a comprehensive approach to emergency management. To continue to achieve these results and accomplishments and further advance the Higher Education Program, it is necessary to augment the existing two person staff.

PRE-DISASTER MITIGATION (PDM)

We support the appropriate funding for the Pre-Disaster Mitigation program and its reauthorization. If not reauthorized, PDM will sunset on September 30, 2010.

Mitigation is an investment. A congressionally mandated independent study by the Multi-Hazard Mitigation Council, a council of the National Institute of Building Sciences, showed that on the average, a dollar spent by FEMA on hazard mitigation (actions to reduce disaster losses) provides the Nation about \$4 in future benefits.

We appreciated the Committee last year rejecting the proposal in the fiscal year 2010 budget request to terminate the nationwide competitive PDM program and allocate the funds to States on a base plus risk system. This year, the budget again includes language that we are not aware of having been discussed with the authorizers, the appropriators, or stakeholders in advance of the release of the budget.

We are in need of additional information to understand the meaning of the following language from page PDM-1 of the FEMA Congressional Budget Justification: "Through a partnership with the Department of Housing and Urban Development (HUD) Sustainable Communities initiative, the goal is to support strategic local approaches to sustainable development by coupling hazard mitigation with related community development goals and activities that reduce risks while protecting life, property, and the environment." When we have more detail about what is intended by this language, we will be happy to provide comments.

We have appreciated the actions of the House and Senate Appropriations Committees to extend this program. If an authorization bill is not completed this session, we would appreciate your willingness to again extend this important program.

PRINCIPAL FEDERAL OFFICIAL (PFO)

We would urge the subcommittee to include bill language prohibiting the funding of any position designated as a Principal Federal Official for a Stafford Act event, or at the very least include the statutory language agreed to by the Conferees in Section 522 of the General Provisions of the fiscal year 2010 DHS Appropriations Act. This language prohibits funding the PFO position except when certain conditions are met. The fiscal year 2011 budget request deletes General Provision Section 522 and includes the following explanation in the Congressional Budget Justification: "While the Department appreciates the modification of this provision from previous year's appropriation act, this provision is still overly restrictive and creates an additional administrative burden on the Department, during a Stafford Act event."

IAEM has consistently opposed the appointment of PFOs. It leads to confusion. Instead, our members want the Federal Coordinating Officer (FCO) to have unambiguous authority to direct and manage the Federal response in the field. It is absolutely critical for State and local officials to have one person empowered to make decisions and coordinate the Federal response in support of the State.

FEMA OFFICE OF INTERGOVERNMENTAL AFFAIRS

We urge the subcommittee to increase the staffing for the FEMA Headquarters Office of Intergovernmental Affairs. This office has the vital responsibility to provide information to its State and local partners, keep the FEMA divisions informed of State and local needs, seek input on policies, and solve problems at an early stage. Currently this office has a total Permanent Full Time (PFT) allocation at headquarters of seven and currently there are three vacancies. A minimum of at least 10 in FEMA headquarters are needed to perform these critical functions.

FISCAL YEAR 2010 DISASTER RELIEF FUND SUPPLEMENTAL

We strongly support H.R. 4899 which includes the \$5.1 billion in supplemental funds requested by the President for the Disaster Relief Fund. At the time of this statement, H.R. 4899 had passed the House and was pending in the Senate.

On February 4, 2010, FEMA announced a policy of allocating disaster relief funds on an "immediate needs" basis (assistance to individuals, emergency protective measures, and debris removal). Funding for repair and replacement of facilities and mitigation unless already obligated to the State will be delayed until the supplemental is available.

REVIEW OF POLICIES AND INITIATIVES

We applaud the efforts of FEMA leadership to review past policies and initiatives. We particularly applaud that the Cost-to-Capability and the Integrated Planning System (IPS) are under review.

In particular, we were pleased that the Administration recognized the flawed nature of Cost-to-Capability and is opting to take the time to develop a more effective method of determining this information. We recognize the need to measure what is being achieved with the funding that Congress has provided; however, we simply

do not want the instrument to be so cumbersome that the information obtained is not worth the time to generate it. Creating a system to count “widgets” is easy—creating a system to determine if we’re better prepared is not. We look forward to working with FEMA as they work to construct a valuable measurement tool.

Our objection to the Integrated Planning System as proposed by the last Administration was that it is scenario-based—which is not the way State and local government emergency managers plan. We plan for the functions and capabilities that are common to all disasters. The IPS, originally proposed by the DHS Office of Operations Coordination, was heavily based on the Department of Defense (DOD) Joint Operations Planning and Execution (JOPES) model. This may be a great model of planning if you are the military and funded and equipped with the resources of the military. State and local governments do not have those resources.

STAKEHOLDER INVOLVEMENT

We have appreciated the subcommittee’s continued focus on the need for key stakeholder involvement and we are happy to report to you today that we have had increased opportunities for local emergency managers to have substantive and timely input into policies and initiatives. It is extremely helpful to have input at an early stage rather than just be briefed on decisions.

STRENGTHENING FEMA

IAEM–USA continues to strongly support the full implementation of Post-Katrina Emergency Management Reform Act (PKEMRA), Public Law 109–205, and we urge the subcommittee to support the efforts of Administrator Craig Fugate, Deputy Administrator Richard Serino, Deputy Administrator, Protection & National Preparedness Tim Manning, and the other new leaders of FEMA by insisting on its implementation. The momentum returning FEMA to long-established principles of emergency management—all hazards, integrated, all phases (preparedness, mitigation, response, and recovery)—must continue.

The FEMA Administrator should be clearly responsible for the coordination of the Federal response to disasters and have the maximum amount of access to the White House as the legislation clearly requires. We are pleased that the Administration is revising Homeland Security Presidential Decision Directive–8 and we certainly hope it will be consistent with PKEMRA.

We remain concerned that the role of the Department of Homeland Security Office of Operations Coordination, which was created shortly after the enactment of PKEMRA, is unclear. It appears to be assigned functions that duplicate or compete with those of FEMA. These functions include, but are not limited to coordinating activities related to incident management, the national planning scenarios, the Integrated Planning System, and duplicating some of the role of the response function in FEMA. It is unclear what the roles are of the National Operations Center and the National Response Coordination Center in managing the coordination of the Federal Response in preparation for responding to an event. Functions clearly and unambiguously assigned to FEMA by law should not be moved out or duplicated on the basis that the Administrator of FEMA is the lead “only” in Emergency Management, not incident management.

As the new administration is reviewing policies and HSPDs, it will be important to examine the following provisions of PKEMRA:

—Section 611 (12) (B) is of particular importance. This amended the Homeland Security Act of 2002 by “striking the matter preceding paragraph (1)” which contained the language, “the Secretary acting through . . .” and inserted instead the following language. “In General—The Administrator shall provide Federal Leadership necessary to prepare for, protect against, respond to, recover from or mitigate against a natural disaster, act of terrorism and other man-made disaster including . . . managing such response.” “Congress acted intentionally to transfer these responsibilities from the Secretary to the Administrator.”

—Section 503 Federal Emergency Management Agency

—(b)(2) Specific Activities—In support of the primary mission of the Agency, the Administrator—

—(A) Lead the Nation’s efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic accidents.

—(H) develop and coordinate the implementation of a risk-based, all hazards strategy for preparedness that builds on those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made

disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest risk to our Nation.

—Section 503 (c)(4)(A) In General—The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States.

—Sec. 503(c)(5) Cabinet Status—

—(A) In General—The President may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.

—(B) Retention of Authority—Nothing in the paragraph shall be construed as affecting the authority of the Secretary under this Act.

We believe that in the last Administration DHS frequently and mistakenly quoted Section 502(c)(5)(B) regarding the authority of the Secretary and the Administrator as being applicable across the entire act when, in fact, it is limited in scope only to paragraph (5).

We strongly request the committee to provide continual oversight of DHS on these matters to ensure they are following the clear and direct law on these issues.

CONCLUSION

In conclusion, we urge the subcommittee to continue to build emergency management capacity by increasing EMPG to \$530 million. We urge increasing funding for the Emergency Management Institute to \$11.9 million. We urge elimination of the PFO, or in the absence of that continuing the restrictions on its use. We urge the subcommittee to continue its efforts to strengthen FEMA and to insist on the full implementation of the provisions of PKEMRA.