

# **TRANSPORTATION AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS FOR FISCAL YEAR 2017**

**WEDNESDAY, MARCH 16, 2016**

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

The subcommittee met at 2:30 p.m., in room SD-192, Dirksen Senate Office Building, Hon. Susan Collins (chairman) presiding.

Present: Senators Collins, Blunt, Boozman, Capito, Reed, Mikulski, Coons, Schatz, and Murphy.

## **DEPARTMENT OF TRANSPORTATION**

### **OFFICE OF THE SECRETARY**

#### **STATEMENT OF HON. ANTHONY FOXX, SECRETARY**

##### **OPENING STATEMENT OF SENATOR SUSAN M. COLLINS**

Senator COLLINS. The subcommittee will come to order.

Today, we welcome Secretary Foxx, who will testify on the President's fiscal year 2017 budget request for the Department of Transportation (DOT) as well as Inspector General Scovel, who will discuss his office's budget request and the oversight and other work the Office of Inspector General (OIG) has been and will be conducting at the Department.

The budget proposes \$98 billion for the Department of Transportation in mandatory and discretionary spending for fiscal year 2017. The administration has asserted that this request abides by the bipartisan budget agreement Congress passed last year. Regrettably, that is simply not accurate.

Instead of living within fiscal reality, the budget evades the caps by using the same old gimmicks that we have seen in past proposals. By shifting programs from discretionary to mandatory, the President is able to show a 36-percent reduction in spending under the budget caps. At the same time, he takes credit for increasing DOT's overall budget by almost 30 percent. This undermines the essence of the budget agreement.

I am also disappointed that just 3 months after Congress passed the Fixing America's Surface Transportation Act (FAST Act), the budget proposes an entirely new 10-year, \$495 billion, 21st Century Clean Transportation plan on top of the FAST Act. It is paid for by a new \$10.25 per barrel tax on crude oil and other unspecified business tax reforms.

I am simply perplexed by the administration waiting to put forth this plan now when Congress debated and passed a multiyear transportation reauthorization, which the President signed into law, just 3 months ago. It is particularly astonishing that after ignoring Congress' repeated requests to engage in developing the necessary reforms to keep the Highway Trust Fund solvent, the administration has finally proposed a source of funding, though unrealistic, as it enters its final year.

I just do not understand why this plan, which is a legitimate plan, even if it is not one that I think would pass, was not proposed last year in the midst of the negotiations on the FAST Act.

For the Federal Aviation Administration (FAA), the request includes nearly \$16 billion to support investments to keep our aviation system the safest and most efficient airspace in the world.

I have serious reservations about the legislative proposal in the House of Representatives. It seeks to privatize air traffic control outside of the FAA largely under the control of the major airlines. The public, in my judgment, would not be well-served by exempting any part of the FAA from annual congressional oversight, which is necessary to ensure accountability, and a sustained focus on aviation safety.

The United States has the busiest, most complex airspace in the entire world. Our Nation's air traffic controllers handle more than 50,000 flights a day and more than 700 million passengers each year. To liken our system to any other in the world is preposterous.

Congressional oversight ensures that the FAA maintains a system that works across the aviation industry, including for general aviation and supporting small and rural communities. Rural States like Maine and other States represented by members on this committee benefit greatly from services that connect rural America with the larger transportation network.

The Next Generation Air Transportation System (NextGen) is modernizing our air traffic control system, and it is happening today. Much of the backbone work for NextGen is finally complete. The FAA has safely reduced wake separation standards at 11 locations, and data comms departure clearance services are used at eight tower sites.

As a result, we will see reduced flight delays. That will be very welcome by us who travel back and forth every week to our home States. And it will also lower fuel consumption.

One of the most innovative DOT programs, which I have consistently advocated for, is the Transportation Investment Generating Economic Recovery (TIGER) program. I am very pleased to see that the Department and the administration continue to highlight the importance of this vital program.

TIGER has some flexibility to fund a wide range of transportation projects that demonstrate national or regional significance to economic growth and job creation. In my home State of Maine, TIGER has supported vital bridge, port, and rail projects that otherwise might not have been built.

I am also interested to hear more about the Department's implementation plan for the new freight and highway competitive program known as FASTLANE to address the critical freight issues facing our Nation's aging infrastructure.

With regard to our rail network, I am deeply concerned by the number of rail accidents that have occurred over the past several years, including earlier this week. I know this is of great concern to Secretary Foxx as well.

The Federal Railroad Administration's (FRA's) budget request highlights the need to ensure safe transportation of crude oil and other energy products across North America.

Unfortunately, last year, several members of this committee experienced firsthand the importance of this issue due to freight derailments in their States. All of us who live near Quebec, Canada, will never forget the 2013 inferno caused by a runaway freight train that killed 47 people and decimated the downtown of a small Canadian community.

Rail safety is a very important issue that this committee takes seriously, and I know the Department does as well. In recent years, we have provided funding for FRA to hire additional inspectors and safety personnel. Last year, we included funding to provide 33 additional safety personnel, as well as \$50 million for new railroad safety grants. I look forward to hearing the Department's progress in hiring inspectors and its timeline for allocating these railroad safety grants.

With this being the final year of this administration, I would also like to emphasize to the Secretary the importance of prioritizing the Department's regulatory agenda. There are many regulations working their way through the Department and the Office of Management and Budget (OMB). Priority should be given to regulations that are urgently needed and are required, indeed, mandated, by Congress. This is not the time to be issuing unnecessary, burdensome regulations in the midnight hours.

Finally, as we all know, Washington, DC, is experiencing its own transportation crisis today as the DC Metro is shut down for emergency inspections of power cable systems. According to the new general manager, the shutdown is the result of a fire at McPherson Square station on Monday, which is similar to a fatal fire that occurred at L'Enfant Plaza just 1 year ago.

The unfortunate timing of the notification for the 29-hour shutdown as commuters were heading home last evening is having a severe impact on the Federal work force, on tourists who are visiting their Nation's capital, and on the DC local school system.

Safety clearly must be the top priority for all transit agencies. While this was a very tough decision for Metro to make, it once again brings into question the reliability of the system and whether or not adequate oversight is being conducted in a system that it relied upon by so many daily commuters and tourists who visit the Washington, DC, area. I am sure that this issue will be brought up in questioning as well.

[The statement follows:]

#### PREPARED STATEMENT OF SENATOR SUSAN M. COLLINS

The subcommittee will come to order. Today, we welcome Secretary Foxx, who will testify on the President's fiscal year 2017 budget request for the Department of Transportation, as well as Inspector General Scovel who will discuss his office's budget request and the oversight and other work the OIG has been and will be conducting at the Department.

I welcome both of you and look forward to hearing your testimony.

The budget proposes \$98 billion for the Department of Transportation in mandatory and discretionary spending for fiscal year 2017. The Administration has asserted that the request abides by the bipartisan budget agreement Congress passed last year; however, this is simply not accurate. Instead of living within fiscal reality, the budget evades the budget caps by using the same old gimmicks we have seen in past proposals. By shifting programs from discretionary to mandatory, the President is able to show a 36 percent reduction in spending under the budget caps. At the same time, he takes credit for increasing DOT's overall budget by almost 30 percent. This undermines the essence of the budget agreement.

I am also disappointed that just 3 months after Congress passed the FAST Act, the budget proposes an entirely new 10-year, \$495 billion "21st Century Clean Transportation Plan" on top of the FAST Act. It is paid for by a new \$10.25 per barrel tax on crude oil and other unnamed business tax reforms. I am perplexed why the Administration waited to put forth this plan now when Congress debated and passed a multi-year transportation reauthorization, which the President signed into law, just 3 months ago.

It is particularly astonishing that after ignoring Congress' repeated requests to engage with this Administration on developing the necessary reforms to keep the Highway Trust Fund solvent, the Department has finally proposed a source of funding, though unrealistic, as this Administration enters its final year.

For the Federal Aviation Administration, the request includes nearly \$16 billion to support investments to keep our aviation system the safest and most efficient airspace in the world. I have serious reservations about the legislative proposal in the House that seeks to privatize air traffic control outside of the F.A.A., largely under the control of the major airlines. The public would not be well served by exempting any part of the F.A.A. from annual Congressional oversight, which is necessary to ensure accountability for program performance and a sustained focus on aviation safety.

The United States has the busiest, most complex airspace in the world. Our Nation's air traffic controllers handle more than 50,000 flights a day and more than 700 million passengers each year. These men and women from all over the country are responsible for providing us with the safest and most efficient airspace in the world. To liken our system with any other in the world is preposterous.

Congressional oversight ensures the F.A.A. maintains a system that works across the aviation industry, including general aviation and supporting small and rural communities. Rural States like Maine, and other States represented by Members on this committee, benefit greatly from services that connect rural America with the larger transportation network.

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With regard to our rail network, I am deeply concerned by the number of train accidents that have occurred over the past several years, including earlier this week. The Federal Railroad Administration's budget request highlights the need to ensure the safe transportation of crude oil and other energy products across North America. Unfortunately, last year several members of this Committee experienced firsthand the importance of this issue due to freight derailments in their States. All of us who live near Quebec, Canada, will never forget the 2013 inferno caused by a runaway freight train that killed 47 and wiped out a community's downtown.

Railroad safety is an important issue that this Committee takes very seriously. In recent years, we have provided funding for F.R.A. to hire additional inspectors and safety personnel. In fiscal year 2016, we included funding to provide 33 safety personnel as well as \$50 million for new Railroad Safety Grants. I look forward to hearing the Department's progress in hiring inspectors and the timeline for allocating the Railroad Safety Grants. I will once again be looking closely at how we can best target Federal funds to reduce accidents in both passenger and freight trains.

With this being the final year of this Administration, I would like to emphasize to the Secretary the importance of prioritizing the Department's regulatory agenda in the months ahead. There are many regulations working their way through the Department and OMB. Priority should be given to regulations that are urgently needed and are required by Congress. This is not a time to be issuing unnecessary, burdensome regulations in the midnight hours.

With that, let me call upon my colleague and friend Senator Reed, the ranking member.

Senator COLLINS. With that, let me call upon my colleague and friend from Rhode Island, the subcommittee's distinguished ranking member, Senator Reed.

#### STATEMENT OF SENATOR JACK REED

Senator REED. Thank you, Madam Chairman, for your kind introduction and leadership.

And thank you, Secretary Foxx. Welcome. You have led the Department with great energy and honesty, and we appreciate very much your efforts over the months you have been leading the Department.

As you work through the last year of this administration, I want you to know that we all appreciate your leadership and the way you have worked with the subcommittee. So thank you again, Mr. Secretary.

Once again, I hope we can convince you to come up to Rhode Island for a visit. In your earlier trips to Rhode Island, you saw how our transportation is essential to our State, just as it is to Maine and Maryland and Missouri and West Virginia and every other State in the country. You visited our Port of Davisville, which, once again, celebrated another record year handling automobiles, over 269,000 vehicles in 2015, a remarkable economic engine for the State.

You have also helped us break ground on the T.F. Green runways for the new airport, so thank you very much. This project will be done in 2017. Indeed, two international airlines started service to Rhode Island because of the ongoing efforts. Thank you again.

And we are also working with you to study intercity rail, which is a key aspect of our economy, as it is in so many other metropolitan areas in the United States. We want to maximize intermodal efficiency. We want our airports, our rail systems, and our bus systems all to operate together. These intermodal connections are absolutely critical as we go forward. Thank you for your interest and your personal involvement.

There are, however, some potential difficulties facing the air traffic control system and airports in general. The chairman has pointed them out.

As you know, the House of Representatives is considering a bill to privatize air traffic control. Giving away billions of dollars in Federal assets to a nonprofit corporation controlled by airlines without any congressional oversight is I believe an ill-conceived idea at best. And I do not think that privatization will offer a path to safer skies.

I think it will, rather, stop NextGen investments in its tracks, increase costs to consumers, and cut services to small and rural commercial airports. I think it is a dangerous proposal that moves this country in the wrong direction.

What this country does need is investment in our airports, bridges, roads, transit systems. Again, the chairman pointed out the Metro service interruption of 29 hours, another indication underscoring the need for investment in transit, railroads, ports, a host of facilities that need additional resource, additional effort.

Deficiencies and underinvestment in our transportation system impact American lives in ways we feel every day. Once again, we feel it here in Washington today.

We have not been keeping up with the demand. We have not made the necessary investment to keep pace with this demand. The FAST Act we passed last year is to start, but America needs more investment in infrastructure that produces more jobs and a safer, more efficient transportation system to move our economy forward.

Our needs are great, as you well know. Roads and bridges throughout the country are crumbling and inadequate for the traffic they carry.

Rhode Island's Route 610 connector, for example, is crumbling with patches upon patches barely holding it together. As the director of our Department of Transportation said, his agency has been in design or on replacement for more than 30 years trying to deal with this problem. So this is not a recent development.

Under the leadership of our Governor, Governor Raimondo, the State has a vision, not just about fixing the 610 connector but also making it safe, adding a bus rapid transit lane so we can have an increase in transit in the State along with highways. That is thinking ahead and thinking big, and it is worthy of Federal support. And I am going to ask you to consider that.

Amtrak, which serves the Providence rail center, has a \$7.3 billion state of good repair backlog for the Northeast alone. Many of its assets are over a century old and need to be replaced. I support updating the entire corridor, including the Providence station, which is an important component to the overall system.

As I mentioned before, the FAST Act has provided modest growth in transportation funding. But, unfortunately, the levels fall short of demand. I do want to applaud you for your advocacy leading up to reauthorization and for pushing us to do more. Thank you.

Now it is your job to implement the law, and it is now our task on this subcommittee to make decisions about transportation funding for fiscal year 2017. Your request includes FAST Act, level funding for service programs as well as the new 21st Century Clean Transportation plan.

It is a bold proposal, and I appreciate the administration looking forward with big investments. It shows the world of possibilities on what we could achieve with the right vision.

For example, the administration's request includes \$1.25 billion for the TIGER program, which is in extremely high demand and is a linchpin in making innovative projects happen all across this country; \$15.9 billion for the FAA, which fully funds air traffic controller work force and provides \$1 billion for NextGen programs; \$2.3 billion for Amtrak current service; and \$3.7 billion for improving rail service nationwide. Again, critical.

And as I mentioned, we are looking very closely in Rhode Island at integrating all the services at T.F. Green Airport and also at the

Pawtucket and Central Falls locations. These funds would help expand service not only in Rhode Island but many other parts of the country.

\$1.2 billion for the National Highway Traffic Safety Administration, which will allow the agency to improve vehicle safety defect investigations. \$3.5 billion for FTA's capital investment grant program, which has seen a 70-percent growth in projects since fiscal year 2013.

These programs all rely on discretionary resources provided in the transportation, housing and urban development bill and they all save lives, create jobs, and grow the economy.

I know we will be unable to meet many of these goals due to budget constraints, but I know that you make your request based on the real needs you see and hear about each day. Congress needs to hear about these needs.

Again, Secretary Foxx, thank you for your service. I look forward to your testimony.

And thank you, Madam Chairman.

Senator COLLINS. Thank you very much, Senator Reed.

Normally, we would now turn to the Secretary's opening statement, but Senator Mikulski, I know that your constituents have been most affected by the Metro, so I wanted to give you an opportunity.

Senator MIKULSKI. I will do it in the question round.

Senator COLLINS. That sounds great. Thank you.

Senator Foxx—Secretary Foxx. I do not know whether that was a promotion or demotion.

[Laughter.]

Senator COLLINS. These days, it is hard to tell.

#### SUMMARY STATEMENT OF HON. ANTHONY FOXX

Secretary FOXX. Madam Chairman, thank you so much. And I want to thank the members of the committee, Ranking Member Reed, and the ranking member of the full committee, Senator Mikulski. Thank you all very much. I want to thank you for the opportunity to meet with you today to discuss the President's 2017 fiscal year proposal for the Department of Transportation.

At the outset, however, I want to begin my statement today by discussing the suspension of operations by Washington's Metrorail system. This service suspension has not only been disruptive to the local Washington, DC, community, but to the operations of the Federal Government. Ranking Member Mikulski has been a leader in the effort to get this system in shape, and she and I have worked together on this issue, despite many shared frustrations with the Washington Metropolitan Area Transit Authority (WMATA).

Earlier this year, the Federal Transit Administration (FTA) determined that the safety oversight entity that DC, Maryland, and Virginia had created was a failure. We then informed the three jurisdictions that we will temporarily assume safety oversight duties while they set up a new, stronger, permanent safety oversight entity.

Frankly, the three jurisdictions have not yet acted on their responsibility, and I have made that point abundantly clear in recent months and will continue to until that work is done.

However, all of us still need to roll up our sleeves and help WMATA help itself.

WMATA has hundreds of millions of unspent balances and open grants. I am directing the FTA to evaluate the status of these funds and prioritize their direction to safety wherever possible.

Also, as work proceeds on the jumper cable issue, the FTA will conduct a safety inspection blitz starting next week on three other critical areas that we have identified as serious problems for Metro: red light running, use of emergency brakes, and track integrity. This builds on inspections that have been conducted over the last several months.

Every year since I have been Secretary, I have urged Congress to pass a long-term surface transportation bill. Today, I have come in part to thank Congress for passing a bipartisan bill last year, the FAST Act, which has done a lot to remove the cloud of uncertainty hanging over our surface system for the better part of a decade.

Today, I ask you to join the Obama administration as we seek to build on the FAST Act with an even more robust 21st century-focused plan to win the future.

For fiscal year 2017, the President's plan includes \$98 billion in transportation investments, a significant increase over the FAST Act levels to support advancements in safety, repairing and replacing infrastructure, and driving forward innovation and emerging technologies that can help us move faster, more efficiently, and safer in the future.

The President's budget recognizes that neither our current patchwork funding approach nor the rigid and antiquated distribution of transportation dollars through formulas is going to put our Nation's infrastructure in the best possible position for our kids and grandkids. As the long and tortured debate about how to put together a surface transportation bill has shown, our transportation bills are no longer layups.

If we work hard now, it will save stress when the FAST Act expires. While the FAST Act helps, we are still playing catch-up, and the same demographic and economic pressures are coming.

Our future challenges, as our report *Beyond Traffic* tells us, will get even worse tomorrow than they are today; 70 million more people by 2045, creating even more demand on our transportation system; freight volumes increasing by 45 percent; 65 percent more trucks on the road; and more of the population concentrated in what social scientists and other observers called mega-regions.

In short, our funding and funding distribution models for America's transportation are rearview mirrors, and the massive demographic and economic pressures are our front windshield.

With the FAST Act's passage, Congress should rethink our strategy, and the President's budget offers a pathway for the future. Specifically, the President's request proposes a new clean transportation plan. This plan not only increases spending on infrastructure, it also looks to spend the money smarter, pushing it to the local and regional levels where system integration is most needed and projects can be built much faster.

That is why the President recommends a series of innovative, new grant programs that advance a 21st century approach with an



annual average budget of \$10 billion over the life of the plan. Also included is a nearly \$20 billion allocation for transit to address fast-growing needs, \$6 billion a year for high-performance rail, and finally a clean transportation plan that will help us prepare for the future by providing nearly \$4 billion over 10 years to research the integration of new technologies in transportation, including autonomous vehicles.

Some have already spoken to the allocation for NextGen and for FAA. This funding will enable the FAA to continue operations at current funding levels while maintaining its focus on aviation safety.

With that, I want to thank you, Madam Chairman, for allowing me to present the President's budget request to you. I look forward to your questions, and I again thank the committee.

[The statement follows:]

#### PREPARED STATEMENT OF HON. ANTHONY FOXX

##### INTRODUCTION

Chairman Collins, Ranking Member Reed, and members of the Subcommittee, I want to thank you for the opportunity to meet with you today to discuss the President's fiscal year 2017 budget plan for the Department of Transportation. The President's request totals \$98.1 billion in resources that will support the Department's top priority, safety. This plan is focused on the future with high impact investments in the safe integration of emerging technologies, such as autonomous vehicles and unmanned aircraft systems (UAS). It supports improvements that have the potential to transform transportation systems, save lives, and reduce carbon emissions. The President's Budget charts a path towards fundamental changes in the way the government balances and integrates transportation options in planning for the future.

##### ENHANCING SURFACE TRANSPORTATION

The surface transportation investments in the President's fiscal year 2017 Budget build on the recently enacted Fixing America's Surface Transportation (FAST) Act, which President Obama signed into law on December 4, 2015. The FAST Act is an important down-payment for building 21st Century surface transportation systems. It includes a series of important changes, to improve the efficiency of permitting and project delivery, including a number of provisions fostering ladders of opportunity, establishes new freight-focused funding programs, and makes changes to a number of the Department's safety programs. These changes include creating a new grant program and enhancing authority with respect to recalls, civil penalties, and the collection of safety data.

However, the FAST Act largely maintains current programs—including the traditional funding and program distribution between highway and transit funding, with limited support for multimodal plans and projects. While the FAST Act included authorization for rail programs, rail funding will continue to be determined on an annual basis, without the certainty provided by the multi-year trust fund structure that currently supports highway and some transit programs.

Thus, the fiscal year 2017 Budget builds on the FAST Act, taking the next steps to reform funding streams and encourage better planning and projects at the State and regional levels through increased investment in areas such as rail and transit. It also includes a series of new, multimodal programs that increasingly cut across traditional siloes, in support of more comprehensive regional strategies that connect communities and support climate and greenhouse gas reduction goals.

To address these concerns, the President's request directs investments over a 10-year period towards a 21st Century Clean Transportation Plan that reflect America's changing demographics and economy, while at the same time providing access to opportunity.

—As more Americans move to cities, regions, and megaregions, it is time for us to reassess how we plan for and use our limited transportation dollars.

—At the same time, this Clean Transportation Plan recognizes the impact today's transportation systems have on climate change and the environment and seeks

to build incentives that will encourage new, cleaner forms of transportation and better land use planning.

—This plan also acknowledges the important role that innovation and technology play in keeping transportation safe, reliable, and efficient by requesting funds for programs such as a new autonomous vehicle deployment pilot that will yield important benefits.

Overall, the President’s Budget request represents a combination of these proposed 21st Century Plan investments and funding for the Department’s traditional transportation programs. Key elements of the request include the following:

INVESTING IN CLEAN, 21ST CENTURY SURFACE TRANSPORTATION OPTIONS THAT REFLECT AMERICA’S CHANGING DEMOGRAPHICS AND PROVIDE ACCESS TO OPPORTUNITY

*Enhances Clean Transportation Options for American Families.*—Over the next decade, the Budget invests an average of nearly \$20 billion per year in new investments to reduce greenhouse gas emissions and provide new ways for families to get to work, to school, and to the store. The Budget would expand transit systems in cities, fast-growing suburbs, and rural areas; make high-speed rail a viable alternative to flying in major regional corridors; modernize our freight system; and expand the successful Transportation Investment Generating Economic Recovery (TIGER) program to support high-impact, innovative local projects.

*Supports Investment Decisions Towards a “21st Century Regions” Approach That Reflects a Changing Demographics and Economy.*—Currently, the majority of Federal transportation funding flows, via formula, through the State. To address the shifting demographics in America, this Budget balances that funding stream, by directing billions of dollars through regional governments, such as Metropolitan Planning Organizations, empowering them to play a stronger role in decisionmaking. Over a 10-year period, the Budget invests an average of \$10 billion a year towards a series of new, innovative multimodal programs that improve the balance of funding and decisionmaking and will accelerate the move towards smarter, cleaner, and more integrated communities. The funding would flow across transportation modes to support transit-oriented development; reconnect downtowns divided by freeways; and, bicycle and pedestrian networks.

The President’s Budget fully supports FAST-authorized funding levels for surface transportation programs, aimed at keeping the system safe and in a state of good repair. In addition to the proposed increases for surface programs, the Budget fully funds FAST Act levels for fiscal year 2017, across transportation modes which include: \$44 billion to invest in the Nation’s critical highway and bridge systems; nearly \$10 billion to support operations of public transit systems across the Nation; roughly \$730 million for the National Highway Traffic Safety Administration (NHTSA) to research and develop new, life-saving technologies and programs; and over \$640 million to support nationwide motor carrier safety through the Federal Motor Carrier Safety Administration (FMCSA).

ADVANCES PUBLIC AND PRIVATE SECTOR COLLABORATION TO ACCELERATE COST-COMPETITIVE, LOW-CARBON TECHNOLOGIES AND INTELLIGENT TRANSPORTATION SYSTEMS

*Continues the Transition to the Next Generation Air Transportation System (NextGen).*—The Budget requests a total of \$1 billion to support NextGen. This includes \$877 million for NextGen Capital investments, an increase of \$22 million above fiscal year 2016, which will advance modernization efforts; enhance automation; implement satellite-based surveillance capabilities; improve data communication practices and technology; and maximize traffic flow.

*Funds Pilot Deployments of Safe and Climate-Smart Autonomous Vehicles to Create Better, Faster, Cleaner Urban and Corridor Transportation Networks.*—To accelerate the development and adoption of autonomous vehicles, the Budget includes \$3.9 billion over 10-years for large-scale deployment pilots to develop a common multistate interoperability framework for connected and autonomous vehicles.

ENSURES TRANSPORTATION SAFETY KEEPS PACE WITH CHANGING TECHNOLOGY AND ORGANIZATIONAL NEEDS

*Integrates Surface Transportation Technologies Safely Into the Transportation System.*—High impact investments will support activities such as NHTSA’s New Car Assessment Program (NCAP), to test vehicle safety through state-of-the-art equipment and more realistic crash dummies. The Budget invests \$35 million in fiscal year 2017 for this integration.

*Strengthens Regulatory Enforcement Agencies Across the Department Through Resources and Organizational Changes.*—Across the Department, agencies are taking

action to strengthen the regulatory and enforcement capabilities that are key to protecting the safety of travelers and movement of goods.

—Investments would provide over \$47 million for NHTSA’s Office of Defects Investigation to improve its effectiveness in identifying safety defects quickly, ensuring remedies are implemented promptly, and notifying the public of critical defects.

—The Budget’s \$295 million request for the Pipeline and Hazardous Materials Safety Administration (PHMSA) also includes proposed organizational changes to elevate the role of research and analysis in support of regulatory development and enforcement.

*Supports Rail Safety Through Research and Development and Implementation of Positive Train Control (PTC).*—The Budget includes \$213 million to support the Federal Railroad Administration’s (FRA’s) rail safety and development programs, including implementation and enforcement of PTC, as well as related track and bridge safety activities, and another \$53 million for additional safety research. This includes \$12.5 million to analyze and demonstrate the safety and environmental benefits of Electronically Controlled Pneumatic brakes.

*Protects Our Maritime Interests.*—The Budget provides over \$428 million for the Maritime Administration to implement programs that promote the economic competitiveness, efficiency, and productivity of U.S. Maritime transportation.

#### INVESTS IN 21ST CENTURY GOVERNMENT AND PROJECT DELIVERY

*Modernizes Permitting and Project Delivery.*—The Budget supports investments, consistent with new requirements in the FAST Act that ensure we are making 21st Century investments through 21st Century delivery mechanisms. The Budget expands the Administration’s progress to expedite permitting and approval processes while protecting safety and the environment.

*Supports Ongoing Establishment of a National Surface Transportation and Innovative Finance Bureau.*—Building on the Administration’s successful Build America Investment Initiative, the FAST Act created a new office to streamline and improve the application processes for credit programs, expedite project delivery, and promote innovative financing best practices. The Budget requests resources for implementation, as well as \$275 million for the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program, along with flexibility to also use resources from a range of new multi-modal programs to cover credit subsidy costs.

*Protects Cybersecurity and Data Integrity.*—The Budget includes \$15 million to continue improvements to the Department’s cybersecurity protections, and another \$4 million to assist the Department in meeting the requirements of the Digital Accountability and Transparency Act of 2014.

When taken together all of these new initiatives support our expanding freight network, and address the ongoing need for improvements in the transportation options that support ladders of opportunity for all Americans.

#### PREPARING FOR REAUTHORIZATION OF THE FAA

*Planning for the Future of the FAA.*—The President’s fiscal year 2017 Budget request includes a total of \$15.9 billion to support the ongoing work of the Federal Aviation Administration (FAA). This funding level would provide the FAA with “steady-state” funding overall when compared with fiscal year 2016 levels. The FAA’s authorization is set to expire on March 31, 2016. As new legislative proposals are offered and considered, the President’s budget continues to propose expanded funding flexibilities that would help FAA manage its resources in a more efficient and effective way.

Thank you again, for the opportunity to appear before you today and I will be happy to answer your questions.

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

We are going to start the questioning with the ranking member of the full committee, Senator Mikulski, in light of the fact that her constituents more than any of ours have been adversely affected by the shutdown of the Metro system.

Senator Mikulski.

Senator MIKULSKI. Thank you, Madam Chair, for once again your usual sensitivity and courtesy, something very much needed in the body politic, and the vice chair of the committee, Senator Reed.

Secretary Foxx, it is good to see you again. I want to commend you and your professional staff for the outstanding job that you do. You are a very hands-on administrator and your staff takes their job very seriously. We in Maryland are very happy and proud of our assets, whether it is the Port of Baltimore, the airport, the MARC commuter rail, or the Purple Line.

But today, we have heartburn once again over the Washington Metro. Seven-hundred-thousand people ride the Metro every day, 700,000 people. Some older senior citizens. Many work age going to work here at the Capitol and in the great District of Columbia. Some are schoolchildren coming to school here in our community, and they count on a system that is safe, reliable, and they can count on.

Well, you know what happened. Paul Wiedefeld shut down the system today. It was drastic. It was disruptive. And yet I believe it was necessary.

We are deeply concerned about this. I am no Janie-come-lately to this. Going back to 2009 when on June 7 nine people died when two Metro trains collided, we have been working to change the governance, improve the management, and bring more resources.

From 2009 to 2016, we have had seven incidents of tragedy. We have had 15 deaths, nine rider deaths, and six Metro deaths. Some happened at Metro itself. Right after the terrible June 9 crash in August, we had a Metro employee die in Silver Spring. He was hit by the maintenance equipment.

I will not go through every incident, but here we are, 2010, Metro employee struck by a maintenance truck. Shady Grove, the carwash fell on an employee who lost limbs. So it is at Metro that many of these accidents occur to Metro employees.

Then, of course, not too long ago, we had the terrible fire at L'Enfant Plaza where one person died, but 80 nearly died of smoke inhalation. They could not get out. Thank God for the District of Columbia first responders who literally moved heaven and Earth to get there to help them out.

So where are we today? We have tried to change the management structure. We have tried to improve the governance. You have been a big part of that, where you could appoint the board. And we have tried to increase money.

This subcommittee has put over \$1 billion into Metro every year. It helps us buy new crash-worthy cars.

So my constituents and those in the District of Columbia and Virginia say, well, we will tough it out for 1 day, but is this change going to be reliable? Is it going to be sustainable? Is it going to stick?

For months and years now, we have called for a culture of safety. But what we get is a culture of resistance to making changes for safety.

So my question to you, as someone who is really involved himself, and you have run into the buzz saw of resistance just the way I have, and the way Ben Cardin and Mark Warner and Tim Kaine have, and Senator John Warner when he was here, so my question to you is, what more can the Federal Government do to help? What more should we in Congress do? Do we need more money? Do we need more authority? What kind of change? Because what we need

is a Metro that really works, and in a way that people have confidence that when they get on, they will get off and they will be okay.

I also worry about the workers who themselves have often been hurt or injured.

What could you share with us today where we can make a change, where what you can do to help Wiedefeld get this literally on track, and a track that gets people where they need to go?

Secretary FOXX. Senator, first of all, I want to thank you for what I would call your ferocious advocacy on behalf of safety and on behalf of the workers and users of the system.

What I would say is that the coalition of the willing here has to involve the jurisdictions themselves, and it has to involve all stakeholders who have decisionmaking authority over WMATA. For months, for months, I have called on the jurisdictions to stand up an effective State safety oversight organization.

We took over State safety oversight temporarily to give them time to get it stood up correctly, and yet we have no concrete movement on the part of these jurisdictions.

That would be a good start. All of us, those jurisdictions, Congress, our Department, the board of directors, and the leadership of the organization itself, Mr. Wiedefeld and his team, have to have relentless focus on safety.

I am prepared to do more. I have already said that we are going to look at open grants that WMATA has available and look at directing those to safety-enhancing investments.

But I really think this is a place where WMATA is going to have to run itself in a safe fashion. The culture down there has got to change. And we cannot enable the continuation of these safety failures any longer.

Senator MIKULSKI. Well, first of all, thank you.

Second, I also want to say that we are not going to take the whole hearing today, and the leadership of the committee has been very generous to me this morning.

The Senators from Maryland to Virginia intend to hold an oversight meeting with Mr. Wiedefeld and other people who could help solve this problem as soon as we get back from our spring work period.

But are you telling me that Metro has unspent money that they could be using right now for safety? Why is it unspent? What do you think it could buy?

Secretary FOXX. Well, we have the authority to direct that they use those monies to focus on their safety priorities. Some of these dollars were appropriated or provided to them in past years for any number of things. I have the FTA team looking at whether any of these funds are constrained by contracts that WMATA may have.

But rest assured, we are going to make sure that resources are not the issue. But I think the point that I am trying to make is, I do not think it is just resources. I think it is culture, and I think it is a deliberate decision that is needed on the part of everyone involved in this to focus relentlessly on safety and get things right. We are digging ourselves out of a hole.

Senator MIKULSKI. I know my time is up, but what you are saying is there has to be an insistence and persistence, not only from

you, not only for me, but from the leaders of the jurisdictions whose constituents themselves ride it.

We have to look at not only the money but the consistently run red lights, and we had to make sure the tracks are rider-worthy, and then this whole issue. But the running of the red lights really is a fearsome issue.

Let's follow up in another meeting. I appreciate the fact that we have a beginning framework here.

Thank you very much, Madam Chair and Senator Reed.

Senator COLLINS. Thank you, Senator.

#### AUTONOMOUS VEHICLES

Mr. Secretary, I am very interested in the development of driverless cars, so-called autonomous vehicles, which could provide a substantial improvement to our transportation network, particularly by giving more options to seniors who are living in rural areas where there is not mass transit of any kind.

The key benefit, however, is in reducing the number of crashes and fatalities that occur every year due to human error. While fully autonomous vehicles may be years away, there are tools such as collision avoidance, lane deviation, electronic stability control, that can help reduce crashes in the near term.

The National Highway Traffic Safety Administration (NHTSA) has traditionally provided the testing regime and standards-setting for such new safety technologies.

The budget request includes a new \$4 billion request for over 10 years for large-scale deployment pilots to test autonomous vehicles in designated corridors. This appears to be an entirely new role for the Department, and there are no details in the budget on how this large amount of funding would be used.

What is the plan? Is the budget potentially duplicative of private sector efforts already underway to deploy these vehicles in real-world driving situations?

Secretary Foxx. Thank you for the question. You are correct that the proposal is \$4 billion over 10 years for pilot programs.

We also agree with you that the automated technologies have enormous potential for safety benefits. And to accelerate those benefits, we are proposing to invest these resources in support of real-world testing. Now there is private-sector testing that is currently being engaged in, but we believe that the Government has an interest in understanding further things like whether national policy should focus on licensing, what sorts of testing is reliable, information-sharing among States and the Federal Government, and to what extent we can build on those systems.

We have actually already speeded up the deployment of these systems through regulations, including the New Car Assessment Program (NCAP), which is beginning to require or at least encourage some of these technologies as you talked about, some of the automated types of systems to come into the vehicle as part of the grading system for NCAP.

Having said that, we believe it is beneficial for the private sector to test, just as the public sector tests. And many of these tests will be done in conjunction with the private sector.

## SPEED LIMITERS

Senator COLLINS. Thank you. Last year, Mr. Secretary, I asked you about the status of the Department's proposed rulemaking on speed limiters or Governors, as they are also known. You stated at that hearing that the rule would be out "no later than the fall." Here we are in our hearing a year later and well-beyond last fall and the Department has yet to issue its rulemaking.

I am puzzled by this because this is a rule that will help to reduce highway fatalities. It has the support of the trucking industry. It has the support of various safety advocates.

Why has there been a delay in this rulemaking?

Secretary FOXX. So subsequent to our hearing last year, OMB did accept the heavy truck speed limit, or Notice of Proposed Rulemaking (NPRM), on May 18, 2015, as a top priority. We have been working closely with OMB to get that rule pushed out.

Based on our current estimates, we expect the rule to be completed by April 22, 2016. So within the next month or so.

Senator COLLINS. Thank you. I will hold you to that.

Senator Reed.

## AIR TRAFFIC CONTROLLER STAFFING

Senator REED. Thank you very much, Madam Chairman.

We spoke about air traffic controllers previously in our statements regarding this proposed privatization. I think it should clear where both the chair and I stand on that one. But there is another issue and that is there is a significant number of controllers who are eligible to retire at FAA facilities. In fact, it looks like there are more potential retirees than there are individuals in the pipeline prepared to come aboard.

So what are you doing to ensure that there is no gap, that we have an adequate number of controllers?

Secretary FOXX. I can get you the statistics, Senator, but in short, we have annual hiring goals for air traffic controllers, and we are currently at about 54 percent of our hiring goal for the current year and still going. We feel very comfortable that we will meet that target this year.

You are correct that we do have an aging work force, and we are working to onboard new air traffic controllers and move them through our systems as quickly as possible so that we can stay ahead of that attrition.

In addition to the hiring goals, we are also looking at two other aspects of the process. One is getting folks to the FAA Academy or equivalent training as quickly as possible from the time they get onboarded. And secondly, we are actually looking at some of our testing programs to ensure that those are calibrated to get us the best possible air traffic controllers.

Senator REED. A follow-on question, the inspector general has raised concerns that when you are looking at your work force, you are looking at historical trends and not specific and critical facilities.

What are you and the FAA doing to better factor in facility-specific air traffic so that you might have the right number, but they are just not properly located?

Secretary FOXX. I would like to take that back to the FAA and give you a more complete answer. But what I would say is that our airspace remains fairly dynamic. We know where a lot of their traffic is, but we also have some modeling that helps us predict where we think it is going to get more intense over time.

I fully expect that our answer will reflect our projections going forward, and our response to that. But I would like to give a sharper answer from FAA.

#### NEXTGEN MODERNIZATION

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

On a related issue, an FAA issue, the inspector general issued a report in January with some criticism regarding the management of NextGen modernization efforts. It was a rather long sweep in terms of the beginning of the program until today.

But can you fill us in on some of the reforms and the pace of reforms in this administration under your leadership?

Secretary FOXX. Sure. I will be honest, I cannot take full credit for what I am about to say. There have been a lot of people who have been working on this in this administration.

But effectively, what the FAA has done in this administration is rebaseline NextGen. There was a certain critical path for the project. It was way off scale prior to the administration. We have since right-sized that critical path. And we are meeting our targets even notwithstanding some of the budget shockwaves we have experienced in past years.

Some of the deliverables are the rolling out of metroplexes across the country; some of the flight enhancements like optimized profile descents, which are saving millions of dollars and tons of gasoline as planes land in our airspace; the development of ERAM; as well as the rollout of data comm, which will be coming on board over the next year or two.

So we feel good that we're starting to get capabilities out there. I think one of the big risks for NextGen is getting equipment in the cockpit of airplanes across the country, including general aviation, and we look forward to working with you and others to get that done.

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

Thank you, Madam Chairman.

Senator COLLINS. Senator Capito.

#### AIRPORT RECONSTRUCTION PROJECT

Senator CAPITO. Thank you, Madam Chair.

I want to thank the Secretary for being here with us today. I read your interview in the New York Times business section last Sunday. I really appreciated learning a little bit about your history. The tributes that you paid to your parents, in terms of your education, I thought were very inspiring for the next generation, so thank you for doing that.

I have a localized question here. I am from West Virginia. As you are aware, a landslide at Yeager Airport in Charleston forced the evacuation of several people and destroyed the Keystone Apostolic Church. It was the engineered materials arrestor system (EMAS)



that collapsed, because our airport is built on top of three different mountains. Thankfully, nobody was injured.

There have been a lot of entities, including the FAA, that have been trying to do the repair work. We have also been working with FEMA and the West Virginia Division of Highways. The FAA provided the initial investment for the EMAS system, which prevents planes from going over the side of the airport down the hill.

I believe that the FAA should help us play a role in rebuilding a new one. We need a new one. This is a very important project for basic safety, but also, I have learned, will play into what types of aircraft will land or be permitted to land in the Yeager Airport, which obviously has great circumstances.

I know there is litigation pending on this matter, but I would like to get a sense from you any thoughts or perspectives you might have where the FAA could be more helpful to us and to the local community to try to rebuild the system.

Secretary FOXX. Obviously, first of all, I want to tell you thank you on behalf of my family, for your comments. That was very nice of you.

Secondly, to acknowledge that the collapse of the runway safety area at Yeager Airport is a very complex issue. The FAA continues to work with the airport. As they do that, I look forward to giving you updates on how that conversation is going. But I want the FAA to be helpful to you. I want the FAA to be helpful to the community in getting that service back up and running.

Senator CAPITO. Thank you. Hopefully, we can have subsequent conversations. The rebuild on that is estimated to cost between \$25 million and \$35 million. That is a lot for a county airport to be able to sustain.

I want to ask you about the Transportation Infrastructure Finance and Innovation Act (TIFIA) appropriation that you have in the budget and the development of the National Surface Transportation and Innovative Finance Bureau. In our State, we have really used these public-private partnerships to make our money go farther and complete some highways. I am curious to know, I noticed you asking for \$3 million in new resources for this implementation, so I am going to assume that this finance bureau has not been implemented yet. Is that correct?

Secretary FOXX. We are in the process of standing it up. We have some efforts underway to figure out which programs need to be consolidated and how to set up the staffing mechanisms. But I expect that by the time the year ends, we will have this organization stood up.

I think the goal is to have enough personnel and resources to make sure that it is delivering what you need in West Virginia.

#### PASSENGER FACILITY CHARGES

Senator CAPITO. Yes, I think every State is trying to maximize resources. Certainly, what has worked for us is to have the private company do the forward financing and then have a steady stream paying back, because if you can get them done sooner, they are cheaper—or less expensive. Nothing is cheap, but less expensive.

As I was reading through your report, I noticed an issue about the ability to increase the pass-through facility charge limit. I

guess that is a fee on every airline ticket from \$4.50 to \$8. Again, living in a rural area, smaller airports, what caused my concern was it would eliminate guaranteed Airport Improvement Program (AIP) entitlement funding for large hub airports. I do not know what that would do to a small or medium-sized airport. Who gets the flexibility to raise that? The local airport?

Secretary FOXX. So it would be local airports, but really the largest airports in the country, the rural airports, the smaller and medium-sized airports, would be held harmless. They would not have any change in their AIP grant access. But the larger airports would not have access to AIP, but they would have access to their own passenger facility charge (PFC) increases.

Senator CAPITO. What happens in smaller and more rural airports that have commercial services? It is so expensive. I mean, for me to fly back to West Virginia an hour, to Charleston, West Virginia, the capital city, sometimes your airline ticket can be \$700 and \$800 for a round-trip ticket. That is just preposterous.

So even though it is a small change, is just put prices even further and further out of the market. That is my concern on that.

But anyway, I thank you again. Thanks for your service, and we will follow up about Yeager and see what kind of help we can get from you and from the FAA.

Secretary FOXX. I look forward to working with you.

Senator CAPITO. Thank you.

Senator COLLINS. Thank you.

Senator Coons.

#### AMTRAK INVESTMENTS AND POSITIVE TRAIN CONTROL

Senator COONS. Thank you, Senator Collins.

Thank you, Mr. Secretary, for your service and your leadership.

As other Senators have commented, today's emergency shutdown of the DC Metro system was a big surprise, and for many an inconvenience. But as someone who rides Amtrak rail every day, I know what a priority safety has to be regardless of the transportation mode. So I appreciate your engagement and diligence in ensuring that we put passenger safety first.

Let me start by thanking you for your leadership, your focus, your staff's terrific work in responding to the I-495 challenge that we had in my home community of Delaware. DOT's support on the emergency relief funding and your ability and willingness to work well together, Federal and State agencies, in a compressed time-frame to fix a critical infrastructure problem for us was greatly appreciated.

I just attended the groundbreaking of an expanded Route 301 through Delaware with the Federal Highway Administration (FHWA) administrator, Greg Nadeau. It was only possible because of TIFIA financing.

I know Senator Collins and others have spoken about the value of TIFIA financing, but I just want to add my voice. It makes possible projects like this. Mayor Branner of Middletown has been working on it for, I think, 30 years, so it is a long hoped for investment.

Amtrak is of critical importance to my State, not just to me. Like the Vice President, I think I have spent more time on Amtrak than

with my family during my time in the Senate. I am pleased the President continues to be a strong advocate and supporter.

As Senator Reed mentioned, there is a \$7.3 billion backlog in State of Good Repair in the Northeast Corridor alone. While the FAST Act makes important progress in providing authorization, I am really concerned about the sufficiency of funding.

So tell me, if you would, what the positive train control (PTC) investments in your budget do for Amtrak and what you see as the prospects for sustaining investment in Amtrak and improving its State of Good Repair.

Secretary FOXX. So in terms of how far dollars would go specifically for Amtrak, we do not exactly have a number on that, in terms of how far our investments would go because that is sort of an Amtrak question in terms of how they would invest. But our budget actually contains \$1.3 billion for PTC. That, of course, is part of our desire to ensure that we are getting that system deployed as quickly as possible.

Senator COONS. I support the increased request for Amtrak, and I am hopeful that we will be able to sustain that over time.

Delaware actually happens to be one of the deadliest States in America for pedestrians, unfortunately. Tragically, it was number one in the country—this is on a per capita basis, obviously—in 2012, 2013, and number three in 2014 and 2015. The Federal Highway Administration (FHWA) has done some great research and funded some projects on how to deal with this.

But for us, it is really a suburban problem, not an urban problem. It is a challenge of high-speed, multi-laned suburban commercial corridors.

Can I help start a dialogue between your office, DelDOT, and advocacy groups about this issue and future research?

Secretary FOXX. Absolutely.

Senator COONS. I would be grateful for a chance to work with you on that.

Funding and continuation, as I mentioned, of the TIGER program is absolutely instrumental in advancing rail projects in the Northeast Corridor (NEC). And improving the NEC is the only way we can ensure our ability to add more commuter rail frequencies to all Delaware stations, including access to MARC service from Maryland.

I would be interested in your view on whether you think TIGER programs will continue to be reviewed and approved on a timely basis.

Secretary FOXX. Yes. We understand how important the TIGER program is. We quite frankly appreciate this committee's just incredible support for the program. You can rest assured that we are going to work hard to review and move those dollars out, so they can get people to work and do the good things that TIGER grants do.

Senator COONS. It has made possible that Delaware third track project, in part. There are some critical chokepoints south of Wilmington, but there are another two north of Wilmington, so it is my hope we can continue to work on that.

I am also encouraged by the great progress you are making with New York and New Jersey on the Gateway Tunnel project. Con-

gratulations. I suspect you have become a good friend of Senator Schumer's through all this, and I am hopeful we can continue to invest in that.

Secretary FOXX. And the Governor's.

#### SHORT LINE RAIL

Senator COONS. Let me just last mention that short-line railroads handle a great deal of agricultural commerce in my community and on the Eastern Shore of Maryland. If you could tell me briefly anything about how you think we can do a better job of helping America's short-line rail and the critical role they play for our ag sector.

Secretary FOXX. You are exactly right. Our short-lines are critical. I think the changes that the FAST Act made to hopefully make the Railroad Rehabilitation and Improvement Financing (RRIF) program more accessible to short-line railroads will be very helpful because many of them do have large capital needs that they cannot necessarily meet on their own. The RRIF program was designed to help them, so we want to use as much of our existing capacity in the RRIF program to help them.

We will do anything else we can think of to ensure that those short-line railroads are strong.

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

Secretary FOXX. Thank you.

Senator COLLINS. Thank you.

Senator Blunt.

#### SMART CITY CHALLENGE

Senator BLUNT. Thank you, Chairman.

Mr. Secretary, thank you for your leadership of the Department. The FAST Act, the 5-year highway bill. After 37 extensions of the highway bill, it is really well-received throughout the country. It would not have happened without your leadership, and we are all pleased we had a small part of working with you on that.

TIGER grants, as you know, the Champ Clark Bridge, which is I think the oldest bridge still crossing the Mississippi River, is going to be replaced with partially a TIGER grant, and a big commitment from both Illinois and Missouri. But I think the TIGER grant made that whole package come together.

Our hope now is that that bridge can safely be used until its replacement is put in place, because it is a significant detour to get to the next bridge on the river, if that bridge is not working. So thank you for that.

To follow up on Senator Coons' thoughts about the PTC, just awareness for you and the folks in the line of chairs there behind you, in the FAST Act, we authorized almost \$200 million of that \$1.3 billion to help commuter railroads install PTC, particularly in areas where the State has a significant obligation for how those commuter terminals work.

We have a situation in both Kansas City and St. Louis where access to some of that \$200 million—actually, it is \$199 million. I assume \$200 million would have been too much, so Congress, in its wisdom put \$199 million in that particular category. It is available for States who are involved in public transportation and have some

unique responsibility for implementing positive train control. I just wanted to mention that, so you are aware that it matters significantly to how the commuter rail system works in our State.

Also, I was pleased, as I am sure the other Smart City Challenge finalists were, to see Kansas City—I am sure everybody who had a city in that was pleased to be part of it. But I clearly think Kansas City is a great potential testing ground for Smart Cities.

It is the first Google fiber city. It is a nexus of interstate transportation from west of us, south of us, north of us. Several interstates come together there. And also putting in that new trolley system, they have been able to put some of the first phase equipment in already.

I know the chairman mentioned her interest and an interest I share with what is happening with smart car technology. How do you see that Smart City model coming together? And what do you think we learn by looking at the city you finally select? I think you are down to six or seven finalists now to be the Smart City finalist.

Secretary FOXX. It is a great question. I see three different buckets. One is what the private sector is doing, which is testing, innovating, coming up with new ideas for technology.

Currently, in general terms, there are some that are working on connected cars that talk to each other using kind of a GPS signal, and there is another group that is working on autonomous cars, which have a roving eye and kind of see the environment just like you and I do.

We actually believe those two technologies are going to merge and you are going to have autonomous connected cars in the future. But industry is working to innovate.

The second bucket is what we do at the government level. We have promised to give the industry our best guidance—not the industry, but even the States—good guidance on how to lay a foundation for this technology to be integrated into the marketplace. That is work that we have promised to do as an agency.

Then the third piece is, if you have the technology and you have the foundation, how do people actually make use of it? The Smart City Challenge is really our way of putting the challenge to American cities to help define how these technologies can be used. And not just those technologies, but how to use data and analytics better to shape this transportation decisionmaking, how does land use integrate with that.

So we are very pleased to see 78 great cities submit applications. We have seven finalists, and we plan to announce the winner of the challenge in June. But we also plan to give every city that has applied our best pathway to use Federal programs to implement the plans they sent to us so that there are hopefully no losers. Every city hopefully wins.

Senator BLUNT. Thank you, Chairman.

Senator COLLINS. Thank you.

Senator Schatz.

#### PEDESTRIAN SAFETY

Senator SCHATZ. Thank you very much.

Secretary Foxx, thanks for your leadership. I am still waiting to hear from you regarding your trip to Hawaii. We have a request.

As you know, we have some unique needs and some unique new projects, the Kauai TIGER grant, the rail transit program. And we are the most isolated populated place on the planet. So we have some unique transportation infrastructure needs.

As you know, I support community planning strategies to create walkable neighborhoods and to take care of pedestrians. I think you understand that transportation systems have to be complete. They have to be viable for cars and rail, for buses, for bikes, and for people.

Senator Heller and I worked in the FAST Act to include a provision that would allow the Department of Transportation to work with metropolitan planning organizations (MPOs) and other agencies to work on reducing traffic fatalities.

In particular, Hawaii has the unfortunate distinction of being number one in terms of senior fatalities on the street. We had nearly 5,000 in 2014, and that number continues to creep up.

So can you tell me what the Department will do to implement the policy that Senator Heller and I worked on in the FAST Act, and more generally, what you are doing this year to reverse the trend on pedestrian fatalities?

Secretary Foxx. First of all, thank you for the question. It is an incredibly important issue. When I walked into the Department, that was the one area, bike and pedestrian fatalities, where we were actually seeing an uptick. This year, I think our estimates are a 9 percent increase.

A couple things. Just this week, the Federal Highway Administration published new safety performance measures that call for State and regional targets to reduce highway deaths and injuries. And it includes a separate target for pedestrian and bicyclist fatalities and serious injuries.

We have also included a bike pedestrian performance measure to signal our commitment to nonmotorized safety.

We have also launched a Safer People, Safer Streets initiative with America's mayors. We have more than 200 mayors across the country who signed on to use best practices in their cities to build the kinds of sidewalks and pedestrian and bike facilities that are necessary to ensure safety.

There is still a lot of work to do and building on the language that you had put in the FAST Act, we are going to implement that as soon as we possibly can.

Senator SCHATZ. We are going to need your continued leadership, because one of the challenges that we have in Congress is that this has actually become, unfortunately, a partisan issue for some where it becomes a question of whether or not you support smart growth, location efficiency, multimodal transportation, rail, all those things, which sometimes cut along liberal and conservative lines when, in fact, if you look at mayors, if you look at the AARP, this is a question of keeping people safe as they walk around.

It was incredibly disappointing to see that this became a sort of dividing line about whether or not you think people ought to use cars.

We have two cars in our family. We use cars. We appreciate the highway system. We appreciate every aspect of the transportation system.

But I think it is going to require the continued leadership of the Federal Department of Transportation to push on MPOs, to push on not-for-profits, to make sure that everybody understands it cannot possibly be a partisan issue to keep our seniors and our kids safe as they walk to school or they walk to the market.

Secretary FOXX. Thank you. If I may just add one small additional point?

Senator SCHATZ. Please.

Secretary FOXX. Which is that on these revised NCAP standards, the way that we rate cars, the five-star rating system that NHTSA uses, one of the things we are going to score in the future is the collision avoidance systems that deal with things outside the car, including pedestrians.

That is another way that we are working to address this issue, and it is a way that technology did not make available just a few years ago but now we think it can. So that is another way we are trying to get at this.

Senator SCHATZ. Thank you very much.

Secretary FOXX. Thank you.

Senator COLLINS. Thank you.

Senator BOOZMAN.

#### TIGER

Senator BOOZMAN. Thank you, Madam Chair. And I thank you and the ranking member for holding this important hearing.

We appreciate having you here, Secretary Foxx, and all of your hard work on the behalf of improving our infrastructure in so many different ways.

I appreciate the work that Senator Collins and the committee have done to strengthen the TIGER program and provide critical infrastructure resources. I do hear concerns from applicants that the Department can do a little bit more to increase support and help applicants improve their proposals.

Then also, very importantly, those who were not fortunate enough to get a grant, as to what the problem was, how they can come back on the next go-round and really the criteria of what you are looking for. So we would like to work with you on that.

Can you talk a little bit about that and just tell us how you are trying to remedy that? I suspect you are hearing that a little bit also.

Secretary FOXX. Sure. I think it is a great point. I think Congress has done us a service by lowering the minimum amount that can be used, for example, for rural areas and even urban areas, because there are some communities where \$1 million or \$2 million could do something really big for that community.

Senator BOOZMAN. Very much. You understand that as an old mayor.

Secretary FOXX. I do. I do. I also understand that some communities can hire fancy consultants to package their proposals, and in some communities, you have two people sitting across a desk trying to figure out when the deadline is.

So what we have tried to do is to avail ourselves through a variety of mechanisms, outreach where we actually deploy people out

in the country to do focus groups with people to try to help them understand the process. We have done webinars.

By the way, we offer technical assistance. So if you or someone in your State called us and said, "Hey, I am thinking about applying to TIGER. Can someone help me work through the process?" my instructions to our staff is to help those folks get their package together and help them do the best they can in the process.

So those are the tools that we try to use. I am particularly concerned, quite frankly, for our rural areas that are a lot of times stretched thin and underresourced to make sure that we in the review phases are giving folks a very careful look and asking a lot of questions to try to make sure that we are making an evaluation that is fair to them.

So that is the work that we do. We have had some successes. In fact, the last round of TIGER, we had almost 40 percent of the TIGER grants go to rural America. I am very proud of our ability to do that.

Senator BOOZMAN. Very good. Thank you.

Secretary FOXX. Yes.

#### AIRPORT CERTIFICATION

Senator BOOZMAN. Another thing that I would like to emphasize is the importance of modernizing and improving the airport certification process. I know you have worked hard to help the aircraft industry. And again, to make it more competitive and successful, it would be nice if we could make it so that was a little bit easier to get done.

I would like you to comment about that, but also, on a related note, the FAA recently published their notice of proposed rulemaking on Small Airplane Revitalization Act. The purpose of the legislation is to improve safety while cutting in half the cost of new aircraft certification.

I believe the goal is to have the rulemaking done by the end of the year.

So both of those, that is, certainly, very important, and I think it really would greatly help our aircraft industry, which I know that you are very interested in doing. So can you comment about those things a little bit?

Secretary FOXX. Certainly, on part 23, which is the certification process you are referring to, I am very supportive of getting that rule done so that we can avail more of our industry of the advantages of being able to self-certify if they make certain requirements, if they meet certain requirements. So that process is underway.

I am very hopeful that we will have that rule out before the end of the year, certainly—hopefully.

And on the other one, I need to probably come back to you. I do not know that I am familiar with it, so I would like to have a chance to write you back on that.

Senator BOOZMAN. On the other one that you commented on, certainly, that is very important. It would be part of a significant part of the legacy, in the sense I know that you have worked very hard to get some of these things accomplished. But that is one that really does need to be and it is something we have grappled with for



a while and we appreciate you taking it on. So hopefully, we can get it done in a timely process.

Thank you all very much.

#### CONTRACT WEATHER OBSERVERS

Senator COLLINS. Thank you, Senator.

Mr. Secretary, we are going to do one more round of questions before we turn to the inspector general.

The budget, as you are well-aware, proposes to eliminate contract weather observers at 57 airports across the country and require that air traffic controllers perform those functions, in addition to their existing responsibilities.

In January, Senator Reed and I wrote to you and the FAA administrator, urging the FAA to fully assess all of the safety risks and hazards that could result from the loss of professional weather observers, particularly in cold-weather States like ours, prior to going through with the plan to eliminate the contract weather observer program at airports.

These observers are really important in providing real-time, critical weather information that helps keep our pilots and our passengers safe.

For example, in Bangor, Maine, air traffic controllers are simply unable to leave the tower, which would prohibit them from observing real-time conditions like freezing rain or ice, which may not be easily discernible from the tower. And that is what our current weather observers do at Bangor International Airport.

I also think it is important that our air traffic controllers remain focused on safely managing the air traffic, not on performing tasks that they are not specifically trained or have the experience to do and that others are now doing.

So my question is, Mr. Secretary, have you considered our recommendation that the safety risk management panel reevaluate its proposal to determine if this change is truly wise and what the impact would be on safety, particularly in cold climate States?

Secretary FOXX. Yes. Yes, the FAA is actually looking at this question. The way they are looking at this is they have deployed several panels to various sites across the country, including some cold-weather areas, to have these testers, if you will, test in accordance with FAA safety management systems.

The panels will come back to the FAA with recommendations. Those recommendations will not be final until they have gone through an internal process at the FAA.

So what I would say is that your letter has prompted the FAA to do a much more extensive review of this question, and that is prompting this work that is being undertaken. And no final decisions will be made until we have heard back from those folks, and we will, certainly, be happy to share what we hear back with you.

Senator COLLINS. That is very good to hear. I know that the air traffic controllers and the airport managers in both of our States would be happy to talk with FAA further also.

Secretary FOXX. Good.

Senator COLLINS. Let me switch to one other issue for my final question, and then I am going to submit the rest for the record. There are many, so you can be happy about that part.

Secretary FOXX. Thank you.

#### MARITIME TRAINING VESSELS

Senator COLLINS. Training ships at our State maritime academies are rapidly approaching the end of their service lives. The fleet ranges in age from 27 to 55 years old. Without training vessels, the maritime academies simply will not be able to prepare adequately the future generations of maritime workers. These vessels are an important part of the curriculum as sea time is required for graduation and for licensure.

Last year, in the 2016 budget, the administration requested and Congress provided \$5 million for the design and planning of a replacement vessel. I would note that the oldest vessel reaches the end of its service life in 2019, and the T.S. *State of Maine* at Maine Maritime Academy will reach the end of its service life in 2025.

I am disappointed, therefore, that instead of moving forward with the design and construction of the new vessel, which is what we anticipated, the budget request instead proposes to conduct yet another analysis of alternatives.

Now the Department has already completed a feasibility study and initial analysis of alternatives, and a preliminary business case analysis for the national security multimission vessel.

Mr. Secretary, I guess my question is, given the \$5 million that was provided, why isn't the administration seeking funding for the construction of a replacement training vessel, given the age of these vessels that are fast approaching the end of their useful lives?

Secretary FOXX. That was a very well-put question. The reality is that we have been debating this internally within the Department for quite some time. I think it is fair to say that our Maritime Administration feels very strongly that we need to tackle this issue and to get the new ships put in place.

I guess the best answer I can give you is that, in the course of balancing all of the equities throughout the budget process, this is one where we felt like additional independent verification and analysis and consideration of the training requirements for cadets, we believe that we need to look at this more in terms of understanding whether the ships are, in fact, necessary for training.

But I understand the argument on the other side and, certainly, understand if the committee feels differently about it.

Senator COLLINS. Having christened one of those ships, I can tell you that they are absolutely essential. Most of these cadets either end up going into the Navy or most of them into the Merchant Marine. If they do not have actual sea time, they cannot get the licenses that they need. They can't even graduate from these academies.

So let me just end by saying that I hope you will work with us. Surely, in a \$98 billion budget, we ought to be able to find this funding.

Senator Reed.

#### TRANSPORTING HAZARDOUS MATERIALS

Senator REED. Thank you very much, Madam Chairman.

Mr. Secretary, the Pipeline and Hazardous Materials Safety Administration (PHMSA) maintains a database with respect to special permits and approvals for hazardous materials transportation. The inspector general has issued a report that describes it as out-of-date and incomplete, which inhibits the ability of FRA inspectors to carry out their role of ensuring the safe transportation of these materials.

So could you comment on what the PHMSA is doing to address the issue? And, critically, when will the FRA inspectors be able to get ready access to that information to do their jobs?

Secretary FOXX. The fiscal year 2017 request includes investments and requests for funding to do some additional IT investments to help us in this regard. It is part of a 6-year IT strategy that includes a well-developed investment plan supporting improvements and a Web-based system.

PHMSA has made improvements to the hazardous material shipment data collected, including adding a Dun & Bradstreet identifying number and shipper profile information to its Web portal. It is also developing certification for a data operations quality management system that will improve user satisfaction with data portals, including the hazmat Web portal. And PHMSA is also developing an online smart form that will streamline the incident reporting process to improve the quality of data.

So there are steps that are being undertaken. We are also asking for resources in the budget to help us take those steps further.

#### SEXUAL ASSAULT AND SEXUAL HARASSMENT

Senator REED. Thank you, Mr. Secretary. Let me turn to another topic.

You are the Cabinet Secretary responsible for the United States Merchant Marine Academy. This is an issue that cuts across too many campuses across the country and for my service on the Armed Services Committee, it is also obviously an issue at the service academies, the Air Force, the Navy, and West Point. That is the issue of sexual harassment.

Each year there is a survey that must be done. Of the 136 women at the academy, 17 percent reported in this anonymous survey that they were victims of sexual assault, and 63 percent reported being a victim of sexual harassment.

I know you do not tolerate this. You do not accept it. The question is what we can all do to change the culture and to provide more training and more support, so these statistics improve dramatically and quickly.

Secretary FOXX. First of all, I want to thank you for the question, and I want to thank this committee, including Chairman Collins and former Ranking Member Patty Murray so much for continuing to focus on this.

It is a culture issue in our academies and, in particular, at the Merchant Marine Academy. When I came into the Department, we had this issue on the plate. We worked with the academy to ensure that there were people in place at the academy who were focused on making sure that complaints had a ready place to go and that they were being adjudicated effectively.

Unfortunately, this is an area where our success in that regard looks like failure because you start to get reports up.

The other thing that we have taken very seriously is to ensure we are being very intentional about ensuring more gender diversity in the ranks of recruits to the academy. The statistics that I have been given tell me that at the 25 percent level, the culture starts to shift and you begin to have a culture in which these types of behaviors are not tolerated and there is a critical mass of women there to enforce against that. So we are working on that as well.

But we will continue at this until we get it right.

Senator REED. I think just an aside, but the experience—my closest proxy is West Point—is that as more and more female cadets came in, that culture began to change, but more specifically, as more and more of the faculty and instructors and administrators were females, it accelerated that change.

I say with some pride that we have our first female Commandant at the military academy, so that is another direction I would encourage you to go in.

Secretary FOXX. Absolutely.

#### AMTRAK SERVICE

Senator REED. Final question, if I may, and that is the Northeast corridor, the Federal Railway Administration has launched this. They are looking ahead, which I commend them for, the vision for the Northeast corridor in the future. I would hate to see that vision exclude in any way services to Rhode Island.

Amtrak plays a key role in our economy. In fact, the Providence station is not only a large Amtrak station, it is the biggest Massachusetts Bay Transportation Authority (MBTA) station outside of Boston's South Station. To have a future which would avoid Rhode Island in any way, shape, or form, either through routes or through services, would be, I think, wrongheaded. So I wonder what you might comment.

Secretary FOXX. Yes, look, I know how the alternatives process works. But I see no future where Rhode Island gets bypassed. That is where I come down very solidly.

In fact, I have had conversations with Governor Raimondo about ways to potentially look at enhancing service in Rhode Island. We look forward to working with you and her on that.

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

Thank you, Madam Chairman.

Senator COLLINS. Thank you.

Mr. Secretary, I very much appreciate your testimony today. I was thinking about the range of questions that you answered today, which literally spanned the spectrum from trains to driverless cars to metros to ships to bridges to subways. It really is an amazing span that your Department covers, and we did not get even get to two questions I wanted to ask you, one on buses and the other having to do with drones. So the number of areas under your responsibility truly is tremendous.

We will be submitting additional questions for the record, and the hearing record will remain open until next Friday, March 25, for other members to submit questions to supplement ours.

Senator COLLINS. I now thank you for testifying and would call up our next witness, the inspector general.

Secretary FOXX. Madam Chair, if I might just say one thing, I was talking to my staff yesterday and they said that this may be my last appearance before this committee, perhaps my final testimony, period, knock on wood. I hope that is true.

[Laughter.]

Secretary FOXX. But I wanted to say, on a personal note to both you and to the ranking member, that a lot of times in politics, particularly in a rancorous presidential election year, there is a lot of noise about how things do not work.

What I wanted to say to you is that I appreciated your friendship, your willingness to work out issues with us, and the fact that we all recognize that transportation is neither a Democratic nor Republican issue. It is an American issue.

So I just wanted to say thank you so much for your friendship. Thank you for the hard work that you do for our Department and for the American people, and I look forward to working with you through this budget process. Thank you.

Senator COLLINS. Thank you very much, Mr. Secretary. I very much appreciate those thoughtful words. I look forward, as I know the ranking member does, to working with you as we draft our bill. It has been a pleasure working with you, and I commend you for your leadership.

Secretary FOXX. Thank you.

Senator COLLINS. Thank you.

Our next witness today is the Hon. Calvin Scovel, the inspector general of the Department of Transportation.

Mr. Inspector General, when you are ready, please proceed with your statement.

**STATEMENT OF HON. CALVIN SCOVEL, INSPECTOR GENERAL, DEPARTMENT OF TRANSPORTATION**

Mr. SCOVEL. Chairman Collins, Ranking Member Reed, members of the subcommittee, thank you for inviting me to testify today on DOT's budget priorities. Each year, DOT spends more than \$70 billion across a wide range of transportation programs. Regardless of specific budget levels, effective oversight and management are key to meeting the Department's goals and protecting taxpayers' investments.

My testimony today focuses on three crosscutting management challenges: safety, stewardship, and IT security.

Improving highway safety continues to be one of the Department's most important priorities. In 2015, we made 17 recommendations to enhance NHTSA's ability to remove unsafe vehicles from roads. This includes collecting and analyzing more comprehensive vehicle safety data.

While NHTSA has taken steps to strengthen its defect investigations, the agency must now effectively implement its planned improvements to ensure automakers promptly identify defects and recall defective vehicles. Unsafe commercial drivers further threaten the safety of our highways, particularly those who repeatedly violate medical-, drug-, and alcohol-testing requirements and other safety regulations.

Of the 272 motor carrier safety cases that OIG's criminal investigators have initiated since 2008, 14 percent involved carriers that were banned from the roads for safety violations but continued to operate under a new business name.

At the same time, DOT must work to maintain our Nation's strong aviation safety record. The introduction of unmanned aircraft systems (UAS) creates one of the most significant safety challenges in decades. This week, FAA will have approved more than 4,000 commercial UAS to operate in our airspace, and the number of operators is certain to increase once FAA publishes a final rule for small UAS this year.

However, FAA has yet to establish standard procedures or training for air traffic controllers to safely manage UAS in the same airspace as manned aircraft. In addition, FAA inspectors lack clear guidance for how to conduct UAS oversight, and FAA lacks formal systems to track and classify the severity of UAS incidents.

With regard to stewardship, DOT has opportunities to improve oversight of its investments and assets. For example, we recently reported that FAA awarded a new \$727 million contract for controller training without first addressing longstanding issues that we had identified in its prior controller-training contract, issues that resulted in millions of dollars in cost overruns.

Similarly, last year we reported FTA had not fully implemented the required processes and internal controls to award and monitor \$10 billion in grant funds allocated for Hurricane Sandy relief. Strong risk-based oversight, financial controls, and planning are vital to eliminating fraud and maximizing Federal investments.

Sustaining a skilled workforce, DOT's most important asset, also remains a key challenge, particularly as workforce demographics change.

For example, 22 percent of DOT's acquisition workforce, not counting FAA, was retirement eligible last year. From air traffic controllers to FAA oversight personnel to vehicle defect analysts, DOT must identify how many staff it needs in these positions and ensure its training programs keep pace with changing technology.

Finally, with regard to IT security, DOT has made major progress in implementing the required use of personal identity verification (PIV) cards for all employees and contractors. This is a key step in securing access to facilities and systems.

However, DOT has been slow to address longstanding cybersecurity weaknesses, such as the lack of effective systems to continuously monitor for threats.

The September 2014 fire at a Chicago air traffic control facility also demonstrated the importance of effective contingency planning. Damage from the fire crippled that facility and its systems for 2 weeks, significantly impacting passengers and airlines.

Earlier this month, we reported that 5 of the Department's 12 operating administrations were not effectively testing or meeting all requirements for their disaster recovery plans.

The Department has consistently demonstrated its commitment to addressing these challenges, but effective management and follow-through remain imperative. My office will continue to assist the Department as it works to meet these goals.

Chairman Collins, this concludes my prepared statement. I am happy to answer any questions you and members of the subcommittee may have.

[The statement follows:]

PREPARED STATEMENT OF HON. CALVIN L. SCOVEL III

Chairman Collins, Ranking Member Reed, and Members of the Subcommittee:

Thank you for inviting me here today to discuss the Department of Transportation's (DOT) budget priorities. Each year, the Department spends over \$70 billion on a wide range of programs to meet its top priority of transportation safety and to maintain and modernize transportation systems. We remain committed to assisting DOT as it works to improve how it manages programs and resources. My statement today will focus on three cross-cutting management challenges: (1) addressing DOT's new and longstanding safety challenges, (2) continuing diligent stewardship over DOT's critical investments, and (3) enhancing DOT's information technology (IT) security and preparedness. Regardless of specific budget levels requested or approved, effective oversight and management of safety efforts, major transportation projects, and DOT assets are critical to ensure the greatest return on the taxpayers' investment.

SUMMARY

Safety is DOT's top priority, and the Department faces a range of emerging and longstanding safety challenges. These include safely integrating Unmanned Aircraft Systems (UAS) into the National Airspace System (NAS), addressing risks posed by the transport of hazardous materials (hazmat), and removing unsafe vehicles and commercial drivers from roadways. At the same time, DOT must carry out its safety mission within a framework of diligent stewardship over its investments and assets. In particular, continued attention to strengthening the Department's internal controls and risk-based oversight is critical to the efficiency of taxpayer-funded projects to build, repair, and maintain the Nation's surface transportation system. DOT can also do more to reduce risk in its billion-dollar efforts to modernize the Nation's aviation system and to develop and sustain a high-performing workforce. Finally, DOT continues to struggle to secure the 450-plus information systems it uses to conduct business and operate critical transportation systems, ensure continuity of operations, and safeguard systems from insider threats.

ADDRESSING NEW AND LONGSTANDING SAFETY CHALLENGES

Making the Nation's airspace, environment, and roads safer continues to be DOT's top priority. Addressing a number of new and longstanding safety issues we have identified will be critical for DOT to maintain and improve the Nation's transportation safety record. In addition to the new challenges of safely integrating UAS into the NAS, DOT must continue to reduce safety risks in transporting hazardous materials while improving safety on our Nation's roadways.

*Integrating Unmanned Aircraft Systems Safely Into the National Airspace System*

DOT, the Federal Aviation Administration (FAA), and industry have maintained a remarkably safe aviation system, with no fatal passenger accidents involving domestic commercial carriers in over 7 years. However, the growing demand for commercial UAS operations—for purposes ranging from precision agriculture operations to package delivery—presents one of the most significant safety challenges for FAA in decades. Analysts predict that as much as \$93 billion will be invested in the technology worldwide over the next 10 years.

The FAA Modernization and Reform Act of 2012 requires FAA to take multiple steps to safely integrate UAS into the NAS. However, FAA and industry have not reached consensus on UAS-specific technology standards that are critical to safe integration. For example, FAA and industry still lack standards to ensure that UAS can automatically detect and successfully maneuver around other aircraft operating in nearby airspace.<sup>1</sup>

FAA also lacks a regulatory framework for UAS integration, which would govern areas such as small UAS (under 55 pounds) operations, beyond-line-of-sight procedures, larger unmanned aircraft systems, and pilot qualifications. FAA currently approves commercial UAS operations only on a case-by-case basis, leveraging an au-

<sup>1</sup> While FAA 14 CFR 91.113 describes a pilot's ability to "see and avoid" other aircraft, the UAS community is using the term "detect and avoid" to describe the desired capability of UAS.

thority granted by Congress to exempt small UAS from certification requirements.<sup>2</sup> So far, FAA has issued over 3,800 exemptions. We are currently reviewing the UAS exemption and safety oversight processes. FAA intends to issue its rule on small UAS operations in late spring 2016—more than a year and a half behind the schedule established in the act. However, several high-profile aspects of UAS use—such as package delivery—will not be covered under the rule, which underscores the need for further regulatory efforts. FAA also has not established standard procedures for safely managing UAS in the same airspace as manned aircraft or an adequate UAS training program for controllers.

As the number of UAS operations continues to grow, safety and oversight will remain a significant concern. According to FAA, reported UAS sightings by pilots have increased significantly, with more than 1,100 reports in 2015, compared to just 238 reported in all of 2014. Some reports indicated safety risks, such as pilots altering the course of their aircraft to avoid UAS. Despite these risks, FAA does not have a formal system to track and classify the severity of UAS incidents. In addition, FAA inspectors still lack clear guidance on how to conduct UAS oversight. FAA reports that, through its recently established registration process, nearly 370,000 operators have already registered their unmanned aircraft. The impending rule on small UAS is likely to further increase the number of UAS in our airspace, making UAS oversight an increasingly critical responsibility for FAA's safety inspector workforce.

#### *Strengthening Cross-Modal Efforts To Address Pipeline and Hazmat Safety Risks*

A key DOT mission requiring strong cross-modal efforts is mitigating the safety risks posed by transportation of hazmat. From 2010 through 2014, there were more than 3,000 pipeline and 78,000 hazmat incidents in the United States, including about 3,500 rail incidents involving hazmat. These incidents resulted in fatalities and injuries, as well as environmental and property damage. Transportation of hazmat by air also presents serious risks, with more than 70 incidents worldwide between 1991 and 2014 involving lithium batteries in aviation cargo and passenger baggage.<sup>3</sup>

The Pipeline and Hazardous Materials Safety Administration (PHMSA) works to implement robust and timely safety measures for mitigating significant hazmat and pipeline accidents. However, PHMSA has made limited progress towards meeting safety recommendations by the National Transportation Safety Board (NTSB) and congressional mandates. For example, PHMSA has not fully implemented a 2007 NTSB recommendation to require railroads to immediately provide emergency responders with real-time information regarding the identity and location of all hazardous materials on a train. PHMSA also has not fully implemented the safety measures included in the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011.<sup>4</sup> These measures aim to improve operators' assessments of gas pipelines, require leak detection systems on hazardous liquid pipelines, and establish regulations for transporting carbon dioxide by pipeline.

On the aviation front, FAA established the Hazardous Materials Voluntary Disclosure Reporting Program (HM VDRP) in 2006, which allows air carriers to voluntarily disclose violations of hazmat regulations without receiving civil penalties. While this is a good step towards encouraging air carriers to improve hazmat safety, our 2015 report<sup>5</sup> found that FAA lacked an adequate framework of internal controls to effectively carry out HM VDRP. For example, FAA requires air carriers to complete corrective actions for violations they disclose through the program. However, for 31 of the 48 (65 percent) closed cases we reviewed, FAA did not request sufficient evidence to verify that air carriers completed all corrective actions or conducted self-audits as required. In response to our findings, FAA recently issued a new policy to require air carriers to document all corrective actions taken and FAA regions to coordinate with FAA Headquarters on proposed corrective actions and significant HM VDRP cases. Effective implementation of this policy will require follow through with adequate training and guidance to maximize HM VDRP's potential as a safety program.

Finally, the Federal Railroad Administration's (FRA) enforcement of PHMSA regulations plays a large role in the safety of hazmat transported by rail. In fiscal year

<sup>2</sup>These requirements include the steps necessary to obtain an airworthiness certificate, including demonstrating to FAA that the UAS conforms to an approved aircraft design and is in condition for safe operation.

<sup>3</sup>These incidents included extreme heat, smoke, fire, or explosions in aviation cargo and passenger baggage.

<sup>4</sup>Public Law No. 112–90 (2012).

<sup>5</sup>Program and Data Limitations Impede the Effectiveness of FAA's Hazardous Materials Voluntary Disclosure Reporting Program (OIG Report Number AV–2015–034), March 13, 2015.



2015, FRA reported that its inspectors identified 1,670 violations of hazardous materials regulations, and the Agency fined railroads and other regulated entities<sup>6</sup> roughly \$3.9 million. Key elements in an effective enforcement program are considering risk when allocating enforcement resources and imposing sufficient penalties to deter future violations. Last month, we issued a report identifying shortcomings in the risk assessments FRA uses for allocating hazardous materials inspection resources and raised concerns about FRA's use of civil penalties and lack of criminal case referrals to OIG. FRA has agreed to implement our recommended improvements.<sup>7</sup>

#### *Increasing Safety on Our Nation's Highways*

Recent large-scale recalls from automotive manufacturers and continued efforts to enforce motor carrier regulations highlight a number of safety challenges the Department faces. Over the last 2 years, General Motors (GM) has recalled nearly 9 million U.S. vehicles for a defect involving a faulty ignition switch after it received more than 100 reports of death claims and more than 200 injury claims.<sup>8</sup> The GM recall and others have prompted reviews and recommendations on how NHTSA can improve its safety processes and controls, and NHTSA is working to address these concerns. For example, in 2011 we made recommendations to strengthen NHTSA's Office of Defects Investigations' (ODI) procedures for documenting and retaining evidence on defects investigations, coordinating with foreign nations to identify safety defects or recalls, and documenting its justifications for not investigating identified defects. Last month, we reported on NHTSA's progress towards those recommendations.<sup>9</sup> While NHTSA has completed the agreed-upon actions, we are concerned with how it is implementing some of them; in particular, NHTSA lacks mechanisms to ensure staff consistently apply the new policies. For example in response to one of our recommendations, ODI agreed to document justifications for exceeding investigation timeliness goals; however, over 70 percent of delayed investigations we reviewed did not include justifications for why these goals were not met. We made two new recommendations to enhance ODI's quality control mechanisms, and NHTSA fully concurred.

NHTSA also agreed to implement the 17 recommendations stemming from our June 2015 audit, which found weaknesses with how ODI collects vehicle safety data and uses that data to determine whether to open an investigation.<sup>10</sup> For example, ODI's processes were insufficient for verifying that manufacturers submit complete and accurate early warning reporting data, which can be essential for identifying potential safety trends or concerns.

It will also be critical for NHTSA to follow through on NHTSA's Path Forward, a 2015 self-evaluation report released by the Secretary of Transportation. Through this effort, the Secretary seeks to improve NHTSA's ability to hold manufacturers accountable by implementing more effective methods for overseeing carmakers and their suppliers, as well as collecting and communicating vital safety information. The Secretary also announced the formation of an expert panel to help strengthen NHTSA's defect investigation workforce. It will be important for DOT to closely monitor how NHTSA addresses the panel's findings and recommendations.

At the same time, DOT has important opportunities to improve the safety of its highway infrastructure, particularly the bridges and tunnels that connect our Nation's roadways. For example, the Federal Highway Administration (FHWA) must maintain momentum in its initiatives in response to our recommendations to implement data driven, risk-based oversight of bridges and implement improvements to bridge safety mandated under the Moving Ahead for Progress in the 21st Century Act (MAP-21).<sup>11</sup> FHWA must also continue its oversight of highway tunnel safety according to the National Tunnel Inspection Standards that became effective in August 2015 and maintain a national tunnel inventory.

<sup>6</sup>Entities that received these violations and fines may include railroads, shippers, or tank car repair facilities.

<sup>7</sup>FRA's Oversight of Hazardous Materials Shipments Lacks Comprehensive Risk Evaluation and Focus on Deterrence (OIG Report Number ST-2016-020), February 24, 2016.

<sup>8</sup>GM's ignition switch compensation fund had approved 124 death and 275 injury claims as of August 21, 2015.

<sup>9</sup>Additional Efforts Are Needed To Ensure NHTSA's Full Implementation of OIG's 2011 Recommendations (OIG Report Number ST-2016-021), February 24, 2016.

<sup>10</sup>Inadequate Data and Analysis Undermine NHTSA's Efforts To Identify and Investigate Vehicle Safety Concerns (OIG Report Number ST-2015-063), June 18, 2015.

<sup>11</sup>FHWA Has Not Fully Implemented All MAP-21 Bridge Provisions and Recommendations (OIG Report Number MH-2014-089) August 21, 2014, and FHWA Effectively Oversees Bridge Safety, but Opportunities Exist To Enhance Guidance and Address National Risks (OIG Report Number ST-2015-027) February 18, 2015.

Another critical—and longstanding—highway safety concern is reducing motor carrier fatalities. Our safety investigations continue to identify challenges for the Department and the Federal Motor Carrier Safety Administration (FMCSA) as they seek to remove unsafe motor carriers from highways. Since fiscal year 2008, we have opened 272 criminal investigations involving motor carrier safety. I would like to highlight two focus areas where the Department and FMCSA can bolster their safety efforts.

First, FMCSA must take stringent enforcement and out-of-service actions to remove motor carriers that repeatedly violate and blatantly seek to circumvent safety regulations, including (1) hours of service regulations and records of duty status; (2) medical, drug, and alcohol testing requirements for drivers; and (3) vehicle inspection, repair, and maintenance records. In some instances, these carriers have been involved in multi-vehicle crashes and fatalities. While FMCSA has taken enforcement actions and is collaborating with our office and other law enforcement partners to remove these carriers from service, carriers intent on breaking the law continue to pose a significant threat to highway safety. Key actions to keep unsafe carriers off the road include effective vetting of carriers' applications, focusing resources on high-risk carriers, and prosecuting companies that are caught violating the law.

The second area concerns reincarnated carriers—carriers that attempt to operate as different entities in order to evade FMCSA's enforcement actions. Reincarnated carriers have been involved in approximately 14 percent of the motor carrier safety investigations we opened since fiscal year 2008. For example, in Texas, we investigated a company that was issued an unsatisfactory safety rating by FMCSA for numerous violations, including falsifying hours-of-service requirements and using drivers who were not medically examined or certified. After being placed out of service by FMCSA, the company reincarnated under a different name and was involved in a passenger bus crash that killed 14 people. FMCSA proposed that Congress modify Section 521 of Title 49 U.S.C. to make it a criminal penalty for knowingly and willfully violating an out-of-service order, which will assist in prosecuting reincarnated carriers. Criminal penalties under Section 521 currently contain only a misdemeanor provision, which is difficult to prosecute and less likely to result in jail time if prosecuted; therefore, its effect as a deterrent is limited.<sup>12</sup>

#### CONTINUING DILIGENT STEWARDSHIP OVER DOT'S CRITICAL INVESTMENTS

Diligent stewardship of DOT's investments of taxpayer funds is vital for the Department to effectively carry out its mission. While DOT remains committed to strengthening its oversight for highway, rail, and transit projects, opportunities remain to improve its risk-based oversight of projects and strengthen financial controls to protect its investments. In addition, FAA faces challenges in its efforts to provide effective contract and acquisition management—a critical element in reducing risk for the major programs and systems in which it has invested.

#### *Maximizing Federal Investments Through Improved Risk-Based Oversight and Better Financial Controls*

DOT receives over \$50 billion in Federal dollars annually to fund projects to build, repair, and maintain the Nation's surface transportation system. Strong risk-based oversight and financial controls are key to the success of the more than 100,000 transportation projects funded by the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) each year.

FHWA recently revised its overall risk-based strategy to overseeing Federal-aid highway project funds. This revised effort includes improving the linkage between FHWA's annual assessments of State and Federal-aid highway programs and analyzing that information to better target its oversight reviews of highway and bridge projects. FHWA recently completed its first full performance cycle with these revised initiatives; in future performance cycles, management will need to assess whether the program is robust and working as designed and make improvements where needed.

However, to address more specific risks, FHWA needs to improve oversight of financial and program plans covering major highway and bridge projects—those exceeding \$500 million in funding—to implement its new guidance on project estimating, and address the backlog of pending Federal-aid highway project closeouts to ensure effective use of Federal funds. In addition, FHWA has yet to finalize improvements to its financial information system to improve project data used to oversee its programs.

<sup>12</sup>49 United States Code Section 521(b)(6)(A) is a misdemeanor statute for violations of certain FMCSA regulations.

FTA has similar opportunities to better target its oversight and use tools to meet its goals to ensure major projects are on time and within budget. For example, FTA did not verify the adequacy of the Metropolitan Washington Airports Authority's (MWAA) support for claimed costs on grant expenses for FTA's Dulles Rail Project.<sup>13</sup> As a result, FTA initially reimbursed MWAA for more than \$36 million in unsupported and unallowable costs.<sup>14</sup> In addition, FTA faces challenges in overseeing how local transportation agencies continue to use the approximately \$10 billion in relief funds for Hurricane Sandy. In 2015, we reported that FTA had not fully implemented the processes and internal controls (required by the Disaster Relief Appropriations Act) it established to award and monitor Hurricane Sandy funds.<sup>15</sup> FTA also has yet to develop a formal coordination process with the Federal Emergency Management Agency to reduce the risk of duplicating emergency and disaster-related assistance.

Fraud remains another ongoing concern. For example, our investigators determined that an owner of a Massachusetts transit authority bus operator diverted grant funds that were designated to pay salaries, benefits, and other expenses for employees of the bus company.<sup>16</sup> Similarly, during liaison and coordination efforts with FTA and other stakeholders, we discovered that a Hurricane Sandy grantee was not reporting fraud settlements to FTA. We have reported that the use of integrity monitors can help to prevent and detect fraud and noted the importance of sharing fraud allegations across organizations so we can partner to combat wrongdoing.<sup>17</sup> As we stated in June 2015,<sup>18</sup> FTA must focus on promptly addressing identified oversight issues; strengthening stakeholder agreements; and enhancing controls to prevent, detect, and report fraud.

#### *Structuring Major Aviation Acquisitions To Successfully Manage Risk*

FAA continues to award high-dollar contracts without fully addressing and mitigating risk in the acquisition planning and contract award stages, often resulting in large cost overruns and delays in system implementation.

First, FAA has had ongoing challenges in effectively structuring several of its major acquisitions.<sup>19</sup> These issues have been prevalent with the \$1.8 billion Automatic Dependent Surveillance-Broadcast (ADS-B) system. ADS-B is a new satellite-based surveillance system for managing air traffic that is critical to the success of FAA's Next Generation Air Transportation System (NextGen). Since 2010, we have reported that FAA faces significant risks in implementing ADS-B and realizing benefits due to weaknesses such as its contract structure and oversight. For example, the ADS-B contract structure bundles tasks and costs, making it difficult for decisionmakers to manage the contract and track costs. In addition, FAA covered the first 18 years of ADS-B's 28-year lifecycle through one contract award, rather than breaking it into more manageable segments as OMB and the Federal Chief Information Officer recommend.<sup>20</sup> While FAA has finished deploying the 634 ADS-B ground

<sup>13</sup> MWAA's Financial Management Controls Are Not Sufficient To Ensure Eligibility of Expenses on FTA's Dulles Rail Project Grant, (OIG Report Number ZA-2014-021), January 16, 2014.

<sup>14</sup> FTA and Federal grant conditions require that grant recipients maintain support for federally funded project costs. MWAA did not have sufficient documentation to support some of the expenses charged to the Dulles Rail Project and these costs are considered unsupported. These principles also specify the types of costs that are allowable under Federal grant awards. An example of an unsupported cost that we found was invoices that said "labor" with no further details or documentation about what these charges included. An example of an unallowable cost that we found was \$54,000 for expenses that were outside the scope of the Phase 1 Project to which they were charged.

<sup>15</sup> FTA Has Not Fully Implemented Key Internal Controls for Hurricane Sandy Oversight and Future Emergency Relief Efforts (OIG Report Number ST-2015-046), June 12, 2015.

<sup>16</sup> The former owner was sentenced in July 2015 to 70 months in prison and ordered to pay \$688,772 in restitution in connection with his diversion of grant funds.

<sup>17</sup> Initial Assessment of FTA's Oversight of the Emergency Relief Program and Hurricane Sandy Relief Funds (OIG Report Number MH-2014-008), December 3, 2013.

<sup>18</sup> Oversight of Major Transportation Projects: Opportunities To Apply Lessons Learned (OIG Briefing No. CC-2015-010), June 8, 2015. We briefed Members of the Committee on Oversight and Government Reform, Subcommittee on Transportation and Public Assets, United States House of Representatives.

<sup>19</sup> These acquisitions include the Wide Area Augmentation System (WAAS) Program, the Standard Terminal Automation Replacement System (STARS), and the En Route Automation Modernization (ERAM) system. FAA has awarded contracts for these large modernization efforts using a grand design, rather than through successive incrementally priced awards—each of which experienced cost increases, delays, and performance issues.

<sup>20</sup> FAA's AMS lacks sufficient guidance on practices that could minimize mistakes associated with acquisition planning, such as using modular contracting to award information technology

radio stations, based on our ongoing review, it remains unclear whether FAA has fully mitigated past problems associated with contract management and oversight to ensure it can achieve ADS-B technical requirements and do so within budget. We plan to issue our next report providing an update on how FAA is addressing ADS-B contract weaknesses later this year.

Second, FAA did not take sufficient steps to assess and mitigate risk factors we identified on a previous significant contract when selecting a bidder and awarding the new contract, potentially resulting in increased costs to the Agency. In 2015, FAA decided to award a \$727 million new Controller Training Contract (CTC), without first addressing longstanding issues we reported with its prior controller training contract, the \$859 million Air Traffic Control Optimum Training Solution (ATCOTS) contract. Specifically, in 2013, we reported that before awarding ATCOTS, FAA determined there was a 60- to 80-percent likelihood that the successful bidder would not meet FAA's training needs with the limited staff hours proposed.<sup>21</sup> However, FAA did not require the contractor to address this issue prior to award and had to spend millions of dollars more than expected to make up for the shortfall in contracted resources. We made 10 recommendations in 2013 to improve FAA's management and oversight of the ATCOTS contract. We recently reported that while FAA addressed recommendations related to contract administration practices and oversight, it has not implemented those related to better defining training requirements and validating training costs.<sup>22</sup> These recommendations were designed to improve FAA's ability to develop a comprehensive understanding of its training needs and, in turn, a more reliable estimate of the Agency's training costs. Because FAA awarded CTC without fully addressing these recommendations, it may encounter many of the same issues that compromised the success of the ATCOTS contract.

#### *Developing and Sustaining an Effective and Skilled DOT Workforce*

Maintaining an effective and skilled workforce is critical to ensuring a safe and vibrant transportation system. This means identifying and hiring the right number of staff with the requisite skill mix; adapting hiring and training practices to account for changing missions, requirements, and workforce demographics; and implementing policies and procedures that promote employees' success and ability to carry out DOT's mission effectively.

However, DOT agencies have not always taken adequate actions to ensure a robust workforce. For example, FAA lacks a comprehensive process for determining staffing levels needed to oversee its Organization Designation Authorization (ODA) program—a program that allows FAA to delegate certain functions, such as certifying aircraft components, to manufacturers and other organizations. Although FAA uses a staffing model to help identify overall ODA staffing needs, the model does not include detailed data on important workload drivers, such as a company's size and location, type of work performed, past performance, and project complexity and volume. In addition, FAA does not have the data or an effective model to accurately identify how many air traffic controllers it needs to maintain efficiency without compromising safety. Therefore, as we recently reported, many of FAA's busiest and most complex air traffic control facilities have a shortage of fully trained controllers.<sup>23</sup> We have an ongoing audit to examine FAA's new controller hiring process and the changes that have occurred since its implementation in 2014.

My office has made a number of recommendations to help DOT ensure its employees keep abreast of changing technology and missions. Now, agencies must follow through on actions planned in response to these recommendations. For example, in 2011 we found that NHTSA's ODI did not have a formal training program to help develop its current and future workforce to promote continuity of institutional knowledge. In 2015, NHTSA provided us a workforce assessment that evaluated its staffing and training needs for ODI. NHTSA must now fully implement the results of the workforce assessment to help inform future decisions on the resources required for this critical mission. Similarly, we found in 2014 that FHWA had not conducted a comprehensive assessment of MAP-21's impact on its workforce—despite the significant structural changes the act brought about, such as consolidation of several FHWA programs. FHWA has since completed an assessment that recognizes

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contracts in incremental, workable segments; and using contract line items, with separate pricing, contract types, and deliverables, to better manage the acquisition.

<sup>21</sup> FAA Needs To Improve ATCOTS Contract Management To Achieve Its Air Traffic Controller Training Goals, (OIG Report Number ZA-2014-018) December 18, 2013.

<sup>22</sup> FAA Has Not Sufficiently Addressed Key Weaknesses Related to Its ATCOTS Contract (OIG Report Number ZA-2016-010), December 10, 2015.

<sup>23</sup> FAA Continues to Face Challenges in Ensuring Enough Fully Trained Controllers at Critical Facilities, (OIG Report Number AV-2016-014), January 11, 2016.

the Agency's need to make changes to the way it does business and deploys staff to meet MAP-21 requirements and carry out its mission effectively.

Changes in workforce demographics also present unique challenges for DOT. For example, 22 percent of DOT's acquisition workforce was retirement-eligible in fiscal year 2015, heightening the need for improved compliance with contracting officer (CO) training and experience requirements across all DOT agencies.<sup>24</sup> DOT's acquisition workforce is composed of hundreds of COs, CO representatives, and other supporting staff who provide agencies with the goods and services required to accomplish their mission at the best value to taxpayers.<sup>25</sup> While DOT has several training improvement initiatives under way for its acquisition workforce, our 2015 review found that it still needs to clarify and enforce its policies governing certification and warrant authority for COs.<sup>26</sup> Of the 63 COs we reviewed, 15 (24 percent) did not fully comply with DOT requirements. For example, 10 COs' certifications had expired, yet they continued to approve over 3,000 contract actions and obligate over \$731 million. While DOT recently revised its acquisition workforce policy in response to our report, full implementation of our recommendations and enforcement of these policies will be critical to ensure that COs have the appropriate training, experience, and certification to award and administer DOT's complex, high-dollar acquisitions.

#### ENHANCING DOT'S IT SECURITY AND PREPAREDNESS

Attacks on public and private sector information systems, carried out by increasingly well-funded and organized hackers, pose a continuous threat to the more than 450 information systems DOT uses to conduct business and operate some of the Nation's most critical transportation systems. While DOT has made progress in protecting its information systems, many remain vulnerable to compromise, underscoring the need for more effective contingency planning, and aggressive deterrence of insider threats.

##### *Protecting DOT's Information Systems From Increasing Threats*

DOT continues to face longstanding cybersecurity vulnerabilities and must take corrective actions to address identified weaknesses that pose threats to its information systems. To its credit, DOT has made major progress in implementing the required use of Personal Identification Verification (PIV) cards<sup>27</sup> for all DOT employees and contractors—a key step in securing access to DOT facilities and systems. DOT reported issuing PIV cards to 100 percent of its employees, and 98.3 percent have been configured for use in accessing networks—an increase of 74.5 percent from last year.

However, DOT has been slow to take corrective actions to address many other cybersecurity weaknesses. To help reduce cybersecurity risks, OMB requires agencies to track identified weaknesses using plans of actions and milestones (POA&M). Yet, in 2015, DOT had a backlog of more than 3,800 POA&Ms, which included 21 unimplemented recommendations we have made. DOT also remains behind schedule in implementing recommendations we have made in our annual Federal Information Security Management Act (FISMA) reports and other IT-related audits.

Many of our recommendations focus on key Administration priorities. For example, OMB requires agencies to implement continuous information system moni-

<sup>24</sup> FAA is excluded from these data and the scope of our work described in this paragraph because Congress exempted FAA from Federal acquisition laws and regulations in DOT's fiscal year 1996 Appropriations Act. Congress provided FAA with broad authority to develop its own acquisition process. Under this authority, FAA developed the Acquisition Management System and a set of policies and guidance designed to address the unique needs of the Agency.

<sup>25</sup> COs are Government employees who can bind the Federal Government to a contract. COs are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships. Contracting Officer Representatives (COR) are Government employees responsible for monitoring the contractor's progress in fulfilling the technical requirements specified in the contract. For example, CORs maintain administration records, approve invoices and perform quarterly monitoring reports to confirm the contractor is meeting the terms and conditions under the contract.

<sup>26</sup> Some Deficiencies Exist in DOT's Enforcement and Oversight of Certification and Warrant Authority for Its Contracting Officers (OIG Report Number ZA-2015-041), April 9, 2015.

<sup>27</sup> A PIV card is a smart card that contains the necessary data for the holder to be granted access to Federal facilities and information systems and assure appropriate levels of security for all applicable applications.

toring, which can provide near real-time security information to senior leaders, by 2017.<sup>28</sup>

However, DOT has not yet defined the practices or technologies that should be used or established common security controls<sup>29</sup> to help protect its information systems, including high-value asset<sup>30</sup> systems. Specifically, DOT is still conducting planning and research to determine the resources needed to ensure that common controls are properly used, implemented, and monitored. Until those are finalized, DOT remains vulnerable to more aggressive and complex cyber threats due to insufficient security controls.

#### *Strengthening Contingency Plans and Security Protocols To Deter Insider Threats*

We continue to find weaknesses in DOT's ability to plan for contingencies and recover from disruptions, even for critical systems. For example, our ongoing work has shown that several Operating Administrations did not conduct annual contingency plan testing for their selected mission critical or high- and moderate-impact systems to ensure they will work in the event of a disruption, as required.<sup>31</sup> Specifically, 5 of the Department's 12 Operating Administrations did not comply with DOT policy to conduct such testing or meet all DOT requirements for their disaster recovery plans, potentially limiting their effectiveness at ensuring continuity of critical systems in the event of a malicious attack.

The importance of effective contingency plans was demonstrated on September 26, 2014, when an FAA contract employee deliberately started a fire that destroyed critical telecommunications equipment at FAA's Chicago Air Route Traffic Control Center in Aurora, IL. As a result of the damage, Chicago Center was unable to control air traffic for more than 2 weeks,<sup>32</sup> thousands of flights were delayed or cancelled, and aviation stakeholders and airlines reportedly lost over \$350 million. While FAA completed comprehensive reviews of its contingency plans and security procedures following the Chicago Center incident, significant work remains to prevent or mitigate the impact of similar events in the future.

Notably, the event highlighted the need to enhance security and increase the flexibility and resiliency of the national air traffic control system. For example, FAA lacked the controls necessary to block access to a contract employee no longer assigned to this facility, thereby leaving the Center's high-value systems vulnerable to unauthorized access, disruption, and loss of information. Other insider threats pose significant threats to security, ranging from an employee who maliciously steals data to an employee who unwittingly opens infected email attachments. For example, in 2014, a DOT employee opened an infected email attachment and unleashed a serious computer virus (known as "Dyre") into DOT's network, compromising more than 5,000 computers and resulting in loss of productivity, email interruptions, and data loss. The virus was designed to steal information (including passwords), avoid routine detection, and generate new emails with attachments to further spread the virus. While DOT reported that the virus has been mostly eradicated, it noted the need to better train employees to protect DOT's systems to lower the risk of system compromise.

#### CONCLUSION

The safe and efficient movement of people and goods is vital to our Nation's economic growth, global partnerships, and quality of life. The Department has clearly demonstrated its commitment to advance these priorities. To continue addressing the management issues we have identified as well as a changing transportation environment, it will be important for the Department to follow through with new safe-

<sup>28</sup> Continuous monitoring involves establishing processes and capabilities to provide near real-time security information to senior leaders.

<sup>29</sup> Necessary to meet requirements of the National Institute of Standards and Technology (NIST), common system security controls are controls that exist in one system that can be used to protect other systems.

<sup>30</sup> High-value assets are assets, systems, or datasets that may be considered "high-value" by the Department based on the following attributes—sensitivity of the information, uniqueness of the dataset, impact of loss or compromise, system dependencies, and systems that are integral to supporting critical department communications. A system is considered "high impact" if the loss of confidentiality, integrity, or availability for that system could be expected to have a severe or catastrophic adverse effect on organizational operations, organizational assets, or individuals.

<sup>31</sup> Departmental Cybersecurity Compendium Supplement to DOT Order 1351.37, "Departmental Cybersecurity Policy," Version 3.0, September 2013.

<sup>32</sup> Chicago Center's air traffic and airspace responsibilities were eventually transferred to other facilities, based on a 2008 contingency plan and airspace map. This required extensive adjustments to ensure adequate radar and radio communication coverage.

ty standards and recommended actions, stronger financial and project controls over major investments, and vigilant security and preparedness measures.

We remain committed to assisting DOT as it works to improve how it manages programs and resources and to our role in ensuring the greatest return on investment to taxpayers. I appreciate this Committee's continued support in the coming fiscal year to enable us to enhance our coverage of the Department's safety programs, high-dollar administrative and management assets, and information systems security.

This concludes my prepared statement. I will be happy to answer any questions you or other Members of the Subcommittee may have.

#### CYBERSECURITY

Senator COLLINS. Thank you very much.

I was very pleased that you mentioned cybersecurity and the vulnerabilities there. What is your assessment of the vulnerabilities and risk to critical infrastructure that is part of the Department of Transportation?

Mr. SCOVILL. Thanks for the question.

We are very concerned. It remains a significant vulnerability for DOT as it does for virtually every other agency across all of government. It is a threat that seems to grow by leaps and bounds. And despite the best efforts of the cybersecurity officials in DOT as well as other units of the Government, it is almost as if they are being overtaken by the threat and by technology itself.

As you know, we are required to conduct a Department-wide survey, if you will, of information security management every year. We have found that, in the past year, DOT made significant progress, as I mentioned, in the use of PIV cards, requiring PIV cards, which, when they are fully implemented across the board, will be essential not only for facility access, physical security, if you will, but also for what the techies call logical access. They can be used to gain access to particular security or computer programs.

On the other hand, where the Department has struggled is in implementing its plan of action and milestones (POA&Ms). They are plans of action and milestones to address critical vulnerabilities.

In fiscal year 2014, DOT had about 5,600 POA&Ms on the books. By the end of fiscal year 2015, they had reduced that number to about 3,200, so they had made some progress.

But those that remain constitute significant tough nuts, in our opinion, to crack. Many of those POA&Ms do not yet have start dates assigned to them. The Department has not yet been able to even estimate the remediation costs in order to implement those.

I mentioned in my prepared statement continuous monitoring, which is a top priority across all of government, so that senior officials can understand on a real-time basis when threats are appearing and what immediate action they may be able to take to deal with them.

In order to make progress on that, the Department has to identify those key nodes across all of DOT's cyberspace, so that if there are places where a single, common system security control can be effective, it can be placed at that one place, and it can have a ripple effect for security across the board.

Just very quickly, and I have talked a long time on this, because, as you know, it is a significant problem. DOT has about 200 critical systems out of the 463 on the books; 163 of those belong to FAA. DOT understands it needs to prioritize its cybersecurity efforts to

protect those most critical systems through the means that I mentioned, the POA&Ms, the continuous monitoring, and the common system security controls.

#### CYBERSECURITY—NEXTGEN

Senator COLLINS. That was an excellent answer, and I very much appreciate the thoroughness. This has been a major concern of mine.

Do you think that the NextGen system, which we are installing for air traffic control, will help decrease the vulnerability of our air traffic system to a cyber attack?

Mr. SCOVEL. Madam Chairman, it will help in some respects, but in other respects, the NextGen systems themselves may be vulnerable. We have undertaken some testing of some of the systems, ADS-B (Automatic Dependence Broadcast System) and others. We have concerns about those.

I am not at liberty in an open forum to discuss those, because our reports have been properly deemed, after review by the Department, to constitute sensitive security information. We have spoken with your staff on some of those matters in the past. We would be happy to come over and in a closed setting discuss them with you in more detail.

#### SEXUAL ASSAULT AND SEXUAL HARASSMENT

Senator COLLINS. Thank you very much. This is an issue that I continue to pursue from my seat on the Intelligence Committee as well.

I want to follow up on a question that Senator Reed asked the Secretary, and that has to do with sexual assault at the U.S. Merchant Marine Academy.

The Department's most recent report on the academy shows that the level of sexual assault and harassment remains unacceptably high. There continues to be a large discrepancy in the number of sexual assaults that are officially reported and the responses to the anonymous survey. That is very troubling because it implies that the midshipmen women still do not have the trust and faith in the academy's leadership to report incidents when they occur, whether it is on campus or at sea.

What recommendations do you have for how we can change the underlying cultural attitudes that the Secretary referred to that appear to either turn a blind eye to or in some ways not really condone but do not forcefully act on such a disturbing level of sexual assault and harassment at the academy?

Mr. SCOVEL. Madam Chairman, this is a most disturbing problem. You and I and Senator Murray have had discussions on this in the past, and I greatly appreciate your interest and concern on behalf of the students at the Merchant Marine Academy. I think the ranking member is exactly right when he pointed out earlier, in questions to the Secretary, his observations concerning his experience at West Point and elsewhere in the military, Senator.

But when a critical mass is achieved in the student body and even more particularly, in the administration leadership at the academy itself, things can change.



Obviously, as inspector general, I am not in a position to influence that, but where we have brought our forces to bear, on, that is, with the assistance and at the request of this committee and others, to take a look at what the school and the Maritime Administration have done, what they have planned, what other recommendations for improvement we might be able to make to them.

We did that in the 2014 report. We furnished them nine recommendations at the time. After close scrutiny, my staff concluded that the recommended actions had all been taken by the academy administration, so we were able to close all nine of our recommendations from the 2014 report.

At about the same time, the academy, much to its credit, embarked on its own action plan, 44 steps across six or seven different phases that they intended to carry out in order to make concrete progress on building the trust and confidence that you mentioned is necessary on behalf of students.

They closed their action plan in 2015 without having completed all 44 items that constituted the plan. They left—not unaccounted for, but unresolved, at least to our satisfaction—a handful. I think it was seven, to be specific.

But we are continuing our discussions. At the committee's request, we have been asked to examine the academy's actions on that action plan and see if it meets with our approval, at least. We are continuing those discussions. We are going to have further meetings over the next month or so on the remaining seven. We will be in a position at that point to come and discuss with the staff and you, if you wish, how we feel on the academy's progress.

You mentioned earlier, and it has come up, but I would like to mention it too, because it is a concern for me, and I have emphasized with our staff—that is, a look at the academy's action plan, however good it may appear to be for implementation on the grounds at King's Point. There are anywhere from 8 to 12 months of an academic year when students go out in very small groups and are at sea for extended periods of time and put into port in places that are much different culturally and, frankly, can get wild. We can all use our imaginations on things like that.

Those are opportunities for young people, male or female, to be vulnerable and to find themselves in trouble. So the Academy's action plan needs to really get at that specific point in order to have a fighting chance of getting trust and confidence back among the students.

Senator COLLINS. Thank you.

Senator Reed.

#### HAZARDOUS MATERIALS

Senator REED. Thank you very much, Madam Chairman.

And thank you, Mr. Scovel. Obviously, we take your reports very seriously, since we have used it for significant questions of the Secretary.

Again, going back to your report on hazardous materials transportation, one aspect of the report was a finding that many cases merit referral to your office for actual criminal investigation. Can you provide some examples of those types of cases?

Mr. SCOVEL. I can. I will be happy to.

Just to review it a little bit, and I will try to do it quickly, a couple years ago, I was on a field visit to one of our investigative field offices in Florida. And I spoke with one of our agents there who reported that in her 15-year career or so with our Office of Inspector General, she had received criminal referrals from virtually every other operating administration in the Department except for FRA. She was disturbed by that.

That got my attention. I came back to headquarters. We had on our planning schedule a look at FRA hazmat procedures, and I asked them to put in a specific objective to examine this question of criminal referrals. So we were able to tackle that.

I can say that in the cases that we looked at, and there were 75 between fiscal year 2010 and fiscal year 2014, we had received zero criminal referrals from FRA. We found, however, that there were instances of those 75—23 percent, as we looked at it through both auditors' and investigators' eyes, should have merited some attention from my staff, trained criminal investigators. So those were 17 out of the 75 cases.

A couple of examples. One company produced valves that had not been put through a required design approval process. Those valves later caused leaks on tank cars carrying hazardous materials. FRA chose to pursue civil penalties against that company and in March 2015 released a rail worthiness directive on valve replacement, but never referred the case to our office for criminal investigation.

Another example. A different company released overweight tank cars for use several times without rectifying the weight problems and after they had been certified by that company as underweight. These circumstances indicate possible false statements by a repeat violator, but FRA did not refer that case to our office for criminal investigation either.

A final example. Another company may have made a false statement when it did not include in a bill of lading the radioactive containers located on a flat railcar on the train, but FRA again did not refer the matter to our office.

Senator Reed, we have heard from every single other operating administration in the Department, including even the St. Lawrence Seaway Development Corporation, in those years, 2010 through 2014. Even St. Lawrence Seaway referred a criminal matter to us.

We have had zero from FRA, whether it was safety related or whether it was potentially grant-fraud related. As you know, FRA has significant oversight responsibility now for high-speed rail grants.

So we have embarked on a concerted effort, and I know we have the support and attention of the Department's highest leadership as well as FRA itself, in order to turn that around, without using every tool in the toolbox—which includes not only civil penalties to FRA's leadership but also criminal investigations, when properly warranted. It amounts to what I call partial disarmament on the part of the safety regulator. That is most disturbing. I would like to see it corrected.

#### CRIMINAL VIOLATIONS

Senator REED. Let me just follow up with a question. This is for my benefit as much as anybody else.

The procedure in the Department is that an agency would submit a potential criminal violation to your office. You would investigate it, and then you would submit it to the Federal Bureau of Investigation (FBI) or the Federal attorney? What is the stop out of your office?

Mr. SCOVEL. Thanks. We would take it to the assistant U.S. attorney, to the U.S. attorney in the district where the alleged violation occurred.

Quite honestly, they have their own priorities, as I am sure you understand. Counterterrorism and public corruption these days are number one on the list for FBI and Department of Justice attention. So matters like this can sometimes be difficult for us to attract attention. But with safety cases, particularly where the potential for grievous effects is significant, depending on when and where, we can often get Department of Justice cooperation.

Senator REED. So it is not like that FRA is going directly to the Federal level. They have to go through you. They are not going through you.

Mr. SCOVEL. Yes. This is in contravention I should say, too, of Department orders that are very specific—that when possible criminal activity comes to the attention of any of the modes, they are to refer it to the Office of Inspector General.

#### ADDITIONAL RESOURCES

Senator REED. Thank you. Just a final question on that, the administration submits a budget for your office and you submit a budget for your office. And we have to sort of parse it.

You are requesting additional resources from the administration's budget, including 25 additional full-time equivalent (FTE) positions, I believe. First of all, again, we appreciate the work you are doing and the work is increasing, I am sure. But can you explain how you are going to use this additional staff, and why you need it?

Mr. SCOVEL. I would be happy to, and thank you for the question. I have some notes, and if you will bear with me, I want to be careful in how I say this because we, of course, have had communications with the Department and with OMB as well as others on the Hill here already, and I want to make sure I am consistent.

Senator REED. Yes, sir.

Mr. SCOVEL. We have always appreciated it, at DOT OIG, this committee's, and your colleagues' committees over on the House side, concern and interest in and support across all the years. I have been the inspector general for a little over 9 years, and it has been magnificent.

Here is where we stand now. OIG's budget request to OMB was \$93.6 million in support of an estimated 422 career level FTEs. The President's budget request is for \$90.2 million in support of an estimated 397 career level FTEs. That would be sufficient as well for 13 student and expert FTEs.

We do appreciate that the President's budget is intended to help us move in the right direction. But I consider myself duty bound to advise you, and now that you have asked, we have advised OMB in our original budget request, the 25 additional FTEs we originally requested is the number of staff that would enable us to fully

execute our mission focusing on safety across all transportation modes while continuing to identify cost-saving opportunities and making recommendations to improve program efficiency and effectiveness. Operating below OIG's requested level puts at risk our ability to provide full and effective oversight of expanding DOT programs.

I submit that based on our office's record for many years now, whatever appropriated dollars are sent our way, we make tremendous use of. A traditional measure in the accountability community is called return on investment. In 2015, our return on investment was 32-to-1; for each single appropriated dollar, we were able to return financial recoveries to the Government of \$32. For the 5 years prior to that, it was 29-to-1. So that puts us really among the top tier of Federal Offices of Inspector General.

The resources we have requested for 2017 we believe are necessary to enable us to provide critical audit and investigative support of aviation and surface safety issues. We plan to sharpen our focus on administrative, management, and procurement programs with significant budget and information security impacts.

We need to maintain certain technical capabilities needed to conduct increasingly complex audits and investigations.

And we are also overdue, since we are talking about cybersecurity, to take measures to reinforce our own IT security posture.

We also have significant new oversight responsibilities, and we welcome them, that have been associated and handed to us through the FAST Act, the Digital Accountability and Transparency Act (DATA Act), the Grants Oversight and New Efficiency Act (GONE Act), and the Surface Transportation Board (STB) Reauthorization Act.

Full funding would enable us to, most importantly, cover the increasing personnel costs that are largely outside of our control and that have left us with insufficient funds to support our full allotment of career level FTEs.

Sir, 75 percent of OIG's budget goes to payroll, if you will. Much of the balance of that 25 percent is for expenses over which we have no control—rent and the Department's own working capital fund.

I will close by thanking you and the chairman and all members of the committee for your consistent concern and support for our mission. I well recognize that every government agency these days operates in a financially constrained environment. And I pledge to you that no matter what the final decision may be for our office's appropriation, we will do all we can with all we have, and my staff sitting behind me has heard me utter those exact words in all-hands meetings and everything else. We will always do all we can with what we have to support the Secretary and the Congress.

Senator REED. Thank you.

If I can make just one brief comment, the chairman has been very thoughtful about including the inspector general in these hearings, and the HUD inspector general has made the same basic comments about IT security, which is a multibillion-dollar, government-wide sort of cost that is recognized but not funded. We were commenting about that after he left.

So we have to do some thinking I think. Thank you, Madam Chair.

Mr. SCOVEL. Thank you, sir.

Senator COLLINS. I certainly agree with the ranking member in that regard.

Mr. Inspector General, I want to thank you so much, not only for your excellent testimony today. I was impressed, since we gave you know warning that I was going to ask you about cybersecurity, how extremely on top of that issue that you are, which I think is appropriate because I do believe it is one of the greatest vulnerabilities that we have facing our critical infrastructure and one that we have done the least to truly deal with in a serious way.

But I am always very impressed when I meet with you, have discussions with you, or hear you testify. So my thanks to you and your office and dedicated employees who are working hard to make sure the Department is as efficient as possible.

#### ADDITIONAL COMMITTEE QUESTIONS

The hearing record will remain open, as I indicated, until next Friday, March 25. Undoubtedly, additional questions will be submitted to you for the record.

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

#### QUESTIONS SUBMITTED BY SENATOR SUSAN M. COLLINS

*Question.* The Department recently announced the seven finalists for the Smart City Challenge, which is intended to provide \$40 million over 3 years to a medium-sized city for deployment of intelligent technologies. These may include technologies such as autonomous vehicles, urban automation, sensor-based infrastructure, and electric vehicle fleets to help reduce congestion and provide innovative solutions for safety and mobility.

Mr. Secretary, given the limited amount of funding available for research and technology, does it really make sense to spend a substantial amount of money on only one city?

*Answer.* On December 2015 USDOT issued a Notice of Funding Opportunity challenging medium-sized cities to solve tomorrow's transportation challenges using technology and innovation. The overwhelming response surprised us. Seventy-eight medium-sized cities from across the country—from Portland to Providence and from Anchorage to Albuquerque—submitted thirty-page vision proposals.

We intend to offer one city \$40 million because a substantial amount of money focused on one city has the potential to (1) be more effective in getting the attention of medium-sized cities, (2) inspire cities to use 21st century technology and innovation to solve tomorrow's transportation challenges, (3) produce solutions that are replicable in other medium-sized cities, (4) make the United States the leader in the development of smart city transportation solutions, (5) be enough money to create a demonstration that will make an impact in a medium-sized city, (6) encourage universities, foundations, NGOs to help these cities look to the 21st century solutions, and (7) be sufficient to attract technology companies to form partnerships with the seven finalists. While only one city will win, the Smart City Challenge started a conversation in seventy-eight cities that has the potential of changing how they look at transportation.

*Question.* As I mentioned in my opening statement, I am frustrated the Department continues to use the same old gimmicks we have seen in the past, shifting programs from discretionary to mandatory. The budget proposal, excluding funding for Amtrak, includes \$4.1 billion in proposed mandatory spending for "High-Performance Rail" all the while we have the Railroad Rehabilitation and Improvement Financing Program with nearly \$33 billion in available loan assistance sitting unobligated.

The fiscal year 2016 omnibus provided nearly \$2 million to the Federal Railroad Administration to support short line railroads with costs associated with RRIF loan

applications. Additionally, the FAST Act included reforms to RRIF to make the program more accessible.

Mr. Secretary, how does the Department plan to use the funds provided in fiscal year 2016 and given the changes made by the FAST Act what concrete steps are you taking to get RRIF funding out the door?

*Answer.* As directed by the fiscal year 2016 Consolidated Appropriations Act, the Department intends to use the \$1.96 million appropriated under Section 152 of Division L of the Act to assist Class II and Class III railroads in lowering costs related to applying for a loan under the Railroad Rehabilitation and Improvement Financing (RRIF) Program. Specifically, these funds will be made available for applicant expenses in preparing to apply and applying for direct loans and loan guarantees. The Department is currently developing guidance to define how these funds will be made available to eligible applicants to defray costs, ensure efficient application processing, and achieve loan closing.

Increasing access to and usage of the RRIF Program is a top priority of the Department. The program can play an important role in advancing major infrastructure projects and assisting potential borrowers in completing smaller infrastructure, equipment, and refinancing projects that play a vital role in the borrowers' operations and the overall performance of the rail network. Prior to the enactment of the FAST Act, the Department had implemented process improvements to increase stakeholder outreach, provide technical assistance to prospective borrowers, and improve the efficiency of the loan application process. In 2015, the FRA completed the same number of loans—two—as the previous 3 years combined.

The FAST Act contains several provisions intended to further streamline the loan approval process, increase applicant eligibility, and fund a wider array of projects.

The FAST Act also established the National Surface Transportation and Innovative Finance Bureau (Bureau) within DOT. The Department is in the process of establishing the Bureau to help consolidate outreach/coordination of DOT credit programs, process applications more efficiently, provide technical assistance, and communicate best practices regarding DOT financing and funding opportunities.

*Question.* Last fall, Administrator Huerta testified before this subcommittee on how to successfully integrate unmanned aircraft systems into our Nation's airspace. Given the rise in the number of U.A.S. sightings near our Nation's airports, I remain concerned about the threat posed by potential interference with airport operations. Mr. Secretary, what is the F.A.A. doing to address this alarming growth in "close calls" of U.A.S. near airports?

*Answer.* As of December 21, 2015, everyone who flies a UAS that weighs more than 0.55 pounds and less than 55 pounds outdoors must register using the FAA's new online registration system. Before completing registration, registrants must acknowledge safety guidelines, which include restrictions and requirements for flying near airports. As of the end of March, over 415,000 operators have registered.

Registration is a key component of the FAA's education efforts, which also include the No Drone Zone campaign, the B4UFLY smartphone app, and providing airports with educational public service announcements to display in their terminals.

Recognizing that education has its limits, the FAA is also working with inter-agency partners to evaluate UAS detection technology in the vicinity of airports. As part of the FAA's Pathfinder program, testing of a detection system developed by CACI International was completed at the Atlantic City International Airport in February 2016. A total of 141 tests were conducted—72 with a UAS on the ground and 69 with different, small UAS in flight. Engineers from the FAA, CACI, and the Department of Homeland Security will develop a final report of findings by August 2016.

The FAA pursues enforcement action against the operator where unsafe or unauthorized UAS operations occur that have a medium to high impact to the safety of the National Airspace System (NAS), where the operator is intentionally non-compliant, or where the case involves repeat violations. Enforcement action can take the form of a civil penalty or a certificate action if the operator holds an FAA issued certificate. If criminal statutes are implicated, the FAA also works with our law enforcement partners in prosecuting those cases.

*Question.* I have been outspoken about the need to improve the safety of our rail network, not just on the larger Class One railroads, but also on the "short lines." Maine has no Class One railroads. Therefore, short lines play an integral role in connecting goods to our citizens. In order to address their unique needs, Congress provided funding in fiscal years 2015 and 2016 to assist the short lines in building a stronger, sustainable safety culture through the establishment of the Short Line Safety Institute. The Short Line Safety Institute recently hired an Executive Director and last year began conducting safety culture assessments at several short line railroads across the country. How is the Department using feedback from these as-

assessments as it works with the Institute on the development of training, education, and recommendations to improve the safety performance of short lines?

*Answer.* The Short Line Safety Institute's (Institute) primary goals are to enhance and improve safety practices and to increase the short line and regional railroad industry's culture of commitment to safety through assessing their safety culture, recommending how to improve it, and providing leadership, training, and education about safety culture and conformance. The Institute will accomplish these goals through Four Pillars of activities:

- (1) *Safety Culture Assessment:* Conducting voluntary, non-punitive, confidential safety culture assessments (initially focused on railroads that transport crude oil);
- (2) *Education & Training:* Serving as a long-term training and education resource for short line and regional railroads; providing resources, based on industry "best practices", for strengthening railroad safety culture;
- (3) *Research & Evaluation:* Serving as a research center that compiles and disseminates information on safety needs and trends within the short line and regional railroad industry (e.g., assessing education/training needs, identifying communications gaps, and analyzing safety metrics over time); and
- (4) *Strategic Communications:* Disseminating timely information to industry stakeholders about the Institute's mission and vision and providing guidance on how to communicate internally and externally about safety culture improvement efforts stakeholders may undertake at their properties.

After a safety culture assessment, assessors synthesize information collected from multiple methods (interview, document review, observation, survey) from employees across all levels of the short line railroad. In addition to providing individualized feedback to the railroads assessed, the assessments are also used to identify industry-wide gaps in safety culture knowledge. The Institute will address these gaps with training, webinars, conferences, and other strategic education and communication efforts. As a result, the Institute will provide short line and regional railroads with the tools needed to drive safety culture change.

FRA is partnering with the American Short Line and Regional Railroad Association (ASLRRA) and the Institute in this effort, providing continuing support to the Institute as it strives to improve safety and safety culture in the short line industry. FRA's Office of Research & Development continues to work closely with ASLRRA, Volpe National Transportation Systems Center, and the University of Connecticut to ensure the Institute's processes and procedures are evaluated for effectiveness and based on scientific rigor.

*Question.* We continue to hear aviation stakeholders question the F.A.A.'s ability to implement NextGen. We have spent approximately \$6 billion on NextGen to date, but passengers, shippers, and aircraft operators have realized few benefits. This lack of progress seems to be one of the main arguments driving the push for significant changes to F.A.A.'s structure. Surely by now the aviation industry is seeing benefits from the billions of dollars this committee has provided. Can you tell us what progress F.A.A. has made on NextGen?

*Answer.* Passengers and operators benefit from NextGen in multiple ways, by flying on more direct paths to their destinations with fewer delays. NextGen benefits include fewer carbon emissions, contributing to a greener environment.

Nationwide, the FAA has measured \$1.6 billion in benefits to airlines and the traveling public from NextGen capabilities already in place since 2010 through 2014. Over the next 15 years, NextGen will produce an additional \$11.7 billion in benefits from those improvements. Once all currently planned programs are in place, the FAA expects NextGen to deliver \$134 billion in direct airline, industry, and passenger benefits through 2030. The benefits were based on the fiscal year 2014 Business Case for the Next Generation Air Transportation System.

Last year, the FAA completed deployment of the En Route Automation Modernization (ERAM) system, in all FAA Centers in the continental United States. The system is already processing information from the 634 ground transceivers that comprise Automatic Dependent Surveillance-Broadcast, ADS-B. In places such as Alaska and the Gulf of Mexico, our controllers can continuously track equipped aircraft, even though the nearest radar site might be several hundred miles away.

The FAA is making flying more efficient. The Metroplex initiative has transformed the airspace around some of our busiest cities, replacing inefficient ground-based routes. We now have scores of new satellite-based air traffic procedures in Houston, North Texas, Charlotte, Washington, DC, and Northern California.

The FAA has collaborated with the aviation industry through the NextGen Advisory Committee (NAC), a Federal advisory committee, to develop a plan to implement a number of high-priority NextGen capabilities in the areas of Multiple Runway Operations, Performance Based Navigation, Surface Operations, and Data Com-

munications. To date, the FAA and industry have completed 42 NextGen Priorities commitments, introducing a wide range of benefits into the NAS.

*Question.* In the fiscal year 2016 Omnibus bill, this Committee provided a substantial increase in resources to the National Highway Traffic Safety Administration for the Office of Defects Investigation. Given the dramatic increase in recalls and fines issued in recent years, ranging from fault GM ignition switches to Takata airbags, it was apparent NHTSA did not have sufficient engineers and resources to properly vet defect claims. The O.I.G. has issued several reports on NHTSA's inability to properly identify and address vehicle safety defects due to inadequate standards and procedures. I find it troubling that, according to the O.I.G., NHTSA has failed to consistently apply the recommendations from a 2011 report and lacks the mechanisms to ensure that staff consistently applies these recommendations. This finding from the O.I.G. makes me question whether the Department is truly making permanent changes as called for in I.G. reports for any of the agencies within DOT. Mr. Secretary, can you tell us how you, in the last few months of this Administration, will ensure the O.I.G. recommendations are taken seriously throughout the Department?

*Answer.* NHTSA has performed a comprehensive review of its defects program. NHTSA's internal review and the review performed by the O.I.G. last year form the agency's roadmap for building a more effective and comprehensive defects program. NHTSA established an aggressive schedule to implement all of the O.I.G. recommendations, and the agency will meet its June 30, 2016 deadline. NHTSA has already initiated additional actions to address O.I.G.'s recent recommendations about establishing controls and procedures over the new policies.

The Department, through its Office of Audit Relations and Program Improvement, recently initiated bi-monthly recommendation update meetings with each Operating Administration to discuss the status of every open recommendation. As of April 1, 2016, the Department had 547 open recommendations. The OIG has closed 152 open recommendations, including 5 of the 33 that it listed as high priority, based on actions taken by the Department to implement those recommendations. The potential savings of the closed recommendations total over \$518 million.

My office is carefully monitoring and will continue to monitor NHTSA's and other DOT agencies' progress in meeting the benchmarks established by the O.I.G.

*Question.* A local bus company in Maine has brought to my attention a troubling rulemaking issued by the Federal Motor Carrier Safety Administration, regarding "bus lease-interchange". This rule hurts operators who have a safe record but find themselves having to partner with other bus companies to provide service. For example, if bus company "A" breaks down on the side of the highway, full of passengers, then company "A" would have to find alternative service to get the passengers quickly and safely to their destination through a lease agreement with another company "B". This rule puts full burden of compliance and liability for company "B" on company "A", even though company "B" has DOT operating authority and its own safety record. This makes no sense if both companies have their own operating authority and are deemed safe by DOT. While the intent of this rule was to prevent unsafe carriers that attach themselves to reputable companies with DOT operating authority, the rule simply fails to do that. The very class of carriers that the rule was trying to go after would fall entirely outside of this final rule—in short, it really only hits the folks following the rules. The rule is detrimental to bus service providers across the country that regularly, and often without much notice, have to lease or charter additional service from other carriers. I am pleased to learn the Department delayed implementation 1 year. Mr. Secretary, do I have your commitment to address these concerns before the end of this Administration?

*Answer.* The Department acknowledges motor carriers of passengers' concerns about the Federal Motor Carrier Safety Administration's (FMCSA) 2015 final rule about the lease and interchange of buses. FMCSA received numerous petitions for reconsideration of the final rule and based upon a review of the petitions, determined that the compliance date should be extended to January 1, 2018 to provide sufficient time to address the issues raised by the petitioners. You have my commitment that FMCSA will issue a decision concerning each of the petitions for reconsideration by the end of the calendar year, and FMCSA anticipates publishing amendments to the final rule in the Federal Register for petitions which are granted, in early 2017.

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#### QUESTIONS SUBMITTED BY SENATOR STEVE DAINES

*Question.* Secretary Foxx, the President's budget request is over \$98 billion. That is more than \$22 billion, nearly 30 percent, above last year's enacted amount. The



Office of Inspector General (OIG) reported to the Commerce Committee in January that there were 569 open recommendations with nearly \$2 billion in potential savings. What is DOT doing to expedite implementation of these recommendations?

*Answer.* The Department, through its Office of Audit Relations and Program Improvement, recently initiated bi-monthly recommendation update meetings with each Operating Administration to discuss the status of every open recommendation. As of April 1, 2016, the Department had 547 open recommendations. The OIG has closed 152 recommendations, including 5 of the 33 that it listed as high priority, based on actions taken by the Department to implement those recommendations involving questioned costs and funds put to better use, as identified by the OIG, total over \$518. The potential savings of the closed recommendations total over \$518 million.

*Question.* The single biggest savings is in Federal Aviation Administration (FAA) air traffic control (ATC) towers, totaling \$853 million. DOT's target action date is in July. What is DOT doing to expedite implementation of these ATC savings?

*Answer.* The FAA concurred with OIG Report #ST-2015-080: Efficiency of FAA's Air Traffic Control Towers Ranges Widely. The FAA is in the process of performing a "Deep Dive" into the facilities outlined in the report in order to determine the root causes of the inefficiencies. This will allow the FAA to determine if, in the interim, these causes have been corrected or if there are actions that can be implemented to improve efficiencies. The FAA is working to deliver a response to the OIG by the end of May 2016 and to issue a final response and results, as applicable, by the end of July 2016.

*Question.* Airports in Montana utilize the Federal Contract Tower (FCT) program. These towers account for approximately 28 percent of operations while only utilizing about 14 percent of funds. Would expanding the FCT program improve DOT's finances?

*Answer.* The FAA does not believe that expanding the contract tower program would improve FAA's or DOT's finances at this time. The FAA currently has no plans to convert any FAA towers into contract towers. Any expansion of the program would therefore solely involve adding more non-Federal towers to the program, thus raising FAA's overall costs.

*Question.* In addition to financial responsibility, maintaining a safe transportation network is critically important. When it comes to addressing behavioral safety issues, States agencies, not the Federal Government, have the best understanding of their individual challenges. One provision I was proud to champion in the Fixing America's Surface Transportation (FAST) Act was to qualify 24/7 sobriety programs for National Highway Traffic Safety Administration (NHTSA) safety grants. While implementing the FAST Act, how will DOT ensure States have the flexibility to institute safety programs that address their unique challenges?

*Answer.* NHTSA encourages States to develop creative approaches to improve safety. The general approach is to allow States the maximum flexibility consistent with statutory language. With regard to the implementation of 24-7 sobriety program grants, NHTSA plans to use the statutory language in the FAST Act as the basis to determine those States eligible for a grant. Although the statute specifies certain requirements that must be met in order to receive a grant, we believe it affords room for flexibility for a State to tailor an approach to suit its needs while satisfying the requirements imposed under the statute.

*Question.* The Amtrak's Empire Builder runs across Montana's Hi-Line, providing much needed connectivity to 12 rural communities. Amtrak completed a feasibility study that concluded a stop in Culbertson, MT would have a net positive impact on Amtrak's finances. How will DOT facilitate coordination between the Federal Railroad Administration (FRA), Amtrak, and local stakeholders to help bring this service online?

*Answer.* Amtrak's Long Distance routes, such as the Empire Builder, play a critical role in connecting the national rail network and provide a vital transportation alternative to communities throughout the country.

As directed by the Senate's fiscal year 2016 Transportation and Housing and Urban Development Appropriations Bill report (Report 114-75), FRA and Amtrak are in the process of re-evaluating a previous Amtrak feasibility study on adding a station stop along the Empire Builder route in Culbertson, MT. The Amtrak "Passenger Rail in the Bakken Region" study is due to the Appropriations Committee by December 18, 2016 and FRA and Amtrak are on track to meet this deadline. In addition to re-evaluating the revenue, ridership, and other operating cost metrics of the previous Amtrak study, the fiscal year 2016 Senate report language instructs FRA and Amtrak to also examine the capital infrastructure improvements that would be necessary to bring intercity passenger rail service to Culbertson, MT. FRA and Amtrak must communicate with local stakeholders and the host freight rail-

road, BNSF, to gather the resource and operational requirements needed to carry out the study.

FRA is always available to provide technical assistance to States and local governments regarding rail issues. Depending on the results of the study and whether Federal funding will be sought for the capital improvements required to add a station stop, FRA may also play a more formal role in the environmental, engineering, and design processes to construct the local government's preferred station facilities.

*Question.* Inspector General Scovel, the President's budget request is over \$98 billion, more than \$22 billion increase above last year. In a letter you sent to the Commerce Committee in January, you highlighted 569 open recommendations with nearly \$2 billion in potential savings if implemented. What is the status of these recommendations?

*Answer.* Of the 569 open recommendations we identified as of December 31, 2015, 174 have since been closed and 395 remain open. Additionally, since January 2016, we have issued 40 audit reports containing 145 new recommendations, of which 135 remain open. Accordingly, as of April 26, 2016, there are a total of 530 open audit recommendations.

#### HIGHWAY SAFETY

*Question.* In your testimony, you discussed recommendations for the National Highway Traffic Safety Administration (NHTSA). We discussed many of these recommendations, specifically the Office of Defects Investigation (ODI) recommendations, during a Commerce Committee hearing last June. What recommendations has NHTSA closed since our last meeting? Has NHTSA improved its stewardship of taxpayer resources?

*Answer.* Since my testimony on June 23, 2015, we have closed 6 of the 17 recommendations we made to improve ODI's pre-investigative processes. More specifically:

- Recommendation 6*, which was closed on September 30, 2015, was aimed at improving the quality of consumer complaint data and enhancing ODI access to important data sources such as pictures and accident reports. In response to our recommendation, ODI enhanced [safercar.gov](http://safercar.gov) to:

- Provide definitions for affected parts<sup>1</sup> to assist consumers in appropriately categorizing their complaints,
- Provide guidance to consumers on what sort of information to include in their narrative descriptions of incidents and their vehicles that would be most helpful to ODI in identifying potential safety concerns, and
- Allow consumers to upload up to 5 files while submitting their complaints, and also encourage them to hold on to important information such as police reports and photographs for at least 5 years.

- Recommendation 13*, which was closed on October 30, 2015, was aimed at documenting supervisory review throughout ODI's pre-investigative process including data screening.<sup>2</sup> In response to our recommendation, ODI implemented a process to conduct a one-on-one meeting twice a month between each Defects Assessment Division (DAD) screener and the DAD chief to discuss all ongoing investigation proposals and issues. These meetings will also include discussion of any limitations confronted by screening staff, the need for future training, and staff utilization. These meetings will serve as a platform for the DAD chief to provide guidance to screeners. Additionally, ODI developed a process to document these meetings and to store the documentation within pertinent case files.

- Recommendation 15*, which was closed on October 30, 2015, was aimed at developing and implementing guidance on the amount and type of information needed to determine whether to open an investigation. In response to our recommendation, ODI developed risk assessment matrices that take into account the frequency and hazard levels associated with a potential safety defect. ODI guidance defines the specific information needed to populate the matrices, describes how that information is evaluated, and sets forth specific standards for when an investigation must be opened. The matrix groups issues into red, yellow and green—red suggesting that an investigation should be opened, yellow suggesting that more information is required to make a call, and green suggesting a low hazard. ODI also identified a plan to develop matrices in 11 areas

<sup>1</sup>The online complaint submission form requires consumer to select up to 3 affected parts from a drop-down list of 18 options such as airbags, brakes, lighting, and powertrain.

<sup>2</sup>ODI has two groups that are primarily involved with its pre-investigation process: the Defects Assessment Division (DAD) and the Early Warning Division. OIG and ODI mutually agreed that ODI's process for supervising the Early Warning Division would be covered under its proposed action to close out recommendation 10.

that present the highest risk to safety such as cyber-security, brakes, and air bags by April 30, 2016.

- Recommendation 17*, which was closed on November 30, 2015, was aimed at documenting and establishing a process for enforcing timeframes to determine whether to open investigations and to establish a process for documenting justifications for these decisions. In response, ODI developed a process to ensure:
  - All investigation proposals will be reviewed and dispositioned by the appropriate investigative division within 6 weeks of initial transmittal. Additionally, if an investigation division chief does not make a decision on an investigation proposal in the prescribed 6-week timeframe, it will automatically be forwarded to the Defects Assessment Panel for consideration.
  - Compliance with the 6-week standard and the justifications for opening investigations will be documented in ARTEMIS through internal e-mails, defect assessment panel meeting minutes, preliminary evaluation opening resumes, and evaluations.
  - Justification for declining to investigate must reference either an applicable risk assessment matrix (see recommendation 15 above) or a detailed explanation of why the elements of a potential safety defect do not exist. The justifications will be documented in ARTEMIS.
  - Timely dispositioning of issues will be factored into division chief and ODI director's performance.
- Recommendation 3*, which was closed on March 31, 2016, was aimed at requiring manufacturers to develop and adhere to procedures for complying with early warning reporting requirements, and require ODI to review these procedures periodically. In response, ODI sent a notice to auto manufacturers requiring them to provide an explanation of their current procedures to comply with early warning reporting (EWR) requirements. Under this notice, manufacturers will have to describe their practices for ensuring the accuracy and timeliness of their EWR submission, as well as their process for ensuring the correct assignment and interpretation of ODI component codes. ODI developed a process for conducting ongoing periodic reviews of manufacturer practices to ensure their continued compliance with EWR requirements.
- Recommendation 10*, which was closed on April 18, 2016, was aimed at implementing a supervisory review process to ensure that all EWR data are analyzed according to ODI policy and procedures. In response ODI implemented a process to conduct a bi-weekly meeting between Early Warning Division (EWD) screeners—both Federal employees as well as contractors—and the EWD chief. These meetings will cover screeners' analysis of all forms of EWR data and allow the EWD chief to provide feedback to screeners, assess their familiarity with ODI policies and procedures, and keep them informed of any updates to those policies and procedures.

Based on our interactions with Agency staff and their actions taken to date, we believe that NHTSA is focused on implementing and closing our 17 recommendations, and is on the right path to improving the stewardship of taxpayer resources.

*Question.* Inspector General Scovel, in your 2015 Financial Information Security Management Act (FISMA) audit, you reported DOT had a number of challenges resolving plans of actions and milestones (POA&Ms)<sup>3</sup>—longstanding security vulnerabilities within DOT systems. What are DOT's challenges in resolving POA&Ms, and what is the Agency's status in implementing OIG recommendations?

*Answer.* In 2014, DOT had a backlog of over 5,600 POA&Ms. In 2015, DOT had only resolved 1,798 (32 percent), leaving more than 3,820 POA&Ms. Of the 3,820 unresolved POA&Ms:

- 2,023 POA&Ms do not have actual start dates. Of these, 188 are high priority, and 1,569 are medium priority.
- 960 POA&Ms had no documented remediation costs. Of these, 53 are high priority, 316 are moderate priority, 534 are low priority, and 57 are not categorized.

As part of our fiscal year 2015 FISMA audit, we issued 9 additional recommendations increasing the total number of OIG outstanding recommendations to 21. DOT's target action completion dates for all 21 recommendations indicate that actions would be completed by the end of fiscal year 2016. However, we note that several recommendations have been open since 2010.

<sup>3</sup>Per OMB Memorandum M-02-01,—A POA&M is a tool that assist agencies in identifying, prioritizing, and monitoring progress of corrective efforts for security weaknesses found in programs and systems.

## QUESTIONS SUBMITTED BY SENATOR JACK REED

*Question.* What is the timing for the NHTSA rulemaking for the 405 grants?

*Answer.* The agency plans to issue an interim final rule implementing the provisions for the Section 405 grants in May 2016..

*Question.* Does NHTSA consider county-based or pilot 24/7 programs as qualifying for 405 and 164?

*Answer.* NHTSA is currently engaged in rulemaking to implement this and other statutory grant requirements, and plans to publish a rule in the near future. Under Section 405, a 24-7 sobriety program is defined as a State law or program that authorizes a State court or an agency with jurisdiction to require driving under the influence (DUI) offenders to be subject to testing for alcohol or drug use. Section 164 is similar in that States are responsible for meeting the statutory requirements and must either have the required law or program in place to be compliant.

*Question.* Should NHTSA be doing a rulemaking to certify 24/7 devices?

*Answer.* Under the grant program in Section 405 and the transfer program in Section 164, compliance is based on a State having a law or program that authorizes DUI offenders to be tested for alcohol or drugs. The statutes direct a State to meet process requirements related to testing to be determined compliant (e.g., at least twice per day or by continuous transdermal monitoring). They do not mandate a particular device or that any device be used. Consequently, we do not believe that certifying 24/7 devices is necessary under the programs.

*Question.* FRA and PHMSA have received increases in funding in recent years for safety with direct calls for more inspectors on routes that carry flammable liquids and passengers. What is the status for hiring the inspectors and safety personnel funded by this subcommittee at FRA and PHMSA?

*Answer. Regarding PHMSA:*

In fiscal year 2015, PHMSA received 7 additional inspection and enforcement positions to support the safe transportation of flammable liquids. The positions were allocated based on risk related to the transportation of flammable liquids. The position breakdown includes five new Inspectors located in Trenton, NJ (2), Kansas City, MO (1), Ontario, CA (1), and Houston, TX (1). In addition, there are two new Hazardous Materials Safety Assistance Team safety personnel located in Ontario, CA (1) and Atlanta, GA (1). As of April 2016, all positions have been successfully filled.

*Regarding FRA:*

The FRA received funding for 10 new inspectors, in fiscal year 2014, and five more in fiscal year 2015. All 15 of these positions have been filled

In fiscal year 2016, we received funding for four new inspectors. One of these positions has already been filled, and the remaining 3 are underway.

FRA also filled all 15 positions for which we received funding in fiscal year 2014 in our Office of Railroad Policy and Development. These critical positions included analysts, engineers, and environmental and freight policy experts. Additionally, we filled 14 more positions of the 20 for which we were funded for safety headquarters staff.

In fiscal year 2016, we received funding for an additional 29 regional and headquarters safety staff. FRA has already or will soon initiate the hiring process for all of these positions, and expects to fill most of them in this fiscal year.

*Question.* Tire Pressure Monitoring Systems: Motorcoach safety is a priority for both NTSB and the Committee. Per Section 32703(c) of MAP-21, DOT was directed to consider within 3 years whether motorcoaches should be equipped with direct tire pressure monitoring systems (TPMS). Such a requirement would be consistent with the 2009 National Transportation Safety Board (NTSB) Safety Recommendation H-09-022 that all new motor vehicles weighing over 10,000 pounds to be equipped with direct TPMS. Further, in February 2014, NTSB echoed the need for implementation this safety recommendation. The Committee requested a status update on the implementation of the MAP-21 requirement in Senate Report 113-182, which was adopted as part of the fiscal year 2015 omnibus appropriations bill.

The Committee is aware that the National Highway Traffic Safety Administration (NHTSA) recently conducted motorcoach safety equipment testing that included a testing of direct TPMS. Nonetheless, the MAP-21 deadline has passed and the NTSB's recommendation remains open.

What is the current status of the agency's consideration of direct TPMS on motorcoaches?

Will the agency promulgate requirements in this area consistent with Safety Recommendation H-09-022?

*Answer.* The agency has reviewed and evaluated the available crash data. The analysis did not reveal a safety need to justify regulatory action at this time. The agency will continue to monitor the crash data for tire under-inflation on motorcoaches and will pursue future regulatory action if warranted.

*Question.* FMCSA Regulations on Windshield Mounted Vehicle Safety Technology: The Senate Appropriations Committee is aware of current FMCSA regulations that limit the ability of commercial motor carriers to mount vehicle safety technologies on windshields to prevent obstruction of a driver's field of view. The Committee is also aware that the agency routinely has recognized the benefits of certain safety technologies, and under current rules have provided 2 year exemptions (the maximum time allowable under the current rules) for such technologies.

To that end, the Committee directed the FMCSA to move forward on prescribing regulations to modify 49 CFR 393.60(e) to permanently allow the voluntary mounting on a vehicle's windshield of vehicle safety technology likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent such an exemption. Further, the Senate also included such a provision in the FAST Act (Public Law 114-94), specifically Section 5301, which directed the agency to prescribe a regulation to address this, as well.

Please provide an update on the status of these directives?

When can the Committee expect an NPRM on this issue to be put forward?

Will the agency meet the deadline included in the FAST Act to promulgate a rule to meet the requirements of the law?

*Answer.* The Department's Federal Motor Carrier Safety Administration (FMCSA) has drafted an Interim Final Rule to amend 49 CFR 393.60(e) to permanently allow the voluntary mounting of vehicle safety technology in the windshields of commercial motor vehicles. FMCSA does not anticipate completion of the rulemaking by the June 1, 2016, deadline provided in the FAST Act. However, the Agency is committed to issuing the Interim Final Rule by July 1 and a final rule by the end of the calendar year.

*Question.* Amtrak PTC Deployment: We were all deeply troubled by the deadly Amtrak accident in Philadelphia last year.

Has Amtrak activated PTC on all Amtrak-owned infrastructure?

*Answer.* No. Amtrak has activated PTC on all 396 route miles of the Northeast Corridor (NEC) which it owns, and 97 route miles of line in Michigan. Its electrified Harrisburg line is currently undergoing final testing, and is expected to be in service in 2016, along with its Empire Connection in New York. All other Amtrak owned line segments are slated to have PTC activated, or in operation, by the end of 2017.

Segment Identification	Number of Route Miles in Segment	Status at End of Calendar Year	Estimated Start Date for Revenue Service Demonstration
NEC (Boston to Washington) .....	396	Operational/Complete	Completed
Philadelphia to Harrisburg .....	104	Testing	March 2016
Springfield Line (New Haven to Springfield, MA) .....	62	Installing	Dec. 2017
Empire Connection .....	10	Testing	April 2016
Michigan Line (Amtrak Owned) .....	97	Operational	Completed
Michigan Line (State Owned) .....	135	Installing	June 2017
Hudson Line (Poughkeepsie to Hoffmans) .....	94	Installing	Dec. 2017
Chicago Union Terminal .....	1.5	Not Started	Dec. 2017

*Question.* The next step that Amtrak will face is full deployment of PTC on the National Network. As you know, unlike the Northeast Corridor, most of Amtrak's operations occur over infrastructure owned by host railroads. I understand negotiations between host railroads and Amtrak over who will cover the cost for PTC implementation on the National Network are proceeding slowly, if at all. In order to meet the deadline for PTC implementation, Amtrak will have to make various investments in its rail network and equipment over the next two fiscal years.

What is the FRA doing to budget for the costs of PTC implementation on Amtrak's National Network?

*Answer.* The Department of Transportation has long-stated that public sector funding is necessary to assist resource-constrained commuter railroads, short line railroads, Amtrak, and States with implementing PTC. FRA has requested funding for PTC system development and implementation grants in every budget request dating back to fiscal year 2011 (which was released by President Obama on February 1, 2010). In fiscal year 2017, the \$1.9 billion FRA requested for Grants to Amtrak includes funding under both the Northeast Corridor and National Network for PTC capital, equipment, and maintenance costs. Further, FRA requested \$1.25 bil-

lion for PTC implementation under the new Consolidated Rail Infrastructure and Safety Improvement Program. In addition to supporting commuter and short line railroads, this program is targeted to assist States and Amtrak with their proportional share of PTC costs on Amtrak's State-Supported routes that are required due to Amtrak operations on those routes.

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QUESTIONS SUBMITTED BY SENATOR PATTY MURRAY

*Question.* Secretary Foxx, the safe transport of crude-by-rail is of great importance to me and my constituents. In almost every meeting that I take back home, people tell me they are concerned about oil trains running through their towns. While I appreciate the Department's attention to this critical issue to date and the investments in the fiscal year 2017 budget request, there is more work to be done. And it needs to be done at a much quicker pace.

The National Transportation Safety Board issued three recommendations to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in January 2014 after finding that current regulations are outdated and do not account for the reality of trains frequently transporting more than 100 tank cars. Today, we have robust requirements for oil spill response plans for pipelines and ships. We need them for railroads, too.

Despite issuing an Advanced Notice of Proposed Rulemaking on comprehensive oil spill response plans in July 2014 and clear direction from Congress to begin a rulemaking within 90 days of enactment of the fiscal year 2016 Omnibus, PHMSA has failed to do so. In a January 4, 2016 letter you outlined that PHMSA expects to release a proposed rule no later than June 2016 and complete a final rule in June 2017. This time line is simply unacceptable.

Secretary Foxx, I am extremely disappointed in the continual delays on this critical rulemaking. My constituents are counting on this rulemaking to provide better protection for their communities and the environment. What is causing the delay? Do you need additional resources to support PHMSA's work on this rulemaking? I strongly urge you to begin and complete this rulemaking earlier than the current June 2016 and June 2017 timeline. We must ensure trains carrying oil are treated no differently than pipelines or maritime vessels.

*Answer.* The Pipeline and Hazardous Materials Safety Administration (PHMSA) shares your concerns and is working expeditiously to publish the Notice of Proposed Rulemaking (NPRM) entitled, "Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains." The DOT's Rulemaking Requirements<sup>4</sup> outline the processes and procedures for completing significant rulemakings. In accordance with the procedures and as mandated by Executive Order, the Department provided the NPRM to the Office of Management and Budget (OMB) for interagency review on February 24, 2016. The interagency review process coordinated by OMB may take up to 90 days. Therefore, PHMSA expects the NPRM will be published in June 2016. The DOT rulemaking procedures also require a 60 day public notice and comment period. Receiving comments from our stakeholders, including the emergency response community, is essential to protecting people and the environment from the risks of hazardous materials transportation. The volume and complexity of comments also impacts the additional analysis and drafting during the final rule stage. Typically, final rules require 1 year after the close of the NPRM comment period to complete.

*Question.* Communities in Washington remain very concerned with the safety of the trains already running through their cities. And for good reason. Crude oil shipments by rail have skyrocketed in Washington State. The number went from almost no crude oil in 2011 to 17 million barrels of oil shipped across the State in 2013. With more than 10 refinery expansions or crude oil facilities under consideration in Washington, this figure could raise to 241 million barrels a year.

The new tank car standards rulemaking completed by DOT in May 2015 is a step in the right direction to improve the safety of transporting crude oil.

Secretary Foxx, is the Department on track to meet the first deadlines for upgrades to the DOT-111 non-jacketed tank cars by January 1, 2018 and the DOT-111 jacketed tank cars shortly thereafter by March 1, 2018? Do you foresee any problems with the manufacturing industry being capable of delivering these upgraded tank cars on this time line? The final rule also required any new tank cars constructed after October 1, 2015 to meet the enhanced DOT-117 design and performance criteria. How many of these DOT-117 tank cars have been produced and are in use today to transport crude oil?

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<sup>4</sup> See <https://www.transportation.gov/regulations/rulemaking-requirements-2012>.

*Answer.* As of the 4th quarter of 2015, there were 1,793 DOT-117 and DOT-117R cars used in flammable liquid service. Almost 1,600 of those cars were constructed after October 1, 2015, to meet the enhanced DOT-117 design and performance criteria. FRA does not expect the industry to have difficulty in producing additional DOT-117 cars.

*Question.* I understand that the FAA is proposing to eliminate the Contract Weather Observer (CWO) program at 57 airports, including Spokane International Airport in Washington State. Today, the CWO program provides weather monitoring, augmentation, and back up for automated weather systems (ASOS) at 136 airports across the Nation.

I believe this proposal would compromise aviation safety. The ASOS is limited in its ability to detect and accurately report on rapidly changing weather conditions and weather sensors periodically fail or malfunction. For example, weather such as freezing rain, freezing drizzle, smoke, and haze are critical to flight safety at Spokane International Airport, but these conditions are not reported by ASOS. In fact, in December 2015, the CWO program at Spokane International Airport documented over 900 separate augmentations to ASOS measurements. In addition, adding weather observation duties to air traffic controllers would degrade the speed and accuracy of the weather observations given existing workloads managing aircraft and requirements for air traffic controllers to remain in the tower and make weather observing their lowest priority.

Secretary Foxx, the CWO program is vital to the safety of our Nation's airspace and I am very concerned with this proposal. What analysis has the FAA conducted to ensure that such a change does not increase safety risks and hazards at these 57 airports? Furthermore, if the FAA believed air traffic controllers can and should take on weather observation duties why is this change not being proposed for all 136 airports that currently have the CWO program? What makes the remaining 79 airports with CWO programs different? I respectfully request that you reconsider this proposal and ask that you provide a full explanation of FAA's initial decision to eliminate the CWO program, including the stakeholder input and public comment that contributed to this decision.

*Answer.* In accordance with our Safety Management System, the FAA conducted two Safety Risk Management Panels (SRMP) at appropriate facilities in order to make updates to weather data and variables, and traffic volume and complexity. The SRMPs also reviewed factors to consider in determining whether to use air traffic controllers or contract weather observers (CWO) to observe weather. Stakeholders and industry groups served on the panels, including Southwest Airlines, National Air Traffic Controllers Association, National Business Aviation Association, Air Line Pilots Association, National Oceanic Atmospheric Administration, CWO vendors, and others.

Air traffic controllers currently function as weather observers at 75 percent of the towers in the NAS (391 facilities). CWOs function in that capacity at the remaining 136 facilities. As a result of the SRMPs, the updated policy identified 57 of those 136 facilities as having similar weather and traffic volume/complexity as facilities where air traffic controllers are used as weather observers, and at this time the FAA is considering transitioning these facilities to controller-provided weather services.

The SRMPs assessed the risk in transferring weather observation responsibilities from CWO to air traffic controllers at the 57 sites. No decision has been made at this time to transition any of the 57 CWO sites to controller provided observation services.

Each of these safety panels will result in a recommendation, but they do not make the final decision. The FAA must take a comprehensive view of safety when it makes its final decisions. Ensuring the safety of our aviation system is always the highest priority, and the importance of accurate, reliable and detailed weather observations will be a priority concern during this process.

*Question.* In the 2012 FAA authorization bill, Congress directed the FAA to develop a plan to realign and consolidate Terminal Radar Approach Control (TRACON) facilities. The FAA is now considering whether to close the TRACON facility at Grant County International Airport in Washington State and relocate the TRACON controllers to another airport.

Grant County International Airport provides unique civilian and military aviation services to the aviation industry, both in support of national security interests and to the local community. On any given day, there is a blend of fast moving military aircraft, Boeing production and test aircraft, and slower-moving civilian aircraft all utilizing the same airspace and the same five active runways. During the summer months, this airspace is also shared by aircraft fighting forest fires in the Northwest. Very rarely do these aircraft arrive at Grant County International Airport and

simply taxi off the runway as is the case at most other airports. Instead, these aircraft perform a variety of activities, including Rejected Take Off situations, simulated or actual equipment failures, touch-and-go landings, full stop and goes, wide area pattern work, and other operations that require an aircraft to hold on a runway or execute unusual maneuvers overhead.

Grant County International Airport is a critical training ground for the Air Force and Navy. C-17s from Joint Base Lewis-McChord (JBLM) operate on the assault strip, P-3s and P-8s from Naval Air Station Whidbey Island conduct touch-and-go training, F-15s from the Oregon Air National Guard and EA-18Gs from Naval Air Station Whidbey Island come to operate within the airport's pattern, and KC-135s come from Fairchild Air Force Base (AFB) for training exercises. For JBLM in particular, the conditions and characteristics of Grant County International Airport cannot be replicated elsewhere in the Northwest. In the case of Fairchild AFB, the airport provides easy access for military aircrew training, allows training to occur at times when it cannot at Fairchild AFB due to weather or runway closures, and serves as their ready reserve base in the event of a natural disaster or other emergency.

Secretary Foxx, I am concerned the FAA is not taking national security into account when it evaluates whether or not to close the TRACON at Grant County International Airport. Can you provide me with assurance that the FAA will in fact be considering national security when making the final decision?

*Answer.* The FAA is evaluating TRACON facilities and services for realignment across the NAS, as required by the FAA Modernization and Reform Act. For clarification, the FAA is considering realigning TRACON facilities so that air traffic control services would be provided at another location, and not closing facilities and ending the provision of air traffic control services. The air traffic control towers are not a part of this process.

The agency is fully committed to developing realignment recommendations and implementing any realignments in the safest manner, without affecting national security. At Grant County, the FAA management and Labor Union representatives met with stakeholders, including military, industry, and local government, to share information, answer questions regarding TRACON services, and discuss safety and security considerations. As required by the legislation, the FAA takes all stakeholder input and considerations into account throughout its analysis, recommendation development, and during the final decisionmaking stage of the process.

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#### QUESTIONS SUBMITTED BY SENATOR BRIAN SCHATZ

*Question.* Safe Streets: Secretary Foxx, as you know I support community planning strategies to create walkable neighborhoods that minimize pedestrian fatalities. Hawaii has the highest pedestrian fatality rate among adults over 65 so this is more than an abstract philosophy to me, this is about reducing deaths among older people in Hawaii.

Unfortunately, traffic fatalities among pedestrians went up again to 4,884 deaths in 2014. The FAST Act included language Senator Heller and I worked to secure directing USDOT to work with States and MPOs to help them implement planning that takes into pedestrian safety into account.

Can you tell me how the department will implement this policy and generally what are you doing in 2016 to reverse the trend of pedestrian fatalities?

USDOT has created a number of planning tools, manuals and best practices for States, MPOs and others to refer to and that's important. But what is the next step to take all of that information and get States to integrate it into their regular planning and construction process and start reducing that 4,884 number?

*Answer.* First, I share your concern and assure you that safety is our highest priority and that commitment is the same for all forms of transportation people choose, including walking and bicycling..

The lead action FHWA is taking in 2016 to ensure pedestrian safety is the recently issued Safety Performance Management Final Rule (23 CFR 490), which requires all States and MPOs to annually establish and report on a target for each of five safety performance measures, including a nonmotorized safety performance measure: the number of combined nonmotorized fatalities and nonmotorized serious injuries on all public roads in the State or MPO planning area. This performance measure encourages all States and MPOs to address pedestrian and bicycle safety; recognizes that walking and biking are modes of transportation with unique crash countermeasures distinct from countermeasures to prevent motor vehicle crashes; and addresses the increasing trend in the total number of pedestrian and bicyclist fatalities in the United States. The Safety Performance Management regulation will



improve data; foster transparency and accountability; and allow safety progress to be tracked at the national level. More information is available at: <http://safety.fhwa.dot.gov/hsip/rulemaking>.

Regarding the FAST Act provision you reference (section 1442), DOT is committed to continuing to encourage States and MPOs to adopt standards for the design of Federal surface transportation projects that provide for the safe and adequate accommodation of all users of the surface transportation network.

We have significant programmatic work underway to build national capacity around multimodal planning and design issues, encourage a flexible approach to design, and reverse the trend of increasing pedestrian fatalities. This work will be captured in the report called for in section 1442.

*Question.* Transit Costs: Secretary Foxx, I've read several articles recently which discussed how per-mile transit and rail capital construction in the US costs two to five times more than it does in other industrialized nations, such as Japan or Spain. There are even some very wide variations within the United States. Experts agree that this is a problem that must be fixed, but don't fully know the cause of these differences. Some speculate the issue may be due to poor interagency cooperation, project design and routing, procurement challenges or perhaps regulatory barriers.

Here are some examples of the problem:

- New York City's price for one kilometer of subway or commuter rail tunnel is about five times more expensive than Tokyo's, eight times more expensive than Berlin's or Paris's, and twelve times more expensive than Barcelona's.

- Phase 1 of WMATA's Silver Line which is entirely above-ground and isn't located in a dense city center, clocked in at over \$150 million per kilometer. In many developed European and Asian countries, this would be enough to build a fully underground subway line in a dense urban core.

- For Amtrak, the Gateway project is estimated to cost \$25 billion, and its most ambitious plan for high speed rail on the Northeast Corridor would cost nearly \$300 billion. On a per-kilometer basis, this is about twice as expensive as the predominantly underground Maglev bullet train that Japan is building.

With the underlying goal of stretching our transit dollars further I'm interested in pursuing a study to identify the root causes of these cost differentials.

Is USDOT currently studying or otherwise working to understand why the costs of transit are so much more expensive in the U.S. than in other industrialized nations?

If so, can you describe those efforts including a timeline for the work to be complete?

*Answer.* FTA has not conducted an analysis comparing the costs of construction of transit systems within the United States with those of Europe or Asia. Additionally, FTA is not aware of research that has determined that the cost of constructing transit in the U.S. is more expensive than in other industrialized nations.

FTA cautions that the average costs per kilometer cited in the question may not accurately reflect the actual costs of construction. Cost per-mile comparisons may not include major items such as the number of stations constructed or the number of vehicles purchased. Additionally, the comparisons may not take into account whether right-of-way is privately or publicly held, costs of financing, etc.

FTA has undertaken considerable efforts to analyze costs of FTA funded projects. In 2005 FTA implemented a new capital costing format, the Standard Cost Categories, to establish a consistent format for the reporting, estimating, and managing of capital costs for major transit projects. This information is then housed within FTA's Capital Cost Database that currently contains the as-built costs for 35, federally-funded, light rail and heavy rail projects. The database is used for performing historical cost analysis and developing "order-of-magnitude" cost estimates for conceptual transit projects. However, the database does not include information for international projects and it is therefore difficult to make like-to-like comparisons with those projects.

*Question.* Port Financing: Secretary Foxx, I hear regularly from people in my State that they need more resources to improve port and harbor operations. Specifically the question I typically hear is, surface transportation has the Highway Trust Fund and airports have the Airport Trust Fund so why don't we have dedicated resources for land side improvements to our ports?

The FAST Act created some grant programs for which port improvements are an eligible use and directed the creation of a National Multimodal Freight Policy. My question is, are we on track to systematically partner with States and port authorities in a way that meets the infrastructure needs described in the Department's Beyond Traffic framework over the next 30 years?

*Answer.* The FAST Act includes several provisions to improve the condition and performance of the national freight network and to support investment in freight-

related surface transportation projects, including opportunities to enhance land-side improvements to ports. States and port authorities will have an unprecedented opportunity to partner in an effort to address our infrastructure deficit.

FASTLANE Grants, under the Nationally Significant Freight and Highway Projects program, authorizes \$4.5 billion for nationally and regionally significant freight and highway projects over fiscal years 2016 to 2020, with up to \$500 million authorized this year for freight rail, water (including ports), or other freight inter-modal projects. Applications for FASTLANE grants were due April 14, 2016, and we have had significant initial interest in the program, including from States and port authorities.

The Department has also taken important strides to educate ports about the existing eligibilities within the Surface Transportation Block Grant Program, the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, and the Railroad Rehabilitation and Improvement Financing (RRIF) program. MARAD's StrongPorts initiative has published a Port Financing Guide and is partnering with the Build America Transportation Investment Center to provide technical assistance to ports looking to access U.S. DOT funding and financing.

Additionally, the TIGER grant program received \$500 million in fiscal year 2016 appropriations and offers another opportunity to fund port infrastructure projects. Through seven rounds, TIGER has awarded funding to 45 port projects totaling \$541.1 million, including two planning grants. These projects are located across 24 States and account for 11.7 percent of total TIGER funding.

These programs will help to meet some of the infrastructure needs described in our Beyond Traffic framework. The FAST Act provides certainty to States, local governments, port authorities, and the private sector; however, it is only a down-payment for building 21st Century surface transportation systems that our Nation deserves. The demand for surface transportation infrastructure investment is overwhelming, yet the FAST Act largely maintains current programs, with limited support for multimodal plans and projects. That is why the President's fiscal year 2017 budget request includes additional multimodal programs and investments, to build off of the FAST Act provisions and to continue to meet the infrastructure needs of our surface transportation system over the next 30 years.

*Question.* Paratransit programs: Secretary Foxx, the FAST Act includes several provisions to improve the mobility of people with disabilities including new flexibility for the use of funds for operating expenses to transit agencies that demonstrate paratransit improvement activities, new inter-agency coordination efforts among Federal agencies and new demonstration authority. Can you discuss the Department's plans to assure these programs get up and running as quickly as possible?

*Answer.* The FAST Act includes several provisions to improve the mobility of individuals with disabilities and the Federal Transit Administration (FTA) has moved quickly to implement these provisions as described below.

The FAST Act permits FTA grant recipients to use up to 20 percent (rather than up to 10 percent) of urban or rural transit formula funds to operate Americans with Disabilities Act (ADA) paratransit service if certain conditions are met. On February 16, 2016, FTA published in the Federal Register a Notice of FTA Transit Program Changes, Authorized Funding Levels, and Implementation of Federal Public Transportation Law as Amended by the Fixing America's Surface Transportation (FAST) Act and FTA fiscal year 2016 Apportionments, Allocations, Program Information and Interim Guidance that implemented this provision.

The FAST Act also created a new pilot program for innovative coordinated access and mobility, authorizing grants to eligible recipients to assist in financing innovative projects for the transportation disadvantaged that improve the coordination of transportation services and non-emergency medical transportation services. On March 29, 2016, a Notice of Funding Opportunity (NOFO) was published in the Federal Register announcing the availability of \$2 million of fiscal year 2016 funding under this program, as well as \$3.3 million in additional research funding for the Rides to Wellness Demonstration and Innovative Coordinated Access and Mobility Grants (R2W Demonstration Grants). The FTA will be holding a webinar on April 20, 2016 to further explain the grant program to potential grantees. The application deadline is May 31, 2016. The goal of the competitive R2W Demonstration Grants is to find and test promising, replicable public transportation healthcare access solutions that support the following Rides to Wellness goals: increased access to care, improved health outcomes and reduced healthcare costs.

Finally, the FAST Act included new statutory requirements regarding the Federal Coordinating Council on Access and Mobility (CCAM), including a requirement to publish a strategic plan. FTA is working with its Federal agency partners on CCAM to develop a work plan that addresses the required elements of this plan. FTA is

already working together with staff from the Departments of Health and Human Service, Veterans Affairs, and Agriculture on joint projects to improve the linkages between transportation and healthcare. These projects include a series of Rides to Wellness forums to increase partnerships between healthcare and transportation providers, a research project to identify the impact of transportation on missed appointments and therefore on the cost of healthcare and funding to encourage innovative solutions to healthcare access challenges.

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QUESTIONS SUBMITTED BY SENATOR LINDSEY GRAHAM

*Question.* The recently enacted FAST Act contains three tire-related provisions for which rulemakings are required: tire performance standards for rolling resistance and wet traction; mandatory tire registration by tire sellers at point of sale and; a tire recall lookup tool on NHTSA's web site. What is the agency's timetable for implementing each of these rulemakings?

*Answer.* The FAST Act requires NHTSA to promulgate regulations for tire rolling resistance and wet traction minimum performance standards by December 4, 2017. NHTSA has already begun the required testing to guide the wet traction regulation.

The FAST Act requires NHTSA to initiate a rulemaking for mandatory tire registration by independent sellers. However, there is no statutory deadline for completing this rulemaking and the agency has not yet developed a time table for completing this rulemaking.

The FAST Act also requires NHTSA to establish a publicly available and searchable electronic tire recall database. The statute does not require this provision to be implemented through a rulemaking and there is no statutory deadline. NHTSA has not yet developed a time table for completing this provision. The agency is gathering information and meeting with stakeholders to discuss each of these requirements.

*Question.* NHTSA has not completed a rulemaking required under the 2007 Energy Independence and Security Act (EISA) that mandated consumer information about tire fuel efficiency, wet traction and tread wear. The White House announced in December 2014 that NHTSA would finalize that rule by 2017. According to NHTSA's most recent schedule, a proposed rule should have been sent to OMB on February 10, 2016 but that did not happen. What is the agency's revised timetable for completing this rulemaking within the White House imposed deadline?

*Answer.* NHTSA published a final rule in 2010 establishing test methods that would be used for the new consumer information program. However, the 2010 final rule did not specify the content or requirements of the consumer information and education portions because NHTSA needed to conduct additional consumer testing and resolve important issues raised by public comments on the proposal. The agency is drafting a supplemental notice of proposed rulemaking and expects to finalize the rule in 2017.

SUBCOMMITTEE RECESS

Senator COLLINS. This hearing is now adjourned.

[Whereupon, at 4:24 p.m., Wednesday, March 16, the subcommittee was recessed, to reconvene at a date and time subject to the call of the Chair.]