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OVERSIGHT OF THE U.S. DEPARTMENT OF TRANSPORTATION'S IMPLEMENTATION OF MAP–21 AND FISCAL YEAR 2015 BUDGET REQUEST FOR SURFACE TRANSPORTATION

(113–59)

HEARING

BEFORE THE

SUBCOMMITTEE ON
HIGHWAYS AND TRANSIT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

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Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster Chairman	Washington, DC 20515	Nick J. Rahall, II Ranking Member
Christopher P. Bertram, Staff Director	March 7, 2014	James H. Zoia, Democrat Staff Director

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Highways and Transit
FROM: Staff, Subcommittee on Highways and Transit
RE: Subcommittee Hearing on "Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation"

PURPOSE

The Subcommittee on Highways and Transit will meet on Wednesday, March 12, 2014, at 10:00 a.m. in 2167 Rayburn House Office Building to receive testimony related to implementing the Moving Ahead for Progress in the 21st Century Act (MAP-21; P.L. 112-141) and the Fiscal Year 2015 Budget Request for Surface Transportation. At this hearing, the Subcommittee will review the progress of the U.S. Department of Transportation (DOT) toward implementing MAP-21 and the DOT's surface transportation priorities for the fiscal year 2015 as contained in the President's Budget. The Subcommittee will hear from Acting Under Secretary for Policy Peter Rogoff, Acting Administrator Greg Nadeau of the Federal Highway Administration (FHWA), Acting Administrator Therese McMillan of the Federal Transit Administration (FTA), Administrator Anne Ferro of the Federal Motor Carrier Safety Administration (FMCSA), and Acting Administrator David Friedman of the National Highway Traffic Safety Administration (NHTSA).

BACKGROUND

Implementation of MAP-21

MAP-21 was enacted on July 6, 2012, and reauthorized federal surface transportation programs through September 30, 2014. Specifically, MAP-21 authorized federal-aid highways, highway safety, and highway research and development programs at $40.96 billion for fiscal year 2013 and $41.03 billion for fiscal year 2014. For public transportation programs, the law authorizes $10.58 billion for fiscal year 2013 and $10.7 billion for fiscal year 2014. MAP-21 also made significant programmatic and policy reforms to federal surface transportation programs, some of which are highlighted below.

Program Consolidation and Elimination

MAP-21 consolidated or eliminated nearly 70 DOT programs. Many of these programs served similar purposes and several of them were no longer necessary because the nature of the Nation's transportation system has changed over time. By consolidating some DOT programs and eliminating others, MAP-21 allows DOT to become more effective and efficient through organizational and staffing changes.

Project Delivery/Streamlining

MAP-21 reformed the project approval and delivery process for highway and transit projects. MAP-21 streamlined this process by: allowing federal agencies to carry out their obligations for a project concurrently with the National Environmental Policy Act (NEPA) environmental review for that project; instituting a financial penalty to each federal agency that misses a deadline as part of the NEPA review process; and providing categorical exclusions for repair or reconstruction of an existing facility damaged by an emergency, for projects within the right-of-way, and for projects that receive limited federal funding ($5 million or less). MAP-21 also requires that all environmental reviews for a project be completed within four years.

Performance and Accountability

MAP-21 emphasized performance management by incorporating performance measures into the highway, transit, and highway safety programs. These performance measures will provide a more efficient federal investment by focusing federal funding on national transportation goals, increasing accountability and transparency, and improving transportation planning and project selection. State DOTs, localities, and public transit agencies are required to consider performance objectives in their transportation plans and project selection.

Innovative Financing for Transportation Infrastructure Projects

MAP-21 increased funding for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program from $122 million a year to approximately $1 billion a year and made other policy reforms. The TIFIA program provides federal credit assistance, in the form of a loan, a loan guarantee, or a line of credit, to eligible surface transportation projects. State governments, local governments, toll authorities, and public-private partnerships are eligible to apply for TIFIA loans. The DOT estimates that TIFIA's leverage ratio is more than 30:1, which means that every one dollar in TIFIA funding supports more than $30 in surface transportation infrastructure investment.

MAP-21 also expanded the ability of states to collect toll revenue from the federal-aid highway system. Specifically, any project that adds new lane capacity to the Interstate System can be tolled, and states continue to have the ability to toll roads that are not on the Interstate System. Furthermore, high occupancy vehicle lanes on the Interstate System may be converted to toll lanes.

Transit New Starts /Small Starts

MAP-21 streamlines the project development process for New Starts by setting time limits on environmental reviews and consolidating the steps FTA must take in the project approval process. MAP-21 eliminates the alternatives analysis requirement and instead relies on the review of alternatives performed during the metropolitan planning and environmental review processes.

Transit State of Good Repair

MAP-21 established a new grant program to maintain public transportation systems in a state of good repair. This program replaced the fixed guideway modernization program. Funding of State of Good Repair grants is limited to fixed guideway systems, including rail, bus rapid transit, and passenger ferries, as well as high intensity bus operations (buses operating in high occupancy vehicle lanes).

Transit Bus and Bus Facility Grants

MAP-21 created a new formula grant program for bus and bus facilities, which replaces the previous discretionary Bus and Bus Facilities program. This program provides funding to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities.

Public Transportation Emergency Relief Program

MAP-21 establishes a Public Transportation Emergency Relief program to fund transit projects that have suffered damage as a result of a natural disaster or a catastrophic failure. This program may also fund transit operating expenses in areas impacted by a disaster or catastrophic failure if the area meets certain eligibility criteria. The Disaster Relief Appropriations Act, 2013 appropriated $10.9 billion for the Public Transportation Emergency Relief program in response to Hurricane Sandy.

Public Transportation Safety Program

MAP-21 provides the Secretary with increased oversight of public transportation safety while still maintaining the state safety oversight model. The Secretary is required to create a national safety plan and set specific performance standards across all modes of public transportation. State safety oversight agencies must implement plans in accordance with these standards and report regularly to the Secretary. Although safety remains primarily the responsibility of state and local transit agencies, MAP-21 provided the Secretary with audit authority and the power to withhold federal transportation dollars in the event of non-compliance.

Electronic Logging Devices for Commercial Motor Vehicles

MAP-21 requires the Secretary to prescribe regulations that require commercial motor vehicles involved in interstate commerce to be equipped with an electronic logging device that monitors a driver's compliance with federal hours of service regulations by September 30, 2013. Commercial motor vehicles are required to comply with the electronic logging regulations two years after the regulations are published as a final rule. The Secretary is also required to conduct a study on the efficacy of the restart rule in the federal hours of service regulations and to report to Congress no later than September 30, 2013.

Reincarnated Carriers (Truck and Bus Companies)

MAP-21 requires the Secretary to strengthen motor carrier registration requirements to better identify motor carriers with a history of noncompliance. Motor carrier registrants are required to disclose prior relationships through common management, common control, or familial relations in regards to their previous employment history.

Drug and Alcohol Testing Clearinghouse

MAP-21 requires FMCSA to set up a national clearinghouse for drug and alcohol testing results for commercial drivers.

NHTSA Highway Safety Program

MAP-21 continued the behavioral highway safety program from SAFETEA-LU. States are now required to incorporate performance measures into their annual state highway safety plans and set performance targets that will focus each state's funding on the most effective safety projects. The Secretary will monitor each state's progress toward meeting their performance targets.

NHTSA National Priority Safety Program

MAP-21 consolidated several incentive grant programs from SAFETEA-LU into the National Priority Safety Program. States must meet specific criteria to receive funding for highway safety programs such as occupant protection, safety information systems improvements, impaired driving, distracted driving, motorcycle safety, and graduated drivers licensing.

Reauthorization of MAP-21

MAP-21 is set to expire before the end of the 113th Congress. As a result, reauthorization of MAP-21 is a priority for the Committee this year.

DOT's Fiscal Year 2015 Budget Request

On February 26, 2014, the President unveiled the fiscal year 2015 budget request for the DOT. The request includes the first year of a four-year $302 billion surface transportation reauthorization proposal that increases funding for the Nation's highways, bridges, transit, and rail systems. The President proposes to pay for this proposal with $150 billion in one-time

transition revenue from corporate tax reform, of which $63 billion would go towards Highway Trust Fund solvency and $87 billion would support the increased spending levels.

WITNESS LIST

The Honorable Peter M. Rogoff
Acting Under Secretary for Policy
Office of the Secretary
U.S. Department of Transportation

Mr. Greg Nadeau
Acting Administrator
Federal Highway Administration

Ms. Therese McMillan
Acting Administrator
Federal Transit Administration

The Honorable Anne S. Ferro
Administrator
Federal Motor Carrier Safety Administration

The Honorable David Friedman
Acting Administrator
National Highway Traffic Safety Administration

OVERSIGHT OF THE U.S. DEPARTMENT OF TRANSPORTATION'S IMPLEMENTATION OF MAP–21 AND FISCAL YEAR 2015 BUDGET REQUEST FOR SURFACE TRANSPORTATION

WEDNESDAY, MARCH 12, 2014

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:06 a.m. in Room 2167, Rayburn House Office Building, Hon. Thomas E. Petri (Chairman of the subcommittee) presiding.

Mr. PETRI. The subcommittee will come to order. Today's hearing will focus on oversight of the U.S. Department of Transportation's implementation of the Moving Ahead for Progress in the 21st Century Act, better known as MAP–21, and the President's budget year 2015 request.

MAP–21 was signed into law by the President on July 6, 2012, and authorizes the Federal Highway Transit and Highway Safety Programs through September 30, 2014. I was pleased to hear the Department intends to send a reauthorization proposal to Congress some time in the near future. Reauthorizing these programs is a priority for the committee, and we look forward to reviewing the Department's proposals.

MAP–21 consolidated many Federal programs that were duplicative or were not in the Federal interest. These changes provide greater focus on the core national systems, and give our non-Federal partners greater flexibility to meet their transportation needs.

MAP–21 made major reforms and improvements to the project delivery process. It currently could take almost 14 years for a transportation project to be completed if Federal funding is involved, which is clearly unacceptable. Some of the MAP–21 reforms include allowing Federal agencies to review projects concurrently, penalties for agencies that don't meet project review deadlines, and expanding categorical exclusions for projects in the existing right of way, or with limited Federal investment. These reforms will help cut bureaucratic red tape and quickly deliver the economic and safety benefits of transportation projects. The Department has started implementing these project delivery provisions, and I look forward to discussing their progress.

MAP–21 also increases transparency and accountability by requiring States and transit agencies, in conjunction with metropolitan planning organizations, to incorporate performance targets into

their long-term transportation plans. These performance targets will help our non-Federal partners focus their limited Federal resources on projects that have the greatest benefit.

MAP–21 also creates a program to provide relief for public transportation systems that were affected by a natural disaster or catastrophic failure. Previously, transit agencies had to work through FEMA to replace equipment or rebuild their systems after a disaster. But after Katrina, transit agencies sought an emergency program similar to the emergency relief program operated by the Federal Highway Administration. This program was utilized by the States and communities impacted by Hurricane Sandy.

Numerous trucking safety provisions were included in MAP–21, which reflects Congress' commitment to keeping truckers and the traveling public safe. Federal Motor Carrier Safety Administration is tasked with implementing new regulations on electronic logging devices, hazardous material safety permits, a drug and alcohol clearinghouse for commercial drivers, and motor carrier registration requirements related to unsafe reincarnated carriers. These regulations will keep drivers safe, while maximizing the efficiency of the trucking industry.

Congress also recognized that new highway safety challenges have emerged. The National Highway Traffic Safety Administration is required to implement a National Priority Safety Program that incentivizes States to pass and enforce laws that address important safety issues. The program focuses on impaired driving countermeasures, occupant protection, motorcycle safety, distracted driving, and graduated drivers licensing. These reforms are only part of the sweeping changes made in MAP–21.

I look forward to hearing from the Department on the progress it has made implementing the reforms that I have highlighted, and others that were included in MAP–21.

March 5th, the President released his budget year 2015 request for the Department. The request also included the administration's vision for a 4-year, $302 billion surface transportation reauthorization bill.

I look forward to discussing the details of the budget request.

And now I recognize our ranking member, Eleanor Holmes Norton, for any opening statements she may wish to make.

Ms. NORTON. Thank you very much, Mr. Chairman. And I thank you for this and the continuing series of very important hearings that the committee and the subcommittee have been holding on MAP–21, and I look forward to hearing from the witnesses on the progress they are making on regulations under MAP–21, and whatever information they can provide us on the President's own proposal.

Mr. Chairman, the changes that we enacted in MAP–21 are proving what I think we all recognized, and that is many years to put in place to bring about the reforms, rather considerable reforms and vision there. That was a policy-heavy authorization. In contrast to 2 years of flat funding, in MAP–21 we provided an administration with many years' worth of work on regulation. So we haven't begun yet to understand the implications, indeed, to even see many of the regulations, and I think that is to be expected, given how substantial were the policy changes in MAP–21.

Mr. Chairman, I am summarizing my testimony, and ask that my full testimony—my full opening statement, rather, be put in the record.

Gone are the days, I believe, when we can have 3-month extensions or even 2-year bills. Secretary Foxx has been clear. Warning is out there that we run out of money, even for this flat 2-year bill, in August. And he will begin rationing for what funds are left for the States some time this summer.

Mr. Chairman, I think that spells out c-r-i-s-i-s. I don't see how that could be more clear, not even enough money to last throughout this authorization period. If we do not address this crisis now—and that is why this hearing is so important, and why so grateful for this hearing—if we do not begin right now to focus on what is a genuinely difficult problem, in fiscal year 2015, DOT will shut its doors to any new projects, and States will not be able to obligate any new Federal surface transportation program funds. I wonder if that has ever happened in the history of the United States before. I hope it does not happen again.

I do not think it is an exaggeration to say that, were we to act that irresponsibly, the impact on highway and transit capital programs and transit operations across the country would be an unmitigated disaster. Our challenges—these challenges make it imperative that we begin working on addressing the trust fund shortfall, and really developing a new template for the trust fund now.

I am very encouraged that the administration has included an outline of a surface transportation proposal for its fiscal year 2015 budget. I look forward to seeing the details of that proposal when it has been submitted to full to Congress. And I am encouraged, because there are ideas that have been forthcoming in both Democratic and Republican proposals and the President's own outline, and I am hopeful that we will use his proposal as a guidepost, as we seek a way to find funding for an authorization which I trust will be at least 6 years.

Mr. Chairman, I thank you again for this important hearing. And, above all, I am grateful to today's witnesses.

Mr. PETRI. Thank you. Today's panel consists of the Honorable Peter M. Rogoff, Acting Under Secretary for Policy, Office of the Secretary, U.S. Department of Transportation; Mr. Greg Nadeau, Deputy Administrator of the Federal Highway Administration; Therese McMillan, Deputy Administrator of the Federal Transit Administration; the Honorable Anne S. Ferro, Administrator, Federal Motor Carrier Safety Administration; and the Honorable David Friedman, Acting Administrator of the National Highway Traffic Safety Administration.

Welcome to all of you. Your full statements, with unanimous consent, will be made a part of the record, without objection. And we invite you to summarize them in approximately 15 minutes, beginning with Mr. Rogoff.

TESTIMONY OF HON. PETER M. ROGOFF, ACTING UNDER SECRETARY FOR POLICY, OFFICE OF THE SECRETARY, U.S. DEPARTMENT OF TRANSPORTATION; GREGORY G. NADEAU, DEPUTY ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION; THERESE W. MCMILLAN, DEPUTY ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION; HON. ANNE S. FERRO, ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION; AND HON. DAVID FRIEDMAN, ACTING ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Mr. ROGOFF. Thank you, Mr. Chairman, Ranking Member Norton, members of the subcommittee, thanks for inviting me here today to report on our progress in carrying out the MAP–21 law, and to discuss our 2015 budget. I am joined here this morning by the modal Administrators who will testify principally about MAP–21 implementation. I will testify principally about the administration's budget and our comprehensive reauthorization plan.

Since the beginning of the Obama administration, the USDOT has worked extensively to rebuild our Nation's infrastructure, put Americans back to work, and improve efficiency in our processes. Given the deteriorating condition of our Nation's roadways, railways, and transit systems, continued robust Federal investment is essential, and our underlying programs supporting our investments require an overhaul.

The Highway Trust Fund will face insolvency by as soon as this summer. Secretary Foxx and the entire USDOT team have been sounding the alarm on this concern for some months now. The Highway Account of the Highway Trust Fund is likely to dip below the critical $4 billion funding level as soon as July, and the Transit Account will fall below $1 billion some time in August. Absent action by Congress to replenish the trust fund, USDOT will be required to implement cash management measures to preserve a positive balance in the trust fund and head off insolvency.

If the trust fund were to become insolvent, hundreds of thousands of jobs across the Nation could be at risk, and our ability to address the many road, rail, and transit needs in every State will be severely impeded. We look forward to partnering with you to avoid a catastrophic impact to transportation construction activity in the middle of this summer's construction season.

When it comes to our investment policies, MAP–21 started us in the right direction. It repositioned programs, and it reformed critical aspects of the way our infrastructure is built, the way roads and bridges are maintained, and the way projects are delivered. We believe, however, that more needs to be done. Going forward, the administration will be proposing further reforms through a $302 billion, 4-year transportation reauthorization plan that provides substantially increased and stable funding for our Nation's highways, bridges, transit, and rail systems. The administration's plan is fully paid for through existing revenue, and $150 billion in transition revenue from pro-growth business tax reform.

Mr. Chairman, you stated in your opening statement that the record of the duration that projects take from beginning to end is unacceptable, and the administration agrees. Our reauthorization plan will deliver major projects more efficiently by advancing poli-

cies to facilitate the President's stated goal of reducing the permitting and approval time for major infrastructure projects in half, all while creating incentives for better outcomes for communities and the environment.

Our plan will increase capacity to move people and freight, which is absolutely critical, when you consider that, by the year 2050, our country will experience an increase of over 100 million residents. This effort includes a new $10 billion initiative over 4 years, dedicated solely to improving critical freight connections. The program will encourage improved State and regional planning around critical freight corridors. It will also give shippers and truck and rail industry representatives a meaningful role in crafting investment decisions in partnership with State and local governments.

The plan will also ensure that we focus on fixing it first, improving the safety and performance of our existing infrastructure. This effort includes a new program aimed at repairing structurally deficient Interstate Highway System bridges, improving safety on rural roads, and supporting a state of good repair on the National Highway System.

Our plan will also better connect Americans in both urban and rural communities by investing in transportation projects that better serve centers of employment, education, and essential services. This effort includes more than $2 billion over 4 years for a new rapid-growth area transit program that will link people to jobs and educational opportunities in fast-growing areas across the country. And the plan will create more resilient communities by promoting smarter transportation planning to reduce fuel use, conserve energy, and build for the challenges of the future.

In the coming weeks, the administration will formally transmit a legislative proposal to Congress to provide the programmatic details behind each one of these plans. And when the bill is transmitted, Mr. Chairman, we sincerely hope that the committee will invite the Department back to discuss them in full.

We look forward to working closely with this subcommittee as we build on the reforms contained in MAP–21 to bring infrastructure improvements to Americans in a faster, better, and smarter way. Thank you for the opportunity to appear before you today.

I look forward to answering your questions, when all the testimony is complete. Thank you.

Mr. PETRI. Thank you.

Mr. Nadeau.

Mr. NADEAU. Thank you, Mr. Chairman, Ranking Member Norton, members of the subcommittee, for the invitation to appear before you today to discuss the President's fiscal year 2015 budget request, and the Federal Highway Administration's continued progress in implementing MAP–21.

MAP–21 made changes aimed at improving safety, rebuilding highways and bridges, expanding TIFIA credit assistance for major infrastructure projects, focusing on freight policy, accelerating project delivery, and moving toward a more performance-based driven system. Building on the reforms in MAP–21, President Obama recently proposed a budget for the next fiscal year and laid out his vision for a 4-year surface transportation authorization that will strengthen these and other priorities even further.

MAP–21's infusion of performance-based planning and programming into State and MPO investment decisionmaking will go a long way to help preserve and improve our surface transportation assets. We should seek to build on these efforts in the next authorization. I am pleased to report that yesterday the Federal Highway Administration published the first of our rulemakings seeking public comment on the safety-related performance measures.

The President's plan will also allow us to build on the successes in MAP–21 in accelerating project delivery by implementing new policies and procedures that will move USDOT and our Federal partners toward fulfilling the President's stated goal of reducing the permitting and approval time for major infrastructure projects by half. This has long been a priority area for the Federal Highway Administration, and we will continue to pursue our Every Day Counts, or EDC, as we know it, initiatives to demonstrate real savings of time and cost around the country, resulting directly from the deployment of technological and procedural innovation. Importantly, EDC is a partnership with State and local agencies and the private sector: important because they deliver the projects.

Many of our successes in shortening project delivery and increased awareness of the innovations promoted under EDC are recognized throughout MAP–21. For example, Congress authorized for use on federally funded highway projects the once-experimental Construction Manager/General Contractor project delivery method that has been promoted under EDC. Other examples are included in my written testimony.

Moving beyond MAP–21, we believe that the next authorization must be comprehensive and should continue the focus on safety, freight, streamlined project delivery, and enhanced performance management, while increasing our investment in multimodal freight projects, and doing more to connect communities to centers of employment, education, and service.

The President's 2015 budget proposes a 4-year authorization and requests $48.6 billion for the Federal Highway Administration in fiscal year 2015 to maintain and improve the safety, condition, and performance of our national highway infrastructure and enable the Federal Highway Administration to provide effective stewardship and oversight of highway programs and funding. The President's budget not only fills the looming shortfall in the Highway Account of the Highway Trust Fund for the next 4 years, it provides for sizable growth in highway investment—a boost of approximately 20 percent to help us address the many critical needs we have across the national highway network.

Thank you again for the invitation to appear before you today, and I look forward to continued work with you and your staff as we build on the reforms in MAP–21 and move toward a new surface transportation authorization. Thank you, Mr. Chairman.

Mr. PETRI. Thank you.

Ms. McMillan.

Ms. MCMILLAN. Chairman Petri and members of the committee, thank you for inviting me to discuss the Federal Transit Administration's progress implementing MAP–21, and the administration's priorities for next year's budget and the upcoming reauthorization.

MAP–21 codifies some of President Obama's highest priorities for strengthening the Nation's public transportation systems at a time when transit ridership is at its highest level since 1956, with almost 10.7 billion trips taken in 2013, according to APTA's latest figures. I am proud of the progress we have made on the issues that are important to our riders and to us, particularly given the challenge of the 2-year timeframe in addressing its provisions.

For example, at a time when our Nation faces a serious $86 billion transportation infrastructure deficit for transit, MAP–21 creates a needs-based state-of-good-repair formula program for fixed guideways. We are in the process of establishing a national transit asset management system to ensure that all of our grantees adopt a strategic and individual approach for managing their capital, and will hold them accountable for leveraging all available resources to bring their systems into a state of good repair.

We are reviewing comments on our landmark advanced notice of proposed rulemaking issued last fall, emphasizing the need for asset management and safety to go hand in hand. We are also working closely with State safety oversight agencies to help get them on course to put a stronger and more consistent safety oversight regime in place. I assure you we remain sensitive to concerns about how we implement our new authority in the safety arena. This is not a one-size-fits-all approach.

We have also made strides under MAP–21 to help our grant programs work better and make better use of taxpayer dollars, issuing new regulations and guidance to accelerate project delivery, streamline the NEPA process, and help our communities build the transit systems they need more quickly and efficiently.

MAP–21 has set us on a right path, but there is much more to be done. As President Obama said recently, "In today's global economy, first-class jobs gravitate to first-class infrastructure." That is why the President is seeking a 63-percent increase in FTA's budget for next year over this year's enacted level. That would provide us an additional $6.8 billion to strengthen transit safety oversight, build our Nation's bus and rail transit infrastructure into a state of good repair, and provide new and expanded transit systems in many communities.

Our request includes $2.5 billion to support construction of major capital rail and bus projects around the Nation, and bring relief to existing transit corridors that are at or near capacity. These projects create thousands of good jobs, and give communities the transportation choices to access jobs, education, health care, and other vital services.

I would also highlight we are seeking nearly $14 billion in formula funds to help our grantees get the job done right, including $5.1 billion in increases above our currently funding level to support strategic fix-it-first investments, bring our Nation's rail transit infrastructure into a state of good repair, and replace aging buses that have, literally, logged in millions of miles.

We also recognize how important transit has become in rural communities and on our tribal lands, where there are now more than 1,400 operators providing more than 140 million trips, annually. We are seeking over $600 million to support that demand in communities.

Finally, I would note we are seeking $60 million for research and training activities, including significant funds to support workers looking to find jobs in the transportation sector. All of this is an integral part of the President's robust 4-year, $302 billion reauthorization package, and that will support the Nation's surface transportation systems, including public transit.

Mr. Chairman, this concludes my testimony, and I am happy to answer any questions.

Mr. PETRI. Thank you.

Administrator Ferro.

Ms. FERRO. Thank you, Chairman Petri, Ranking Member Norton, and members of the subcommittee. Appreciate the opportunity to explain FMCSA's—the Federal Motor Carrier Safety Administration's—implementation of MAP–21 requirements, as well as some highlights on our fiscal year 2015 budget.

DOT's top priority is safety. And, for FMCSA, it was very exciting to see MAP–21 support the safety framework in which FMCSA has been driving forward to make safety gains in further reducing crashes involving commercial motor vehicles on our highways. That framework that really is outlined very well in MAP–21 consists of raising the bar to safety to come into this industry; ensuring once you are operating in the industry, that you are maintaining high safety standards to stay there; and using all the tools at our disposal to get the high-risk companies and drivers and service providers off the road to either get better or get out of the business.

And so, when it comes to MAP–21, MAP–21 really advanced some key priorities in that regard. To date, we have already implemented more than half of the new rulemaking requirements that MAP–21 incorporated, which number almost up to 40, and, cutting right to the chase, right out of the box, we implemented new rules that put in place some exemptions for certain types of agricultural operators and agricultural vehicles, exemptions from some of the core safety requirements, and we put in place new mandates on financial security for brokers and freight forwarders.

I am very excited to say that a month ago we issued and published a notice of proposed rulemaking for the first-ever drug and alcohol clearinghouse. And just yesterday, I got the word from OMB that they have completed their review of a high-priority rule known as Electronic Logging Devices, and we will be publishing that supplemental notice of proposed rulemaking in no time, imminently.

MAP–21 also included some new enforcement authorities to help us with our crackdown on high-risk motorcoach companies. We have been very aggressive and—concerning motorcoach companies, and incorporated those new tools and enhanced training that we have already deployed across at least half of our investigators as of this date, and will complete training before the end of this year, as they proceed to focus on the highest risk bus and truck companies.

And then, lastly, on MAP–21, we have underway both listening sessions, as well as building the framework for rules that will require testing prior to getting the authority for any new applicant for interstate operating authority—any new applicant, as in a company: bus, truck, motorcoach, household goods, hazmat. And so

that new entrant testing, part of MAP–21, we have held several listening sessions on. We have a few more to go. And that will help us set the framework for the rule. And we are actively working on strategies to move forward with a rulemaking on entry-level driver training for commercial drivers.

With regard to the President's fiscal year 2015 budget request of $669 million for FMCSA, not quite half of—about $315 million will support FMCSA's safety enforcement work, and allow us to implement some of the other operating requirements of MAP–21 that accelerates our review of new entrants into the industry. The other half, a little more than half, will go to States in the form of grants, again, to further enhance motor carrier safety enforcement through roadside inspections.

Mr. Chairman, that concludes my remarks, and thank you, again, for the opportunity to talk about those key initiatives.

Mr. PETRI. Thank you.

Mr. Friedman.

Mr. FRIEDMAN. Good morning, Mr. Chairman and Ranking Member Norton and all the members of the subcommittee. I truly appreciate the opportunity to testify before you today. And I would also like to thank each and every one of you on this committee for your efforts on MAP–21. I look forward to working with you to strengthen highway safety through a comprehensive, 4-year reauthorization of our surface transportation programs, as the President has proposed.

Now, NHTSA takes tremendous pride in our nearly five-decade-long record of protecting Americans by partnering with the States and—to enforce strong highway safety laws, and by working to make vehicles safer. Since 1970, highway fatalities have declined by 36 percent, and they have fallen by 22 percent in just the last decade. But we also have to face the reality of where the numbers are today. There are more than 30,000 fatalities on America's roadways each year. We must continue to look for—at new and innovative ways to save lives, while continuing to support education and enforcement efforts that we know deliver results.

The administration does continue, as Administrator Ferro noted, to place safety at the forefront of all that the Department does. And the President's budget request continues our efforts to save lives, reduce injuries, and lower the cost of crashes. States are a vital partner in these efforts. And that is why, as part of the budget, we are requesting $577 million for highway traffic safety grants. Implementing MAP–21 has been a major priority for NHTSA. The agency issued an interim final rule to expedite guidance to the States as quickly as possible. We want to get the money out and get it doing the good work that it is intended to do, as fast as possible. So, we continue to work with States to help them access those resources under MAP–21, and to put them to good use.

Now I would like to briefly discuss a few of our priorities, as they are related to MAP–21. First of all, seatbelts. Seatbelts remain one of the single most effective ways to reduce deaths and injuries. And seatbelt usage is on the rise in our Nation. And that is great news. But I do need to emphasize that seatbelt use continues to be higher in States with primary belt laws.

We are also working to address the issue of the epidemic of drunk driving, where more than 10,000 Americans lose their lives in completely avoidable crashes. We must make more progress on this critical issue.

NHTSA is also very concerned about the upper trends in pedestrian and bicyclist fatalities. As Americans spend more and more time walking and cycling, we must bring new resources and proven strategies to bear to better protect them. We are working with the States, for example, to develop new performance metrics on bicycles, so that we can be targeting the resources where they need to go to affect and improve the issue of bicycle fatalities. Bicycle and pedestrian fatalities are a priority of Secretary Foxx, so you can expect to see our efforts in these areas continue to grow.

Now, we have also worked very hard to help older Americans maintain their mobility safely. Older drivers are safer drivers, on average. But they are more likely to suffer serious injuries if involved in a crash. And so, it is important that we continue to look for ways to mitigate those risks.

Now, in addition to NHTSA's traditional enforcement efforts, we are also looking to vehicle technologies for ways to save lives. The President's budget request supports NHTSA's plan to expand the agency's focus on technology. Advanced safety technologies such as vehicle-to-vehicle communications and automated vehicles can help drivers avoid crashes in the first place. Advances in technology are also providing new comforts and amenities for drivers and passengers. Our goal at NHTSA is for drivers and passengers to usher in and be able to access new technologies, while filtering out new distractions. We will continue those efforts to work with the industry and to work to minimize these distractions.

Now, in all of our work, President Obama and Secretary Foxx have emphasized the need to be efficient with limited budgetary resources. To that end, NHTSA has strengthened its budgetary oversight to ensure that taxpayer resources are effectively managed and appropriately invested to save lives.

Now, to conclude, and, frankly, with apologies to my DOT colleagues, I want to close by noting that I don't think that you will ever find a workforce more passionately invested in its mission to save lives than you will find at NHTSA. NHTSA's commitment to protecting the American people never wavers.

Thank you again, members of the committee, Mr. Chairman, for the opportunity to testify, and I am happy to take any questions you may have.

Mr. PETRI. Thank you. Thank you all for your summaries of your—and your complete statements will be made a part of the record.

I have a couple of questions. Mr. Friedman, one thing that is worth mentioning is that, obviously, safety is number one, and we want to be vigilant and keep making improvement, but there has been quite a success story there, in the sense that the number of fatalities on the Nation's highways has been tending downward for a number of years now. And it used to be in the 40,000 to 50,000 range, and it is now in the 30,000 to 20,000 range.

And I think the percentage of accidents that are due to human mistakes or peccadillos of one sort or another, as opposed to me-

chanical failures, as—there has been a significant improvement in the—by the auto industry and trucking industry in trying to build more safety into vehicles, and give people more of a margin for error. And that is continuing with autonomous vehicle technology that is rolling out, and the like, and it is—we are, in Government, doing something. But in the private sector, they are actually doing quite a lot that has been very effective, as well.

And it is worth acknowledging, that it is saving lives. And we should focus on success, as well as failures, I think, because that—people like to know that they are getting somewhere, and not just being frustrated.

But my question is that NHTSA funded the National Roadside Survey of Alcohol and Drugged Drivers in 2013, and we have been hearing from citizens who encountered this survey while driving, and who believe they were pulled over by law enforcement, subjected to breath saliva and blood samples. And since the survey hires law enforcement officers to direct traffic—and I guess they are often in their uniforms—it could appear to a motorist that they were entering into a DUI checkpoint or some sort of involuntary Government search regime.

And I am certainly supportive of research on drunk and drugged driving, but I am concerned that motorists who encounter these surveys are not properly informed that the survey is voluntary. And we are increasingly living in a society where people are worrying about Big Brother and Government overstepping its bounds in a number of different areas, and I think we need to be sensitive to that.

So, my question is, how is NHTSA addressing these concerns? And what procedures does NHTSA require in order to inform the motorists that the survey is voluntary?

Mr. FRIEDMAN. Thank you very much, Mr. Chairman. And, quickly, relative to your first point, we look at improving safety as a partnership. It is a partnership with the States, it is a partnership with Congress, and it is a partnership with industry. We need everyone moving forward, and we have made tremendous progress in reducing highway fatalities. Our goal is to make a lot more.

In regards to the roadside survey, it has definitely gotten a lot of attention. This is a very important program. It is a voluntary program. When drivers approach these sites, the very first thing that they see is a very large orange sign with the words "Paid Voluntary Survey." That is their very first indication that this is a voluntary survey.

In many cases, they can be waved into the survey site by police officers. Those police officers are there because our priority is safety. The job of those police officers is to ensure the safety of the participants, to ensure the safety of the researchers, because while we are gathering this data we need to make sure that everyone is safe. And when the driver enters the site, they are told very clearly, in a very strict protocol by the researchers, that this is voluntary. They are given the opportunity to drive away. In fact, when drivers first see this orange sign, about a quarter of them drive through.

It is also important to note this is a voluntary survey. It collects anonymous data, purely targeted at alcohol and drug use among drivers. I believe we have taken every effort to make sure that that

is clear. In fact, we are taking additional efforts. For example, removing the initial use of an air sampler to test the level of alcohol on people's breath to ensure that we get their consent first, before gathering any data.

Mr. PETRI. Well, the next time you do one of these, or next couple times, I don't know if you or some in your Department could quietly and anonymously just drive down the road and see if all these procedures work, and go through the experience without letting—not an official inspection, but—because sometimes you put things on paper, but in reality people follow the path of least resistance, and it is—you know, the public is—clearly, we are hearing from them. They are concerned about this.

Mr. FRIEDMAN. And I understand those concerns. And we have continued to take those concerns very seriously. And we have sent staff out to these sites, and we regularly audit to make sure that all these policies and procedures are moving forward. We make sure to get the cooperation of the States, as we move forward, as well as local law enforcement, to ensure that everyone is informed, and safety is protected in these voluntary and anonymous surveys. Thank you.

Mr. PETRI. I have one other quick question. Ms. Ferro, some of my constituents have expressed their frustration with Federal Motor Carrier Safety Administration's safety measurement system. Roadside inspection violation data was erroneously issued by an enforcement officer, was later challenged in court, and the violation was dismissed. My constituent submitted an appeal of the dismissed violation through the DataQ's System, but the officer that issued the violation declined to repeal the violation for the SMS.

These scores are having real-world impacts on the carriers' ability to find business, and erroneous violations could put a carrier out of business. So if it is not a valid administration—a violation, why is it not being removed? And how is this issue being addressed?

Ms. FERRO. Mr. Chairman, at the heart of that issue has been a question about fairness. And so, we have examined—we have spoken with a lot of companies and drivers about the issue. We have heard a lot of recommendations.

And so, late last year, we put together an issue—published a notice for comment on a new approach to that very issue. And that new approach would establish, in the case where a State charge is issued at the same time as a Federal violation on a safety issue in a roadside inspection, if that State charge is dismissed, the violation points would also be removed from that SMS system. If the violation—if the State charge is downgraded, we would make sure the record is noted that that charge has been downgraded.

And so, we are wrapping up—we received a lot of comments. It closed in January, we are wrapping that up, and we expect to proceed, we think, with a better approach that actually will likely address the concern that you raised.

Mr. PETRI. Mr. DeFazio?

Mr. DEFAZIO. Thank you, Mr. Chairman. To Mr. Rogoff, you mentioned in your testimony $4 billion funding level as soon as July for the Highway Account, and one for August, and then you talked about implementing procedures to preserve solvency. How

soon do you think will you start adjusting downward, paring back, delaying? I am not sure how you are going to do it, reimbursements to States and local agencies. And what form do you think it will take?

Mr. ROGOFF. Well, Mr. DeFazio, I cited those specific thresholds, $4 billion for the Highway Account, and $1 billion as the Transit Account is sort of when our first alarm goes off.

Mr. DEFAZIO. So you are going to go up to that point?

Mr. ROGOFF. We will. But, you know, we know what—when it is coming with increasing certainty with each passing month, as we see the Treasury reports of receipts versus expenditures.

I think, importantly, with the re-estimate that comes with the submission of the budget, frankly, the trajectory for the Highway Account has actually worsened, and—which has us very concerned about this coming summer.

The procedures that we use are effectively delaying reimbursement. Both of these programs work on a reimbursable basis. And we normally reimburse a grantee anywhere from within a matter of hours to, generally, no more than a day-and-a-half. That allows them to not have to float cash, if you will, to the Federal Government.

Mr. DEFAZIO. Sure. So what are we looking at?

Mr. ROGOFF. And so, certainly—but our biggest concern is, absent action to rectify this problem, the States and the transit agencies are going to start revisiting their investment decisions a lot sooner than that.

Mr. DEFAZIO. Right.

Mr. ROGOFF. So, while we will, you know, start implementing cash management procedures as we trickle down below $4 billion and below $1 billion, we are concerned that we will see a slow-down before that that will impact employment.

Mr. DEFAZIO. Right. I believe Kansas has already announced—at least one State—and I have got a letter from Oregon Department of Transportation. They are looking more at the next fiscal year. But I would assume that many States will follow, and we could see a slow-down.

The—I am just curious. The administration has put forward a proposal with illusory corporate tax reform, which won't happen this year. We are going to pay for the trust fund. Do you have a backup plan? Because I have personally presented to the President, presented to your predecessor, presented to the current Secretary—I mean not your predecessor, to Ray LaHood, current Secretary, a simple idea. Now, as I drove to work on Friday, and I came home, gas had gone up a nickel a gallon. Was I outraged? Did I scream and yell? Did I pound? No, I expect it. OK?

Well, what if 1.4 cents of that had gone to rebuild our infrastructure? Simple proposal. Index the current user fee gas tax to construction cost inflation, fleet fuel economy. We have run the numbers, your department ran the numbers. It is about 1.4, 1.7 cents a gallon per year. I don't think anybody is going to get unelected because of that, even though there is a lot of tax aversion around here. And use that projected cash flow for bonding to backfill the trust fund.

We have an unprecedented problem. We could raise the tax a dime today. You would still have this cash flow problem, because it is the trust fund balance that we are worried about.

I mean is the administration looking at—will they consider a realistic backup plan like mine, which I believe could work, and is, you know, based in history, which is it is a user fee-funded program?

Mr. ROGOFF. Mr. DeFazio, the administration has made clear—the President, the Secretary, on down—that we are open-minded to any alternatives that people want to put on the table that help solve—

Mr. DEFAZIO. I know, but I put it on the table now for 4 years. You first—you know, you killed my reauthorization—not you, but the administration, because they were scared to death of revenues of any sort. Now they have got an illusory, fake—you know, I mean, it is great. Yes, corporate tax reform is going to pay for everything in America. It is not going to happen. Not going to happen——

Mr. ROGOFF. I am not going to buy into the notion that they are illusory. I mean we——

Mr. DEFAZIO. Right. No, that is—Mr. Rogoff, that is fine. But my point is this is a real proposal. It is real. It is based in history. It is only 1.4, 1.7 cents a gallon, you know? I can go to the most conservative parts of my district, tell people what I am going to build with this, who I am going to put to work, and say, you know, "Will you support that?" and the answer is people are not going to be outraged, except for a few idiots.

Mr. ROGOFF. Sir, we have made very clear—what the Secretary has said repeatedly in the last few weeks in discussions with Members is that right now we have a proposal, Mr. Camp has a proposal, there are other proposals out there——

Mr. DEFAZIO. Right.

Mr. ROGOFF [continuing]. Including yours, including——

Mr. DEFAZIO. OK. That is good, thank you.

Quick question, Ms. Ferro. I just want to know. You were conducting an ongoing study, as I understand it, of detention time issues and what the impact is on drivers and et cetera. Where are we at on that?

Ms. FERRO. The agency is continuing with the second phase of the detention study, so that we can analyze the final link between detention time and safety outcomes.

Mr. DEFAZIO. OK.

Ms. FERRO. Expect those to be done in 2015. I am very eager to see it done. Detention time is really impactful on drivers, on driver safety, and, frankly, wastes almost $4 billion in industry efficiency. So, thank you for the question.

Mr. DEFAZIO. OK, thank you. Thank you, Mr. Chairman.

Mr. PETRI. Mr. Crawford?

Mr. CRAWFORD. Excellent. Thank you, Mr. Chairman. After enactment of the American Recovery and Reinvestment Act in 2009, the Department of Transportation undertook a major effort to publicize the status and impact of these funds. It is my understanding both the Federal Transit Administration and the Federal Highway Administration included substantial information, including some-

times weekly State-specific reports on their Web sites to detail for the public the progress in utilizing these funds.

There is a provision in MAP–21, section 1503, entitled, "Transparency and Accountability," that basically directs the Department of Transportation to do for the core highway and public transportation program investments what it did for the Recovery Act highway and transit funds. We have a lot of people in our country who question the value of Federal transportation investment.

It seems to me it would be a good idea to—place to start in answering this question is showing them how each State benefits from these funds. It also seems that you thought this was a pretty good idea for a strategy for Recovery Act funds.

So, my question, then, for Mr. Rogoff and Mr. Nadeau, is there a substantive reason why the Department has not been providing the American people with the specifics of how core highway and transit program funds are used in a timely manner, pursuant to this provision of MAP–21, as you did with stimulus funds?

Mr. NADEAU. Thank you, Congressman. First, I want you to know we have been diligently working on this requirement, and expect to post a detailed report on the web, and issue the summary report to Congress by late spring.

Consistent with similar financial reports and requirements of MAP–21, the software development was timed to ensure that we have 1 year of data available for the report. The scale of this particular report—for example, if you look at the report on ARRA, we are talking about a universe of about 12,000 or 13,000 projects. This is a universe of in excess of 100,000 projects. So, it simply is a larger task, and we are approaching it as aggressively as we possibly can. But that is the expectation of time, with respect to delivering that product. And our commitment is to make it of high quality, so it will be useful certainly to you and Congress and the American people.

Mr. ROGOFF. Mr. Crawford, could I just add to that? We agree that greater transparency of where the Federal aid highway funds are going by project is very useful. I think, as Members who are voting and authorizing these projects, you should know precisely where the dollars are going, project by project. We would like to know, ourselves.

Secretary Foxx, as a former mayor, I could tell you is—was curious, as a mayor in North Carolina, where all of North Carolina's dollars were going by project, and couldn't always get the information he wanted, either. We are standing up that capability.

You drew a distinction between the Recovery Act and our regular program. The Recovery Act had reporting requirements in it, in statute, that gave us all of this additional information. That was not carried over to the Federal aid program. And we are not necessarily recommending that it be so, because it was really quite an administrative burden on the grantees. But, that said, we are working to get project-by-project data, and we are as interested in it as you are.

Mr. CRAWFORD. Thank you, gentlemen. I appreciate it, and yield back.

Mr. PETRI. Thank you. Mr. Sires?

Mr. SIRES. Thank you, Mr. Chairman, for holding this hearing today.

You know, I was very pleased to hear that Chairman Shuster is looking forward to addressing the freight mobility as one of his priorities for the bill. And I am happy to see the administration is also interested in that.

I have a concern where—will the proposal attempt to address the concerns of large projects that are in different States that are relatively flat-funded formula? Is that going to be addressed? Because they tend to fare less than the other projects.

Mr. ROGOFF. Well, if I could, the administration's proposal for a freight program—and I think this, like a number of other questions, we are going to be somewhat constrained to provide great details until the bill is submitted. But I could tell you that we are specifically looking at multistate corridor projects and those larger projects. We are using incentive grants to encourage multistate cooperation, because many of these, when you look at these economic centers, especially in your region, they cross State lines very quickly. But also, to have a discretionary component so we could provide a sizable-enough grant to buy down some of those major game-changing freight projects.

Mr. SIRES. Thank you. I want to address the issue of safety. In my district we are kind of unique. We have these jitney buses, and they are a real headache. I mean we had last year an accident where one of the jitney buses, the driver was from New York driving in New Jersey, he lost control of the jitney bus, hit a carriage, killed the baby that was in the carriage, and everybody was outraged, obviously. Do—you know, obviously.

I just want to know. What more can the Federal Government do, in coordination with the States, to make sure that these jitney buses are licensed, that they are inspected, and that they are meeting the law? Because this fellow that was driving——

Ms. FERRO. Horrible.

Mr. SIRES [continuing]. Basically had nothing. They even think he was texting as he was driving. So I was just wondering if you intend to focus more on that, because it is an increasing problem, especially in urban areas where transit companies are pulling their buses, and these jitney buses are coming in and filling in the gap.

Ms. FERRO. Congressman, I—thanks to your concern and your focus on this issue, we have had a very good partnership with jurisdictional law enforcement in the areas where the jitneys are operating in New Jersey, up in New York, as well as with our State partners in New Jersey and our division office. And they have had some very effective sting operations and strike forces that have absolutely raised the attention of the jitney industry.

We have followed in with additional investigations. But at the heart of this, and the heart of your question is, what resources can we devote to this issue to really press forward and complete that—this kind of safety outcome we are all driving towards?

Our fiscal year 2015 budget does include a request for 77 positions, the vast majority of which are for the field for safety enforcement work relating to our motorcoach enforcement efforts. We have a very focused and targeted motorcoach strike force initiative underway that we launched last year that has absolutely identified

the highest risk motorcoach companies, and we have taken very aggressive action. But it is something that we put out there as a test to figure out what we needed to really get to one level of safety for all passengers, regardless of which bus they choose to use.

And so, the gap analysis on that initiative demonstrates the need for additional resources that are incorporated in our 2015 budget. But we will keep pressing forward on a partnership that I outlined in the initial part of my response.

Mr. SIRES. Are the State of New York and New Jersey cooperating fully with your efforts?

Ms. FERRO. Yes, we have had a very good cooperation, in fact, between New York and New Jersey on our motorcoach work, the whole I–95 corridor. So the answer is yes.

Mr. SIRES. Thank you, Mr. Chairman.

Mr. PETRI. Mr. Barletta?

Mr. BARLETTA. Thank you, Mr. Chairman. Specifically, my question relates to triple-trailer trucks. Triples can be as long as 110 feet, and weigh as much as more than 120,000 pounds. On the other hand, a car is roughly 16 feet long, and weighs less than 4,000 pounds. And, personally, these triples scare me. And most drivers don't want to share the roads with them.

In 2000, a USDOT study found that multitrailer trucks have an 11 percent higher fatal crash rate than single-trailer trucks. The study said that this finding was significant, in terms of the debate about the safety of LCVs. This study was based on national data. Mr. Rogoff, are you familiar with this finding?

Mr. ROGOFF. I am.

Mr. BARLETTA. Are you including it in your study findings?

Mr. ROGOFF. As it relates—if you would—if you would be agreeable, Mr. Barletta, I am going to let Mr. Nadeau take the question specifically about the weight and size study.

Mr. NADEAU. Thank you, Peter. Mr. Barletta, there are a number of configurations including the study of triples. And that will be thoroughly examined, with respect to impact on infrastructure and impact——

Mr. BARLETTA. So it will be included in the study findings. Will you be updating the findings for the current study?

Mr. NADEAU. Well, what I am referring to is the current study, which is, by direction of MAP–21, due to Congress by November of this year. And that work is presently going on. A number of groups that we have assembled are analyzing various elements of——

Mr. BARLETTA. So it will be including the information from the 2000 study and updating current——

Mr. NADEAU. The study is completely comprehensive, and does focus in large part on current literature, historical literature, and applied research. So——

Mr. BARLETTA. Good.

Mr. NADEAU [continuing]. Across the board, sir.

Mr. BARLETTA. Good. Thank you. Administrator Ferro, a recent GAO study found significant flaws in CSA, and the program continues to label safe carriers as unsafe within the trucking marketplace. Now, your budget requests millions to fix the system's algorithms. Since your budget priorities seem to suggest that you recognize the problems associated with CSA, why isn't FMCSA doing the

right thing and pulling those scores off the public Web site until CSA is fixed?

Ms. FERRO. Congressman, thank you for that question. The CSA program, Compliance, Safety, Accountability program, is at the core of our enforcement platform, and it really builds on work we did a decade ago that we used to call SafeStat. Again, it used certain inspection and investigation data to identify the highest risk companies. CSA really built upon that to utilize our full suite of inspection data, investigation data, to help not just FMCSA prioritize the highest risk companies—and the program does—but also help companies themselves identify more quickly where they may have a safety issue and address it, so that they can continue operating and put safety as a key part of their bottom line.

With regard to program critiques, program analysis from GAO, you know, at the heart of GAO's analysis they identify some areas of improvement that we are committed to do, as I have been from the moment we rolled this program out in 2010. It has got to be a continuous improvement effort. We have got to make full use of our data. And we absolutely owe it to the public to help prevent crashes, not wait for them to occur and then go ahead and look at the company. The GAO study, one of their core recommendations is to do just what I said: wait until the crash occurs and, by the way, just look at the larger companies.

Now, we have 500,000 companies, the vast majority of which are 10 trucks or fewer. So it is very important that we incorporate all the safety data into our analysis and use that analysis to anticipate a crash, get to that company ahead of time with an intervention, and help them avoid that crash and that fatality. But rest assured, we are committed to incorporate improvements that are recommended through the kinds of analysis that you referenced.

Mr. BARLETTA. Thank you. I yield back.

Mr. PETRI. Ms. Hahn?

Ms. HAHN. Thank you, Mr. Chairman. I was going to address my question to Mr. Nadeau. So, as you probably know, Los Angeles puts a lot of our own money into funding transportation projects. Most recently in 2008, voters of L.A. County approved Measure R, which was a half-cent sales tax that will raise $40 billion over the next 30 years for road and transit projects.

So, we came up with the concept of America Fast Forward. Instead of waiting 30 years using tax revenue to build these projects, we thought it was a smarter idea to have the Federal Government kind of frontload those projects, with the guaranteed return of the revenue over 30 years. Part of America Fast Forward was advancing the expansion of TIFIA program, which was successfully adopted into MAP–21.

This expansion was seen as having the potential to speed up the construction of a number of large, critical programs that weren't approved under the previous TIFIA program, which had smaller lending authority. States and localities all across this country are depending on the favorable term rates of TIFIA to revolutionize the way they finance infrastructure projects.

Fortunately, we heard testimony during this subcommittee's last roundtable discussion that mentioned, despite the substantial increase in loan authority, DOT's approval of TIFIA loans was still

incredibly slow, and the pace of approval for TIFIA projects was no faster than it was before this expansion. So, particularly in L.A. County, we are concerned on doing a better job of approving these.

Give you a shout out that we were informed that DOT—that TIFIA sent a letter to the Gerald Desmond Bridge replacement project in Long Beach, inviting them to apply for a TIFIA loan, which could provide up to $300 million for the project. But want to know what you are doing to increase the rate at which your office approves these loans. That is what is going to be critical as we move forward to invest in our country's infrastructure.

Mr. ROGOFF. Congresswoman, Hahn, if it is OK, I am going to take that question.

Ms. HAHN. OK.

Mr. ROGOFF. We have always been very impressed, and hold out, obviously, Measure R as sort of a national model on how—when the local voters step up and decide to invest in themselves, that the Federal Government should both applaud and help that, and magnify that investment.

I believe we have actually been rather successful in the following respect in making the TIFIA loans happen for L.A. in a timely manner, in that we have been able to, for the first time, get the Federal Transit Administration and the TIFIA program sort of working hand-in-glove, so when we were ready to sign a full-funding grant agreement for the regional connector, the TIFIA loan was ready to go. When we were ready to sign a full-funding grant agreement for the West Side Subway, the TIFIA grant is ready to go.

Now, I think it is important to remember. We are working—and I know our chief financial officer, Sylvia Garcia, is working on this. But it is also important to remember that TIFIA loans are not like pack-n-play, one size, they are all identical. In fact, every one of them—I believe there is probably no two deals that are identical. Each borrower has a different creditworthiness profile. Each loan has to be negotiated separately. Maybe we will get to a point where we could do these on a kind of more formatted basis.

But in order to protect the taxpayer interest, we do need to make sure—now, we will do well. We are getting, you know——

Ms. HAHN. You are saying—the testimony that we heard last roundtable that—the approval was still incredibly slow, and it has really been no faster than——

Mr. ROGOFF. Well, we share the——

Ms. HAHN. Yes.

Mr. ROGOFF. We share the frustration——

Ms. HAHN. So I guess my question is, what are you doing to——

Mr. ROGOFF. We are reviewing——

Ms. HAHN [continuing]. Even so that we are——

Mr. ROGOFF [continuing]. The processes. We are looking at the creditworthiness reviews. We are looking at—again, but one of the challenges we have, we want to make things go more quickly, also. We are asking for $4 billion over 4 years for TIFIA, so we greatly applaud the expansion of the program that began under——

Ms. HAHN. So what are you doing to increase the rate——

Mr. ROGOFF. We are specifically looking at the process by which we put each borrower through, in terms of the multiple steps, and

seeing if that can be streamlined. Our challenge comes when each borrower wants a slightly different deal, because then we need to go and do our due diligence on their payback ability for that deal.

Now, we—the Secretary was just in New York, talking to people interested in public-private partnerships. We are as critically interested as the committee in sort of getting more of that private money to bear on infrastructure projects. But these are complicated transactions. I cannot tell you that we can execute them as rapidly as we do a grant.

Ms. HAHN. Well, it is critical, obviously. It is critical for—and not just L.A. County region, but certainly across this country. Folks are really depending on this loan process to speed up the investment in infrastructure. And we know that is what is going to keep our transportation system viable, create jobs, improve the economy. Really a lot depends on——

Mr. ROGOFF. Indeed. And when you look across our budget proposals, we obviously want to make this a more robust element. Not only are we making a $4 billion commitment to TIFIA over 4 years, the President's budget also has the re-institution of America Fast Forward bonds, and the institution of an infrastructure bank that actually expands beyond transportation, but goes to other areas of investment, be it school infrastructure investment, power grid, other areas that we want.

So we are on board, I am just trying to explain that we can't turn on a dime and suddenly do a transaction in 2 weeks that used to take 2 months.

Ms. HAHN. Thank you.

Mr. PETRI. Mr. Davis.

Mr. DAVIS. Thank you, Chairman. Mr. Rogoff, I will keep you going. In section 192 of the 2014 omnibus, Congress made available $80 million in unused SAFETEA–LU Maglev dollars to fund several dormant rail grant programs, including passenger rail capital projects, railroad safety technology grants that can be used for PTC implementation, and high-speed rail corridor planning grants.

Of the $80 million, as you know, $20 million is set aside for the high-speed rail corridor planning grants. Recognizing that the omnibus gives significant discretion to your Department, can you shed some light on how the Department specifically intends to allocate the remaining $60 million?

Mr. ROGOFF. It is currently under review, Mr. Davis. I would, you know, be happy—I think it would make more sense, if you would like, is I could come up to your office with our FRA Administrator, Joe Szabo, and talk through that, because I have been a part of some of those discussions, but not all of them. And I know a hard decision has not yet been made.

Mr. DAVIS. OK. Any time I can get a chance to meet with my colleague from Illinois, Mr. Szabo——

Mr. ROGOFF. Yes, that is right.

Mr. DAVIS [continuing]. I will have my office give your office a call.

Mr. ROGOFF. Absolutely.

Mr. DAVIS. I would like to do that sooner, rather than later.

Mr. ROGOFF. Happy to do it.

Mr. DAVIS. Thank you. Ms. McMillan, you mentioned in your testimony that last year was a very challenging year for the capital investment grant program, because of sequestration, but that 2014 offers a brighter future. Can you tell me what guidance or rules that the FTA has, and plans to issue moving forward to carry out the changes made in MAP–21 to improve the project's approval process?

Ms. MCMILLAN. Thank you very much, Congressman, for that question. I think this is an area where the Federal Transit Administration has made some great strides. Even prior to MAP–21, we had developed new criteria that was far more responsive to communities for the purposes of evaluating projects, including a far more understandable cost effectiveness measure, and new criteria on environmental benefits and the like.

We have also been working very closely to continue our streamlining efforts, including the notion of a warrant, where an agency that either has a small amount of funding as part—Federal funding in the larger package, or has demonstrated experience in the past can get through our evaluation process more quickly.

MAP–21, as you know, also reduced the number of steps that are required as part of the capital investment grant program, and we are working very closely on rulemaking to put that into regulation and guidance for our grantees. This is a very popular program, and this has been one of our top priorities.

I would also say that one of the elements that has made the process a bit arduous in the past is the requirement to do travel modeling. In other words, to estimate ridership of these future projects. And we are proud to say that we have developed an off-the-shelf transit forecasting tool that, if you meet certain assumptions and conditions, can really reduce what used to be a 2-year process for estimating transit trips maybe down to 2 weeks, if you can use this off-the-shelf tool and FTA has been working hand in hand with our industry to bring that tool to bear.

So, there are some examples of what we are doing to get this process moving.

Mr. DAVIS. Thank you, Ms. McMillan. And, Mr. Nadeau, following up on what my colleague, Ms. Hahn, mentioned on the TIFIA program, I want to give you a chance. And you mentioned in your testimony that DOT has closed on eight projects through TIFIA. I want to know, because I am a true believer in public money to leverage private money and encourage some public-private partnerships. And we both know MAP–21 made some changes to improve participation in rural areas. What kind of response have you seen, and do you think there are ways to build upon these changes and increase rural participation?

Mr. NADEAU. It is—I think for projects—and rural doesn't necessarily always mean smaller scale. I think the administration——

Mr. DAVIS. I know. Look at my district.

Mr. NADEAU. Exactly. But it depends entirely on the economics of the revenue side. If you are generally looking at debt financing as a solution, then, obviously, revenue becomes the key. So that either relies on a revenue stream coming from State or local revenue sources or, for example, tolling, where that is economically viable.

I think the administration's view is to develop tools that are flexible and creative and that, above all, leverage capital from private markets. That theory works both in an urban setting and a rural setting, and it depends entirely on the circumstances surrounding the individual project, as Mr. Rogoff pointed out.

Mr. ROGOFF. I am sorry, I just want to—your State has actually stepped out. I mean, in that—at least in the case of—it is a project that is before us and under consideration, but in the case of the Illiana Parkway, for example, the challenge is who is going to pay back the debt. And in that particular case, recognizing that the resources might not be local to pay back the—the State is committing themselves to repayment, and that is what facilitates the rural project. So we are working on it.

Mr. DAVIS. Great. Thank you all very much. I yield back.

Mr. PETRI. Ms. Edwards?

Ms. EDWARDS. Thank you, Mr. Chairman. And thank you for the hearing today, and to our witnesses. I want to first thank the President and the administration for making sure that in its New Starts budget proposals, it includes funding for the long sought-after Purple Line here, in the national capital region, and the Red Line in Baltimore. And so, I hope that we are able to come through with the resources needed to get those underway, because I think it would do a lot to improve things like air and water quality here in the metropolitan region, and to free up transit along the beltway, so that we can free up that 95 corridor, so that farmers can get their goods to market, and other sorts of things.

I have been long concerned about rail safety. When I first came into Congress, it was just after—just before, rather, we had that tragic accident on the Red Line. And so I think a lot has been done by the administration and by WMATA and our States to make sure that that kind of tragedy doesn't happen in the future, adding, you know, better cars on the line—Mr. Rogoff, you know that—but also, Senator Mikulski and I, along with our bipartisan delegation here in the metropolitan region, worked to make sure that began to get some national Metro safety standards in place, because this accident didn't stand alone. It had been a whole history across the country of similar accidents, and finding out that, despite recommendations for years, we didn't have, really, national standards.

Now the question becomes how do you implement those standards? And I know that Deputy Administrator McMillan—that your administration has been in the process of implementing those standards. You released some grants for, I think, fiscal years 2013 and 2014 for State safety oversight. But I am curious to know whether there were existing State—I cannot say that—State safety oversight grants that did not meet the criteria that was set forth in MAP–21, and how many of these formula grants went out, versus ones that were not.

And then, lastly, what is the FTA doing to bring these oversight agencies into compliance?

Ms. MCMILLAN. Thank you very much for the question, Congresswoman. And, indeed, as we have said and can't say enough, safety remains the top priority for the DOT, overall. And the establishment of the safety authority for FTA under MAP–21 was a much-appreciated and forward-looking acknowledgment of that pri-

ority, and it remains one of the major focus areas for implementation for us.

With regards to the State safety oversight agencies, again, as a launching off point, these are the agencies that actually existed prior. What MAP–21 has done is to clarify and strengthen what their responsibilities are. The amount of funding that has been available to help them do that, as you noted, has—the apportionments have been published for both fiscal year 2013—about $21 million—and $22 million in 2014. In order to access those funds, they need to be able to either have met the criteria that MAP–21 outlines, or be able to put together a plan to show how they are going to get——

Ms. EDWARDS. So how many of them met the—of the ones who qualify, how many of them met the criteria?

Ms. MCMILLAN. Two of them have met them currently, California and Massachusetts. For the remaining ones, we have been working individually with the State safety oversight agencies on a compliance review to say what are the gaps, and to help them put together a plan in order to show how they can meet those.

Ms. EDWARDS. But they got the grants anyway?

Ms. MCMILLAN. No. They get the grants at the point they submit a plan, and we can see if they have got a path forward. And once that plan is reviewed, then the apportionment available to them would be made available to them, in terms of a grant. So, it is a step-by-step process.

Ms. EDWARDS. I would like to follow up with you about that. But as my time remains, I have one question that—it is at a high order, and this goes to Mr. Rogoff.

There has been a debate within this committee about the relative merit of Federal or taxpayers "subsidizing" transit. And I wonder if you could tell us about the value of investing in transit, whether or not you make money off of it, to the traveling public and to the taxpayer. And do we get some of those same concerns that get raised for roads that are in the middle of nowhere, but we still have them anyway, and are happy to fund them?

Mr. ROGOFF. Well, I think our position throughout has been that transit investments are absolutely essential. And, frankly, they are more essential now than they ever have been in the modern era. I think Deputy Administrator McMillan said in her opening statement we have now crept back to a level of transit ridership not experienced since 1956, and it just seems to keep going up.

What we are most focused on at the Department of Transportation is the 2010 census, and what it tells us: namely, about 100 million more people, just by 2050. And, even more acutely, those people are largely going to reside in areas that have already experienced sizable population growth already. So the fast-growing areas are going to grow even faster. And if we are going to avoid a situation where that growth doesn't choke off that area, and choke off the economy in those areas, transit is going to be part of the solution. So is highways, so is ports, so are runways.

I mean, with 100 million more people coming by 2050, we need more of all of it, but transit is certainly part of that solution.

Mr. HANNA [presiding]. I live in the middle of nowhere, Donna, I want you to know that. Thank you. Because I got to get home, you know?

Ms. Ferro, thank you for being—it is good to see you. I want to say that, in some ways—and I believe your intentions are good—you are hurting the people that—I hear regularly—that you are paid to help.

The—as you are aware, on February 3, 2014, the Government Accountability Office issued a report that examined CSA. This is about the CSA and the safety measurement system. Among other things, the GAO found that FMCSA's minimum data required to receive the CSA SMS scores are not sufficient to produce reliable scores, and do not allow for a cross comparison of different carriers. GAO pointed out that this led to FMCSA to identify high-risk carriers who were not substantially involved in crashes. Ultimately, the GAO recommended that the FMCSA address limitations of the CSA program.

Although the CSA program improves carrier attention to safety over its predecessor, we have heard from—I have heard from stakeholders throughout the transportation industry expressing serious concerns with the FMCSA's implementation of CSA programs. Inaccurate SMS scores have caused increases in insurance rates, expensive litigation, losses to business operation.

For example, according to January 12th report of the American Transportation Research Institute, 50 percent of shippers admitted they did not enter into new contracts with carriers based on negative scores, largely—and you admitted this earlier—these scores are not necessarily accurate. In many cases, they are erroneous.

Furthermore, you and I have had an ongoing discussion about hours of service. Your own report, that was not done before the rule was enacted—and nobody is arguing that you had a legal right to enact the rule—your report would discuss the FMCSA's hours-of-service rules. The field study, which came to Congress 5 months late, had only 100 carriers, and showed a mere 12-minute increase—12-minute increase—in average sleep time for drivers who now operate under the new rules.

The American Transportation Research Institute again questions your alleging that this is a savings. They believe that it costs almost $400 million—$374 million—a year. So that—my point is that these rules and regulations that you talked about earlier, how about you are addressing them, these are real day, everyday constant, ongoing, tortuous problems that you are putting these truckers through. And, frankly, the organization acts like they have got all the time in the world to correct these problems that are online. These drivers, who try hard, are suffering because they get a rating that apparently the GAO says could possibly be erroneous—and a lot of them we know they are—the comparisons between large truckers and small truckers.

Doesn't that cause you some concern that, I mean, the very business that you are trying to help, the people whose lives—and I know you, you are earnest, you are trying to save lives and this—your own study that requires people to sleep at certain hours, that tells them when they are tired and when they are not, did not even begin to measure the fact that you pushed these drivers into early

morning hours, when they are much, much, much busier, when the traffic is much more congested?

What I am saying is that you are really—I think you need to back up, ma'am, and take a look at some of this stuff, and believe the drivers that—who tell you or write you, and Congressman from Maine, Michaud, when I wrote you a letter about this.

So, I have kind of used up my time—therefore, yours—but I am assuming—and I didn't necessarily do that on purpose, but I think you get it, but it is—are we so thick that we can't hear the very people whose lives we are impacting? I mean is there nobody you believe but some academic who does a study? And why is it so rigidly adhered to, when every day—and I know you do yourself, you are from people who do not like these rules, regulations, and you know you are hurting people. And the facts are—I mean they are not written by people who are not doing it earnestly. But, I am sorry, go ahead. Thank you.

Ms. FERRO. All right, thank you. Thank you, Congressman Hanna.

Look, from the outset, real quickly, I am not hired to help the industry. I am hired to ensure the safety of the traveling public, and improve the safety of the operations of trucks and buses. That is what the agency was created to do. And, as its lead, I am very proud to be a part of that——

Mr. HANNA. I would say that you are not doing that. Because what I hear from the truckers is that you are pushing them into hours that are less safe, that, in many cases, you are prescriptive about when they are tired, and when they are not. And, therefore, they may be less safe. And when drivers can't get a score that is accurate, and they are measured, their cost of doing business and who they are hired by are affected.

And when you take hours-of-service rules that cause truckers to buy more trucks, work more—hire more drivers, put more trucks on the road, you are not necessarily doing what you say you are trying to do. Yet I have no argument that you believe that.

Ms. FERRO. And so, the second two pieces, on CSA and hours of service—I appreciate—I understand what you are saying, and we have had these conversations before, and I appreciate the time you have taken with me on those conversations, and I assure everybody this broken wrist is not from those conversations, you have always been very cordial and, I think, very energetic.

The hours-of-service rule, at its heart, is designed to reduce the kind of cumulative fatigue that comes from working up to 80 hours a week, week after week after week. And the effects of that fatigue impact the ability of drivers to drive safely. We certainly recognize there is a financial impact to that rule. There is a much larger and offsetting safety benefit to that rule, and health benefit to the drivers.

Mr. HANNA. We do not agree on that.

Ms. FERRO. Yes, I——

Mr. HANNA. And neither do most drivers that I talk to. And 12 minutes a week does nothing to mitigate—to support what you just said. And that is your study, not anyone else's.

Ms. FERRO. And so, on the Compliance Safety Accountability program, you know, look, we have had several key studies recently.

GSA says—GAO says you are not doing—you are doing too much, use less data. Oh, are we—have I lost my time now, completely?

Mr. HANNA. No, I did that to you, I apologize.

Ms. FERRO. OK.

Mr. HANNA. Thank you to my friends for indulging me.

Ms. Frankel?

Ms. FRANKEL. Yes. Thank you, Mr. Chair. And I want to thank the leaders and the leaders in this committee. I think we did a really good job on water, and I hope we can do an excellent job on the surface transportation bill. And thank you all for being here.

My question is a little bit parochial, but, actually, I think it will serve as an example for other areas of the Nation. Florida—I am from south Florida. And we have been notified by FEC about a project called All Aboard, which will be a nonstop train that will make a few stops, one in Miami, Fort Lauderdale, West Palm Beach, and Orlando. And I happen to represent the area—a large part of that area that the train will go through, and I am getting mixed comments from my stakeholders, depending upon where they are situated.

The cities where there is going to be a stop are embracing the project, because they believe that there may be an opportunity for more economic growth. The cities that the train just passes through multiple times a day, of course, are concerned. And let me tell you what some of their concerns are, and—because my question is going to be whether or not there is a way to address them with a Federal response.

For All Aboard to do the project, they are applying for a RIF loan of over $1 billion. Here is what my cities are asking. They are going to need funding for a traffic signalization, for quiet zone infrastructure, for—there will be one city where streets will be closed because of a new platform. They need money for overpasses, for reliever roads. And then, there are those venues that want opportunities to take advantage of the All Aboard, and they are looking for money for other connecting transportation, both infrastructure and operating costs.

And finally, the cities are all saying, "Well, now we are obligated under law"—under the railroad law, I guess, that they are going to have to pay more money to maintain the improvements. And so, my question is, I guess, what do you suggest as the best way to go about coordinating the good, the bad, and the ugly for our community?

Mr. ROGOFF. Well, Ms. Frankel, we are well aware of the RIF loan application. We have been in discussions with the FEC about it. It has been—undergone a few changes. I think the short answer to your question, in terms of local impacts, those issues are generally—need to be solved locally, because just as we have in other areas of Florida, whether it was in the SunRail project in the Orlando area, there was a lot of communications between the impacted municipalities, some of whom were making a financial contribution to get SunRail service, about these issues, about traffic interruption, about related infrastructure.

The RIF program itself can only pay for the railroad infrastructure. But this needs to be part of a broader regional agreement. We are concerned specifically about one aspect about it, and that is to

make sure that we don't end up subsidizing, if you will, two competing entities between Tri-Rail and the All Aboard Florida vision. And we are expecting that there will be an agreement between the south Florida Regional Transit Authority and FEC before any RIF loan is made to bring that about.

But I would strongly encourage you to have those local community leaders engage the FEC, in terms of—you know, the issue always comes down to who is going to pay for what. And that generally needs to be a regional discussion. Certainly formula funds that are brought to south Florida could be brought to bear on some of those needs. But the RIF program could only pay for the railroad infrastructure by law.

Ms. FRANKEL. Does that—would that include the infrastructure needed for quiet zones?

Mr. ROGOFF. Some of that related for quiet zones would be railroad infrastructure. You know, in terms of the signalization, in terms of the sort of added, more robust railroad safety measures to ensure that we—they would not have to use the horn, and therefore could progress through the community, that generally requires greater gates, more precise signalization, and that would be RIF-eligible.

Ms. FRANKEL. And—OK, that is very helpful. What about in coordinating other grant opportunities, such as a TIGER grant?

Mr. ROGOFF. Well, those other expenses in the communities would be eligible for a TIGER grant, and we have just kicked off the new round, round six, which we are very excited about. The flip side of that, of course, is, as we have had to say, it is easier to get into Harvard than get a TIGER grant, just based on the extraordinary competition for that money. So I don't want to sort of lay out hopes and expectations. But it is certainly eligible for a TIGER grant.

Ms. FRANKEL. OK. And just one final question on the trust fund. If the trust—if what you say comes true, and there is no more money in the trust fund, are there going to be projects around this country that are going to be left uncompleted?

Mr. ROGOFF. Absolutely. If we have, you know, major projects in play, and we have to eventually cease reimbursement, you know, we would start by slowing reimbursements. But I have to think that, across the country, as not only State transportation secretaries—entities like FDOT, but also the transit agencies themselves—have assumed multiyear funding, when suddenly they know that they don't have the cash to float the Federal Government to wait for reimbursement for weeks, if not months, then some projects are going to have to be halted.

Ms. FRANKEL. Thank you. Thank you, Mr. Chair.

Mr. PETRI [presiding]. Thank you. Mr. Williams?

Mr. WILLIAMS. Thank you, Mr. Chairman. Appreciate all of you being here. Secretary Rogoff, my question to you—I represent Texas. Of course a lot of what you are talking about is really important to us. And my question would be to you is this. The President has requested $825 million to implement positive train control, the system, on commuter railroads, with a phase-out scheduled in 2018.

Now, will you please explain to this subcommittee the significance of the 2018 spending timeline, and as the administration—and is the administration planning to propose an extension to the December 2015 PTC deadline currently in statute? Do you think it would be—it would make sense to extend the deadline beyond 2015, given your budget proposal?

Mr. ROGOFF. Well, Mr. Williams, we certainly recognize that the 2015 deadline is going to be extraordinarily hard to meet. And, quite honestly, we are having new and emergent complications with our partners at the FCC regarding the construction of towers that are necessary in some cases for PTC to be installed.

That said, we are not inclined to move the deadline. We are just inclined to keep the momentum going. I think the groundbreaking step, as part of our budget, is to say we recognize that this is not only an urgent safety requirement required by law, it is also an expensive one. And we are helping put some Federal resources behind it. But, no, we are not inclined to necessarily move the deadline. But I think you could take the multiyear budget request as an acknowledgment that not everyone is going to make it.

Mr. WILLIAMS. OK, thank you. My next question would be to you, Mr. Friedman. One of the rulemakings that you are working on that raises my concern regards requiring speed limiters on heavy-duty trucks. In States like mine, Texas, we often have speed limits above 65, where trucks and cars, they drive safely on the highway at the same rate of speed. If you require the use of a speed limiter, you not only prevent the trucker from moving with the flow of traffic, but in many States you will require them to drive below the speed limit. This adds a speed differential to the highway which leads to accidents.

And do you, when you are analyzing this, is this a concern, and—when you start thinking about this rulemkaing?

Mr. ROGOFF. Thank you very much, Congressman. As you know, we are in the middle of a rulemaking process on this issue. We were petitioned by the American Trucking Association, as well as safety advocates, to address serious concerns about roadway fatalities with large vehicles. What we are doing as we go through this rulemaking is ensuring that we consider the data on to what degree does speeding increase fatalities. The higher the speed, the more the energy in a crash, the more dangerous the crash can be.

What we are trying to do is diligently make sure that we are looking into the data, we are evaluating the costs and benefits, and we will soon be able to talk to you about how we plan to move forward with rulemaking on this process.

Mr. WILLIAMS. Well, I think it is important, because, you know, traffic flow is what we are all after. I appreciate you taking a look at it.

Mr. ROGOFF. Thank you, sir. Safety is our bottom line. With all of this, we want to make sure that everyone can get where they need to go, in the time they need to go, and that they are safe all along the way.

Mr. WILLIAMS. People and product.

Mr. ROGOFF. Thank you.

Mr. WILLIAMS. Mr. Chairman, I yield back.

Mr. PETRI. Thank you. Eleanor Holmes Norton.

Ms. NORTON. Let me just say how much I regret not having been here to hear the questions, given how this committee has proceeded, proceeding in good faith to try to get a bill out. So I would have benefitted greatly. I had a markup, unfortunately, in another committee.

This region experienced a horrific tragedy. And out of that tragedy, I am pleased to say, at least came the first Federal authority to regulate Metrorail safety through cities. It was the only form of transportation that was not regulated.

Now, I understand that these grants have been given to local jurisdictions to proceed, but I have a hard time understanding how they can do so adequately without the final rule on rail safety. So I suppose I should be asking Ms. McMillan about the final rule, and how does that link to what the States are doing without the authority of the Federal Government in place?

Ms. MCMILLAN. Thank you very much for that question, Congresswoman Norton. And, you know, indeed, as we have been saying, safety is absolutely critical. And advancing where FTA stands in that paradigm was a huge part of MAP–21 that we are taking very seriously, and implementing.

With respect to, again, the State safety oversight agencies that are overseeing and partnering with us in carrying out this law, one of the things that we realized is that a number of State safety oversight agencies are not yet positioned to meet all of the requirements that are in MAP–21, which stipulated, you know, what they need to be, in terms of an organization, and their capabilities for enforcement, and issues like that. But, as well, laying out the steps that they would need to take in terms of carrying out the regulations.

On the former, it was important that we also recognize they need some resources to get to the place they need to be. So we have been working with each one individually—we call it sort of gap analysis—of where they are falling short of what MAP–21 envisions them to be, in terms of their capabilities to carry out regulations once they are done. And we are ensuring that they have a plan of how to get there. And this grant funding will assist them in getting to the place that, again, MAP–21 and the Federal Transit Administration would like them to be, in terms of their own capabilities.

The SSOs will continue to be a partner with us, as on another track we are actually implementing the regulatory elements for safety, including the commonsense thresholds and requirements that need to be met.

Ms. NORTON. Now, when do you expect those to——

Ms. MCMILLAN. We issued an advanced notice of proposed rulemaking back in the fall, because we knew that this was such a groundbreaking new element, and we didn't want to jump into the deep end of the pool of rulemaking without getting substantial input from the industry, from the public, and from other stakeholders. We got hundreds of comments on that ANPRM, and we are working through reviewing that right now, and we will then be proceeding to issue formal notices of proposed rulemaking—NPRM—once we have had a chance to go through that——

Ms. NORTON. But you don't have a date on that yet?

Ms. MCMILLAN. We don't have a date yet. But we——

Ms. NORTON. Could I ask you one question about buses? You know, there has been complaints from some parts of the country that buses are—and trucks are stepchildren, for example, Ms. McMillan. For the state of good repair, I would like to know—it seems to be mostly for rail. And yet, buses and bus facilities have suffered tremendously. Is it mostly—what portion of the $86 billion is for buses?

Ms. MCMILLAN. That is an excellent question. And just to be clear, the $86 billion is the estimate of the backlog for deferred investment—reinvestment need in transit infrastructure. A major chunk of that figure is related to rail. But what is important to note is that even though buses may not make up the vast majority of that delta, the buses—because they aren't as capital intensive as rail systems—40 percent of buses, we believe, are in marginal or poor condition. This leads to one of the major recommendations we have made as part of the President's budget.

We have heard, since MAP–21 went into effect, that the bus and bus facilities program funding level authorized for those 2 years is insufficient to meet the needs of the very constituents you are talking about, which are bus providers, very often in small urbanized areas, or rural areas. And we are seeking over a 300-percent increase in the funding level to deal with that particular program. It went from a discretionary program under SAFETEA–LU to a formula program under MAP–21. And there were so many parties negatively affected that the funding level really does need to be raised by this committee.

So, we are hearing what the industry is telling us, as you have heard yourself. And we have a proposal on the table to address that need, specifically.

Ms. NORTON. Mr. Chairman, do I have time just to ask one question for trucks? Thank you very much.

There has been serious concern about a rule that was withdrawn. This has gone on for some years now. It has to do with the entry-level training requirements. This, I think, goes to Ms. Ferro for truck and bus drivers. Now we see an industry where that form of transportation, if anything, is increasing. And most of these are not your big companies that, of course, have their own driver training.

In the absence of Federal action for behind-the-wheel training—and that is what I am mostly concerned about—what you had—and this is a vibrant, private economy—you have got private training schools. Some of them may be all right, but, frankly, they have been much criticized as being the diploma mills who increase their own bottom line because they are offering the service that is otherwise unavailable.

I am very concerned that you apparently had a rule and withdrew the rule. I like to know—and since we required this years ago—when you intend to issue a rule pursuant to the congressional mandate to do so. Was it 20 years ago that we said—how many years ago were they supposed to be—yes, 20 years ago.

Ms. FERRO. Yes.

Ms. NORTON. I think you all are a little late, in other words.

Ms. FERRO. Well, it is clearly a rule that would have reached the age of majority and had its license long before now. So I appreciate your concern. And I think what is always so surprising to all of us

is that a—an issue that seems so widely shared in interest and understanding, that to operate a piece of equipment that could weigh up to 80,000 pounds, that could carry up to 70 to 80 people, that that driver is not required today to have training. And so I appreciate the concerns you raised, Ranking Member Norton.

The FMCSA has tried for a number of years to move forward on a rulemaking, and we have been challenged in finding the research that demonstrates the cost benefit analysis that we must provide with any rulemaking that shows that training a CDL driver before they get behind the wheel actually results in a long-term savings and safety gains—or savings through those safety gains.

Consequently, after we had an NPRM on the street, we did, in fact, pull it down shortly after MAP–21 was enacted, moved forward with two research projects that will, in fact, help inform us on that very outcome, those safety outcomes that result from training, and have begun the process of convening a—at least striving towards an approach of a negotiated rulemaking. There is so much agreement on the core of this issue, but the elements for which there is still not a clear consensus is how many hours behind the wheel, how many classroom hours. Should it be performance-based? Should it be a set number?

And so, we are moving ahead. We are very eager to because, again, for the very concerns you raise——

Ms. NORTON. So I don't know how you are proceeding, whether it is mandated rules or what. I invite you to look at how we did—when there was disagreement as to how we ought to approach the regulation of rail when it hadn't been—Metrorail had not been done before, and we gave guidance to the States on how to do things. I mean we got to break out of this if the kind of mandated rules don't work. I certainly hope there is another way to get it done, and that it would be within the mandate of Congress.

And I thank you very much for your indulgence, Mr. Chairman.

Mr. PETRI. Thank you. Mr. Perry?

Mr. PERRY. Thank you, Mr. Chairman. And thank you folks for being here.

Mr. Friedman, I am going to start my questions with you, and it regards the National Roadside Survey. I have not myself witnessed, but I have citizens that are concerned, and I am going to ask these questions on their behalf.

The option to drive past, is it that I am driving past and I can just keep driving, or I have to pull in and then opt out?

Mr. FRIEDMAN. Thank you, Congressman Perry, for your question. This is, as I mentioned before, a voluntary, anonymous survey.

Mr. PERRY. Just asking——

Mr. FRIEDMAN. Absolutely. When the driver first approaches the scene, they see this large, orange sign. And if they choose not to pull in, they can drive right on past. In fact, we believe that roughly about a quarter of the drivers, after they see the sign and are signaled to pull into the site, just simply drive right on.

Mr. PERRY. All right. Do you keep any records, or is there any tallying of—when you say you believe this many people drive past, is there any empirical data regarding that, or is it just kind of a survey that you take randomly as you watch cars go by?

Mr. FRIEDMAN. That is an important and very specific question, so that is something I would like to get back to you on the record, to make sure that I have got the information you need.

Mr. PERRY. OK. Are there police standing by that sign, or parked by that sign, or anywhere close to the entry of that sign, where people might be encouraged, because they see police officers there, flashing lights, et cetera?

Mr. FRIEDMAN. Well, there are no flashing lights. What you have is a police officer, who is standing near the entrance to the road side survey site itself. The sign is further up, and that is the very first thing that the driver will see.

Mr. PERRY. And what are the police officer's actions? Does he flag—is he waving people in? Is he just standing there? What is he doing?

Mr. FRIEDMAN. Well, that is actually at the discretion of the police officers. The goal of having the police officers there is to ensure safety. And so we defer to them in their judgment. In some cases, the police officers choose to be the one directing traffic, because they have the training, and they are confident, and want to be the one directing the traffic safely. In other cases, they don't, and our research team are the ones who are directing the traffic into the site.

Mr. PERRY. So I understand checking for the use of alcohol and drugs. And if there is that present, that there aren't arrests made at the location. But doesn't that put law enforcement in a kind of untenable position, if they find somebody under the influence of something, that they—you know, I guess you are going to take the driver home, or you are going to offer something. But isn't the driver also violating the law, which at that point the police are in some untenable position, because they are duty-bound to act?

Mr. FRIEDMAN. Well, what I can tell you, Congressman Perry, is that within the 40 years that this survey has been going on, not one survey participant has been arrested. Why? Because we have very strict protocols in place, and that works.

Mr. PERRY. I understand that. I am talking about the police officers. What position are they being placed in?

Mr. FRIEDMAN. Well, the police officer in these positions are there to ensure safety. And this protocol ensures that if we come upon an impaired driver, that they are safe. And so we are able to ensure that the police officer is able to meet—there to do their job, and ensure safety, to make sure that——

Mr. PERRY. I don't want to cut you short, but I have got some other questions. What I would like you to do, if you could, is address the concerns of the citizens that I am dealing with regarding the term "volunteer," and how it is perceived if the default is to I kind of got to opt out. And strictly regarding law enforcement's presence there, and what you might be doing as an agency to encourage people to go, but not with law enforcement, or to really truly make it volunteer. And, regarding the safety enforcement, maybe some other alternatives. Like, maybe the fire police or a private contractor that says "safety" on it, as opposed to a uniformed police officer.

Moving on, Ms. Ferro, I would like to just talk to you a little bit about on-board recorders. In the rulemaking planning that you are

considering, will there be any requirement that the device have features which induce always on data connectivity and real-time tracking? That might induce that?

Ms. FERRO. Well, I am hard-pressed to answer to that level of specificity, Congressman, because we are in the midst of the rulemaking process itself.

Mr. PERRY. Sure.

Ms. FERRO. But I can tell you that we worked very closely before the rulemaking was launched with the technical experts, with stakeholders through listening sessions, and the—our advisory committee——

Mr. PERRY. So—but you would acknowledge that goes beyond the statutory requirement.

Ms. FERRO. I will say that we have stuck very close to the requirements of MAP–21, as to the properties of that electronic logging device. And we will have the rule out shortly, so folks will have a chance to answer that question more specifically.

Mr. PERRY. So, because it would go beyond the statutory requirement, can we get any kind of feeling from you if it will specifically state that real-time tracking is not required in the rule itself, that verbiage—some type of verbiage to that effect?

Ms. FERRO. Well, again, I can't get to that level of specificity. I just want to drive home the point that this is a supplemental notice of proposed rulemaking. We will have a 60-day comment period——

Mr. PERRY. OK, all right.

Ms. FERRO [continuing]. And really will look forward to those comments.

Mr. PERRY. I just want to get a couple other questions in here. It is my understanding that most electronic logging—I am not a driver—but these devices record time minute-by-minute or second-by-second. So, the question would be, what is a driver to do when they are close to the location that they are supposed to stop, but they are not there yet? Traffic, something has happened. Are they supposed to pull over immediately, or what is the give-and-take there? What are the parameters for the drivers that will be operating with these devices?

Ms. FERRO. Well, today companies have electronic logs on their——

Mr. PERRY. Sure.

Ms. FERRO [continuing]. Vehicles of all types. And their guidance to drivers is to adhere to the logging timeframes on that—on those devices.

Mr. PERRY. OK, but that is their advice to their drivers. This is going to be a Federal rule, it is a force of law. So, when I come up within minutes and seconds of my data-logging device, and it says I am supposed to be off the road at this time, am I supposed to—I am sitting in the middle of the Holland Tunnel, and my clock is up. What do I do?

Ms. FERRO. Well, again, that is the—precisely the kind of question and comment that we expect to see during this comment period. And we will have a great opportunity to have those sorts of discussions.

Mr. PERRY. All right, thank you.

Ms. FERRO. Thank you.

Mr. PERRY. Thank you, Mr. Chairman.

Mr. PETRI. Thank you. Mrs. Napolitano? I apologize for—we were trying to move it up, and——

Mrs. NAPOLITANO. That is OK. I only got here when nobody was here. So I have been waiting through the whole thing. And it is great to have the opportunity to pose some questions.

And, Under Secretary Rogoff and Administrator Nadeau, my area is the home of the Corridor of National Significance, rail-truck corridor, 100 trains a day, 50,000 trucks through my district. And it has a major effect on the roads, on the environment, on the congestion, the poor air quality and safety hazards. And we really appreciate the commitment over the 4 years. But does your freight proposal focus on mitigation projects, especially air quality and grade separations? And how do you ensure those projects are giving a level playing field with freight efficiency—playing field with the freight efficiency projects? In other words, so that they do—are able to work with those.

And then I have another question, so I would appreciate a quick answer.

Mr. ROGOFF. I am going to give you a very quick answer, Congresswoman, and that is that I think we will be able to spell this out when we actually transmit the bill in April, and be able to describe it. But it really is—the notion is to have combined decision-making with freight stakeholders and State and local government, and the State and local government will have a say in it.

Plus, there is a substantial discretionary component to the freight program. And the issue of mitigation measures, especially those that deal with the particulate matter issues and clean air for the children of the community, I think, is critical, and would be part of our consideration.

Mrs. NAPOLITANO. I would appreciate some information when you do come to that, because I have some areas that are very low-income that are suffering from impact.

And the second question is to Administrator Nadeau, is the comprehensive truck size and weight study. And I understand that you are working on a comprehensive truck size and weight study required by MAP–21. In the concerns over the study process, the data which is being relied upon to draw conclusions about safety and infrastructure impacts, there has been some criticism of the contractors selected to do the study. And you agreed to set up an external peer review to study—six of those individuals on the committee have been found to have direct ties to the trucking industry, or who had publicly advocated for higher size and weight limits. How are we to ensure that this is going to be a study that is going to draw conclusions that are fair to everybody, and that is not predisposed on one side or the other, and might not be skewed?

And then, it would also go to the prediction that there is going to be a 63-percent increase in truck freight by 2040 not being factored in. Or that we are not considering the impact this has on bridges, and—which are structurally deficient.

Mr. NADEAU. Thank you, Mrs. Napolitano. Let me begin by saying that the Department is working diligently to produce the truck size and weight study, as required by MAP–21. And we are equally

committed to ensuring that it is conducted in a data-driven, objective, and transparent manner.

I will first touch on the peer review process. The National Academy of Sciences and Transportation Research Board were contracted to provide that peer review. By contract, and by history and tradition, in the conduct of such a peer review, it is objective, as well. They were responsible for selecting the team. A number of interests volunteered suggestions for that team. We are confident that that process, which has already actually been engaged——

Mrs. NAPOLITANO. How can we be confident of that?

Mr. NADEAU. I would like to say the results, but that is not sufficient, I am sure, with respect to your question. I think that the Transportation Research Board and the National Academy of Sciences, and their reputation, and our commitment to ensure that their role in the process is objective is something that I hope will provide you with some assurance that they will conduct their responsibilities responsibly.

Mrs. NAPOLITANO. Will we be able to ensure that—is it going to be a report to this committee, to be able to ensure that this is being followed, and the transparency process?

Mr. NADEAU. Well, I think, as you know, the statutory deadline for the report itself is November 2014. But we are working extremely hard to produce at least elements of the study, and as we produce them in a very transparent way, post it on the Web site. The work that the individual work groups are doing in the execution of the study itself is being posted on a regular basis. So you will see the work product from the various working groups—and there are five study areas—as the work is produced. Extensive public outreach and public——

Mrs. NAPOLITANO. And I understand all of that, sir. My concern is, like in California, they try to go to a tandem 53-footer, which cannot navigate the on-ramps and off-ramps in our freeways. So, for us to be able to be ensuring that this is going to be addressed, we want to make sure that we are looking at what some of the outcomes are, so that we can address them from our States, or at least from the western Governors' States' viewpoint, is so needed.

Mr. NADEAU. We are confident that the expert teams that we have assembled can provide you with that objective, data-driven analysis.

Mrs. NAPOLITANO. And the answer to the bridges? You know, the truck freight is not being factored in, supposedly, according to our information. And then secondly is that the study—we are relying on a sample of bridges, but it does not include those that are structurally deficient, already provided for by this committee. Would you take that into consideration, then come back and let us know, please? Because this is critical.

Mr. NADEAU. I was going to suggest—so I am absolutely clear on what your question is, and what you are talking about, I would suggest that we spend some time together——

Mrs. NAPOLITANO. Would you please, sir? Thank you very much. Thank you, Mr. Chairman, for your——

Mr. PETRI. Thank you. Mr. Ribble?

Mr. RIBBLE. Well, good morning. We are getting near the end, folks. Hang in there.

Administrator Ferro, I have got just one comment, something to kind of put on your radar screen. And then a question.

My comment, first, relates to safe work practices for female drivers. I have had some female drivers coming in, and more and more women are entering the trade of driving trucks. They are concerned with the work rules requirement, as it relates to finding safe harbor places to rest in the evenings, that there are well-known places where they are very safe, and others have worse reputations. Sometimes they feel like they are forced in a position of having to drive 35, 40, 50 miles further than what the—to find a safe place in which to get rest. And they are concerned if they can't do that, then they are in a rest environment where they cannot rest, because they are concerned about personal safety while they are supposed to be resting. So I am putting that on your radar screen as something to take a look at.

I want to just ask a quick question about traffic enforcement-initiated truck inspections. Last year, the agency found that this enforcement activity was highly effective for safety, yet the numbers are falling off dramatically. In 2010 through 2013, those inspections dropped by 39 percent. And so far, in this year, 2014, they have dropped by 18 percent. Why would a highly effective safety method be reduced?

Ms. FERRO. Well, I—Congressman, thank you. I agree, and I assure you that my agency leadership and employees across the country agree that, at the end of the day, it is all about the driver. And so, traffic enforcement is an essential component of ensuring that we are getting to the safety outcomes we are driving towards in commercial vehicle oversight.

The data that you are citing actually was raised—brought to our attention, and reinforces to—at least to me and my team that we have had States—we have a grant structure that has incentivized States to do more traffic enforcement through ticketing aggressive cars and trucks—or ticketing aggressive drivers operating around large vehicles. And those data, that work, is not counted as traffic enforcement within the normal grant program. And so, where some of their work, they are—inspectors may have been diverted to do some of that on-road enforcement work, we wouldn't see it in the numbers. And so, we are re-examining both the level of enforcement work, but also, most importantly, how they are reporting it.

Now, augmenting that, even more importantly, is we have worked extensively with the International Association of Chiefs of Police to augment their ability to carry out driver enforcement on commercial vehicles. Just straight speeding, unsafe lane changing, none of the complexity of different levels of inspection. And IACP has been very energized and eager to press forward, because that all of a sudden takes our 12,000 grant-funded State officers to almost 800,000, because, again, I couldn't agree with you more, the traffic enforcement is very important.

Mr. RIBBLE. Could you keep this committee up to speed, then, going forward, on how your decisionmaking process is, as it relates to that issue, then?

Ms. FERRO. I certainly will.

Mr. RIBBLE. Thank you. Thank you very much. And with that, Mr. Chairman, I yield back.

Mr. PETRI. Thank you. Mr. Michaud?

Mr. MICHAUD. Thank you very much, Mr. Chairman, for having this hearing. I want to thank the panelists, as well, for being here this morning. And my question is for Mr. Nadeau.

As you are well aware, for several years now Maine has had an excellent, real-world experience with the use of heavier trucks, 6-axle trucks, that are permitted on both State and interstate highways under our 20-year pilot program. The program is supported by the Maine Department of Transportation, Maine State Troopers, Maine truckers, Maine shippers, as it has improved road safety and lowered the shipping cost, while still protecting our infrastructure, at the same time. In fact, the Maine Department of Transportation engineering analysis found that additional bridge costs to accommodate the heavier trucks are theoretical, and perhaps even zero.

This is not theory or projections for some interest groups. This is practical, on-the-ground experience that should be very informative to the Department of Transportation truck size and weight team. We hear a lot about the theory and what is really happening out there, real world, is different.

My question is, can you assure me that the Department of Transportation study is giving appropriate weight to the practical and real-world experience that we have seen in Maine, not theory, in what some of those that might be for or against these are using, theoretical examples, not practical experience?

Mr. NADEAU. Well, thank you for the question, Congressman Michaud. I think I can, in that specifically what the study calls for is comparing impacts in jurisdictions where heavier weights and lengths are allowed to those where they are not.

So, an empirical approach and analysis of this nature, I think, will yield that kind of real-world comparison, based on real experience on the ground. So I think I can assure you of that, sir.

Mr. MICHAUD. I appreciate that, because I know a couple of years ago—actually, 3 or 4 years ago—when we first initially had the weight limit discussion for this committee—as you know, in the real world, before I became a Member of Congress, that is what I used to do, is actually load tractor trailers and box cars. So in some of the testimony we heard at that point in time was based on theory, not the practical world. So I appreciate that.

My second question, also for Administrator Nadeau, is that when I met with your predecessor in this December, you know, the Federal Highway Administration pledged to review the standing general and nationwide waivers to determine if they were still warranted in the Buy America revision. Can you tell me whether the Federal Highway Administration has indeed conducted a review of these general waivers, and what specific steps the Federal Highway Administration intends to take in regard to these nationwide waivers that are currently in effect?

Mr. NADEAU. Be happy to. Thank you for the question, sir. We actually since that time—we had initially issued a memo to all of our division offices essentially clarifying the application of the national waiver requirements. Subsequently, we put that out for public comment and received an extensive amount of interest in spe-

cific waivers and, of course, all the national waivers that are included.

As a result of the interest and the complexity of some of those issues, we will issue a notice of public rulemaking on the national waiver provisions of Buy America, which, by the way, of significant interest to the administration is a broadly balanced applicability of Buy America provisions to ensure we leverage the economic impact of the investments that the taxpayers make in their infrastructure.

So, that NPRM will provide, I think, the opportunity for the entire highway community to evaluate the national waivers and their impact on the program, and we are looking forward to that exchange with the American public.

Mr. MICHAUD. Thank you. And I can appreciate your comment, both—how important this is to the administration. However, I have seen in other cases where the administration talks—the President talks about Buy America as it relates to the Berry Amendment, which has been law since 1941, yet the Department of Defense is still not complying with the law that requires all soldiers be clothed from head to toe with American-made clothing. They are getting around that by giving a waiver for the athletic footwear.

So, hopefully, in this particular case, what the administration says is what the administration will do. I have found in other cases that has not been the case, and we are still pushing them to completely comply with the Berry Amendment as it relates to DOD. And I know that is not your issue, but hopefully we will see a different tack as it relates to this Buy America provision.

So, once again, thank you very much, Mr. Chairman. I see I ran out of time. Thank you, Mr. Nadeau.

Mr. NADEAU. Yes, sir.

Mr. PETRI. Mr. Mullin.

Mr. MULLIN. Thank you. I guess they saved the best for last. Is that correct, Mr. Chairman?

Mr. PETRI. No.

Mr. MULLIN. Oh, I am sorry.

[Laughter.]

Mr. MULLIN. I didn't see you back there. Well, I want to—Secretary Ferro, you know, we have spent actually quite a bit of time—you have actually came to my office and visited with me, and I appreciate that. We have talked a couple times on the phone. But I still have huge concerns with the hours of service. You know, we make a lot of rules here that have unintended consequences. And when we have a one-size-fit-all approach, it has unintended consequences. And the hours of service is having a lot of unintended consequences.

So I just want to ask you how many hours a week do you work? Not at your office, but how many hours a week do you work, from the time you get your first email, your first text, first phone call in the morning, until your last?

Ms. FERRO. Quite a few hours.

Mr. MULLIN. I know, but the industry that you have set, and that you are regulating, you are regulating their hours. Their industry is just as important as yours.

Ms. FERRO. That is right.

Mr. MULLIN. And you are telling them how many hours they have to work, how many hours they have to rest. So how many hours do you think you put in a week?

Ms. FERRO. Well, I will clarify. Again, I work in an office, not behind the wheel, so my office is stationary——

Mr. MULLIN. Their office is their truck, and my office used to be my truck, too.

Ms. FERRO. Yes, that is right. Their office is on the roadway. So, certainly, I work probably, on average, 60 hours a week.

Mr. MULLIN. Does that include your Fridays and Saturday phone calls?

Ms. FERRO. Well, I would say on average——

Mr. MULLIN. Or Saturday or Sunday phone calls?

Ms. FERRO. I would just say, if we average it out, it is probably about 60 hours a week.

Mr. MULLIN. I would probably say, just knowing you, you probably actually do a lot more than that. I know, myself, I would easily exceed that. And I also know my sleeping habits. I also know that I operate just fine off of 5 hours of sleep. I actually get a headache at 6 hours. I also know that, when I am traveling, there are things that happen.

I mean, for instance, if you got to travel during these storms that we have had, especially this winter, and you get stuck at airport, and you don't get to the hotel until 1 a.m. or 2 a.m., like happened to us multiple times this year, and your first meeting is scheduled for 8 a.m., do you push it back because you got to have 8 hours in the berth—or, I am sorry, in the hotel room?

Ms. FERRO. Well, again, I am going to reinforce. The agency that I operate, FMCSA, was established to oversee and ensure that crashes involving commercial motor vehicles——

Mr. MULLIN. I get that. It is safety.

Ms. FERRO. And we take all the——

Mr. MULLIN. I get that. So you look at safety. But what I am saying is you are treating an industry like it is less important than the work that you have to get done. And when you have start times, and says that you have 14 hours to get 10 to 11 hours of driving done, period, and yet you are going through Atlanta and a storm happens, and you got to stop, then we have unintended consequences because they run out of time. And if they don't get some place to get in a berth, in the sleeper, the berth, they don't get someplace to get into the sleeper, then they get fined, serious fined. And then that can affect their rating. And then when they return, that can affect their ability to carry for certain people. But yet it was beyond their control, because they got stuck in the traffic jam, and they can't get their hours done.

And so, what we end up doing is having trucks pull off on the shoulders and off-ramps, and they sit there. And then they run out of time. And you know that is true. And there is no safe zones for them to go to. So now the trucker, his safety is in concern, because he is nowhere in a protected area, and anybody can drive up. They know that that guy is there, and they know that they can rob his goods and rob him, too, and he can't move. He has to stop there, or he is going to get fined, and his rating is going to go down. Unintended consequences.

Or, we are in the situation that they have got to pull over because they are out of time and the storm is right on their tailgate, it is right behind them. And if they can get through this period, this dry period—because they know they can push themselves. They know where they are at, and when they are tired, and they are not. They are professionals. You are a professional. I am a professional. We know ourselves.

And the industry has done a great job of regulating themselves. But now it is not good enough. Instead, we have got to have somebody come in and tell them, "You can only work 36 hours at a time." "You cannot start your truck between 1 a.m. and 5 a.m., at least for two periods." 1 a.m. to 5 a.m.? Sometimes that is the best times to drive, especially if we want to talk about safety, because there is less cars on the road. But we are regulating them. And, ma'am, no one regulates how many hours you can work.

Ms. FERRO. That—Congressman, what you just described is absolutely why this is a very difficult industry to be part of, and why we have every reason to be grateful for the commercial drivers who are professional, who are—put safety first. And the hours——

Mr. MULLIN. But we are doing a one-size-fits-all approach.

Ms. FERRO. The hours——

Mr. MULLIN. And this is already having unintended consequences.

Ms. FERRO. Right.

Mr. MULLIN. And yet you don't want to hear anything about it. We tried to challenge this.

Ms. FERRO. Yes, I listen all the time. I like to hear a lot about——

Mr. MULLIN. But what are we doing about it? Nothing. Instead, the rule went ahead and went into effect. And I think it is quite hypocritical that you are working outside the parameters and the hours that you are telling the truckers that they can't work.

Why don't you do this? Why don't you do a study. You work the exact same hours for 1 month that you are regulating these drivers that say they can work. You go off the same, exact timeframe that they go off of. Don't answer your phone, don't take an email, don't take a phone call during the same periods of time. You work only the hours that they are allowed to work——

Ms. FERRO. Now, Congressman, again——

Mr. MULLIN [continuing]. And see if you can still do your job.

Ms. FERRO. Congressman, we are talking about an industry whose office is behind the wheel, on the highways, with your family, every family member——

Mr. MULLIN. And we are talking about me and my drivers.

Ms. FERRO. I understand.

Mr. MULLIN. We are talking about an industry that has done a phenomenal job——

Ms. FERRO. Yes, and drivers——

Mr. MULLIN. A phenomenal job since 1978, a phenomenal job——

Ms. FERRO. And under this new rule—right.

Mr. MULLIN [continuing]. Of bringing it down before you and FMCSA——

Ms. FERRO. I see.

Mr. MULLIN [continuing]. Got involved.

Ms. FERRO. But the hours-of-service rule has been out there for decades. The recent changes——

Mr. MULLIN. But there was flexibility in it.

Ms. FERRO. The recent changes retained a driver's ability to run 70 hours a week. Seventy hours a week. Sixty hours a week, without needing a restart. So, again, there are significant——

Mr. MULLIN. And, once again, how many hours do you work a week?

Ms. FERRO. There are significant operating opportunities within this rule. And, really, what you have described is why drivers should get paid more, and be treated as well as——

Mr. MULLIN. I do agree with that.

Ms. FERRO. Yes.

Mr. MULLIN. But, ma'am, a one-size-fits-all doesn't approach, and yet you don't live by the same rules you are requiring this industry to live under. And every industry is vitally important. Every profession is just as important as another profession. If there was a little bit of flexibility, maybe some human factors in play, maybe then we could talk. But a one-size-to-fit-all approach does not fit an entire industry. Why don't we focus on those few that are breaking the law, instead of punishing everybody?

Ms. FERRO. Well, and that is at the heart of CSA, so thank you for that closing point.

Mr. MULLIN. Thank you. Mr. Mica?

Mr. MICA. Thank you. We did save the best for last. So just want to clarify that for the record.

Let me go through some of this. First of all, when we worked on MAP–21 our intent was to try to consolidate or eliminate some programs. A report I have here from the staff says we consolidated or eliminated 70 DOT programs. I had asked earlier—I guess last year—how many positions had been eliminated or cut as a result of the consolidation or elimination. Mr. Rogoff, any idea?

Mr. ROGOFF. Mr. Mica, I don't think we reduced—net, as a Department, I don't believe we did reduce positions as a result of MAP–21.

Mr. MICA. See, I think that is horrible, terrible, bad. Staff, get the number of FTEs they had last year, this year. That wasn't the intent. The intent was to honestly consolidate, eliminate some positions. Then also devolve to the States where we can—as many projects—while we are at that now, are you going to oversee the TIGER—this TIGER round?

Mr. ROGOFF. The TIGER grant is run out of the office of policy, which is under the Under Secretary's office. Yes, sir.

Mr. MICA. That is yours? OK. Was it $700 million in this——

Mr. ROGOFF. $600 million, sir.

Mr. MICA. $600 million? OK. What is the date for those?

Mr. ROGOFF. We just put out the notice, and I believe the application date is either—deadline is either April 24th or 28th.

Mr. MICA. So we have had some bad processing, and not transparency. I hope that will be eliminated. So I want to ask the committee staff also, let's monitor how that is being done.

Mr. ROGOFF. Sure, we have——

Mr. MICA. Does all that money have to be out by October?

Mr. ROGOFF. Our goal is to get the grants out in that timeframe.

Mr. MICA. OK.

Mr. ROGOFF. Does it have to be out? Not as a matter of law. It does not——

Mr. MICA. Try not to screw my State this time, too, like they did in the first round. I appreciate that. I know you got better as things went on. I know, personally, you would——

Mr. ROGOFF. We welcome all and every application from Florida——

Mr. MICA. I don't know of any just now, I just meant in the general drafting.

But, let's see. So we want to check on the number of positions. Guys, be witness to this. Nothing gets eliminated or cut in any—OK.

Project delivery and streamlining. That was also supposed to reduce some of the Federal involvement. Can you—anybody there, anything in NEPA? Do you know of any reduction in staffing——

Mr. ROGOFF. Well, I think most of the NEPA streamlining, sir, takes the form of potentially less work on the part of project sponsors and consultants.

Mr. MICA. But it also would be some on——

Mr. ROGOFF. It could, over time, but——

Mr. MICA. But there is no net——

Mr. ROGOFF. Those provisions, those would still be——

Mr. MICA. No net efficiency, then, out of DOT.

Mr. ROGOFF. I think we are making a lot of our processes more efficient.

Mr. MICA. Oh, OK. Here is what I would like you to do——

Mr. ROGOFF. We also got new requirements under MAP–21 to——

Mr. MICA. Maybe for the record—don't mean to interrupt, but maybe for the record, just to substantiate what you are saying, is how many more you have processed. Can you tell us? Or the volumes, maybe numbers, process, money amounts, something to substantiate that actually the streamlining is taking place?

Mr. ROGOFF. I think that would be a good one to take back for the record, Mr. Mica.

Mr. MICA. Could you do that?

Mr. ROGOFF. It is a data call, really——

Mr. MICA. I just wanted to substantiate what is going on, and what our intent was.

OK. Got a couple more questions here. TIFIA. How much was the total request for TIFIA that we had coming in? I know we—about——

Mr. ROGOFF. We are doing—we are proposing $1 billion a year for 4 years, sir.

Mr. MICA. That was what we increased it to——

Mr. ROGOFF. You, I think, did 750 the first year, and a——

Mr. MICA. OK, the first year, and then it went up.

Mr. ROGOFF. Yes, sir.

Mr. MICA. Because we had that little problem of a balance at the beginning, so we knocked it down the first year. But what was the total number of requests you had for the 750 or the billion, whatever you got?

Mr. ROGOFF. I—we have got a great many requests.

Mr. MICA. I mean was it——

Mr. ROGOFF. I don't have a hard number, but it is well in the tens of billions of—well in excess of any——

Mr. MICA. Provide that to us. Because, see, I heard——

Mr. ROGOFF. That is easy.

Mr. MICA [continuing]. And the administration talking about additional. And you leverage those dollars, it is a big deal. But I know there were a hell of a lot more requests than we funded.

Mr. ROGOFF. There are. It is light years from what it used to be.

Mr. MICA. And that is the cornerstone of any new bill, a huge number of requests. Right?

Mr. ROGOFF. Yes, sir.

Mr. MICA. OK. So we need to look at that. That should be our goal, is to try to get that up there for——

Mr. ROGOFF. And it is not just requests. There are larger projects, too.

Mr. MICA. Staff, if you can give me that, too. And work with you. I mean that works. And then we are going to do—if they get to rail, we could do RIF, which would also provide a lot of capacity for financing, if you don't have the bucks.

OK, let's see. Two things I have got remaining. Hours of service, I heard that little discussion. Last hearing I had talked about one of the truckers who came up, a trucking official said there is something that they use to see if troops or others are fatigued. We have that technology. He says all the stuff they are doing is crap. He says it is a waste of time. The records can be—all this stuff is—can be done. But he said you can get this equipment the military has, put it on a driver, and tell if they are fatigued. Have you looked in—anyone looked into that?

Ms. FERRO. We have been working through the Small Business Innovative Research program.

Mr. MICA. Have you seen that? Has anyone seen it?

Ms. FERRO. I have seen——

Mr. MICA. Could you report back to me, personally, Ms. Ferro?

Ms. FERRO. Yes, I will. Yes, I will.

Mr. MICA. Because I was told that, I asked about it last year. And I think we are playing a bunch of games, but I am telling you those truckers just got me by the collar and said the technology is there, but we are in another era. And I would like to see something on that.

Ms. FERRO. OK.

Mr. MICA. Then the final thing is deaths. Who works in death on Transportation? Rogoff, you got the—or Mr. Nadeau? You have the numbers from last year, how many people were killed in accidents?

Mr. NADEAU. Maybe—Acting Administrator Friedman may—probably has the roadway fatalities.

Mr. MICA. How many, Mr. Friedman?

Mr. FRIEDMAN. There were over 30,000 lives lost on our highways last year.

Mr. MICA. But that is over. Now, we went—we were in the 40s, we came down to the 30s, mostly——

Mr. FRIEDMAN. It is about 33,000.

Mr. MICA. 33,000. So where—and then it went up a little bit. Are we back? Did we have a reduction over the previous year, or did we have an increase?

Mr. FRIEDMAN. So, we have gotten to historic lows. And then, in 2012, we saw an increase. The early data from 2013 is showing that we have gone back down——

Mr. MICA. Back down.

Mr. FRIEDMAN [continuing]. From 2012. But we have got to wait for that data to be finalized to be sure. But we have seen a decrease, according to the early data.

Mr. MICA. And have we done anything more on—one of the things is just like the—separating the traffic with barriers in between on the interstate. I had asked the question, too, how many miles we have of that separation. Anybody know?

Mr. NADEAU. Cable median barriers?

Mr. MICA. Yes, any kind of barrier, the cheapest thing to keep them going across, killing people.

Mr. NADEAU. That would be cable median barriers. And in many, many States across the country——

Mr. MICA. Can you give me the number of miles——

Mr. NADEAU. My camp would be happy to get back to you with——

Mr. MICA. Give me the number of miles we have done, and what we have got to do. OK?

Mr. NADEAU. Yes, sir.

Mr. MICA. I think that is worthwhile. Of course, the distracted driver is still a huge problem.

Well, that is all for now. But I will—how long you going to leave the thing open, Mr. Chairman?

Mr. PETRI. Fifteen days.

Mr. MICA. OK. I might have a couple I want to submit. I look forward to Ferro getting me back on that, some of the other information I requested. Don't forget, Florida, F-l-o-r-i-d-a, Mr. Rogoff. Six hundred million dollars, we will take even a small share. Still high unemployment.

Thank you, bye.

Mr. ROGOFF. Good to see you again, Mr. Chair.

Mr. PETRI. I ask unanimous consent the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing, and unanimous consent the record remain open for 15 days for additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

[No response.]

Mr. PETRI. Without objection, so ordered, and this hearing stands adjourned.

[Whereupon, at 12:26 p.m., the subcommittee was adjourned.]

STATEMENT OF
PETER M. ROGOFF
ACTING UNDER SECRETARY FOR POLICY
U.S. DEPARTMENT OF TRANSPORTATION

BEFORE THE

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

HEARING ON

Oversight of the U.S. Department of Transportation's Implementation of Map-21 and Fiscal Year 2015 Budget Request for Surface Transportation

March 12, 2014

Chairman Petri, Ranking Member Norton, Members of the Subcommittee:

Thank you for inviting me here today on behalf of Secretary Anthony Foxx to report on our progress in carrying out the provisions of the Moving Ahead for Progress in the 21st Century Act (MAP-21), and to discuss the 2015 Budget.

Since my appearance before you almost a year ago, I have moved from the position of Federal Transit Administrator to the Office of the Secretary where I serve as Acting Under Secretary for Transportation Policy. With me today is Federal Motor Carrier Safety Administration (FMCSA) Administrator Anne Ferro, Federal Highway Administration (FHWA) Deputy Administrator Greg Nadeau, Federal Transit Administration (FTA) Deputy Administrator Therese McMillan, and National Highway Traffic Safety Administration (NHTSA) Acting Administrator David Friedman.

Since the beginning of the Obama Administration, the USDOT has worked extensively to rebuild our nation's infrastructure, put Americans back to work, provide greater access and build efficiency into the system, while ensuring safety as a top priority.

Given the current condition of our nation's surface infrastructure, our roadways, railways, and transit systems continue to require substantial levels of Federal funding. Consequently, our underlying policies supporting our infrastructure investment programs require a system overhaul. What is clear is the Highway Trust Fund could face insolvency by as soon as this summer. Secretary Foxx and the USDOT team have been sounding an alarm on this concern for several months.

The highway account of the trust fund is likely to dip below the critical $4 billion funding level as soon as July and the transit account will fall below $1 billion sometime in August. Absent

action by Congress to replenish the Trust Fund, USDOT will be required to implement cash management measures to preserve a positive balance in the trust fund and head off insolvency. If the trust fund were to become insolvent, hundreds of thousands of jobs across the nation could be at risk and our ability to address the many road, rail, and transit needs in every state will be severely impeded. We look forward to partnering with you to avoid an untenable impact to transportation construction activity this summer.

MAP-21 started in the right direction. It repositioned programs, and reformed critical aspects of the way our infrastructure is built, roads and bridges are maintained, and projects are delivered. We believe more needs to be done.

MAP-21 made initial progress in some important areas:

1. Transportation Infrastructure Finance and Innovation Act (TIFIA). By expanding TIFIA funding, MAP-21 encouraged advancements in establishing a process and deepened the purse for credit assistance.
2. MAP-21 also built upon initiatives to increase efficiency. The law expanded FHWA's Every Day Counts program, which is designed to further increase innovation and improve efficiency, effectiveness, and accountability in the planning, design, engineering, construction and financing of transportation projects. Similarly, MAP-21 helped enable FTA to streamline the approval process for the New Starts & Small Starts Capital Investment Program, shaving project delivery time.
3. Performance measurement. MAP-21 created a streamlined, performance-based measurement for transparency and accountability as we work to ensure our transportation investments improve safety, reliability, and mobility.
4. Goods movement. MAP-21 called for a better understanding of goods movement by establishing the designation of a national highway freight network.
5. Safety. MAP-21 created new grants to help states start to address emerging safety issues.

Going forward, and pursuant to our budget proposal, the Administration will be proposing further reforms through a $302 billion, four-year transportation reauthorization plan that increases and provides stable funding for our nation's highways, bridges, transit, and rail systems. This plan is a real investment in our system:

1. Fix-It-First. This plan is directed at reducing and eliminating the massive investment backlog caused by years of deferred maintenance on highways, bridges, transit systems, and airports nationwide. The proposal will increase the amount of highway funds by 22 percent annually, for a total of about $199 billion over the four years. Within FHWA, it creates a new program aimed at repairing structurally deficient Interstate Highway System bridges, improving safety on rural roads, and supporting a state of good repair on the National Highway System (NHS).

2. Ladders of Opportunity. One of the highlights of the reauthorization plan is creating Ladders of Opportunity for our citizens that will increase access to the jobs and education that will help them improve their lives. A well-functioning transportation network is critical to America's economic future. The Administration's plan includes more than $2 billion over four years for a new Rapid Growth Area Transit program that will link people to jobs and educational opportunities in fast growing areas. In addition, a workforce development program will support and enhance the size, diversity, and skills for our nation's transportation workforce through partnerships with the public and private sectors.

3. Investment in Freight Networks and Improved Goods Movement. A dedicated freight funding program will foster national economic growth and improve the efficiency and reliability of freight movement. The plan includes significant incentives to encourage coordinated investment in freight infrastructure and will give shippers, truck and rail industry representatives a meaningful role in crafting investment decisions in partnership with state and local officials.

4. Credit Assistance: Building off of MAP-21's expansion of TIFIA, the President proposes to continue the program at $1 billion per year. These resources will continue to fund loan subsides to assist with financing nationally or regionally significant transportation projects. The TIFIA program leverages Federal dollars in a time of limited budgetary resources, facilitating private participation in transportation projects and encouraging innovative financing mechanisms that help advance projects more quickly.

5. Competitive Grants: The Transportation Investment Generating Economic Recovery (TIGER) grant program has been popular among mayors, governors, and Members of Congress since its creation five years ago. It provides for advancement of key projects and has allowed us to support projects that are difficult to fund through formula programs such as port linkage with highways and rail. TIGER facilitates the integration of multiple modes of transportation in ways that magnify economic impact, making it possible to reward sponsors who bring additional funds to the table. The plan includes $5 billion for an expansion of the TIGER discretionary competitive grant program. It also envisions a $4 billion Fixing and Accelerating Surface Transportation (FAST) competitive program to incentivize transformative projects and programmatic reforms that improve transportation outcomes.

6. Transit: The plan increases investment in the nation's transit system to a total of $72 billion over four years. By further focusing on the transportation needs of growing suburbs and the deferred maintenance of cities, this investment will include $11 billion over four years for the New Starts program (new transit construction) and $3.5 billion per year in additional funds to address the estimated $86 billion maintenance backlog. Additionally, the entire transit program is merged within the Transportation Trust Fund (TTF).

7. High-Performance Passenger Rail: The plan would create a rail account within the TTF to support the development of high performance passenger rail with $19 billion over four years for rail programs. It would nearly triple the current spending on rail and lock in

long-term funding, including $7 billion to initiate new passenger rail services and substantially upgrade existing corridors; and approximately $5 billion for system preservation projects to improve performance of existing rail. Over the next 35 years the U.S. population is expected to grow over 30 percent. We need to accommodate this growth in rail capacity, because other forms of transportation—such as aviation and highways—are approaching capacity.

The Administration's $302 billion plan will be paid for through existing revenue and $150 billion in pro-growth transition revenue from business tax reform. This plan will fend off insolvency, provide stability and allow communities to better plan to protect their surface transportation infrastructure to make it more efficient, effective and safe.

This plan will:

1. Increase capacity to move people and goods. It is estimated that by the year 2050 our country will experience an increase of over 100 million residents—to prepare we need a transportation system smart enough to plan along social trends and economic lines.

2. Connect Americans. The reauthorization proposal dedicates investments in transportation projects that better connect communities to centers of employment, education and services.

3. Deliver major projects more efficiently. The Administration's policies in this area will help to facilitate the President's goal of reducing the permitting and approval time for major infrastructure projects in half, while creating incentives for better outcomes for communities and the environment. To this end, the plan further advances and introduces improvements to the project delivery system through a range of measures.

4. Create more resilient communities. Building on the Sandy Task Force recommendations, the plan will encourage more resilient designs for highway, transit, and rail infrastructure, and smarter transportation planning to reduce fuel use, conserve energy, and build for the challenges and risks of the future, rather than the past.

In the coming weeks, we will formally transmit a legislative proposal to Congress to provide the programmatic details behind each of our plans. We hope the Committee will invite the Department back to discuss them.

The Administration's plan will not only allow States and local units of government to effectively plan their project pipelines, supporting millions of well-paying jobs over the next several years, but also will enable them to invest in more transformative transportation projects that improve our global competitiveness, while improving safety for all road users.

MAP-21 set us on a path to addressing these challenges, and I can assure you that the Department's plan for its successor proposes solutions that will not only avoid a near-term funding crisis, but also provides stability to American families and workers and businesses in rural, suburban, and urban communities across the country.

Conclusion

We look forward to working closely with this Subcommittee as we build on the reforms contained in MAP-21 to bring infrastructure improvements to Americans in a faster, better and smarter way. The Administration's surface transportation reauthorization plan will provide a blueprint to do this, while ensuring solvency for some of the country's most critical programs. We are happy to assist in any way toward advancing the next surface transportation bill that will ensure Americans quality of life and facilitate economic growth for years to come.

Thank you for the opportunity to appear before you today. I look forward to answering any questions you may have.

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Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
Hearing on "Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation"
March 12, 2014
Question for the Record for Peter M. Rogoff

Question from Ranking Member Norton:

Mr. Rogoff, this Committee has long been interested in ensuring that there is a level playing field for small business enterprises owned by women or minorities to compete for Department of Transportation contracts. To this end, Congress has statutorily authorized the U.S. Department of Transportation's Disadvantaged Business Enterprises program in every surface transportation bill since the Surface Transportation Assistance Act of 1982. The purpose of these provisions was to remedy past and current discrimination against minority and women-owned small businesses, and to ensure that they are provided equal opportunity to compete for DOT-assisted highways and public transportation projects. Please submit any information and evidence the Department has complied showing that race or gender discrimination continues to affect the highway and transit construction industry and related businesses?

A. Over the past several decades, the Department of Transportation and other federal agencies have submitted similar disparity and other studies to Congress on which Congress has relied in part to find that there is a compelling need to authorize the Department of Transportation to create and to maintain its Disadvantaged Business Enterprise (DBE) Program. Unfortunately, as demonstrated by numerous more recent studies and data, including those attached, although significant progress has occurred due to the enactment of the DBE program, discrimination remains a significant barrier for minority- and women-owned businesses seeking to do business in highway and transit-related markets.

Index
A. Disparity Studies

[Editor's note: The Editorial Office of the House Committee on Transportation and Infrastructure has inserted Web links to those studies that it was able to locate online.]

Alabama

City of Birmingham: Disparity Study Report, Prepared by Pendleton, Friedberg, Wilson & Hennessey, P.C. for the City of Birmingham, Alabama (2007)

Alaska

Alaska Disadvantaged Business Enterprise Study – Availability and Disparity, Prepared by D. Wilson Consulting Group, LLC for the Alaska Department of Transportation and Public Facilities (2008)
http://www.dot.state.ak.us/cvlrts/forms/Ak-Disparity-Study-Final-pt1.pdf

Arizona

Availability Analysis and Disparity Study for the Arizona Department of Transportation: Final Report, Prepared by MGT of America for the Arizona Department of Transportation (2009)

A Comprehensive Study of the Pima County MWBE Program, Prepared by D. Wilson Consulting Group, LLC for the Pima County Procurement Department (2008)
http://www.pima.gov/procure/mwbe/disparity-study-2008/pimacountyfinalreport.pdf

A Comprehensive Disparity Study of the City of Tucson MWBE Program, Prepared by D. Wilson Consulting Group, LLC for the Pima County Procurement Department (2008)
http://www.tucsonaz.gov/files/oeop/DisparityStudy08.pdf

The City of Phoenix Minority-, Women-Owned, and Small Business Enterprise Program Update Study, Prepared by MGT of America, Inc. for the City of Phoenix (2005)
https://www.phoenix.gov/eodsite/Documents/mgtfr.pdf#search=City%20of%20Phoenix%20Minority%2D%2C%20Women%2DOwned%2C%20and%20Small%20Business%20Enterprise%20Program%20Update%20Study

California

Metro Disparity Study Final Report, Prepared by BBC Research & Consulting for the Los Angeles County Metropolitan Transportation Authority (2010)
http://media.metro.net/about_us/deod/images/disparity_study/Metro-Disparity-Study-Final-Report-01-22-10.pdf

OCTA Disparity Study Final Report, Prepared by BBC Research & Consulting for the Orange County Transportation Authority (2010)
https://cammnet.octa.net/files/OCTA%20Disparity%20Study%20Final%20Report.pdf

SANDAG Disparity Study Final Report, Prepared by BBC Research & Consulting for the San Diego Association of Governments (2010)
http://www.sandag.org/uploads/publicnoticeid/publicnoticeid_163_10935.pdf

San Diego County Regional Airport Authority Disparity Study, Prepared by BBC Research & Consulting for the San Diego County Regional Airport Authority (2010)

San Francisco Bay Area Rapid Transit District, Availability and Utilization Study, Final Report, Prepared by Mason Tillman Assoc. for the San Francisco Bay Area Rapid Transit District (2009)
http://www.bart.gov/sites/default/files/docs/Final_Availability_and_Utilization_Study_4-6-09.pdf

Metrolink Disparity Study Draft Report, Prepared by BBC Research & Consulting for the Southern California Regional Rail Authority (2009)

Measuring Minority- and Woman-Owned Construction and Professional Service Firm Availability and Utilization, Prepared by CRA International for the San Mateo County Transit District and the Peninsula Corridor Joint Powers Board (2008)

Availability and Disparity Study for the California Department of Transportation, Prepared by BBC Research & Consulting for the California Department of Transportation (2007)
http://www.dot.ca.gov/hq/bep/study/Avail_Disparity_Study_Final_Rpt.pdf

Measuring Minority- and Woman-Owned Construction and Professional Service Firm Availability and Utilization, Prepared by CRA International for the Santa Clara Valley Transportation Authority (2007)
http://www.vta.org/sfc/servlet.shepherd/version/download/068A0000001FbwY

Alameda County Availability Study, Prepared by Mason Tillman Associates, Ltd. for County of Alameda (2004)
http://www.acgov.org/government/documents/availabilitystudy.pdf

Colorado

Colorado Department of Transportation Statewide Transportation Disparity Study, Prepared by D. Wilson Consulting Group, LLC for the Colorado Department of Transportation (2009)
http://www.coloradodot.info/library/studies/2009-disparity-study-and-appendices/CDOT_2009_Disparity_Study.pdf/view

Race, Sex, and Business Enterprise: Evidence from Denver, Colorado, Prepared by NERA Economic Consulting for the City and County of Denver, Colorado (2006)
http://www.denvergov.org/Portals/690/documents/060505FinalDenverReport.pdf

Connecticut

The City of Bridgeport Disparity Study Regarding Minority Participation in Contracting, presented by Mason Tillman Associates, Ltd. for the City of Bridgeport Connecticut (2005)

Florida

The State of Minority and Women Owned Enterprise: Evidence from Broward County, Prepared by NERA Economic Consulting for Broward County, Florida (2010) https://www.broward.org/econdev/Documents/NERABrowardDisparityStudyFinal112210.pdf

Multi-Jurisdictional Disparity Study Consultant Services: Hillsborough County Aviation Authority and City of Tampa, Prepared by Mason Tillman Associates, Ltd. for the Hillsborough County Aviation Authority Office and City of Tampa, Florida (2006) http://www.tampagov.net/sites/default/files/minority-business-development/files/disparity_study_final_report_050206_vol_1.pdf
&
http://www.tampagov.net/sites/default/files/minority-business-development/files/disparity_study_report_final_report_vol_2_050406.pdf

Georgia

Georgia Department of Transportation Disparity Study, Prepared by BBC Research & Consulting for the Georgia Department of Administration (2012) http://www.dot.ga.gov/doingbusiness/dbeprograms/documents/2012%20disparity%20study/final/2012disparitystudy-finalreport.pdf

Race, Sex, and Business Enterprise: Evidence from Augusta, Georgia, Prepared by NERA Economic Consulting for August-Richmond County Georgia (2009) http://www.augustaga.gov/DocumentCenter/Home/View/2072

Consortium Disparity Study Update, Prepared by BBC Research & Consulting for the City of Albany, Georgia; Dougherty County, Georgia; Dougherty County School System; Albany Water, Gas & Light Commission; and Albany Tomorrow, Inc. (2008)

City of Atlanta Disparity Study, Prepared by Griffin and Strong for the City of Atlanta (2006)

Georgia Department of Transportation Disparity Study, Prepared by Boston Research Group for the State of Georgia (2005)

Hawaii

The State of Minority and Women Owned Enterprise: Evidence from Hawai'i, Prepared by NERA Economic Consulting for the Hawaii Department of Transportation (2010) http://www.oahumpo.org/wp-content/uploads/2013/01/ReportNERA_HDOT_final.pdf

Idaho

A Study to Determine DBE Availability and Analyze Disparity in the Transportation Contracting Industry in Idaho, Prepared by BBC Research & Consulting for the Idaho Transportation Department (2007) http://www.itd.idaho.gov/civil/pdf/Disparity/Study2007.pdf

Illinois

Report on the City of Chicago's MWBE Program, Prepared by David Blanchflower, Ph.D., for the City of Chicago M/WBE Program (2009)
http://www.cityofchicago.org/dam/city/depts/dps/Certification/BlanchflowerReport/chicago_sunset_final_report_june_10th_2009.pdf

Race, Sex, and Business Enterprise: Evidence from the State of Illinois and the Chicago Metropolitan Area, Prepared by NERA Economic Consulting for the Illinois State Toll Highway Authority (2006)
http://www.illinoistollway.com/documents/10157/dcef5ab6-c681-4156-a364-e8413aa4f0f1

Disadvantaged Business Enterprise Availability Study, Prepared by NERA Economic Consulting, for the Illinois Department of Transportation (2004)

Disparity Study for the City of Peoria, Prepared by Kevin O'Brien, Ph.D., for the City of Peoria (2004)

Indiana

Indiana Disparity Study: Final Report, Prepared by BBC Research & Consulting for the Indiana Department of Administration (2010)
http://www.in.gov/idoa/files/Indiana_Disparity_Study_Final_Report_Chapters_FINAL.pdf

Iowa

City of Davenport Disparity Study Regarding Minority and Women Participation in Contracting, Prepared by Mason Tillman Associates, Ltd. for the Davenport, Iowa (2009)
http://www.ci.waterloo.ia.us/images/HumanRights/pdf/DBEDisparityFULL.pdf

Maryland

The State of Minority- and Women-Owned Enterprise: Evidence from Maryland, Prepared by NERA Economic Consulting for the Maryland Department of Transportation (2011)
http://www.mdot.maryland.gov/Office%20of%20Minority%20Business%20Enterprise/Resources_Information/NERA_MD_Disparity_Study_Final_20110218.pdf

Race, Sex, and Business Enterprise: Evidence from the City of Baltimore, Prepared by NERA Economic Consulting for the City of Baltimore, MD (2007)

Disadvantaged Business Enterprise Availability Studies Prepared for the Maryland Department of Transportation, State Highway Administration, Maryland Transit Administration, Maryland Aviation Administration, Prepared by NERA Economic Consulting for the Maryland Department of Transportation (2006)

The Prince George's County Government: Disparity Study Final Report, Prepared by D.J. Miller & Associates, Inc. for the Prince George's County Government (2006)

Race, Sex, and Business Enterprise: Evidence from the State of Maryland, Prepared by NERA Economic Consulting for the Maryland Department of Transportation (2006) http://www.mdot.maryland.gov/Office%20of%20Minority%20Business%20Enterprise/Resources_Information/FinalReportNERAMaryland.pdf

Massachusetts

Race, Sex, and Business Enterprise: Evidence from the Commonwealth of Massachusetts, Vol. I, Prepared by NERA Economic Consulting for the Massachusetts Housing Finance Agency (2006)

Minnesota

The State of Minority- and Women-Owned Business Enterprise: Evidence from Minneapolis, Prepared by NERA Economic Consulting for the City of Minneapolis (2010) http://www.ci.minneapolis.mn.us/www/groups/public/@civilrights/documents/webcontent/convert_286136.pdf

State of Minnesota Joint Availability and Disparity Study, Prepared by MGT of America, Inc., for the Minnesota Department of Transportation (2010) http://archive.leg.state.mn.us/docs/2009/mandated/091152.pdf

A Disparity Study for the City of Saint Paul and the Saint Paul Housing and Redevelopment Authority, Saint Paul, Minnesota, Prepared by MGT of America for the City of Saint Paul and the Redevelopment Authority of Saint Paul (2008) http://www.stpaul.gov/DocumentCenter/Home/View/6384

Race, Sex and Business Enterprise: Evidence from the State of Minnesota, Prepared by NERA Economic Consulting for the Minnesota State Department of Transportation (2005)

Missouri

Race, Sex, and Business Enterprise: Evidence from the St Louis Metropolitan Statistical Area 1979-2004, Prepared by NERA Economic Consulting for the Bi-State Development Agency (2005)

Disadvantaged Business Enterprise Availability Study, for the Missouri Department of Transportation, Prepared by NERA Economic Consulting for the Missouri State Department of Transportation (2004)

Montana

Disparity Study for the Montana Department of Transportation: Final Report, Prepared by D. Wilson Consulting Group, LLC for the Montana Department of Transportation (2009) http://www.mdt.mt.gov/other/research/external/docs/research_proj/disparity/final_report.pdf

Nevada

Availability and Disparity Study for the Nevada Department of Transportation, Prepared by BBC Research & Consulting for the Nevada Department of Transportation (2007)

New Jersey

State of New Jersey Construction Services: Disparity Study 2003-2004, Prepared by Mason Tillman Associates, Ltd. for the New Jersey Disparity Study Commission (2006)
http://www.njleg.state.nj.us/OPI/Reports_to_the_Legislature/disparity_study_2003-2004.pdf

State of New Jersey Construction Services: Disparity Study 2000-2002, Prepared by Mason Tillman Associates, Ltd. for the New Jersey Disparity Study Commission (2005)
http://www.njleg.state.nj.us/OPI/Reports_to_the_Legislature/disparity_study_2000-2002.pdf

State of New Jersey Disparity Study of Procurement in Professional Services, other Services, and Goods and Commodities, Prepared by Mason Tillman Associates, Ltd. for the New Jersey Department of State (2005)
http://www.njleg.state.nj.us/OPI/Reports_to_the_Legislature/disparity_study_final.pdf

Analysis of Essex County Procurement and Contracting: Final Report, Prepared by the University of Minnesota Disparity Study Research Team for the County of Essex Disparity Study Commission (2005)
http://www.essex-countynj.org/report.pdf

New York

The State of Minority- and Women-Owned Business Enterprise: Evidence from New York, Prepared by NERA Economic Consulting for the New York State Department of Economic Development (2010)
http://www.esd.ny.gov/MWBE/Data/NERA_NYS_Disparity_Study_Final_NEW.pdf

The City of New York Disparity Study, presented by Mason Tillman Associates, Ltd. for the City of New York (2005)

North Carolina

City of Charlotte: Disparity Study, Prepared by MGT of America, Inc., for the City of Charlotte (2011)
http://charmeck.org/city/charlotte/nbs/ed/Documents/4516_COC_Full%20Final%20Report%20mal092611.pdf

Measuring Business Opportunity: A Disparity Study of NCDOT's State and Federal Programs, Prepared by Equant for the North Carolina Department of Transportation (2009)
http://www.ncindian.com/docs/2009%20NCDOT%20Disparity%20Study.pdf

North Carolina Department of Transportation Second Generation Disparity Study, Prepared by MGT of America, Inc. for the State of North Carolina (2004)

Ohio

The State of Minority- and Women-Owned Business Enterprise: Evidence from Cleveland (2012)
http://media.cleveland.com/plain_dealer_metro/other/Disparity_Study.pdf

The State of Minority- and Women-Owned Business Enterprise: Evidence from Northeast Ohio, Prepared by NERA Economic Consulting for the Northeast Ohio Regional Sewer District (2010)
https://www.neorsd.org/I_Library.php?a=download_file&LIBRARY_RECORD_ID=4837

A Second-Generation Disparity Study for the City of Dayton, Ohio, Prepared by MGT of America, Inc. for the City of Dayton, Ohio (2008)
http://www.cityofdayton.org/departments/hrc/Documents/disparitystudyreport.pdf

Oklahoma

City of Tulsa Business Disparity Study, Prepared by MGT of America, Inc. for the City of Tulsa (2010)
https://www.cityoftulsa.org/media/91654/final%20report%20presentation%20mal060810%201007am%20(rev).pdf

Oregon

City of Portland Disparity Study, Prepared by BBC Research & Consulting for the Portland Development Commission (2011)

A Disparity Study for the Port of Portland, Oregon, Prepared by MGT for America, Inc., for the Port of Portland, Oregon (2009)

Disadvantaged Business Enterprise Disparity Study, Prepared by MGT of America, Inc. for the Oregon Department of Transportation (2007)
http://library.state.or.us/repository/2010/201004081127454/

Pennsylvania

City of Philadelphia, Fiscal Year 2011 Annual Disparity Study, Prepared by Econosult Corporation for the City of Philadelphia (2012)
http://www.phila.gov/commerce/Documents/2011%20Disparity%20Study.pdf

City of Philadelphia, Fiscal Year 2010 Annual Disparity Study, Prepared by Econosult Corporation for the City of Philadelphia (2011)
http://www.phila.gov/commerce/Documents/2010%20Disparity%20Study.pdf

City of Philadelphia, Fiscal Year 2009 Annual Disparity Study, Prepared by Econosult Corporation for the City of Philadelphia (2010)
http://www.econsult.com/articles/philadelphia_disparity_study_2009.pdf

Commonwealth of Pennsylvania Department of General Services: Disparity Study in Building Construction and Building Design, Prepared by Mason Tillman Associates, Ltd. for the Commonwealth of Pennsylvania Department of General Services (2007)

Minority Business Shares of Prime Contracts Approved by the Board of Pittsburgh Public Schools, January-September 2005, Prepared by the University of Pittsburgh Center on Race and Social Problems (2006)
http://www.crsp.pitt.edu/sites/default/files/PPS20Report201.pdf

South Carolina

A Business Underutilization Causation Analysis Study for the City of Columbia, Prepared by MGT of America, Inc. for the State of South Carolina (2006)
http://www.columbiasc.net/depts/obo/docs/extprod012139.pdf

Tennessee

City of Memphis, Tennessee, Comprehensive Disparity Study, Prepared by Griffin and Strong, P.C., for the City of Memphis (2010)
http://www.memphistn.gov/Portals/0/pdf_forms/2010DisparityStudy-GriffinStrongPC.pdf

Race, Sex, and Business Enterprise: Evidence from Memphis, Tennessee, Prepared by NERA Economic Consulting for the Memphis-Shelby County Airport Authority (2008)
http://www.mscaa.com/themes/memairport/images/DisparityStudy2008.pdf

State of Tennessee Department of Transportation, Prepared by Mason Tillman Associates, Ltd. for the Tennessee Department of Transportation (2007)

Final Report for Development and Revision of Small, Minority and Women Business Enterprise Program, Nashville International Airport, Prepared by Griffin & Strong, P.C. for the Metropolitan Nashville Airport Authority (2007)
https://www.flynashville.com/business-diversity-development/Documents/MNAADisparityStudy.pdf

Metropolitan Government of Nashville and Davidson County: Disparity Study Final Report, Prepared by Griffin and Strong for Nashville and Davidson County (2004)

Texas

The State of Minority- and Women-Owned Business Enterprise in Construction: Evidence from Houston, Prepared by NERA Economic Consulting for the City of Houston (2012)
http://www.houstontx.gov/obo/disparitystudyfinalreport.pdf

A Historically Underutilized Business Disparity Study of State Contracting 2009 Final Report, Prepared by MGT of America, Inc. for the State of Texas (2010)
http://www.window.state.tx.us/procurement/prog/hub/disparity/Texas_DS_2009.pdf

San Antonio Regional Business Disparity Causation Analysis Study, Prepared by MGT of America for the City of San Antonio, Texas (2009)

Race, Sex, and Business Enterprise: Evidence from the City of Austin, Prepared by NERA Economic Consulting for the City of Austin, TX (2008)
http://austintexas.gov/sites/default/files/files/Small_Minority_Business/Report-neracoa_may2008.pdf

Quantitative Analysis of the Availability of Minority- and Women-Owned Businesses and their Utilization by the Corpus Christi Regional Transportation Authority, Prepared by Jim Lee, Ph.D., for the Corpus Christi Regional Transportation Authority (2007)
http://ccrta.org/assets/ccrta-disparity-study-2007.pdf

The City of Houston Disparity Study, Prepared by Mason Tillman Assoc., Ltd. (2006)
http://blackamericancommunity.com/cohdisparitystudy.pdf

Utah

Race, Sex, and Business Enterprise: Evidence from the State of Utah, Prepared by NERA Economic Consulting for the Salt Lake City Departments of Airports (2009)

Virginia

A Disparity Study for the Commonwealth of Virginia, Prepared by MGT of America, Inc. for the Commonwealth of Virginia (2010)
http://www.dmbe.virginia.gov/pdf/Disparity_Study_January_13_2010.pdf

A *Procurement Disparity Study of the Commonwealth of Virginia,* Prepared by MGT of America, Inc. for the Commonwealth of Virginia (2004)
http://www.dmbe.virginia.gov/pdf/disparity.pdf

Washington

2012 DBE Program Disparity Study, Prepared by BBC Research & Consulting for the Washington State Department of Transportation (2012)
http://www.wsdot.wa.gov/NR/rdonlyres/9F8F685A-9E47-4F13-AA79-F776AC0C576E/0/2012DBEProgramDisparityStudyFinalReport.pdf

Race, Sex and Business Enterprise: Evidence from the State of Washington, Prepared by NERA Economic Consulting for the Washington State Department of Transportation (2005)
https://ia801009.us.archive.org/17/items/367581-nera-wsdot-study-2005/367581-nera-wsdot-study-2005.pdf

Washington, D.C.

2010 Disparity Study, Final Report, Prepared by Mason Tillman Associates, Ltd., for the Washington Suburban Sanitary Commission (2011)
http://www.wsscwater.com/file/SLMBEGrp/WSSC%202010%20Disparity%20Study%20Final%20Report.pdf

Washington Suburban Sanitary Commission 2005 Disparity Study: Summary and Recommendations, Prepared by BBC Research & Consulting for the Washington Suburban Sanitary Commission (2005)
http://www.wsscwater.com/file/Communications/2005_Disparity_Study_final.pdf

Wisconsin

Disparity Study for the City of Milwaukee, Prepared by D. Wilson Consulting Group, LLC for the City of Milwaukee (2010)
http://city.milwaukee.gov/ImageLibrary/Groups/doaEBEP/Events/Disparity_Study_-_Full_Report.pdf

City of Milwaukee, Study to Determine the Effectiveness of the City's Emerging Business Enterprise Program, Prepared by Mason Tillman Associates, Ltd. for the City of Milwaukee, Wisc. (2007)
http://www.city.milwaukee.gov/ImageLibrary/Groups/doaBusinessOp/EBEP_STUDY.pdf

B. Studies and Reports

• Expert Report in Midwest Fence Corp. v. DOT

• Expert Report in Geyer Signal Inc. v. Minnesota DOT

• Expert Report in Rothe Dev. Inc. v. DOD and SBA

• Frances Amatucci, *Women Entrepreneurs Securing Business Angel Financing: Tales from the Field*, Venture Capital (2004)

• Ana Aparicio, *Hispanic-Owned Business Enterprises in the Construction Industry of Greater Chicago: Responses and Personal Perspectives*, for the City of Chicago M/WBE Program (2009)

• Ana Aparicio, *Women-Owned Business Enterprises in the Construction Industry of Greater Chicago: Responses and Personal Perspectives*, for the City of Chicago M/WBE Program (2009)

• Asian American Justice Center, *Equal Access: Unlocking Government Doors for Asian Americans: Public Contracting Laws and Policies* (2008)

• S. Ann Becker and Donn Miller-Kermani, *Women-Owned Small Businesses in the Federal Procurement Market*, Journal of Contract Management 131 (2008)

• Dana Bible, Kathy Hill, *Discrimination: Women in Business*, Journal of Organizational Culture, Communications and Conflict, Volume 11, No. 1 (2007)

• Lloyd Blanchard, Bo Zhao, and John Yinger, *Do Credit Market Barriers Exists for Minority and Women Entrepreneurs?*, Center for Policy Research, Maxwell School, Syracuse University, Working Paper No. 74 (2005)

• David. G. Blanchflower and Jon Wainwright, *An Analysis of the Impact of Affirmative Action Programs on Self-Employment in the Construction Industry*, National Bureau of Economic Research, Working Paper 11793 (2008)

• David. G. Blanchflower, *Minority Self-Employment in the United States and the Impact of Affirmative Action Programs*, National Bureau of Economic Research, Working Paper 13972 (2008)

• Boston Consulting Group, *The New Agenda for Minority Business Development* (2005)

• Ken Cavalluzzo & John Wolken, *Competition, Small Business Financing, and Discrimination: Evidence from a New Survey*, 75(4) Journal of Business 641 (2005)

• Ken Cavalluzzo & John Wolken, *Small Business Loan Turndowns, Personal Wealth, and Discrimination*, 78(6) Journal of Business 2153 (2005)

• Susan Coleman, *Access to Debt Capital for Women and Minority Owned Small Firms: Does Educational Attainment Have an Impact,* 9(2) Journal of Developmental Entrepreneurship 127 (2004)

• Susan Coleman, *Is There a Liquidity Crisis For Small, Black-Owned Firms*, Journal of Developmental Entrepreneurship (2005)

• Ernst & Young, *2008 Catalyst Census of Women Corporate Officers and Top Earners of the Fortune 500*, available at http://www.catalyst.org/knowledge/2008-catalyst-census-women-corporate-officers-and-top-earners-fortune-500 (last visited, April 3, 2014)

• Robert W. Fairlie and Alicia M. Robb, *Minority Business Development Agency Disparities in Capital Access between Minority and Non-Minority-Owned Businesses: The Troubling Reality of Capital Limitations Faced by MBEs*, Prepared for the U.S. Department of Commerce (2010)

• Robert W. Fairlie and Alicia M. Robb, *Why are Black-Owned Businesses Less Successful Than White-Owned Businesses? The Role of Families, Inheritances, and Business Human Capital*, 25 Journal of Labor Economics 289 (2007)

• Robert W. Fairlie, *Minority Entrepreneurship*, The Small Business Economy, produced under contract with the SBA, Office of Advocacy (2005)

• Cedric Herring, *Barriers to the Utilization of Targeted Program Contractors: Results from Interviews of African American Contractors*, for the City of Chicago M/WBE Program (2009)

• Insight Center for Community Economic Development, *The Impact of State Affirmative Procurement Policies on Minority- and Women- Owned Businesses in Five States, Best Practices, Imperfections, and Challenges in State Inclusive Business Programs* (2007)

• Yvonne M. Lau, *Profiles on Asian Americans in Construction -A Study for the City of Chicago M/WBE Sunset Project*, for the City of Chicago M/WBE Program (2009)

• Sang-Suk Lee and Diane Denslow, *A Study on the Major Problems of U.S. Women-Owned Small Businesses*, Journal of Small Business Strategy, 15 (2) (2005)

• Ying Lowrey, *Minorities in Business: A Demographic Review of Minority Business Ownership*, 298 U.S. Small Business Administration (2007)

• Ying Lowrey, *Dynamics of Minority-Owned Employer Establishments, 1997-2001*, 251 U.S. Small Business Administration (2005)

• Karlyn Mitchell & Douglas K. Pearce, *Availability of Financing to Small Firms Using the Survey of Small Business Finances*, 257 U.S. Small Business Administration (2005)

• Craig A. Peterson and James Philpot, *Women's Roles on U.S. Fortune 500 Boards: Director Expertise and Committee Memberships*, 72 Journal of Business Ethics 177 (2007)

• Myron Quon, *Discrimination Against Asian American Business Enterprises: The Continuing Need for Affirmative Action in Public Contracting*, Asian American Policy Review 41 (2008)

• Howard Rasheed, *Capital Access Barriers to Government Procurement Performance: Moderating Effects of Ethnicity, Gender, and Education*, Journal of Developmental Entrepreneurship (2004)

• Elaine Reardon, Nancy Nicosia and Nancy Y. Moore, *The Utilization of Women-Owned Small Businesses in Federal Contracting*, Kauffman-RAND Institute for Entrepreneurship Public Policy (2007)

• Alicia M. Robb, & Robert Fairlie, *Access to Financial Capital Among U.S. Businesses: The Case of African American Firms Constraints*, 613 Annals of the American Academy of Political and Social Science (2007)

• Hal Salzman and Signe-Mary McKernan, *Capital Access for Women, Profile and Analysis of U.S. Best Practice Programs*, The Urban Institute (2007)

• Jonathan Taylor, *Income and Wealth Transfer Effects of Discrimination in Small Business Lending*, 32 (3/4) Review of Black Political Economy 87 (2005)

• Siri Terjesen, Ruth Sealy and Val Singh, *Women Directors on Corporate Boards: A Review and Research Agenda*, 17 Corporate Governance: An International Review 320 (2009)

• Jon Wainwright, *Disparity Study Methodology*, National Cooperative Highway Research Program Report (2010)

• U.S. Census Bureau, *Survey of Business Owners - Characteristics of Business Owners: 2007*, available at http://www.census.gov/econ/sbo/getsof.html?07cbo (last visited April 3, 2014).

• U.S. Census Bureau, *Survey of Business Owners - Women-Owned Firms: 2007*, available at http://www.census.gov/econ/sbo/getsof.html?07women (last visited April 3, 2014)

• U.S. Department of Commerce, Minority Business Development Agency, *Accelerating Job Creation and Economic Productivity: Expanding Financing Opportunities for Minority Businesses* (2004)

• U.S. Department of Commerce, Minority Business Development Agency, *Characteristics of Minority Businesses and Entrepreneurs, An Analysis of the 2002 Survey of Business Owners* (2008)

• U.S. Department of Commerce, Minority Business Development Agency, *The State of Minority Business Enterprises, An Overview of the 2002 Survey of Business Owners, Number of Firms, Gross Receipts, and Paid Employees* (2006)

• United States Department of Labor, *Quick Stats on Women Workers, 2010,* available at http://www.dol.gov/wb/factsheets/QS-womenwork2010.htm (last visited April 3, 2014)

STATEMENT OF
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U.S. DEPARTMENT OF TRANSPORTTION

BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
UNITED STATES HOUSE OF REPRESENTATIVES

Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation

MARCH 12, 2014

Chairman Petri, Ranking Member Norton, Members of the Subcommittee, thank you for the invitation to appear before you today to discuss the President's Fiscal Year (FY) 2015 budget request and the Federal Highway Administration's (FHWA's) continued progress in implementing the Moving Ahead for Progress in the 21st Century Act (MAP-21). Currently, while Administrator Victor Mendez serves in the role of DOT Acting Deputy Secretary, I am fulfilling all the duties and responsibilities of FHWA Administrator.

In the year since FHWA last appeared before you to discuss our progress in implementing MAP-21, we have continued to work aggressively toward full and effective implementation of the Act's programs and provisions, and I am pleased to highlight our efforts for you today. MAP-21 provided two years of funding and a more streamlined and performance-driven program structure, which has helped create jobs and grown our economy. MAP-21 will expire on September 30 of this year, and we need to work together to ensure we continue to improve the operation, safety, accessibility and condition of our Nation's highway system. Building on the reforms in MAP-21, President Obama recently proposed a budget for the next fiscal year and laid out his vision for a four-year surface transportation authorization to spur further economic growth and allow States to make sound multi-year investments.

MAP-21 IMPLEMENTATION HIGHLIGHTS

MAP-21 made important changes aimed at improving safety, rebuilding highways and bridges, expanding the TIFIA credit program, focusing on freight policy, accelerating project delivery, and moving toward a more performance-driven system. And the President's four-year reauthorization plan will strengthen these and other priorities even further. Under MAP-21, Congress provided for an investment of $40.4 billion for FY 2013 and $41.0 billion for FY 2014 for highway programs. MAP-21 helped ensure we are investing in the Nation's most important highways through the National Highway Performance Program (NHPP), which devotes 59 percent of the apportioned highway funds to improving the conditions and performance of the National Highway System (NHS), which carries more than 55 percent of all highway travel and 97 percent of truck-borne freight. The Surface Transportation Program (STP) provides States and localities funding for projects to preserve and improve the conditions and performance on

Federal-aid highways, bridge and tunnel projects on any public road, pedestrian and bicycle infrastructure, and transit capital projects, including intercity bus terminals.

MAP-21 built on our aggressive safety efforts, nearly doubling funding for FHWA's successful Highway Safety Improvement Program (HSIP). With broad eligibilities to achieve a significant reduction in fatalities and serious injuries on *all* public roads, an increased focus on performance, and new data system and improvement provisions, States are making strategic, data-driven investments that will continue to provide safety benefits long after HSIP funds are expended. FHWA works closely with the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration to coordinate our respective efforts to improve safety on a system that is common to all three agencies.

Through MAP-21, FHWA programs are also helping to improve the environment and provide safe transportation choices through the Congestion Mitigation and Air Quality Improvement Program and the Transportation Alternatives Program. MAP-21 also included programs designed to improve transportation to and within Federal and tribal lands. The Tribal Transportation Program provides funding for transportation facilities that are located on or provide access to Indian Country. In many cases, these facilities provide tribal members with access to basic community services such as health care or educational centers. The Federal Lands Transportation Program provides funding for Federal land transportation facilities that provide access to the most popular recreational destination points within the Federal estate. The Federal Lands Access Program provides funds for facilities that are owned by State and local agencies and are located on, or provide access to, Federal lands, with preference given to facilities that provide access to high-use Federal recreation sites or Federal economic generators.

In addition to these programs, MAP-21 enhanced flexibility to conduct innovative highway-related research, development, deployment, and training activities to address current and emerging needs facing our Nation's transportation system. At our Turner-Fairbank Highway Research Center Facility, we are providing the highway community with advanced and applied research and development related to new and existing highway technologies. The Center reviews, tests, studies, researches, and finds solutions to complex technical problems through the development of more economical, environmentally sensitive designs; more efficient, quality controlled construction, operational, and safety practices; and more durable materials. These efforts help create a safer, longer-lasting, and more reliable highway transportation system including in the face of greater risk of extreme weather events and natural disasters.

MAP-21 also reauthorized programs designed to foster the training and development of surface transportation-related workforces and to support disadvantaged business enterprises. FHWA continues to work collaboratively with our State partners to ensure that small businesses owned and controlled by socially and economically disadvantaged individuals are provided fair opportunities to compete for highway construction contracts. FHWA also supports State DOT and local agency workforce development through our National Highway Institute and Local Technical Assistance Program. The President's four-year reauthorization plan will allow us to implement lessons learned and significantly expand these efforts for the mutual benefit of our transportation industries and impacted communities.

Accelerating Project Delivery

The President's plan will also allow us to build on the successes in MAP-21 in accelerating project delivery by implementing new policies and procedures that will move USDOT and our Federal partners to fulfilling the President's stated goal of reducing the permitting and approval time for major infrastructure projects in half. FHWA launched the "Every Day Counts" (EDC) innovation initiative in 2010 to speed the completion of highway projects and address the challenges presented by restricted public sector budgets. EDC encourages the use of proven technological innovations and enhanced business processes to address such challenges and to facilitate doing more with less at the State and local levels. The EDC initiative is a State-based model in which FHWA coordinates the rapid deployment of proven, market-ready strategies and technologies to shorten the project delivery process, enhance roadway safety, reduce traffic congestion, and protect the environment. Through the EDC initiative, the FHWA works with the full spectrum of stakeholders to identify a new collection of innovations to champion every 2 years. After identifying the various EDC technologies for deployment, States, local public agencies, and Federal Lands Highway divisions select the innovations which make the most sense for their jurisdictions' unique needs and approaches, establish performance goals related to the selected innovations, and commit to finding opportunities to get those innovations into practice quickly.

The successes in shortening project delivery and increased awareness of the innovations promoted under EDC are recognized throughout the MAP-21. Highlights of FHWA's achievements with EDC described below demonstrate real savings of time and cost around the country resulting directly from the deployment of technological and procedural innovation.

Since EDC's inception, every State Department of Transportation (State DOT) has utilized one or more of the promoted innovations. For example, in the first phase of EDC, over 150 new or updated programmatic agreements were initiated to streamline the process for handling routine environmental requirements, reducing review time on projects. As a result, currently all 50 States have programmatic agreements in place. Oregon DOT, National Marine Fisheries Service, and the FHWA developed a programmatic agreement to provide Endangered Species Act coverage. This programmatic agreement reduced review times from approximately 170 days to 38 days on applicable projects.

Additionally, since EDC-1, more than half of the State DOTs have implemented a Planning and Environmental Linkages process to reduce duplication of work and produce more informed and faster project-level decisions on environmental considerations. Agencies have designed or constructed more than 2,500 replacement bridges using accelerated bridge construction techniques since October 2010, reducing construction time and associated traffic delays. For example, Nevada replaced two bridges in Mesquite using the slide-in bridge technique. The roadway was shut down for just 56 hours as opposed to the months of construction zone delays under traditional construction methods, which saved commuters time and fuel costs. Due to benefits like these, in a number of States including Wisconsin and Alaska, accelerated bridge construction techniques are now routinely used.

In MAP-21, Congress authorized for use on Federally-funded highway projects the once experimental Construction Manager/General Contractor (CM/GC) project delivery method promoted under EDC-1. In my home State of Maine, the State DOT used the CM/GC approach to replace two washed-out bridges. Using the project delivery method enabled Maine to

construct a temporary bypass bridge in 9 days and open permanent replacement bridges in 82 days.

MAP-21 also expanded eligibilities associated with right-of-way acquisition in order to expedite project delivery, which was also a focus of EDC-1 innovations aimed at flexibilities in right-of-way and utility accommodation. MAP-21 codified the enhanced processes promoted under the Planning and Environmental Linkages and Programmatic Agreement innovations to streamline and better coordinate environmental evaluations and reduce review times.

Other provisions of MAP-21 further endorse the FHWA's approach to the accelerated deployment of innovation. The Technology and Innovation Deployment Program (TIDP) provides funding focused on the deployment of innovation in all aspects of highway transportation through three programs: Accelerated Innovation Deployment (AID) program, Strategic Highway Research Program (SHRP), and Accelerated Implementation and Deployment of Pavement Technologies. The AID program provides for demonstration programs, technical assistance, and development of improved tools and methods to accelerate the adoption of proven innovations into standard practice. FHWA's Center for Accelerating Innovation, created in April 2012, is responsible for development of innovation policy for FHWA as well as leadership and coordination of EDC and the other initiatives developed to fulfill the goals of the AID program.

FHWA launched the State Transportation Innovation Council (STIC) Incentive Program in September 2013. The STIC Incentive Program offers technical assistance and funds to support the costs of standardizing innovative practices in a State transportation agency or other public sector STIC stakeholder. As of March 2014, 6 States have taken advantage of the opportunity. Examples of innovations being accelerated into statewide, standard practice under the STIC Incentive Program to date include Missouri DOT developing connection details and specifications for Fiber Reinforced Polymer full-depth bridge deck panel and Pennsylvania DOT creating a compendium of best practices for Rumble Strip Installation on Thin Pavement Overlays.

Also, FHWA launched the AID Demonstration Grant Program on February 19, 2014. Under this program, funds are available to implement an innovation in any aspect of highway transportation including planning, financing, operation, structures, materials, pavements, environment, and construction on any project eligible for assistance. Approximately $30 million ($15 million per FY13 and FY14) in incentive funding is being made available through this program. Applications are currently being accepted on a rolling basis from State DOTs (and sub-recipients), Federal Land Management Agencies, and tribal governments.

Issuing Guidance and Rulemakings

MAP-21 required our immediate action to ensure that Federal, State, local, and tribal transportation partners were ready when the Act became effective on October 1, 2012. The development and issuance of guidance and rulemakings is a central component to FHWA's implementation efforts. Before MAP-21 took effect, we created a website to post related guidance documents and other information, including a bill summary, fact sheets, funding tables, and questions and answers on a wide range of program and policy changes. Since then, FHWA has provided further outreach to partners and issued additional guidance and rulemakings, some of which are described below, to help ensure MAP-21 has its intended effect nationwide. The

guidance and rulemakings are already having an impact. For example, the guidance we issued on the provision allowing the final environmental impact statement and record of decision to be combined has enabled five projects to take advantage of this innovation and is being considered on many other projects.

FHWA has met a number of statutory deadlines, and we are actively working on the remainder. For example, we have implemented the MAP-21 provisions calling for rulemakings to establish National Environmental Policy Act (NEPA) categorical exclusions for projects that can proceed without the preparation on an environmental impact statement or environmental assessment. Jointly with the Federal Transit Administration (FTA), FHWA completed a final rule well ahead of the statutory deadline implementing the categorical exclusion t for actions following declarations of emergency. Washington State used this categorical exclusion for emergencies for the repairs needed to the I-5 Skagit River bridge last year. FHWA and FTA also published a final rule establishing two new categorical exclusions for projects in an existing operational right-of-way or with limited Federal assistance to help sponsors advance their transportation projects without unnecessary delays.

In the area of performance management, FHWA is using a comprehensive approach to develop rulemakings that will help States and MPOs make data-driven decisions and efficient use of limited resources. We are publishing rulemakings in three phases to establish performance measures: (1) safety; (2) infrastructure; and (3) freight, traffic congestion, and air quality. FHWA is also planning to issue program-related rulemakings that have performance components in a timeframe closely coinciding with the three phases. This will provide a comprehensive overall approach to implementation of the MAP-21 performance requirements. Over the last couple of years, FHWA has undertaken extensive public outreach to ensure that the rules we draft not only address statutory requirements, but also reflect an understanding of how performance management can be effectively implemented. I am pleased to report that on March 11, 2014, FHWA published the first of these rulemakings seeking public comment on the safety-related performance measures.

Freight

At U.S. DOT, we have taken the lead on improving our Nation's freight movement because we know that in order to compete in a global economy, we need to move quickly and efficiently more than 48 million tons of goods each day, worth nearly $46 billion. MAP-21 provided DOT with opportunities to improve freight movement throughout our Nation, and the President's four-year reauthorization plan will greatly accelerate these efforts by establishing a designated $10 billion freight program – one in which freight stakeholders will have a meaningful seat at the table in directing Federal funds in concert with state and local governments. In establishing a national freight policy, MAP-21 required the Secretary to develop a National Freight Network (NFN), create a National Freight Strategic Plan, and encourage States to develop comprehensive State Freight Plans to include immediate and long-range freight planning activities and investments.

Secretary Foxx has continued the freight initiatives launched by Secretary LaHood, including the internal Freight Policy Council and the National Freight Advisory Committee. The Council, chaired by Acting Deputy Secretary Mendez, brings together senior leadership, including modal administrators as well as policy, budget, economic, and research experts, to oversee the

implementation of MAP-21's freight provisions such as development of the National Freight Strategic Plan. The National Freight Advisory Committee (NFAC), created last year, is engaging both the public and private sector through public meetings, subcommittee work and webinars as we implement MAP-21 provisions. The NFAC is contributing directly to the development of the National Freight Strategic Plan, as DOT seeks to improve the way America moves freight.

As part of our implementation of the National Freight Network, FHWA released a draft highway Primary Freight Network (PFN) and received over 300 comments in 90 days. We are reviewing these comments in advance of issuing a final designation. The PFN and the resulting NFN will help us better focus resources on the highways that are most critical to the movement of goods. The NFN includes three components: the highway PFN, designated by the Secretary, portions of the Interstate System that are not designated as part of the highway PFN, and critical rural freight corridors. The Secretary will designate the Nation's most critical existing Interstates and other roads as part of the PFN and will consider adding other existing and planned roadways necessary for the efficient movement of goods. We are also developing guidance and technical assistance for States to designate critical rural freight corridors and will request submission of these corridors later this spring. Our work on this network designation has also highlighted a need to work more closely with officials in metropolitan areas to better understand the importance of urban roads that are critical to moving freight.

To encourage and guide the development of State Freight Plans, the Department issued interim guidance in the fall of 2012, followed by webinars, technical assistance from the FHWA Division offices and face-to-face meetings with States. Most States are now actively developing or revising their State Freight Plans, and many have established State freight advisory committees.

TIFIA

To support infrastructure efforts and job creation, MAP-21 offered a significant boost to our Transportation Infrastructure Finance and Innovation Act Program (TIFIA). MAP-21 transformed TIFIA into the largest transportation infrastructure loan program in history, providing communities across the United States yet another great resource to help them invest in major transportation projects and create jobs in the process. The $1.75 billion total that Congress authorized under MAP-21 for TIFIA, assuming the same general subsidy level as for the present portfolio, can lead to $17 billion in loans for needed transportation projects around the country. And those loans can then lead to billions more in private sector and other investments. That is a very effective multiplier, and there is no shortage of good projects that can use the needed resources TIFIA provides.

Under MAP-21, TIFIA has supported critical projects like the Downtown Crossing section of the Louisville, Kentucky and Southern Indiana Ohio River Bridges Project, which will create a new bridge across the Ohio River as well as eliminate design deficiencies and safety hazards through reconstruction of the Kennedy Interchange in downtown Louisville. TIFIA also has provided assistance to vital transit projects such as the Regional Connector in Los Angeles, which connects three existing transit lines, offering thousands of area residents more efficient and convenient access to jobs, education, and other ladders of opportunity.

In response to the rolling, first-come, first-served process enacted under MAP-21, we have received 38 letters of interest from project sponsors requesting credit support. DOT has engaged with all of the project sponsors and is moving to advance eligible projects Since the passage of MAP-21, we have closed loans for eight projects, providing nearly $4 billion in credit assistance and nearly $13 billion in total infrastructure investment.

To help the transportation community better understand the new TIFIA process, we have conducted several broad-based webinars and on-site workshops. We posted updated Q&As on the TIFIA and MAP-21 websites, focusing largely on changes in the application process. DOT also has posted an updated TIFIA Program Guide and updated standard Loan Agreement Template on the TIFIA website.

Performance Management

As members of the transportation community, we are collectively confronted with the challenge of meeting the needs of our aging highway and bridge infrastructure amidst many fiscal challenges. MAP-21's infusion of performance-based planning and programming into State and MPO investment decision-making will go a long way to help preserve and improve our surface transportation assets, and we should seek to build on these efforts in the next authorization.

Over the past several years, FHWA has taken a number of proactive steps to prepare the Agency to move toward a more performance-based Federal highway program. Beginning in 2009, we formed a Performance Management Transition Team to recommend how FHWA could be better prepared to carry out the Federal role of performance management in the Federal highway program. In 2011, we created a new Office of Transportation Performance Management within FHWA to lead, guide, coordinate, and develop the cross-cutting aspects of a performance-related highway program. Taking these steps has enhanced our ability to lead the move toward a more performance-based Federal highway program after the passage of MAP-21.

As we move toward a performance-based program, it is crucial that we continue to engage stakeholders not only in our rulemaking efforts, but on an ongoing basis. To that end, in 2013, FHWA created a Transportation Performance Management website that provides a forum for our partners and stakeholders to collaborate and find resources and information on transportation performance management. The website includes information on the implementation schedule for performance provisions under MAP-21, noteworthy practices from States and local governments, a library of resources including presentations and other tools from FHWA and our partners, and news and events hosted by both FHWA and our partners related to transportation performance management.

We also host quarterly webinars with FHWA staff, State DOTs, MPOs, transit providers, and other stakeholder agencies. Just last week, we held a "Let's Talk Performance" webinar focused on sharing best practices of the Texas Department of Transportation, Texas A&M Transportation Institute, Caltrans, and the University of Maryland Center for Advanced Transportation Technology Laboratory, for data collection, storage, access, and analysis in implementing MAP-21 performance provisions. This type of continued outreach is critical as we implement the MAP-21 provisions that, collectively, will transform many elements of our programs to focus on the achievement of performance outcomes.

FY 2015 BUDGET REQUEST FOR FHWA

Moving beyond MAP-21, we believe that the next reauthorization must be a comprehensive one that continues the focus on safety, freight, streamlined project delivery, and enhanced performance management, while increasing our investment in multimodal freight projects and doing more to connect communities to centers of employment, education and service. The President's 2015 budget proposes a 4-year reauthorization and requests $48.6 billion for FHWA in FY 2015 to maintain and improve the safety, condition, and performance of our national highway infrastructure, and enable FHWA to provide effective stewardship and oversight of highway programs and funding. The President's budget not only fills the looming shortfall in the highway account of the Highway Trust Fund for the next four years, it provides for sizeable growth in highway investment – a boost of almost 20 percent to help us address the many critical needs we have across the national highway network.

This budget includes continued funding for the Highway Safety Improvement Program; National Highway Performance Program; Surface Transportation Program; Congestion Mitigation and Air Quality Improvement Program; Transportation Alternatives Program; Metropolitan Transportation Planning; Federal Lands and Tribal Transportation programs; and Research, Technology, and Education. It also includes funding for Emergency Relief; Territorial and Puerto Rico Highways; Ferry Boats and Ferry Terminal facilities; On-the-Job Training; and Disadvantaged Business Enterprise.

The budget proposes to continue using TIFIA to leverage Federal dollars in a time of scarce budgetary resources, facilitating private participation in transportation projects and encouraging innovative financing mechanisms that help advance projects sooner than otherwise possible.

Further, the FY 2015 budget continues the focus on accelerating project delivery through expedited environmental review and elimination of duplicate processes. Also, it continues FHWA's commitment to innovation through programs such as expanded tolling authority, as provided in MAP-21.

The budget also includes several new initiatives we believe are essential to the Nation's transportation infrastructure network, including the Multimodal Freight Investment Program, which will advance critically-needed multi-modal or multi-jurisdictional projects to improve goods movement, economic competitiveness and sustainability. The Critical Immediate Investments Program (CIIP) will dedicate necessary resources to high-priority initiatives such as bridge repair and rehabilitation, safety on rural roads, and state of good repair on the NHS. Through the Ladders of Opportunity program, the budget proposes to bolster workforce development efforts to assist workers in developing long-term skills and strengthen the transportation workforce, as well as promote connectivity to underserved communities. The budget also proposes a new program to support critical, large projects accessing Federal and tribal lands.

The Performance Management Data Support Program will provide enhanced data and analytical tools to MPOs, States and the Department, to assist in meeting expanded performance management goals under MAP-21. The budget also proposes a competitive initiative, Fixing and Accelerating Surface Transportation (FAST), to promote best practices and spur innovation in transportation infrastructure by providing incentives to States, MPOs, Tribal governments, and

other Federal agencies to improve strategic transportation investment decision-making, further incorporate performance management into project selection, and encourage other reforms to improve strategic transportation outcomes.

CONCLUSION

Thank you again for the invitation to appear before you today to highlight our achievements in implementing MAP-21 and to discuss the President's budget request. FHWA programs not only help create jobs today that build and maintain our infrastructure, but also enable the movement of people and goods, tie communities together and support our economy.

I look forward to continued work with you and your staff as we build on the reforms in MAP-21 and move toward a new comprehensive surface transportation authorization.

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Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
Hearing on "Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation"
March 12, 2014
Questions for the Record for Gregory G. Nadeau

Questions from Chairman Tom Petri:

1. For many highway projects, navigating the NEPA process is only the first step in the federal regulatory process. Often, a project sponsor will need a permit from a federal resource agency before construction can begin. These permitting requirements often take multiple years to complete, after the NEPA process is finished. The President's budget request recognized how problematic this is, and recommended the creation of an interagency permitting improvement center to streamline and reform the permitting and review process.

   - Why is this important, and what more can be done, by Congress and by your office, to improve coordination between Federal Highway Administration (FHWA) and the permitting agencies to cut back on this duplication of time and effort?

   As you point out, project construction often cannot begin until applicable permits are obtained, so additional time related to obtaining permits is required before project implementation can begin and the transportation benefits associated with the project can be achieved sooner. FHWA continues to expedite projects by improving interagency coordination via agreements, such as programmatic agreements supported by FHWA's Every Day Counts (EDC) initiative, and by participating in interagency project teams and committees, such as the Federal Infrastructure Permitting Improvement Steering Committee, the Transportation Rapid Response Team, and the Unified Federal Review for disaster recovery projects. Specific examples of improved coordination coming out of these efforts include the development of a Memorandum of Agreement between FHWA and the U.S. Coast Guard, and updates to the existing guidance on Environmental Review and U.S Army Corps of Engineers Section 404 permits.

2. FHWA's regulations governing categorical exclusions (CEs) include two lists-a "(c) list" for projects that almost never involve significant impacts to the environment and a "(d) list" for projects that may need additional documentation before moving forward. The Committee, however, has received reports from numerous state departments of transportation and metropolitan planning organizations expressing concern over FHWA's review for CEs. For example, one report indicated that for the construction of a pedestrian walkway-a "(c) list" activity under 23 CFR

771.117(c)(3)-FHWA required a noise study and 1,000 pages of documentation before the project was allowed to move to construction.

- Do you agree that this type of delay and paperwork is contrary to the intent of NEPA's CE process?

  FHWA strives to ensure the CE process can be concluded as efficiently as possible. Our experience indicates that CEs are generally completed in 6 months or less, and many are completed in just a few days. Most are undertaken by State departments of transportation under programmatic CE agreements. In some instances, additional time may be required to screen for potential environmental impacts to determine if a CE is appropriate. In addition, the CE process does not eliminate the need to address potentially controversial issues and to comply with other statutory and regulatory environmental permitting requirements such as Clean Water Act Permitting and Endangered Species Act compliance.

- What will you do to ensure that "(c) list" projects in the future will not be subjected to this type of delay?

  The FHWA rulemaking to implement section 1318 of MAP-21 will address "(c) list" CEs and provide guidance on the use and application of CEs. In particular, the rulemaking will address CE programmatic agreements that can provide for more national consistency in implementation. Other means of reducing delay are to ensure that other requirements are met as concurrently as possible. The additional time to meet those requirements has the effect of placing the CE on hold. However, when the requirements are successfully met, the process allows the use of the CE rather than expending the resources, including time, to conduct an environmental assessment or environmental impact statement.

  Additionally, through EDC, we continue to work with our partners to accelerate environmental review and permitting requirements, including expanding use of programmatic agreements. Our efforts are focused on improving the quality, effectiveness, and timeliness of preparing the environmental documents necessary to meet all our environmental permitting and review responsibilities. Importantly, our State and local partners are demonstrating that we can do so while enhancing positive and sustainable environmental outcomes.

3. Section 1318 of MAP-21 required U.S. Department of Transportation (U.S. DOT) to survey the states and propose new CEs. I know that U.S. DOT has completed the survey and released a proposed rule in September, but the comment period has been closed for approximately 4 months. When will the final rule be issued?

FHWA met the deadlines for the required survey. We are currently drafting the final rule and considering the many comments received on several aspects covered by this rule.

Question from Rep. Sam Graves:

1. As states continue to struggle with tight transportation budgets and the high costs of maintenance, are there tools or reforms ready to be implemented that could play a role in reducing project costs, like the use of life-cycle cost analysis, alternative design, or alternative bid? If they are not ready to be implemented nationwide, what barriers remain in the way of broader adoption?

   Yes, in fact, FHWA is promoting or advancing several initiatives, such as alternative technical concepts and life-cycle cost analysis tools, aimed at reducing overall project costs.

   In 2010, FHWA launched the Every Day Counts (EDC) initiative to expedite project delivery and to address the challenges presented by restricted public sector budgets. EDC encourages and supports State and local agencies in getting selected proven innovations into widespread use. Under EDC, FHWA has promoted innovative contracting methods, such as Design-Build, Construction Manager/General Contractor (CM/GC), and Alternative Technical Concepts, which often result in faster project delivery and reduced construction costs. While the use of each of these innovative contracting methods has increased, several States are not able to utilize these methods due to lack of authority under State or local law or regulation. Through EDC, we have also promoted other innovations aimed at expediting construction and reducing costs, such as Accelerated Bridge Construction, Intelligent Compaction, and 3D Engineered Models.

   In addition, FHWA issued a technical advisory in the fall of 2012 that called for Alternative Bidding for pavement type selection. This advisory has been instrumental in allowing States to increase the number of potential bidders on a project, as well as the final pavement type selection.

   With respect to life cycle cost analysis, FHWA has, for many years, been advancing project life cycle cost analysis as an effective decision making practice. Additionally, FHWA is currently conducting a pilot project with three States (MN, NY, and LA) to develop initial asset management plans which will serve as models to be studied or serve as examples by agencies responsible for managing highway infrastructure assets both at the State or local level. More information on this effort can be found on our webpage at: http://www.fhwa.dot.gov/asset/tamp/.

Questions from Rep. John Duncan:

1. MAP-21 included some streamlining provisions. One of them instituted fines for any agency that misses a deadline as part of the NEPA process. Have any of these fines been issued? If so, how often or how many?

   Each Federal agency of jurisdiction is responsible for rescinding its funds, and the agency's respective Office of Inspector General is required to report to Congress within 120 days after the end of the fiscal year during which a rescission occurred. FHWA is unaware of any rescission occurring to date. FHWA and FTA issued joint guidance on implementing this provision on March 28, 2014, and it is available at www.fhwa.dot.gov/map21.

2. In MAP-21, we increased the funding for the TIFIA program from $122 million a year to approximately $1 billion a year. Have applications for this funding increased? How much of the total $1.75 billion have gone out in loans?

   Prior to MAP-21, the TIFIA Program was vastly oversubscribed, with far more project sponsors seeking TIFIA credit assistance than TIFIA's budget authority could support. Demand for TIFIA assistance has stayed strong since the enactment of MAP-21. The Department has received 38 Letters of Interest for 39 projects seeking about $18.5 billion in TIFIA credit assistance to finance approximately $51.5 billion in infrastructure investment around the United States. The Department has developed a comprehensive and an efficient process to review requests for TIFIA credit assistance aimed at ensuring project eligibility and creditworthiness. Out of all submitted Letters of Interest, many have been approved or are in final approval stages, while others are undergoing creditworthiness reviews. Since the enactment of MAP-21, the Department has closed 15 loans and provided over $6 billion in credit assistance, stimulating more than $21 billion in additional infrastructure investment across the United States.

Questions from Rep. Grace Napolitano:

1. I would like clarification on the data which FHWA is using to assess bridge impacts in the ongoing Comprehensive Truck Size and Weight Study. It is my understanding that FHWA has indicated that the agency will use data on only 400 bridges, approximately 0.1 percent of the more than 600,000 bridges in the National Bridge Inventory. Is this accurate?

   In evaluating the study parameters identified in MAP-21, FHWA has determined that the most prudent approach that will produce the results required for this study is to employ the use of a representative sample of bridges and apply detailed structural analysis methods. This structural analysis entails detailed data analysis and modeling for each bridge type selected. For this study, we are analyzing more than 500 bridges. These bridges were selected from the National Bridge Inventory (NBI) based on bridge type, age, region of the country that they are located in, and other factors. As a point of

reference, as of December 2013, the NBI contains records on 607,751 highway structures. Of this amount, 155,171 are on the National Highway System (NHS) and/or the National Truck Network (NN).

In the analysis of the bridges included in the study, FHWA is using traffic volume information and vehicle classification and vehicle weight data reported annually to FHWA by the States through the Highway Performance Monitoring System (HPMS) to understand the "loadings" to which the bridge structures are being subjected. Additionally, detailed bridge models and data are used in the National Cooperative Highway Research Program (NCHRP) 12-78 project that produced NCHRP Report 700. The NCHRP Report 700 included an analysis of 1,500 bridges representing various material types and configurations using the AASHTOWare™VIRTIS© Model, which is the model being used to prepare this study. In order to complete the selection of bridges needed in the study, additional bridge models and data from a few States have been obtained to ensure a nationally representative set of bridge structures.

2. I also understand that the Study plans to limit the analysis to bridges located on three 'highway scenarios': 1) the Interstate system; 2) Primary Arterials; and 3) all other highways comprising the NHS and/or the National Truck Network. The omission of local roadway and bridge data will critically affect the Study's bridge analysis, as well as its pavement, safety and cost analyses. Can you please explain how looking at just 0.1 percent of the bridges from these three categories in the National Bridge Inventory provides an adequate representative sample for the Study to produce accurate and credible results?

The vast majority of truck travel occurs on the Interstate System, the National Highway System, and the National Truck Network—highway systems of Federal interest. The combination of this and the use of a representative sample of bridges for a detailed structural analysis are well suited to produce the results required for this study. However, we understand that trucks do not travel solely on these systems. Trucks use local roads to access fuel, food, lodging, and terminal locations for loading and unloading freight. In light of this, FHWA is analyzing a representative set of local roads to estimate the impacts of various truck weight limits that are being studied, as requested by Congress.

3. Is FHWA limiting its sample of bridges in order to complete the study on time? Has FHWA considered requesting an extension of the timeline to complete the study, in order to be able to provide Congress with a more reliable, more accurate result?

The approach we have developed to conduct this study takes into account the requirements of the law and will be based on a complete, objective, technical analysis of the study areas outlined by Congress, including impacts on bridges. FHWA intends to deliver the Report to Congress by the deadline specified in MAP-21 and does not envision requesting an extension at this time.

4. Our Nation is already facing unprecedented deficits and our infrastructure is in dire need of repairs to its roads and bridges. FHWA estimates that to eliminate the nation's bridge deficient backlog by 2028, we would need to invest $20.5 billion annually, while only $12.8 billion is being spent currently. Bigger, heavier trucks produce more roadway and bridge wear and compromise the infrastructure. How will the Study account for bridges already suffering stress, including those that are load-posted (weight limited) and the nearly one-quarter of bridges which are structurally deficient or functionally obsolete, and the proportion of bridges which may become so in the foreseeable future?

In determining the representative sample of bridges for this study, factors such as bridge type, age, and region were used. Although load posted, structurally deficient, and functionally obsolete bridges are not explicitly being considered, there are bridges with these characteristics that are accounted for within the representative sample. An estimate of how many bridges may need to be posted, strengthened or replaced is an important component of this study.

5. Several states currently allow heavier trucks than the Federal limit, and because of grandfather rights do not have to comply with the Federal bridge formula. In the study, is FHWA specifically looking at the impacts on bridge condition in states that have allowed the higher weight truck configurations that are being studied, and particularly those that violate the Bridge Formula?

FHWA is assessing the impacts that trucks operating under a grandfathered bridge formula allowance have on bridges. Under Section 32802 of MAP-21, FHWA must assess the impacts that trucks operating above current Federal truck size and weight limits have on highway safety, crash rates, pavement and bridge infrastructure, delivery and cost of effective enforcement activities, and on the operation of other modes. This provision also requires that a comparative assessment be conducted between trucks operating at or below current Federal truck size and weight limits versus those that operate above those limits. Trucks operating under an exemption of Federal limits or under a grandfathered right will be treated as trucks operating in excess of current Federal limits.

6. Will FHWA evaluate and update its estimates of the increased costs of infrastructure damage that heavier trucks cause, and their level of underpayment for such damage?

FHWA will include an evaluation of the infrastructure impacts of vehicles that operate with size and weight limits in excess of the Federal law and regulations, and the cost and benefits of the impacts in dollars. Assessments of underpayment or overpayment are not being performed for the purposes of this study; these types of calculations are performed within cost allocation studies. Section 32801 of MAP-21 requires that the impacts that vehicles that operate with size and weight limits in excess of the Federal truck size and weight limits be identified; the study will include this requirement.

Questions from Rep. Peter DeFazio:

1. Your written testimony described the steps the FHWA was taking to move toward a performance-based Federal highway program. This includes compilation on the agency's website of best practices from state and local governments relating to performance management. What best practices have you identified with respect to the utilization of project level life-cycle cost analysis as required under the state performance management provisions contained in MAP-21 §1106; 23 USC 119(e) and the bridge and pavement management provisions in MAP-21 §1203; 23 USC 150(c)(3)?

FHWA has several efforts underway that showcase best practices, including those with respect to project level life-cycle analysis, used by transportation agencies and planning organizations to effectively manage highway infrastructure condition. Many of these practices focus on how highway agencies have used sound asset management principles to make investment decisions to maintain and improve infrastructure assets. Three of these efforts that are related to the new performance requirements in MAP-21include:

Project Life-Cycle Cost Analysis Resources *- FHWA has, for many years, been advancing project life cycle cost analysis as an effective decision making practice. Our transportation performance management website provides resources available to State and local agencies to assist them in conducting project level life cycle costs analyses. These resources include summaries of several State DOT experiences in their application of these techniques to better inform infrastructure investment decision making. More information on this effort can be found at: http://www.fhwa.dot.gov/infrastructure/asstmgmt/lcca.cfm.*

Transportation Asset Management Plans Pilot Studies *- FHWA is currently conducting a pilot project with three States (MN, NY, LA) to develop initial asset management plans which will serve as models to be studied or serve as examples by agencies responsible for managing highway infrastructure assets both at the State or local level. The plans being developed in each of these three States consider the requirements outlined in 23 U.S.C. 119(e), including network level life cycle costs and risk management analysis. More information on this effort can be found at:*

http://www.fhwa.dot.gov/asset/tamp/.

Transportation Performance Management Noteworthy Practices *- FHWA has been routinely posting noteworthy practices on our transportation performance management website. These practices showcase what State and local agencies and planning organizations are doing today to integrate performance into their transportation decision making process and cover a wide range of topics and applications. More information on these noteworthy practices can be found at:*

http://www.fhwa.dot.gov/tpm/resources/noteworthy.cfm.

2. To what extent have states taken advantage of the higher federal share under section 120(c)(3) of title 23? What do you see as possible impediments to or causes of reluctance by states to the use of this authority? Could you please offer some

suggestions for what could be done in the reauthorization of MAP-21 to increase the use of these innovative practices?

Two States (Georgia and Michigan) have taken advantage of the 5 percent increase in Federal share for projects under 23 U.S.C. 120(c)(3). Reluctance of States to use this authority could be due, in part, to the limitation of the 5 percent increase in Federal share to the National Highway Performance Program (NHPP), Surface Transportation Program (STP), and Metropolitan Planning Program apportionments. Additionally, the 5 percent increase in Federal share payable on a project does not represent additional Federal funding, but an authorization for a State to utilize more of its current Federal dollars on an eligible project to reduce the non-Federal match required by 5 percent. While the non-Federal match required on an eligible project is reduced by 5 percent, the pool of Federal funds available to other project is also reduced. The authority provides additional flexibility to States in terms of financial and program management, but this flexibility may not be needed if sufficient funding is available for a State or local agency to cover the required non-Federal share of projects.

STATEMENT OF
THERESE W. MCMILLAN
DEPUTY ADMINISTRATOR
FEDERAL TRANSIT ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION

BEFORE THE
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITEE ON HIGHWAYS AND TRANSIT
U.S. HOUSE OF REPRESENTATIVES

MARCH 12, 2014

Mr. Chairman, Ranking Member Norton, and Members of the Subcommittee:

Thank you for inviting me to appear before you today to report on the Federal Transit Administration's (FTA) progress toward implementing public transportation assistance programs under the Moving Ahead for Progress in the 21st Century Act (MAP-21) and to provide highlights of the President's bold vision for FTA's Fiscal Year (FY) 2015 budget proposal.

MAP-21 codifies some of President Obama's highest priorities for enhancing the safety of public transportation, strengthening our nation's transportation infrastructure, and streamlining government to serve taxpayers' needs more efficiently--all at a time when national transit ridership is on track to exceed 10 billion trips annually for the seventh year in a row.

The President's comprehensive four-year reauthorization plan will put our country on a path to adequately invest in transit safety, expansion, state of good repair, and augmenting core capacity at congested urban corridors. . These investments are needed to create the 21st century public transportation systems our nation deserves and needs to be competitive. Consistent with the President's plan, for FY 2015, FTA seeks $17.6 billion in funding--an increase of $6.8 billion or 63 percent over the FY 2014 enacted level.

The President's four-year reauthorization plan and our FY 2015 budget request continues FTA's focus on key priorities including improving safety; bringing transit assets into a state of good repair; and building system capacity to meet growing ridership demand. MAP-21, which took effect on October 1, 2012, authorized $10.6 billion in FY 2013 and $10.7 billion in FY 2014 for public transportation. FTA continues to make significant progress towards implementing MAP-21, including initiating a number of important regulatory changes and developing related guidance, with ample input from affected stakeholders. FTA's aggressive timetable helps to ensure that the American people reap the benefits associated with investing in public transportation services.

Despite our accomplishments thus far, which are discussed below, we continue to deal with funding challenges. Annual funding constraints imposed by the full FY 2013 and the partial FY 2014 continuing resolutions, coupled with cuts imposed by sequestration—including a $5 million cut in our administrative budget—has reduced our ability to move implementation forward at an even more rapid pace. FTA has approximately the same number of positions as it did in 1980; however, today FTA is responsible for three times as many statutory programs as in 1980 anda budget that has increased significantly over the years. This fact, together with the cuts to our

administrative budget, the government shut-down and the need to address recovery and relief efforts following Hurricane Sandy, have slowed our ability to implement significant new safety authority and decreased our capacity to exercise oversight over the agency's $10.5 billion budget and support stakeholders. In order to adequately administer FTA's programs, we require not less than the $114,400,000 requested in FY 2015 budget.

Fortunately, after a very challenging year for the FTA's Capital Investment Grant (CIG) Program – one in which sequestration and other budget cuts forced FTA to be unable to keep its funding promises and make new recommendations for the first time in decades - FY 2014 offers brighter prospects. Notably, the Consolidated Appropriations Act allows us to honor our existing funding commitments through the CIG Program and to fund new projects previously recommended for New Starts/Small Starts funding.

Below we highlight our priorities for investment in FY 2015.

Safety Authority

I. Public Transportation Safety Program

MAP-21 gave FTA long-sought authority to establish safety criteria for all modes of public transportation and establish minimum safety standards for public transportation vehicles used in revenue operations. And the President's comprehensive four-year authorization plan will further refine and strengthen these authorities. Implementing the new safety provisions in MAP-21 has been among our highest priorities. In October 2013, FTA issued an expansive Advanced Notice of Proposed Rulemaking (ANPRM) requesting comment by January 2, 2014 on a number of questions related to the implementation of the new MAP-21 requirements for a National Transit Safety Plan, for Transit Agency Safety Plans, a Safety Certification Training Program, and a National Transit Asset Management System. The ANPRM heralds the adage that keeping transit systems in good working order goes hand-in-hand with efforts to keep them safe. Just as importantly, FTA knows that it cannot implement this program alone, and the ANPRM gives industry leaders the chance to weigh in and shape the new safety rules as early as possible. FTA is currently reviewing over 2,500 pages of comments submitted by safety advocates, industry leaders and the general public on key topics. FTA is sensitive to stakeholder concerns about this new safety oversight authority and will build a 21st Century regulatory program over the next several years only after careful consideration of all comments.

The establishment of a new safety office is another FTA achievement under MAP-21. The Office of Transit Safety and Oversight is responsible for administering and overseeing the National Transit Safety Program. However, keeping rail public transportation safe requires a partnership between FTA and states with state safety oversight (SSO) obligations—one in which FTA will act as a leader, facilitator, and final regulatory authority and SSOs will serve as effective day-to-day safety regulators capable of holding transit rail systems accountable for safe operations and ensuring they comply with minimum safety standards. To support this partnership, FTA has reached out to the 31 states with SSO obligations for safe rail transit, providing technical assistance where necessary, to ensure that their programs will conform to MAP-21's requirements. Additionally, FTA will work to adapt a comprehensive safety approach to all modes of public transportation, including the bus segment, within its safety authority.

Last week, FTA finalized the formula for SSO grants and released both the fiscal year 2013 and 2014 funds for obligation. The FY 2015 budget request includes $23 million so that FTA can

continue to provide operational support for SSO programs. Uniform standards together with these resources will improve public health and safety by reducing public transportation-related fatalities and injuries across the country.

II. Public Transportation Emergency Relief Program

FTA has been very aggressive in implementing the provisions of MAP-21's emergency relief program, which provides disaster assistance to transit agencies in the wake of major natural disasters and other emergencies. The authorization of this new program arrived just in time for Hurricane Sandy, which, based on the extent of storm damage, was the worst public transit disaster in the history of the United States. The Disaster Relief Appropriations Act of 2013 appropriated $10.9 billion for the Emergency Relief Program for recovery, relief, and resiliency efforts in areas affected by Hurricane Sandy. Unfortunately, sequestration reduced this amount by $545 million The bill enabled funds to be transferred to other DOT modes; those transfers have totaled $191 million to date., FTA has allocated $10.2 billion in multiple tiers. Approximately $3 billion of the total will be awarded on a competitive basis for resilience projects that protect critical transit infrastructure from being damaged or destroyed by future natural disasters.

While we have been extraordinarily responsive to the needs in the wake Hurricane Sandy, at present, FTA has only those emergency relief funds that Congress made available exclusively for Sandy. Despite previous FY budget requests, Congress did not appropriate funds for this program in FYs 2013 and 2014 leaving the agency with no funds to address a new disaster during the remainder of the fiscal year. The Administration encourages Congress to appropriate the $25 million requested for this program in FY 2015 so that if another unfortunate disaster strikes and takes public transportation systems offline, FTA will be in a position to respond immediately.

Given the funding for Sandy, FTA was quick to issue an interim final rule that established eligible activities, processes, and procedures for applying for grants. After considering comments, FTA expects to publish a final rule this summer.

State of Good Repair

The Administration has made increased funding for state of good repair purposes a centerpiece of its annual budget requests, and for FY 2015, has requested a total of $7.7 billion for its State of Good Repair and Bus and Bus Facilities Formula Grant Programs. Since 2008, FTA has highlighted the critical need to bring the nation's aging transit assets into a state of good repair, especially in large urban areas, and to hold transit agencies accountable for implementing a more strategic approach to managing the lifecycle of assets. Well-designed infrastructure investments have long-term economic benefits, but those benefits are not being fully realized because of years of under-investment in maintaining and recapitalizing our public transportation system. To help address this crisis, FTA has obligated $1.9 billion—about one-fifth of our share of funds under the American Recovery and Reinvestment Act of 2009 for bus and rail and related equipment and facilities rehabilitation projects. We also allocated more than $2.2 billion in discretionary bus funds over the last four years for bus and bus-related equipment and facility rehabilitation needs.

The Department of Transportation's recent report, *2013 Status of the Nation's Highways, Bridges and Transit: Conditions and Performance*, based on 2010 data, finds that the nation's state of good repair and preventive maintenance backlog for transit is at an all-time high of $86 billion. The report indicates that as much as $24.5 million from all sources of Government is needed per year for 20 years to improve the condition of transit rail and bus systems and buy down that backlog. Meanwhile, State and local governments, combined with the transit agencies' funding, are shouldering approximately 80 percent of the cost of annual investments to preserve, grow, and operate the nation's transit systems. Making a down payment on this substantial backlog is critical to not falling farther behind in our commitment to modernize the transportation infrastructure that tens of millions of riders depend on every day and to compete in the 21st Century.

Fixed Guideway and Transit Asset Management

MAP-21 incorporated FTA's proposal on this essential area by creating a more needs-based state-of-good-repair formula program for fixed guideway systems. The purpose of the State of Good Repair Grants program is the maintenance, replacement, and rehabilitation of fixed guideway capital assets, along with the development and implementation of transit asset management plans. This new program helps to address public transportation state-of-good-repair needs, so fixed guideway agencies have a predictable two-year stream of Federal funds to help them address an enormous maintenance and repair backlog.

As of February 28, 2014, FTA has awarded 92 formula grants funded by the State of Good Repair Program for over $921.6 million. The FY 2014 apportionments were published in the *Federal Register* earlier this week. FTA has requested an additional $5.719 billion to support the program in FY 2015, of which $3.55 billion represents Fix-It-First funding.

FTA recognizes that while a sustained Federal contribution to our state-of-good-repair needs is in the best interest of our nation's public transportation systems, this problem cannot be solved by Federal action alone. Tackling this problem requires a concerted effort by Federal, state, and local resources in a coordinated, strategic manner. That is why FTA is establishing a national Transit Asset Management (TAM) System. The TAM program authorized under MAP-21 is vitally important to carrying out infrastructure investments effectively and responsibly.

This innovative program requires all FTA funding recipients to adopt a strategic and individual approach for managing their capital assets and be accountable for leveraging all available resources to bring their systems into a state of good repair. A strategic approach to ensure that assets are in a state of good repair will be bolstered by the requirement that the Metropolitan Planning Organizations and transit providers set investment targets in their transportation improvement program to demonstrate recipients are meeting Federal safety and TAM goals. However, FTA is sensitive to the unique needs of our largest and smallest public transit providers – so we recognize that state of good repair and transit asset management programs cannot be a one-size-fits-all proposition.

FTA has sponsored a successful public dialogue with over 700 stakeholders to obtain critical input on policy implementation. Subsequently, FTA used the aforementioned Safety ANPRM as an appropriate vehicle for seeking public comment regarding the requirements of the national TAM System. This includes proposed options under consideration for defining and measuring state of good repair, and the relationship among safety, transit asset management and state of

good repair. Comments we received on the ANPRM will be very helpful to us in drafting a proposed definition of state of good repair in the future rulemaking on TAM.

FTA will solicit comments in the *Federal Register* on ways to improve how asset inventories and asset conditions are reported to its National Transit Database—an important first step toward refining estimates of the nation's transit state-of-good-repair backlog. This is a very important initiative that will assist FTA in ensuring that local transit investment financed with Federal dollars are being effectively targeted to a transit agency's greatest needs. It will also assist us in ensuring that Federal investments are being well-managed and well-utilized.

Bus and Bus Facilities Formula Program

MAP-21 followed the Administration's request to fold the discretionary bus program into a formula program. This capital program provides funding to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities. MAP-21 authorized $422 million in FY 2013 and $428 million in FY 2014 for this program. We have heard from our stakeholders that annual funding under this program is insufficient to meet rural bus acquisitions due to replacement or expansion needs once distributed by formula among hundreds of recipients. And data show that about 40 percent of bus assets are in marginal or poor condition.

To help address this need, the FY 2015 President's budget includes $1.93 billion to further promote bus and bus facility recapitalization, a more than threefold increase in funding. The budget also proposes that 30 percent of the funding be discretionary grants to help address one-time large investments that a formula program cannot address. The remaining 70 percent will be distributed by formula. Of that amount, $1.51 billion is provided from Fix-It-First funding.

Economic Competitiveness

Mobility is critical to our nation's economy. FTA's Capital Investment Grants Program, its newly proposed Rapid Growth Area Transit Corridor Program, and its continued investment in providing "ladders of opportunity" through workforce development opportunities support this goal.

Capital Investment Grants (New Starts/Small Starts)

The FY 2015 budget request of $2.5 billion for Capital Investment Grants signals the Administration's continued commitment to important and strategic investments in public transportation infrastructure. To get the most out of the money we have, we have to address the cost of projects by reducing red tape. Over the past year, FTA has streamlined its New Starts and Small Starts Capital Investment Program through a final rule and accompanying guidance, which will help local project sponsors potentially shave six months or more off the time required to move major projects through the New Starts pipeline. FTA now has a more straightforward approach for measuring a proposed transit project's cost-effectiveness; has added economic development factors into the ratings process; and is now considering an expanded range of environmental benefits.

FTA has recently rolled out a new tool to help project sponsors estimate transit trips on proposed projects. The new method, known as Transit STOPS (Simplified Trips-on-Project Software), will enable some communities to reduce from two years to two weeks the time needed for project

sponsors to develop ridership forecasts on planned projects. This new tool could save taxpayers in communities that do not currently have travel forecasting tools as much as $1 million. These internal steps, as well as the measures to be proposed in the President's comprehensive four-year reauthorization plan, will move us toward fulfilling the President's stated goal of cutting in half the permitting and approval time for major infrastructure projects.

Rapid Growth Area Transit Program

The FY 2015 budget request includes $500 million for a new Rapid Growth Area Transit Program, a discretionary program directed at fast growing communities. The program will provide expeditious access to resources for bus rapid transit (BRT) services to meet the transit needs of cities across the country experiencing significant population growth and transit ridership growth. Such growth, while good for the economy, can strain existing infrastructure and can increase air pollution. Communities receiving funds under this program will be able to use up to 30 percent of the net project costs of Federal-aid Highway formula funds to complement BRT development in the project corridor bringing the Federal share to 80 percent of the total project costs.

Workforce Development

The Innovative Transit Workforce Development Program established under the authority of 49 U.S.C. 5322 provides funding to transit agencies and partners with innovative solutions to pressing workforce development issues. The FY 2015 budget includes a request for $20 million so that we can continue to foster the development of a stronger workforce. These funds will create jobs by providing "ladders of opportunity" for individuals to gain technical skills to support the transit industry as it builds a 21st century workforce. Supporting a highly-skilled transit workforce is critical to maintaining a competitive and efficient public transportation system. As public transportation in our nation enjoys resurgence and investments continue in the physical capital of our transit systems, it is essential to build and maintain human capital as well. The transit industry has been in flux in recent years. Rapidly changing technology has heightened the need for continued training in a variety of public transportation occupations. Attrition in the industry will result in a significant loss of organizational knowledge, and growing transit ridership along with plans to expand service make the need to hire new talent ever more important.

Over the last three years, FTA has directed a total of $10 million in funds to enable talented adults and military veterans the opportunity to learn new skills and embark on successful careers in the transit industry. It has been a worthwhile investment. For example, through Denver Regional Transportation District's "Workforce Initiative Now" program, roughly 280 college-aged teens and adults have been trained and/or hired to work on local transportation construction projects.

Quality of Life in Communities

Transit systems across the country play an important role by carrying tens of millions of riders each day to jobs, employment centers, schools and colleges. According to FTA's National Transit Database, more than 10 billion unlinked transit trips are taken annually. FTA's Urbanized Area Formula Grants Program, the largest of its grant programs, and its Rural Area Formula Grant Program provide on-going support for these riders and transit services. The FY

2015 budget request supports the quality of life goal by seeking $4.56 billion for the Urbanized Area Formula Program, which was largely unchanged by MAP-21. We also seek $622 million in FY 2015 to support the continued rise in demand for rural and tribal transit service, which now has more than 1,400 operators in rural areas that provide more than 140 million rural trips each year.

Environmental Sustainability

FTA strives to find different ways to encourage the public to take transit as well as to make transit systems more energy efficient. It does so by advancing environmentally sustainable policies and investments that reduce harmful air emissions, greenhouse gases, stormwater runoff, and other environmental impacts through transit research. Investment in research, development, deployment and testing improves the safety, reliability, efficiency, and sustainability of public transportation systems. FTA also provides critical technical assistance to help grantees comply with FTA's program guidelines and requirements and build for the challenges and risks of the future, rather than the past.

Appropriations for FTA's Transit Research and Training Programs averaged $44.8 million in FYs 2013 and 2014, far below the $89 million authorized in MAP-21 for each of those same years. This has hampered the programs' goal. We are asking Congress to provide $60 million for the Transit Research and Training Programs in FY 2015 for public transportation is to continue to set the standard among transportation modes for environmental sustainability.

Rulemakings and New Guidance Activities

FTA has worked diligently to implement MAP-21 by advancing several rulemakings and guidance documents, engaging thousands of stakeholders in the process. Also, over the last two years, FTA has issued proposed guidance to assist grantees in implementing the State of Good Repair Program, the Enhanced Mobility for Seniors and Individuals with Disabilities Program, a new program under MAP-21 that consolidates the New Freedom Program and the Elderly Individuals and Individuals with Disabilities Program; the Rural Area Formula Program; and a new provision regarding corridor preservation for future transit projects. Also, FTA recently issued final guidance on the Urbanized Area Formula Program. In addition, pursuant to MAP-21, FTA jointly published several final rules, notices of proposed rulemaking and guidance documents with FHWA to accelerate project delivery, including creation of new Categorical Exclusions for expeditious NEPA compliance and delegation of NEPA compliance to States.

Conclusion

The expiration of MAP-21 offers an important opportunity to recalibrate the way our government evaluates and invests in our federally funded public transportation infrastructure. From a transit perspective, while MAP-21 included provisions enabling FTA to focus limited resources on certain strategic investments and policies, the President's comprehensive four-year reauthorization plan will provide FTA with the tools necessary to improve the riding experience for millions of Americans, while repairing and modernizing transit systems for generations to come. I look forward to working with together with this Committee to advance the President's plan.

Mr. Chairman, this concludes my testimony and I am happy to answer any questions you may have.

U.S. House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit

Hearing on "Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation"

March 12, 2014

Questions for the Record

Questions from Rep. John Garamendi:

1. Do you agree that well planned transit-oriented development (TOD) provides an excellent opportunity for communities to maximize the return on investments in our transit system, from increased ridership to reduced congestion?

2. TOD helps communities think about how their collective transportation system can address both their transportation challenges as well as realize the economic development that comes from building a transit system. Would you agree?

> FTA Response to Questions 1 and 2: The benefits of transit-oriented development (TOD) have been studied thoroughly by the National Academy of Sciences' Transit Cooperative Research Program and many others. FTA agrees with the findings that TOD projects offer the potential to boost transit ridership, increase walking and bicycling activity, mitigate auto-oriented sprawl, reduce greenhouse gas emissions, support climate adaptation, accommodate economic growth and revitalization, and create interesting neighborhoods for work and living.

3. As the Federal Transit Administration continues to work on implementing MAP-21, it is critical for communities to be given access to the TOD pilot program included in legislation to help them improve planning around transit stations that lead to bigger returns for our transit investments. Administrator Rogoff said before the Senate Banking Committee that the notice of funding availability will be released this spring. Can you give me a more precise estimate of its release date?

> FTA Response to Question 3: FTA is working to implement the many new provisions of MAP-21, including the TOD Pilot Program. There is currently a total of $20 million available to distribute under the program from FY 2013 and FY 2014 appropriations. FTA expects to publish a Notice of Funding Availability in the *Federal Register* this spring, possibly by late May 2014.

STATEMENT OF
ANNE S. FERRO
ADMINISTRATOR
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION

BEFORE THE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

OVERSIGHT OF THE U.S. DEPARTMENT OF TRANSPORTATION'S IMPLEMENTATION OF MAP-21 AND FISCAL YEAR 2015 BUDGET REQUEST FOR SURFACE TRANSPORTATION

MARCH 12, 2014

Mr. Chairman, Ranking Member Norton, and Members of the Subcommittee, thank you for inviting me to testify today on the Federal Motor Carrier Safety Administration's (FMCSA) progress in implementing the Moving Ahead for Progress in the 21st Century Act (MAP-21). Enacted on July 6, 2012, MAP-21 provided the Agency with important new tools to improve commercial motor vehicle (CMV) safety and remove unsafe operators from the Nation's highways. And the President's comprehensive four-year reauthorization plan will strengthen them even further.

Safety is FMCSA's number one priority, and while we have realized success in reducing crashes, injuries, and fatalities since the Agency was established in 2000, we must do more. To direct how we will use our resources to save lives, the Agency developed a Strategic Plan guided by a framework shaped by three core principles: raise the bar to enter the motor carrier industry; require high safety standards to remain in the industry; and remove high-risk carriers, drivers, and service providers from operation. MAP-21 aligns well with these core principles and supports our Agency's important safety initiatives.

Miscellaneous Rule Text Changes in Provisions of MAP-21

The Agency addressed 17 MAP-21 provisions in an omnibus final rule on October 1, 2013. This largely ministerial rulemaking action ensured that the regulations were aligned with the new statutory requirements. Most notable among the changes were the new financial security requirements for brokers and freight forwarders. Pursuant to MAP-21, FMCSA amended its regulations to require a $75,000 surety bond or trust fund for brokers and extended the surety bond or trust fund requirement to freight forwarders for the first time.

Agricultural Exemptions

MAP–21 included two provisions applicable to operating CMVs for agricultural purposes. The first exempts CMV drivers transporting agricultural commodities and farm supplies from the

Federal hours-of-service (HOS) rules. The second exempts operators of farm vehicles by farm and ranch operators, their employees, and certain other specified individuals from most of the Federal Motor Carrier Safety Regulations (FMCSRs), including those pertaining to commercial driver's licenses (CDL) and driver physical qualifications (medical) requirements. These self-executing statutory provisions took effect on October 1, 2012.

In October 2012, the Agency published a notice in the Federal Register alerting motor carriers and enforcement officials about these exemptions. Additionally, the Agency worked with the U.S. Department of Agriculture to make the agricultural community aware of these exemptions. While in and of themselves, these statutory amendments and subsequent Federal Register notice did not require any actions by the States, FMCSA requested that States take immediate action to implement policies and procedures to provide this regulatory relief. On March 14, 2013, FMCSA published a final rule to conform the FMCSRs to the statutory provisions in MAP-21. States will have three years from the rule's effective date, or until March 14, 2016, to adopt compatible regulations.

Drug and Alcohol Clearinghouse

MAP-21 provided explicit authority for the Secretary to create an electronic repository for positive alcohol and controlled substances test results. In response, on February 20, 2014, FMCSA published a notice of proposed rulemaking to establish the Commercial Driver's License Drug and Alcohol Clearinghouse for all CDL holders. The proposed rule would require employers of CDL drivers and service agents to report positive test results and refusals to test to the Clearinghouse and thus will improve both driver and employer compliance with DOT's alcohol and controlled substance testing program.

Employers would be required to check the Clearinghouse to make sure current and prospective employees do not have drug and alcohol violations that would prohibit them from performing safety sensitive functions, such as driving CMVs. We are soliciting comments on this rule through April 21.

Electronic Logging Devices

MAP-21 included a provision mandating the use of electronic logging devices (ELD) for any driver required to keep a record of duty status (RODS) under the HOS regulations. The Agency is preparing a supplemental notice of proposed rulemaking (SNPRM) that would establish: (1) minimum performance standards for ELDs; (2) mandatory requirements for use of the devices by drivers required to prepare RODS; (3) requirements concerning HOS supporting documents; and (4) measures to ensure that the mandatory use of ELDs will not result in harassment of drivers by motor carriers and enforcement officials.

This rulemaking would supplement the Agency's 2011 Notice of Proposed Rulemaking (NPRM) and address issues raised by the U.S. Court of Appeals for the Seventh Circuit in its 2011 decision vacating the Agency's 2010 final rule concerning ELDs. The ELD requirements will improve HOS compliance by reducing the likelihood of falsification of drivers' duty status

records, thereby decreasing the risk of fatigue-related crashes attributable to HOS non-compliance.

Compliance, Safety, Accountability

Compliance, Safety, Accountability, or CSA, is FMCSA's compliance model to improve CMV safety and reduce large truck and bus crashes, injuries, and fatalities on our Nation's highways. MAP-21 included statutory revisions and additional authorities needed to bring CSA to fruition. For example, MAP-21 provided the Agency with flexibility to allow an investigator to display credentials in writing rather than in person. This will allow FMCSA and its investigators – with clear statutory authority to conduct enforcement interventions – to formally demand that a motor carrier provide records without having to travel to the motor carrier's business location. This is vital to expanding FMCSA's and our State partners' enforcement efforts to include off-site reviews and investigations, increasing the number of reviews that we conduct.

Passenger Carrier Safety

FMCSA continues to utilize the new authorities granted by MAP-21 to focus on the safety of those who use buses for transportation all across our Nation. We are committed to achieving universally high levels of safety regardless of which bus operator a passenger chooses. Using the first phase of the Motorcoach Safety Initiative known as Operation Quick Strike, more than 50 specially trained investigators were dispatched from April through November of 2013 to conduct in-depth reviews into the patterns and practices of the 250 most at-risk motorcoach companies, as identified using roadside inspection and safety data. As a result, we removed 52 unsafe bus companies and 340 vehicles from the road. In addition, the second phase of the effort involved FMCSA investigators visiting more than 1,300 carriers that had minimal inspection history or data with the Agency. As a result, we targeted more than 240 companies for follow-up investigations.

Last year, we evaluated and enhanced our investigation methods to dig deeper than ever before and uncover dangerous patterns of unsafe behavior and business practices. Now we are training all investigators to use the new tactics we employed during Operation Quick Strike, and conducting evaluations and a gap analysis to identify the methods for maintaining this intensified level of oversight on the passenger carrier industry. Through the gap analysis process, we identified two improvements that we will be proposing as part of reauthorization: (1) expanded locations where motorcoach inspections may occur, and (2) new jurisdiction over brokers of passenger transportation. Under the proposal motorcoaches could be required to stop for routine inspections, provided that the inspection site has adequate food, shelter, and sanitation facilities to accommodate passengers during the inspection process. Current restrictions on en-route motorcoach inspections have proven too restrictive to adequately detect driver and vehicle safety violations. Requiring ticket brokers to register with FMCSA will convey their accountability for ensuring motor carriers they work with are safe. It will also help address the problem of entities providing passenger transportation, skirting FMCSA's jurisdiction by claiming to be mere ticket agents.

Patterns of Safety Violations

In January, FMCSA published a final rule that enables the Agency to suspend or revoke the operating authority registration of for-hire motor carriers that show egregious disregard for safety compliance. The rule implements a previous statutory provision, as amended by MAP-21, which prohibits motor carriers from using common ownership, common management, common control or common familial relationships to avoid compliance or conceal noncompliance or a history of noncompliance. It also authorizes FMCSA to withhold, suspend, amend, or revoke the operating authority registration of motor carriers if they or their officers engage in a pattern or practice of such conduct or of otherwise avoiding compliance with CMV safety regulations.

Registration Requirements

MAP-21 strengthened the registration requirements for motor carrier operating authority and thus will help the Agency crack down on carriers that commit safety violations and then change their company identity, or "reincarnate." This growing and disturbing practice poses a real enforcement challenge to FMCSA's investigators and commercial law enforcement officers nationwide.

Under MAP-21 FMCSA can withhold, suspend, amend or revoke a motor carrier's registration if: (a) the carrier fails to disclose its adverse safety history or other material facts on its application or if the applicant is a successor or closely related to another company with a poor compliance history for the preceding 3 years, or (b) a motor carrier, employer, owner or operator does not disclose a relationship involving common ownership, management, control, or familial relationship to any other motor carrier, employer, or owner operator.

Additionally, MAP-21 directed the Agency to establish a written proficiency exam for new authority applicants to test their knowledge of the safety regulations, applicable commercial regulations, and regulations relating to accessibility for disabled persons. This test will help ensure that companies understand these regulations before beginning operations. The Agency has begun work on implementing this provision. This year, we will be conducting a series of listening sessions across the country to gather input on this issue. We held the first session in January at the American Bus Association Marketplace in Nashville, TN. The final two sessions will be held this month at the Mid-America Trucking Show in Louisville, KY, and next month at the Commercial Vehicle Safety Alliance Workshop in Los Angeles, CA.

Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators

MAP-21 directs the Agency to issue final regulations to require training for entry level CDL applicants. The Agency's rulemaking must address knowledge and skills for safe operation and other issues. Last year, the Agency held public listening sessions at the American Bus Association annual Marketplace in Charlotte, NC, and the Mid-America Trucking Show in Louisville, KY, to hear comments on this proposed rule. These sessions provided the Agency with substantial information about the issues regarding training for entry level CDL applicants. The Agency will soon engage the services of a convener to assess the feasibility of conducting a negotiated rulemaking to implement this important MAP-21 provision.

National Registry of Certified Medical Examiners

In April 2012, FMCSA issued a final rule as required by a previous statutory requirement, reaffirmed and modified in MAP-21, to establish a National Registry of Certified Medical Examiners (National Registry). The National Registry requires all medical examiners who conduct physical examinations for interstate CMV drivers meet the following criteria: (1) complete certain training concerning physical qualification standards; (2) pass a certification test; and (3) maintain and demonstrate competence through periodic training and testing. It requires motor carriers and drivers to use only those medical examiners listed on the National Registry. To date, more than 28,000 healthcare professionals from around the country have started the process to be included on the registry and more than 7,000 of them have completed both the training and testing and are listed on the registry. Approximately 1,500 healthcare professionals are currently scheduled to take the examination.

We commend the healthcare community for working with the Agency to stand up this program, which we believe will significantly improve highway safety. The gradual phasing in of the requirements as drivers' current medical certificates expire helps to decrease the likelihood of inadequate capacity during the first full year after the compliance date. Drivers' medical certificates remain valid until the expiration date, which may be for up to 2 years following the date of the medical exam. Therefore, medical certificates issued prior to the May 21, 2014, National Registry compliance date remain valid for up to 2 years and drivers would not need a new medical certificate from a medical examiner on the National Registry until the current medical certificate expires.

Motor Carrier Safety Advisory Committee (MCSAC)

MAP-21 authorized the continuation of the MCSAC until September 30, 2013, and its charter has now been extended an additional two years under the Federal Advisory Committee Act. FMCSA tasked the MCSAC to address a number of timely topics that are of importance to key stakeholder groups and Congress. For example, the MCSAC completed letter reports concerning motorcoach hours of service and entry-level driver training. The MCSAC's deliberations and report on motorcoach hours of service provided an excellent starting point for a public debate about whether there are safety vulnerabilities in the current rule associated with motorcoach operators who do not adhere to certain industry best practices for dispatching drivers. The MCSAC's deliberations and report concerning the MAP-21 provision concerning entry-level driver training also provided thoughtful input for the Agency to consider on this topic, which has generated widespread support among the industry, safety advocates, and the States.

Household Goods Provisions

With regard to household goods transportation, MAP-21 authorized FMCSA to assign all or a portion of the penalties it receives from noncompliant moving companies to the aggrieved shipper. The Agency formed a working group to examine how to implement this new authority. A second provision granted the Agency authority to order moving companies to return household goods held hostage. FMCSA is aggressively using these new authorities to protect consumers

and ensure compliance with the Agency's regulations. Recent enforcement efforts have resulted in significant civil penalties against moving companies involved in fraudulent activities, and have also resulted in revoking the authority of some of the carriers due to their egregious violations.

Fiscal Year (FY) 2015 Budget Request

The FY 2015 President's Budget request of $669 million for FMCSA provides the resources necessary to support nationwide motor carrier safety and consumer enforcement efforts, particularly as they pertain to motorcoach and intercity bus operations. The Budget also requests an increase of 77 FTEs, primarily to support Safety Intervention Programs and Border Crossing programs.

Of the total funding, $316 million will be dedicated enforcement, research, technology, and other Federal programs that reduce serious injuries and deaths resulting from commercial motor vehicle crashes; and $353 million for the Motor Carrier Safety Grants program. The Agency's proposed reauthorization reengineers and consolidates a number of our existing programs will reduce the administrative burden on our grantees and the Agency, allowing savings to be redirected to FMCSA's safety mission. This request bolsters the resources available to award grants that are used to support investigations and interventions in States, identify and apprehend traffic violators, and conduct roadside inspections.

Conclusion

Thank you, Mr. Chairman, for the opportunity to discuss FMCSA's implementation of MAP-21. We at FMCSA look forward to continuing our close work with your Subcommittee to further strengthen our safety authorities through enactment of the President's comprehensive four-year reauthorization plan. We very much appreciate your partnership as we work together to improve safety, reduce crashes, and save lives on our Nation's highways.

Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
Hearing on "Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation"
March 12, 2014
Questions for the Record

Questions From Chairman Tom Petri:

1. In December 2012, I sent you a letter regarding household goods (HHG) movers and the manner in which they were regulated. Specifically, I wanted to emphasize that SAFETEA-LU specifically exempted from being considered a HHG motor carrier a carrier that simply transports goods in a container or trailer where the goods are loaded or unloaded by someone other than the carrier or agent of the carrier. Congress specifically did not want to regulate these types of container movements under the HHG regulations.

   In your timely response, you said that they applicability of the limited service exclusion (LSE) should be decided on a case by case basis weighing factors such as the relationship between a container company and the individuals or entity that loads and unloads the HHG, as well as the agency's definition of the term "agent" and "broker." You also mentioned that the agency anticipates issuing public guidance, which will outline the agency's position on the definition of "agent" in more detail.

   Please provide the Subcommittee with an update on your plans to issue guidance on the agency's definition of "agent." In addition, do you plan to alter the agency's definition of the term "broker" as it applies to HHG broker regulations? Are there any other anticipated regulatory actions you may be taking that would alter or change the manner in which the LSE is applied?

   FMCSA Response
   The Federal Motor Carrier Safety Administration (FMCSA) published a Federal Register (FR) notice on April 1, 2013 (78 FR 19568), to provide clarity on the LSE for HHG motor carriers and related registration requirements for brokers. We are providing a copy of the Federal Register notice with this response. Due to the varied nature of the moving industry, FMCSA concluded that an individual motor carrier's eligibility for the LSE will be based on a case-by-case analysis taking into account the entire relationship between the motor carrier and the individual that loads or unloads the HHG.

   In the FR notice, FMCSA used the commonly accepted definition of the term "agent" from Black's Law Dictionary, which defines an "agent" as "one who is authorized to act for or in place of another; a representative." The FR notice further quoted the Restatement Third's definition of Agency which provides that "[a]gency is the fiduciary relationship that arises when one person (a 'principal') manifests assent to another person (an 'agent') that the agent shall act on the principal's behalf and subject to the principal's control and the agent manifests assent or otherwise so consents to act." Ultimately, what

constitutes authority to act for or in place of another will depend upon the details and circumstances of the parties' relationship.

FMCSA has concluded that the aforementioned FR notice sufficiently provides the motor carrier and broker industry with FMCSA's guidance and interpretation of the applicability and appropriate use of the LSE.

In reference to the question of whether FMCSA plans to alter the definition of the term "broker" as it relates to the HHG broker regulations, FMCSA published an updated broker regulation on November 29, 2010 (75 FR 72987), titled "Brokers of Household Goods Transportation by Motor Vehicle." This FR notice specifically defined a "Household goods broker" as "a person, other than a motor carrier or an employee or bona fide agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation of household goods by motor carrier for compensation." The Agency subsequently concluded that the published definition is legally sufficient for future application as it relates to the LSE, and FMCSA has no plans to change the definition of "Broker" (49 CFR 371.2(a)) or "Household goods broker" (49 CFR 371.103) at this time.

As of today, there are no pending considerations or plans to pursue additional regulatory actions relating to the LSE.

2. In February 2014, the Government Accountability Office (GAO) issued a report on FMCSA's Compliance, Safety, Accountability program, better known as CSA A key component of CSA, the Safety Measurement System (SMS), was found to have serious flaws with both methodology and data quality. The GAO found that motor carrier violations, that FMCSA uses to calculate SMS scores, are not violated often enough to strongly associate them with future crash risk. In addition, most motor carriers lack sufficient safety performance data to ensure that FMCSA can reliably compare them to other motor carriers. The SMS scores are being used by the public and businesses to make safety-based decisions in the marketplace. If these scores are not reflective of a motor carrier's true crash risk, they may be doing more harm than good.

   - In light of these limitations, what action does FMCSA plan to take in order to correct the issues with program?
   - Has FMCSA publically responded to GAO's recommendations?

   FMCSA Response:
   FMCSA has significant concerns and unresolved disputes regarding GAO's findings and proposed metrics, and we provided this information to the GAO in our response to the report on April 4. GAO's illustrative methodology does not provide a data driven alternative to the prioritization of enforcement resources, and if implemented, would leave approximately 90 percent of the industry unregulated. A copy of our response to GAO is attached and provides several examples of our concerns with that alternative.

FMCSA's approach is to identify carriers with the highest risk of crashes and to intervene before a crash occurs. FMCSA and independent analysis by organizations such as the American Transportation Research Institute clearly show that SMS is reliable for its stated purpose – proactive resource prioritization. For example, on February 5, 2014, FMCSA and the Volpe Center released a peer reviewed study of the effectiveness of the SMS. The study concluded that:

- The carrier population identified by FMCSA as "High Risk" has more than twice the national average crash rate.
- SMS is prioritizing carriers with higher crash rates (79% higher) than active carriers not prioritized.
- FMCSA is more selective and effective when prioritizing smaller carriers.
    - Only 12% of small carriers are prioritized
    - Crash rates are 137% higher than those not prioritized
- SMS is optimizing resources and oversight with more stringent intervention thresholds for BASICs with the strongest correlation to crash risk.

FMCSA is continuously working to identify and evaluate changes that may improve CSA, SMS, and the identification of high-risk motor carriers. Several continuous improvement initiatives are currently underway including: enhancements to SMS display, a revised policy on adjudicated citations, and an assessment of CSA prioritization and intervention processes to ensure the program's continued effectiveness and efficiency. As part of our efforts, FMCSA will continue to evaluate and consider GAO's recommendations and suggestions, as appropriate. The Agency has been engaged in and remains committed to a collaborative, transparent, data-driven, and research-based process for changes to SMS.

3. On March 11, 2014, FMCSA submitted the report required by section 33014 of MAP-21 on the implementation of the hazardous materials safety permit (HMSP) program. Subsection (b) of section 33014 requires FMCSA to initiate a rulemaking that makes any necessary improvements to the HMSP program by October 1, 2014, or publish in the Federal Register the Secretary's justification for why a rulemaking is not necessary.

    - Will FMCSA initiate a rulemaking, which will implement the recommended improvements in the report before or on October 1, 2014?
    - The report states that implementing an enhanced HMSP program is contingent upon other FMCSA priorities, what are those priorities?
    - What improvements to the HMSP program can be made within FMCSA's existing authorities to provide relief to HMSP holders prior to initiating a rulemaking? If such improvements can be done with current FMCSA statutory authority, when does FMCSA anticipate implementing these interim improvements?

    <u>FMCSA Response</u>:

At this time, FMCSA is exploring options for implementing the recommendations for improving the HMSP program that will not require rulemaking. The Agency does not have the resources to promulgate a rule on this topic prior to October 1, 2014. However, in accordance with congressional direction, the Agency is currently developing a plan to implement the recommendations, focusing on the process of identifying those elements that can be achieved without a resource-intensive rulemaking during FY 2015. The Agency is developing a comprehensive implementation plan for the recommendations relating to the incorporation of current performance data as the primary means of monitoring carriers that have an HMSP once the permit is granted, rather than the current out-of-service rate checks during the renewal period. The full implementation plan and timeline will be submitted to Congress this summer.

4. In the fiscal year 2015 budget request, the President proposed consolidation of a number of existing programs and grants that would reduce the administrative burdens on our state partners. These program consolidations and grant streamlining would help states focus more resources into reducing crashes and fatalities involving motor carriers. Which programs or grants do you recommend consolidating?

   FMCSA Response:
   The Motor Carrier Safety Assistance Program (MCSAP) would be revised to include both the New Entrant and the Border Enforcement grant programs as a part of the MCSAP formula grant program. Separate funding would no longer be issued for these programs. Instead, the basic and incentive calculations would be adjusted to include factors for each State based the States' previous new entrant and border enforcement programs. If a border State did not include border enforcement efforts in its annual plan, funding would be adjusted accordingly. Additionally, this formula grant would include the Performance and Registration Information Systems Management program. The Safety Data Improvement Program would be discontinued and those activities would be eligible as a component of the High Priority grant program.

   Restructuring the MCSAP program to include these additional activities means that States would no longer be required to prepare and submit multiple applications for closely related commercial motor vehicle safety activities. Further, it would reduce the burden on the States for post-award grant management and would eliminate the need for multiple submissions of required documents and reports (e.g., grant agreements, amendments, vouchers for reimbursement, and quarterly performance and financial reports). FMCSA's experience has shown that State inspectors and other safety officials routinely perform activities under the MCSAP, New Entrant, and Border Enforcement programs in a single work day. Currently, the States have to closely monitor safety officials' time and allocate costs among multiple grant programs for reimbursement purposes. Combining the grant programs will reduce the amount of time and resources necessary for the State to voucher for reimbursement. Additionally, by reducing the number of active grants for each State, FMCSA can devote more of its grant management resources to effectiveness analysis and program improvement rather than to administrative tasks.

Questions From Rep. Sam Graves:

1: FMCSA is currently conducting a study on the minimum insurance requirements for trucking companies. It is my understanding that industry data shows approximately 99 percent of all truck accident settlements are under the current minimum insurance requirement. Given that information, it seems that the current standards are appropriate. Please provide an update on the status of this report and any details on the recommendations contained within it.

FMCSA Response:
Section 32104 of MAP-21 directed the Secretary to issue a report on the appropriateness of the current minimum financial responsibility requirements for motor carriers of property and passengers and the current bond and insurance requirements for freight forwarders and brokers. The due date was April 1, 2013, and every 4 years after. The report to Congress is in Departmental clearance, and FMCSA expects it to be transmitted to Congress by the end of April 2014.

STATEMENT OF
DAVID FRIEDMAN
ACTING ADMINISTRATOR
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION

Before the

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
U.S. HOUSE OF REPRESENTATIVES

Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation

March 12, 2014

Good morning Mr. Chairman, Ranking Member Norton, and Members of the Subcommittee. I appreciate this opportunity to testify before you today on the National Highway Traffic Safety Administration's implementation of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the President's budget proposal for Fiscal Year (FY) 2015.

Before I begin my comments on our implementation efforts, I would like to thank the members of the subcommittee for your work on reauthorizing the Nation's surface transportation programs. Every member of the subcommittee is aware of the challenges we face in ensuring roadway safety and NHTSA appreciates the strong highway safety priorities that you included in MAP-21 that will help us meet those challenges. I look forward to working with you to strengthen highway safety through a comprehensive four-year reauthorization of our surface transportation programs as the President has proposed. Finding a pathway forward is essential as highway safety remains a serious challenge for our nation.

U.S. Roadway Safety

In 2012, highway fatalities totaled 33,561, which is 1,082 more fatalities than the previous year. In the same year, an estimated 2.36 million people were injured in motor vehicle traffic crashes, compared to 2.22 million in 2011. As a result, an average of nearly 4 lives were lost and nearly 270 people were injured on America's roadways every hour in 2012.

The majority of the increase in deaths, 72 percent, occurred in the first quarter of the year. Most of those involved in this increase were motorcyclists and pedestrians. While this marks the first increase in fatalities since 2005, highway deaths over the past five years remain at historic lows. Fatalities in 2011 were at the lowest level since 1949 and, even with the increase in 2012, fatalities remained at the 1950 level. Preliminary estimates of crash fatalities for the

first half of 2013 indicate a 4.2 percent decrease in deaths compared to the same timeframe in 2012.

While Americans drove approximately the same amount of miles in 2012 as in the previous year, fatalities increased by 3.3 percent. In 2011 we also saw the lowest fatality rate ever recorded, with 1.10 deaths per 100 million vehicle miles traveled. The fatality rate rose to 1.14 in 2012. Other key statistics include the following:

- Fatalities among pedestrians increased for the third consecutive year to 4,743 lives lost (6.4 percent increase over 2011). The data showed the large majority of pedestrian deaths occurred in urban areas, not at intersections, at night and many involved alcohol.
- Motorcycle rider fatalities increased for the third consecutive year (7.1 percent increase over 2011). Ten times as many riders died not wearing a helmet in States without a universal helmet law than in States with such laws.
- Large-truck occupant fatalities increased for the third consecutive year (8.9 percent over 2011).
- Deaths in crashes involving drunk drivers increased 4.6 percent in 2012, taking 10,322 lives compared to 9,865 in 2011. The majority of those crashes involved drivers with a blood alcohol concentration (BAC) of 0.15 or higher – nearly double the legal limit.
- The number of people killed in distraction-affected crashes decreased slightly from 3,360 in 2011 to 3,328 in 2012; and the number of people injured increased 9 percent to an estimated 421,000 people from an estimated 387,000 people in 2011. NHTSA is working to improve the way it captures distraction-related crash data to better quantify and identify potential trends in this area.
- Nighttime seat belt use continues to be a challenge. In nighttime crashes in 2012, almost two-thirds of the people that died were unrestrained.

Safety and the President's Budget

The Administration continues to place safety at the forefront of everything the Department does. As many of the statistics above highlight, we have made tremendous progress, but significant ongoing work remains to be done to further reduce preventable traffic-related deaths. To improve the safety of America's roadways, within the President's budget for FY 2015 we request $851 million to enable the agency to continue to establish safety standards for motor vehicles and motor vehicle equipment; conduct research and development on vehicle safety and driver behavior; set and enforce fuel economy standards; operate the National Driver Register; and administer a comprehensive program of safety grants to the States. To put this request in perspective, the direct economic cost alone of motor vehicle crashes in the year 2000 was $230.6 billion. This budget request will support NHTSA's ongoing effort to save lives, reduce injuries, and lower the economic cost of crashes.

States are a vital partner in improving safety on our nation's roadways, so the FY 2015 budget requests $577 million for Highway Traffic Safety Grants. MAP-21 authorizes broad Section 402 Formula Grants that represent the backbone of NHTSA's State highway safety initiatives, the consolidated Section 405 National Priority Safety Program grants, as well as

grants supporting State efforts on occupant protection, impaired driving, motorcyclist safety, distracted driving, graduated driver's licensing, and traffic safety data.

In addition to this support for our core work, one of my priorities, and a priority for the Secretary, is continuing and enhancing efforts on pedestrian and bicycle safety. When he spoke at the Transportation Research Board in January, Secretary Foxx made clear that we must do more to address the safety of pedestrians and cyclists. Americans are increasingly embracing a new approach to work and school commutes that includes less time behind the wheel and more time walking or cycling. Sadly, as more Americans are leaving their cars at home, we're also seeing an increase in deaths among pedestrians and bicyclists. Pedestrian fatalities are up 6.4% over 2011, the third year in a row with an increase, and bicyclist fatalities are the highest in six years, up 6.5% over 2011.

We need to bring new resources and tried and true strategies to bear to better protect Americans when they choose to walk or ride their bikes. Last summer, DOT and NHTSA put the issue of pedestrian safety front and center, and $2 million in new pedestrian safety grants for States with cities that have the highest rates of pedestrian deaths will be awarded soon. We have a "Roll Model" program, which helps parents teach their young cyclists about safety and the rules of the road. We have also worked with our colleagues at the Federal Highway Administration to launch "Everyone is a Pedestrian," an education initiative and accompanying web site with safety tips and resources for local leaders, city planners, and others involved in keeping pedestrians safe. Moving forward, NHTSA also plans to increase our work with the States to implement education and enforcement components of the Pedestrian Safety Action Plans.

Older drivers are another area of focus for the agency. As the Baby Boomers age, they will stay on the roads longer and account for an increasingly large percentage of all drivers. While older drivers are safer drivers on average, older drivers (and passengers and pedestrians) are often more frail than their younger counterparts, and more likely to suffer serious injuries if involved in a crash. It is important that we continue to look for ways to mitigate the risks while maximizing the safe mobility of older citizens.

NHTSA also recognizes the enormous role technology can play in vehicle safety. The President's Budget request will support NHTSA's plans to expand the agency's focus on technology, specifically on crash avoidance technologies, and opportunities for in-vehicle technology to dramatically reduce drunk driving and significantly increase seat belt use. NHTSA will continue its efforts to make vehicles safer in the unfortunate event of a crash, but we will also expand our efforts on the role of technology to avoid those crashes in the first place.

Advances in technology are also providing new comforts and amenities for drivers and passengers. Our goal at NHTSA is to help usher in new technologies while filtering out new distractions. NHTSA will continue its efforts to ensure that drivers keep their focus on the task of driving, as we also look for ways that technology itself can minimize distractions.

Earlier this year, I was pleased to join Secretary Foxx in announcing the agency decision on Vehicle-to-Vehicle (V2V) technology. The cooperation between NHTSA, modal partners,

and stakeholders has allowed us to accelerate our efforts to initiate and complete research on V2V platforms designed to increase driver situational awareness and warn drivers to reduce and mitigate crashes. NHTSA believes V2V technology is viable and ready to be regulated for the light vehicle fleet, and soon we will be releasing a research report for public comment that will detail our preliminary observations about the readiness of the technology for regulation. NHTSA believes this cutting edge technology will give drivers information needed to make safe decisions on the road, and could potentially address as many as 70 to 80 percent of crashes involving non-impaired drivers once the entire vehicle fleet is equipped. When combined with vehicle-to-infrastructure (V2I) communication systems, this leading-edge technology also holds the potential for improving mobility and benefitting the environment by connecting vehicles not just with each other, but also with road infrastructure. NHTSA anticipates making a regulatory decision for V2V heavy vehicles late this year. NHTSA will also continue its efforts on the separate but complementary issue of the potential for increasing levels of vehicle automation to further help avoid crashes in the first place.

MAP-21 Implementation

MAP-21 consolidated the various grant programs from SAFETEA-LU, including impaired driving and occupant protection grants, with the new graduated driver licensing (GDL) and distracted driving grants, into a new Section 405 National Priority Safety Program. This unified grant program utilizes a single, consolidated application and annual deadline, easing the administrative burden on States and allowing them to focus their resources on the life-saving mission of traffic safety. Additionally, MAP-21 provided significant funds to address high-priority safety problems, including long-standing issues (such as impaired driving and occupant protection) and newer concerns (such as distraction).

Since enactment, implementing MAP-21 has been a major priority for NHTSA and the Department. I am proud of how quickly the NHTSA staff worked to implement key programs and get guidance out to the States. Less than two months after enactment, we issued a Notice of Funding Availability for the distracted driving grants, followed shortly thereafter with an interim final rule for the National Priority Safety Program grants. In an effort to be as responsive to the States as possible, we conducted several webinars with the State highway safety offices to walk them, step-by-step, through the new grant programs and the consolidated application process.

As you know, one of the most important things we can do to reduce roadway fatalities is to wear a seat belt. The most dramatic increases in seat belt use were in the southern States, rising to 87 percent in 2013—up from 80 percent in 2011. Seat belt use continues to be higher in States that have primary belt laws, which permit law enforcement officers to issue citations solely for not wearing a seat belt rather than requiring an officer to identify an additional traffic violation.

In spite of this progress, motor vehicle traffic crashes continue to be a leading cause of death in the nation, with particularly harmful effects on the younger age groups. In 2009, motor vehicle traffic crashes were the leading cause of death for 4-year old children as well as for individuals age 11 through 27. That is why programs such as GDL are so important and I am

pleased that Congress authorized incentive grants in MAP-21 to encourage more States to adopt such an approach for younger, inexperienced drivers.

In establishing the new grant programs to address graduated driver licensing, distracted driving, and ignition interlocks, Congress sought to incentivize States to establish effective laws. The eligibility criteria for these grants are based on sound principles, but have proven challenging for most States to meet. In FY 2013, 8 States received distracted driving grants, no States received GDL grants, and 2 States received alcohol ignition interlock grants. In FY 2014, 1 State qualified for the stricter distracted driving grants available that year, none for a GDL grant, and 4 for ignition interlock grants. NHTSA hopes that more States will qualify in the future, and NHTSA stands ready to provide technical assistance to Congress as it considers revising these grant programs.

Spending Federal resources efficiently and effectively is a priority for the President, the Secretary, the Department and this agency. Over the past year, NHTSA has hired new financial specialists, providing the agency with additional expertise in ensuring appropriate, effective spending that meets statutory and regulatory requirements.

NHTSA is also working to modernize the electronic infrastructure in managing the grant process. This modernization will create a turnkey solution for the States and for NHTSA, encompassing the life cycle of the grant programs from application to financial oversight and reporting. These changes, many of which were identified in conjunction with the States, will significantly reduce the burden and increase the efficiency of the grant application and monitoring processes.

Conclusion

As an agency, we at NHTSA are dedicated to our mission of safety. To that end, NHTSA works closely with the States and assists them in achieving their respective highway safety goals. We will continue this partnership to ensure that the remaining parts of MAP-21 are effectively implemented. We will work with this Committee to strengthen these efforts further through the enactment of the President's comprehensive four-year reauthorization plan. Together, we can continue to bring about meaningful improvements in highway safety and reductions in roadway fatalities.

Highway safety must always be a national priority, and Federal support for, and our partnership with, States will remain essential even as NHTSA is working towards technologies that can effectively eliminate impaired or unbelted driving and that can make our cars intelligent enough to avoid crashes in the first place.

Thank you again for inviting me to testify, and I am happy to take any questions that you may have.

QUESTIONS FOR THE RECORD
For the Honorable David J. Friedman, Acting Administrator
National Highway Traffic Safety Administration

March 12, 2014 Hearing on
"Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation"

Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit

Question from Chairman Bill Shuster:

1. *NHTSA has unfulfilled 2007 legislative requirements to produce and implement the Tire Fuel Efficiency Consumer Information Program (TFECIP). Despite publishing a proposed final rule in 2010, soliciting and analyzing comments and taking years to conclude work, the agency has failed to finalize the tire labeling requirement. Providing consumers of both commercial and personal use replacement tires with performance and potentially cost saving information is not only required by law, it would also drive more consumer choice and not be prescriptive or costly to implement and enforce. Why has NHTSA failed to complete this rule and what is the expected timeframe for doing so?*

   NHTSA published a final rule in 2010 establishing test methods that would be used for the new consumer information program. However, in order to provide NHTSA with the time needed to conduct additional consumer testing and resolve important issues raised by public comments on the proposal, the 2010 final rule did not specify the content or requirements of the consumer information and education portions. The agency has conducted additional consumer research and is in the process of drafting a supplemental notice of proposed rulemaking (SNPRM). NHTSA is working expeditiously to complete this rule.

Question from Chairman Tom Petri:

1. *Can you please provide the Subcommittee with an update on NHTSA's progress with the Class 7 and 8 commercial motor vehicle speed limiter rulemaking, which NHTSA initiated in 2010?*

   In response to a petition from the American Trucking Associations to initiate rulemaking to require manufacturers to limit the speed of heavy vehicles, NHTSA published a notice on January 3, 2011, granting the petition and announcing that the agency would initiate the rulemaking process with a notice of proposed rulemaking. Because this rulemaking would apply to many commercial vehicles that are regulated by the Federal Motor Carrier Safety Administration (FMCSA), NHTSA and FMCSA decided that the most effective approach to improve roadway safety would be to issue a joint rulemaking proposal that will include both a Federal motor vehicle safety standard and a Federal motor carrier safety regulation. Although developing a joint rulemaking has required additional time and coordination, we expect to issue this proposal this year.

Questions from Rep. John Duncan:

1. *In your testimony, you stated that, "motorcycle rider fatalities increased for the third consecutive year (7.1 percent increase over 2011). Ten times as many riders died not wearing a helmet in states without a universal helmet law than in states with such laws." In your opinion, what do you think caused this increase and do you have any recommendations on how we could reduce motorcycle fatalities?*

   Motorcycle safety is a continuing concern for NHTSA, and the general trend of increasing motorcycle fatalities over the past decade is particularly troubling. According to preliminary data from our Fatality Analysis Reporting System, from 2002 to 2012 motorcyclist fatalities increased by 51 percent. Motorcyclists experience higher safety risks than other motorists and are at a greater risk when a crash occurs. Less than one percent of motor vehicle crashes result in a fatality, but five percent of motorcycle crashes result in a fatality. While motorcyclists account for a small percentage of all registered vehicles (3%) and vehicle miles travelled (0.6%), they account for 14 percent of total traffic fatalities. In terms of vehicle miles traveled, motorcyclists are about thirty times more likely to die in a crash than passenger car occupants, and five times more likely to be injured.

   At no other point in history have there been as many registered motorcycles on America's roadways. Between 2001 and 2012, motorcycle registrations increased 72%, and now number well over 8.4 million. Fatalities are likely to continue as the economy improves and more motorists turn to motorcycles as a more fuel-efficient option (gasoline prices are one key driver of motorcycle usage).

   Of particular note is the risk faced by older motorcyclists. The 40 and older age group made up 56 percent of motorcycle fatalities in 2011 as compared to 44 percent in 2002. In 2011, the average age of motorcycle riders killed in crashes was 42 years.

   The agency is committed to improving motorcycle safety, including efforts to prevent crashes as well as efforts to reduce injuries when crashes occur. NHTSA has long been active in research and the development of programs and strategies to improve motorcycle safety. NHTSA provides educational materials and offers a range of training resources to assist States with their motorcyclist safety programs. NHTSA also conducts research on issues such as motorcycle crash causation and the effectiveness of motorcycle safety countermeasures.

   According to the National Occupant Protection Use Survey, use of DOT-compliant motorcycle helmets decreased to 60 percent in 2012 from 66 percent in 2011. Evaluations of available countermeasures repeatedly confirm that the single most effective strategy to reduce motorcycle fatalities is by increasing the use of motorcycle helmets meeting the requirements set by Federal Motor Vehicle Safety Standard (FMVSS) No. 218. Our analyses indicate that helmets complying with these safety standards reduce the probability of death by 37 percent for motorcycle operators and 41 percent for motorcycle passengers. No other safety countermeasure offers this level of effectiveness for reducing motorcyclist deaths.

While only 19 States currently mandate helmet usage for all riders, NHTSA remains committed to finding ways to encourage riders to wear DOT-compliant helmets. Helmet use continues to be significantly higher in States that require all motorcyclists to be helmeted than in other States. NHTSA is currently supporting a pilot project in Florida (a non-universal helmet law state) to develop strategies to encourage voluntary helmet use among riders. Improved labeling on helmets, required by NHTSA in a 2011 rulemaking, will also help reduce the proliferation of non-compliant "novelty" helmets that provide no safety benefit in a crash.

Vehicle-to-Vehicle (V2V) communication technologies also offer a potential way to improve motorcycle safety. V2V communications is the dynamic wireless exchange of generic safety data between nearby vehicles that offers the opportunity for significant safety improvements. By exchanging vehicle-based data regarding position, speed, and location, V2V communications enable a vehicle to have a 360° awareness of the position of other vehicles on the road. V2V applications calculate the risk posed by nearby vehicles and provide driver advisories or warnings to help enable drivers to take pre-emptive actions to avoid and mitigate crashes. If motorcycles were equipped with V2V communication technologies, they would be more conspicuous to drivers of other vehicles equipped with similar technologies. V2V technology could help prevent some crashes involving motorcycles by helping other vehicles sense an impending collision and issuing a crash warning.

Motorcycle safety is a top priority for NHTSA, and the agency plans to continue to its efforts to reduce deaths and injuries in motorcycle crashes.

Parents Against Tired Truckers and Citizens for Reliable and Safe Highways

March 27, 2014

The Honorable Mike Michaud
U.S. House of Representatives
Washington, D.C. 20515
Via email to Daniel Walls, Senior Legislative Assistant Daniel.Walls@mail.house.gov

Dear Congressman Michaud,

We are writing to express our serious concerns about the recent comments made during the Transportation and Infrastructure Committee's Subcommittee on Highways and Transit hearing, "Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation," held on March 12, 2014. During the hearing, you stated that Maine's exemption to the federal truck weight limits has had a positive result, and that because fatalities from truck crashes were reduced after the exemption was implemented, it has been a success. However, this is not the complete story. Both the number of injuries and total truck-related crashes increased. This information should be included in any official review of Maine's safety record, as well as in anecdotal summaries of impacts resulting from the exemption. Additionally, heavier trucks accelerate wear on our roads and bridges and it is vital to take into consideration the financial burdens heavier trucks impose on Maine taxpayers. We urge you to reconsider your position supporting an increase in truck weight limits and take into account the following:

- Every year on average 4,000 people are killed in truck crashes in the U.S. and another 100,000 are injured. U.S. Department of Transportation (DOT) national data reveals 2012 fatality figures showed an increase in large truck fatalities for the third year in a row—a 16 percent increase in truck crash deaths since 2009. Last year, 3,921 people were killed on our roads in large truck crashes. The number of people injured in truck crashes has increased by 40 percent, from 74,000 to 104,000.

- Heavier trucks can take longer to brake and are more prone to rollover in crashes. Tractor trailers moving at 60 miles per hour are required to stop in 250 or 310 feet, depending on gross weight and the truck configuration, once the brakes are applied. This is roughly the length of a football field. Actual stopping distances are often much longer due to driver response time before braking and the common problem of unmaintained brakes which are already a leading factor in truck crashes. In fact, brakes have been cited in 29.4 percent of commercial motor vehicle crashes as an associated factor. According to the Commercial Vehicle Safety Alliance (CVSA), during its annual *Brake Safety Week*, the Out-of-Service (OOS) rate for all brake-related violations was 15.3 percent. This was higher than each of the previous three years. Heavier trucks will increase the rate of wear and amplify the severity of collisions occurring when brakes under-perform from lack of maintenance.

- With each ton over the 80,000-pound federal limit, the chances of a big truck crash resulting in deaths and serious injuries increase. The heaviest trucks, Class 7 and 8 (26,000 pounds and over) consist of approximately 23 percent of the truck fleet, yet are involved in 81 percent of fatal crashes. Big trucks are more destructive in crashes and numerous studies have shown that longer, heavier trucks operate with lower safety margins on both Interstate and lower class roads. Yet, despite dangerous realities, the push to increase truck size and weight limits

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continues. Our home state of Maine has been affected by the negative safety implications involved with allowing heavier trucks on our roadways. In 2011, before the exemption was implemented, 267 truck-related injuries and 611 truck-related crashes occurred. In 2012, after the increase in the truck weight limit, the number of injuries and crashes increased to 296 and 628, respectively.

- Heavier trucks hasten the deterioration of Maine's infrastructure. An October 2013 report conducted by TRIP: A National Transportation Research Group, found that Maine residents, visitors, and businesses are forced to endure challenges brought about by deficient roads, highways and bridges, and crowded or congested routes which result in lost time, increased vehicle operating costs, and financial burdens to Maine taxpayers. Maine faces a $150 million annual shortfall in funds needed to meet the state's goals addressing these challenges over the next decade. Heavier trucks exacerbate this problem because they accelerate the rate of wear on roadways and highways and especially on bridges. Maine taxpayers will be forced to shoulder the additional burden of paying for the increased damage that heavier trucks cause to our infrastructure. Driving on rough roads already costs the average Maine motorist $245 annually in additional vehicle operating costs in excess of infrastructure costs, a total of $246 million each year. The most recent study to look at federal government subsidies of heavy truck operations revealed that taxpayers contribute almost $2 billion every year. Trucks on the road today would need to pay an additional 28 cents per gallon of diesel just to break even and 97,000-pound trucks would need to pay an additional $1.17 per gallon. The Federal Highway Administration (FHWA) reported that trucks weighing more than 80,000 pounds only pay between 40 and 50 percent of the costs for which they are responsible.

We are both Maine residents who have lost sons and whose families have been irrevocably changed by preventable truck crashes. As you know from Parents Against Tired Truckers' (PATT) decades of truck safety advocacy and our meetings together over the years, my son, Jeff Izer, and three of his friends were killed 20 years ago this past October by a fatigued truck driver. The truck driver, who fell asleep at the wheel, crashed into Jeff's car which was parked on the shoulder of the Maine Turnpike, broken down with its flashers on. As a result of this horrific crash, four teenagers were killed and one was seriously, permanently injured. The Mahaney family's loss is recent. Liam Mahaney was killed and his family injured on July 19, 2011, by a fatigued truck driver operating a 100,000-pound truck that crashed and destroyed their home. No family should have to suffer the loss of their loved ones in such a violent and devastating manner, and especially not when safety deficits are known and remedies available. The safety of Maine's citizens should be your utmost concern and we urge you to take to heart our tragic stories and do everything you can to prevent another family from experiencing the pain that our families must endure.

Thank you for your time and consideration of this very important issue.

Sincerely,

Daphne Izer, Founder, Parents Against Tired Truckers
Lisbon, Maine
Son Jeff and three other teenagers were killed and one friend injured in a crash caused by a tired trucker

Christina Mahaney
Jackman, Maine
Son Liam was killed, Christina and her husband were seriously injured and their home was destroyed in a crash caused by a tired trucker driving an overweight log truck

cc:

The Honorable Thomas Petri
Chairman
Via email to Debbie.gebhardt@mail.house.gov

The Honorable Eleanor Holmes Norton
Ranking Member
Via email to Lauren.dudley@mail.house.gov

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March 26, 2014

Subcommittee on Highways and Transit
House Committee on Transportation and Infrastructure
U.S. House of Representatives

March 12th Hearing on "Oversight of the U.S. Department of Transportation's Implementation of MAP-21 and Fiscal Year 2015 Budget Request for Surface Transportation"

On behalf of the National Congress of American Indians (NCAI), thank you for the opportunity to provide testimony for the record on transportation for Indian Country. NCAI is the oldest and largest national organization in the United States and is steadfastly dedicated to protecting the rights of tribal governments to achieve self-determination and self-sufficiency. NCAI supports the House Subcommittee on Highways and Transit's oversight of the implementation of MAP-21 and the U.S. Department of Transportation's Budget Request for Fiscal Year 2015. NCAI looks forward to working with members of this Subcommittee as you continue your work to ensure efficient implementation of MAP-21 and consider the upcoming transportation authorization.

Tribal transportation programs are critical to ensuring that tribal governments can provide for the economic and social well-being of their tribal members and members of the surrounding communities Adequate and safe roads, transit, bridges, and infrastructure are the means that Indian children rely on to get to school, that tribal governments rely on for economic development opportunities, and that elders rely on for healthcare and mobility. When legislation is enacted that impacts how tribes carry out their tribal transportation program, it is key that implementation occurs in a timely manner and in a way that takes tribal self-determination into account.

Background on Tribal Transportation:

Surface transportation in Indian Country involves thousands of miles of roads, bridges, and highways. According to the latest National Tribal Transportation Facility Inventory (NTTFI) [1], there are approximately 159,000 miles of roads and trails in Indian Country owned and maintained by the Bureau of Indian Affairs, Tribes, and States and Counties. Of those, Indian tribes own and maintain 13,650 miles of roads and trails, of which only 1,000 (or 7.3%) are paved and 12,650 miles are gravel, earth or primitive. However, these miles of roadways are still among the most underdeveloped and unsafe road networks in the nation, even though such routes are the primary means of access to American Indian and Alaska Native communities by

[1] 23 USC 202 (b)(1)

tribal and non-Indian residents and visitors alike. Of the 27,500 miles owned and maintained by the BIA, only 7,100 miles are paved and 20,400 miles are graveled, earth or primitive. These roads are the primary means of travel for Indian people across the nation, but they remain the most underdeveloped road system that exists in the United States.

MAP-21 - Tribal Transportation Programs:

The current transportation authorization, Moving Ahead for Progress in the 21st Century (MAP-21) restructured the transportation programs for Indian tribal governments by establishing and consolidating the Tribal Transportation Program (TTP) (formerly the Indian Reservation Programs), eliminating the separately funded IRR Bridge Program and High Priority Project Program (IRRHPP) and creating discretionary grants within the TTP for tribal bridges and highway safety programs and projects. MAP-21 changed the regulatory funding formula for allocating TTP "tribal shares" for transportation construction that the BIA and FHWA must phase in over a number of years. MAP-21 also revamped the Section 5311 (c) Public Transportation on Indian Reservations Program (Tribal Transit Program) administered by the Federal Transit Administration, by establishing a statutory formula for allocating transit funds among eligible Indian tribes, and increased funding.

Implementation of MAP-21 on Tribal Transportation Programs:

As mentioned, MAP-21 had several programmatic changes to tribal transportation programs, one of them included the removal of funding of the Tribal High Priority Projects Program from the Highway Trust Fund and moved to U.S. Treasury General Funds and authorized for $30 million; however Congress has not appropriated funds for this program for FY 2013 and FY 2014. This program is crucial to tribes because it provides funding to tribes whose annual funding allocation they received under the TTP is inadequate to complete their highest priority projects, or for tribes that are impacted by emergency or disaster incident that leaves a tribal transportation facility unusable or inaccessible.

Both the Tribal Transportation Program and Tribal Transit Program required rulemakings. As of today, Federal Lands Highway (FLH) has not finalized its rulemaking on implementation of MAP-21. The agency has held three tribal consultations; however, no final rule has been published in the since MAP-21 was enacted. The Federal Transit Authority held two meetings with tribes and published a final rule in the May 9, 2013 Federal Register (Notice Of Funding Availability: Solicitation Of Grant Applications For FY 2013 Tribal Transit Program Funds; And Responses To The November 9, 2012 Solicitation Of Comments).

Implementation of the Funding Formula. The funding formula in MAP-21 formula consists of: 27% of funding based on the Tribe's approved road mileage (national percentage); 39% of funding based on the Tribe's most recent Native American Housing Assistance and Self Determination Act (NAHASDA) population (national percentage); 34% of funding based on the Tribe's RNDF and Population Adjustment Factor (PAF) amounts from FY05 to FY11 (regional percentage). The new

formula now takes into account NAHASDA population component and determines how much each tribe receives for TTP. There are two concerns NCAI would like to bring to the Subcommittee's attention:

U.S. Department of Housing and Urban Development (HUD) Negotiated Rulemaking Committee. This Negotiate Rulemaking Committee that is currently reviewing and revising HUD's Indian Housing Block Grant (IHBG) formula allocation that are codified in subpart D of part 1000 of HUD's regulations in title 24 of the Code of Federal Regulations. The outcome for the IHBG's formula will have significant impact on the TTP and Tribal Transit Grant Program statutory allocation formula because it uses the tribal population according to Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA, 25 USC 4101 et seq.). After MAP-21, NCAI has recommended tribes to have their transportation departments inform their tribal housing authorities about new MAP-21 statutory formula, which now uses NAHASDA tribal population component to calculate funding allocation. NCAI is uncertain if DOT is aware of this Negotiated Rulemaking Committee is currently reviewing the IHBG formula allocation or if HUD is aware that MAP-21 authorized statutory formula using tribal population from NAHASDA formula allocation.

Tribes are not obligated to report their population numbers to HUD. Federal Lands Highway and BIA are having difficulty calculating allocation funding for tribes where some tribes population is zero because they do not report their population numbers to HUD. BIA has stated in testimony on MAP-21 implementation there are over 25 tribes whose population is at zero. This component of the NAHASDA population does not give Federal Lands Highway and BIA the ability to accurately distribute TTP allocation funds.

Safety issues for Indian tribes are important because many tribal communities are vulnerable by unsafe and often inaccessible roads, bridges, and ferries. Indian Country suffers injury and death driving and walking along reservation roadways at rates far above the national average. According to the Federal Highway Administration: "American Indians have the highest rates of pedestrian injury and death per capita of any racial or ethnic group in the United States." Over the past 25 years, 5.962 fatal motor vehicle crashes occurred on Indian reservation roads, with 7,093 lives lost. While the number of fatal crashes in the nation declined 2.2 percent during this time period, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.5 percent. Adult motor vehicle-related death rates for American Indians/Alaska Natives are more than twice that of the general population. These statistics are shocking and cry out for major changes in Federal transportation safety programs serving Indian country.

Currently, Indian tribes receive a two percent set-aside from the National Highway Traffic Safety Administration Highway Traffic Safety Grant Section 402 and is administered by BIA; the funding amount for FY 2014 was $4.7 million. The purpose of Section 402 is support highway safety plans to help reduce fatalities and injuries on highways. According to BIA Indian Highway Safety Program (25 CRF PART 181), this program is a competitive grant program, and is to assist tribes

with their proposed Highway Safety Projects. The plans are to reduce traffic crashes, reduce impaired driving crashes, increase occupant protection education, provide Emergency Medical Service training, and increase police traffic services. Indian tribes have expressed their concern that BIA Indian Highway Safety Program with the accountability and efficiency this program is providing to Indian tribes for highway safety projects. In reviewing grant awards, tribes have noted that the grants being awarded within the BIA Indian Highway Safety Plan are awarded for law enforcement initiatives and are not going to other safety prevention programs, leaving tribes in effect with no access to safety funding.

Fiscal Year 2015 Budget Request for Surface Transportation:

For Fiscal Year 2015, the U.S. Department of Transportation (DOT) requested the following for tribal transportation related programs: an increase of $507 million for TTP to improve repair and construct existing infrastructure; an increase of $35 million for Tribal Transit Program; elevated level funding at $4.8 million for Highway Traffic Safety Grant-Section 402-Indian Highway Safety Program, which is administered by BIA; an increase the Tribal Bridge set-aside from 2 % to 4% from current levels to address the backlog of needs for tribal bridges; establishes a 7% set-aside from the TTP for the Tribal High Priority Projects Program (as mentioned earlier in this testimony, MAP-21 removed the authorized funded from the Highway Trust Fund to U.S. Treasury General Funds, and Congress has not funded this program); and increased tribal planning set-aside from 2% to 3% to deal with further data collection requirements. NCAI supports and encouraged by the increases in funding levels for FY 2015 for the tribal transportation programs to meet the growing needs for safe and adequate transportation infrastructure in Indian Country; and supports the return of the Tribal High Priority Projects Program to Highway Trust Fund, which will have great impact on tribes who have to save their funding to complete their transportation project. However we are quite concerned that U.S. Department of Interior requested for FY 2015 the BIA Road Maintenance for $25 million which has remained unchanged again for decades.

Although the subject of this hearing is on the U.S. Department of Transportation, one of important transportation for tribes is the BIA Road Maintenance. The BIA implements and funds (the funding is appropriated through the Interior, Environment and Related Agencies) roads that are owned and responsible for maintaining by BIA. Currently, there are 29,500 miles of roads that are designated as BIA roads. The BIA Road Maintenance is funded approximately $25 million which funding levels have remained stagnant for several fiscal year cycles, which has compromised highway safety in Indian country, and dramatically shortened the useful life of the BIA System and tribal roads and bridges, and undermined tribal economic development initiatives in Indian country. For FY 2013 deferred maintenance for BIA roads is over $280 million. These staggering amounts of deferred maintenance of BIA roads are transportation and maintenance cost in Indian Country that tribes cannot afford to divert their scarce resources to transportation infrastructure that BIA is responsible for.

In conclusion, NCAI is committed to improving and build upon the successes of the last authorization of MAP-21 because transportation infrastructure is vital to the enhancement of tribal governments and safety of their communities and visitors who utilize transportation facilities in Indian Country. Strengthening tribal governments and their communities by providing safe and reliable transportation infrastructure is essential for communities to prosper.

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