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OVERSIGHT OF THE DEPARTMENT OF TRANSPORTATION'S FISCAL YEAR 2009 BUDGET PROPOSAL

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

FEBRUARY 28, 2008

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ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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OVERSIGHT OF THE DEPARTMENT OF TRANSPORTATION'S FISCAL YEAR 2009 BUDGET PROPOSAL

THURSDAY, FEBRUARY 28, 2008

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

The Committee met, pursuant to notice, at 10:03 a.m. in room SR–253, Russell Senate Office Building, Hon. Daniel K. Inouye, Chairman of the Committee, presiding.

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

The CHAIRMAN. Transportation is an essential element of our Nation's prosperity. Our transportation infrastructure provides the means to efficiently move goods and people across our country, from New York to Hawaii, and around the globe.

More than simply facilitating all aspects of our economy, our transportation resources provide a freedom of mobility that defines our national character. While the U.S. transportation system is world class in many respects, it is an aging system that has reached and, in some cases, clearly exceeded the limits of its capacity.

The tragic collapse of the Minneapolis highway bridge last summer highlights our Nation's growing infrastructure problems. Much of America's transportation infrastructure—highways, bridges, railroads, and ports—were built at the beginning or middle of the last century and have outlived their safe and productive lives. Numerous airports in our National Airspace System are approaching or have reached full capacity. Congestion continues to grow on our highways and our railways, at our ports, and within our aviation system.

The truth of the matter is that without strong action, we face a future of ever-expanding gridlock. Our Nation's transportation capacity must be expanded throughout all modes, or our economy, our citizens' mobility, and our ability to compete in today's global marketplace will suffer drastically.

For more than 50 years, we have been reaping the benefits of bold transportation investments made by our predecessors in government and industry. The time has come for today's leaders to make a similar commitment to the future prosperity of our Nation. We must unite around expanding and improving our highway, aviation, rail, and port infrastructure. We must work together to

improve the safety and satisfaction of the traveling public. Finally, we must manage each of these modes of transportation as part of a complete system that is dedicated to serving the needs of the Nation and not the desires of individual companies.

I am confident that the Department of Transportation can meet these challenges, if given the proper resources and direction from the President. The United States has always been a world leader in transportation, but I must say that I have mixed feelings about our ability to aggressively address the Nation's transportation needs after reviewing the administration's Fiscal Year 2009 DOT budget proposal.

On a positive note, the administration has proposed funding levels for the pipeline and motor carrier safety programs consistent with authorized levels, as well as a significant increase in funding to modernize the air traffic control system. On the other hand, the National Highway Traffic Safety Administration only received a small increase in its operations budget, which, unfortunately, does not take into account the resources necessary to implement the new Corporate Average Fuel Economy (CAFE) program.

Even more troubling is the fact that the White House continues to propose deep cuts in funding for Amtrak and airport infrastructure programs that Congress has consistently funded at higher levels. Any DOT budget proposal that moves through this Congress must provide sufficient funding to rehabilitate existing infrastructure, expand the system to accommodate growing use, and maintain the highest level of safety possible.

Madam Secretary, I assure you that the Commerce Committee will be tracking the DOT's performance closely in this final year of the administration, and I look forward to working with you to ensure that DOT policy continues to focus on meeting these goals.

And may I now recognize the Vice Chairman, Senator Stevens?

STATEMENT OF HON. TED STEVENS,
U.S. SENATOR FROM ALASKA

Senator STEVENS. Thank you very much, Mr. Chairman. I agree with your statement. It is nice to have you here, Madam Secretary, and I must remind everybody of the problems of my state.

We are one-fifth of the size of the United States, as this Committee hears repeatedly, and more than twice the size of Texas. We have half the coastline of the United States, and our State is east to west as wide as the United States and north to south as deep as the United States. If you put a map of our State on top of the South 48, it touches from coast to coast and from Duluth to New Orleans.

Past administrations have withdrawn an enormous amount of that land. We cannot build north-south or east-west highways or railroads in our state anymore because they are all blocked. All the passes literally are blocked by national parks and wildlife refugees.

So we are totally relying upon air transportation to explore in our area and to provide the food and sustenance to the native people who live in 241 different villages, which have become tribes under the decisions of past administrations.

What that means to us is that your bill is one of the most essential bills for our livelihood. I note, for instance, that in terms of Es-

sential Air Service the request is $50 million, down from $110 million last year. That was established back here when we abolished the CAB in order to have Essential Air Service in order to have a way to continue three flights a week.

Most of these villages get three flights a week because of that Essential Air Service, and those flights bring cargo and passengers. That is why we have what we call bypass mail. It worked with the Postal Service and your department in the past.

I just feel that somehow the people in your department now have lost sight of history, why some of these programs exist. Almost 70 percent of our land is owned by the Federal Government, and pays us no taxes. As a matter of fact, it costs our state money to help maintain services within those lands, but we get no return from the Federal Government unless it comes from programs like essential air service or other items.

I get back to the problem of earmarks now. I am not going to debate earmarks here, but as a practical matter, this budget this time really leaves me in doubt as to what the future is going to be as far as transportation in my state. We thought we were working together on a next generation for aviation and air control, et cetera. I don't see that.

We have the highest number of pilots per capita, and we have the highest number of planes per capita. One person out of every 58 people in our state is a pilot, and there are 6 airplanes for every 10 pilots. I mean, we really rely on planes, and this budget is cut all over the place.

It affects our state more than any because there are 3 of us out of 535 people here, and we are now going to be told we can't earmark any money. But this budget has been slashed, just slashed. And I don't really understand it.

If you knew the paradigm of no more earmarks, why did you cut these budgets expecting us to put the money back? That is what has happened now 2 or 3 years in a row. The budgets have been cut, and we have been forced to go and put the money back. But if I understand the current paradigm, that is not possible.

Now you tell me. You are going to have to play God and tell me which villages get cut off and don't get three flights a week. And that means everything. That is milk and sugar and flour and everything. Everything comes in by air.

I think that this budget gives those of us from small states in particular. I am a small population state, but it is an enormous area. It is the area that has the greatest hope of supplying resources we need as a Nation. And yet it seems to have been abandoned by this bill that is before us now. The Chairman and I have sent some letters to the Budget Committee. I hope they listen to them.

But we also were able to raise the age, thank God—50 percent of our pilots are over 55. As a matter of fact, by the time we got around to raising the age, 57 percent were over 55. We raised the age to 65, but we have to provide a replacement for half of our pilots within 7 years. There is no indication here at all about any increase in flying training for people nationwide and for engineers.

And I will close by saying it looks like you are going to fold down the flight service stations. I would like to have you come along with

me when we take off from a little field between two mountain ranges, and we are going to go over another mountain range. And we are going to land in a little field over there, and there is nobody there. And the FAA is going to ask that we rely on advice from Anchorage, which is about 500 miles away, and we are going 500 miles the other way.

It is like telling Denver they are going to rely on Washington, D.C., for what is going on on the ground at Denver. Now it just won't work, and I am really astounded.

Mr. Chairman, you are going to hear a lot from me, and I do thank you for continuing the flight safety program. The Medallion Program has reduced deaths in our state. Other people worry about highways. We worry about airways, and you are going to hear a lot from me this year because this is a bad budget for us.

Thank you.

[The prepared statement of Senator Stevens follows:]

PREPARED STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Thank you, Chairman Inouye, for holding this hearing, and thank you, Secretary Peters and Acting Administrator Sturgell, for joining us today.

Alaska is more than twice the land area of Texas. East to west, Alaska crosses what would normally be four time zones. The State of Alaska faces transportation challenges that most states in the lower 48 do not have to address.

It is important the Department understands these challenges and makes a concerted effort to improve the state's transportation infrastructure.

Alaskans rely on aviation more than any other state in the country. According to FAA's own data, Alaska has the highest per capita number of general aviation airplanes and pilots in the U.S. One person out of every 58 people is a pilot and there are six airplanes for every ten pilots.

Aviation, and the network of FAA employees who serve it, is literally the life blood of many of our communities. It is important the Department and the FAA maintain a knowledgeable Alaska regional office and infrastructure staff. Over the last few years there have been increasing concerns in the state about the retention, consolidation, and attrition of employees in Alaska.

As we move forward with the FY 2009 budget process the Committee requests that an effort be made to not only maintain the progress that has been made in Alaska, but work to improve it.

Alaska's unique terrain and vast aviation community demand a knowing and accessible staff that can meet the needs of such a large state with so much aviation infrastructure to maintain.

It is important that the employees maintaining and upgrading the system have a solid knowledge of our state and are readily available to address local challenges. Whether it is weather observers, engineers, flight service station employees, or air traffic controllers, an institutional knowledge must be maintained for the safety and progress of our aviation system.

I invite the both of you to come to my State of Alaska and witness—first hand—the transportation challenges that Alaskans face. You could also view programs that have been responsible for reducing aircraft-related deaths and increasing aviation safety, such as the Five Star Medallion Program. I do hope you find time in your schedules to come to Alaska.

Thank you Chairman Inouye, I look forward to the testimony.

The CHAIRMAN. I will do my best to help you, Senator Stevens, in seeing that your voice is heard.

Senator STEVENS. Thank you.

The CHAIRMAN. Senator Lautenberg?

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. Thank you, Mr. Chairman. We listened carefully to what Senator Stevens had to say, and whether you are dependent on transportation for easing congestion or for the lifeline that Essential Air Service represents, we all have the same concerns, and we share those concerns.

Mr. Chairman, in the State of the Union address, President Bush said—and I quote him here—that we have "answered the call" on the issues we face. This budget proposal does certainly not answer the call when it comes to our transportation infrastructure. And the failure to fund these needs here at home threatens our security, safety, the strength and the future of our economy.

Last year, we saw a bridge collapse in Minnesota. But there are hundreds of thousands of other bridges and roads that are in disrepair, and it will cost billions to improve them. And the costs will not decrease as a result of neglect. Less than 1 year after the collapse in Minneapolis, Minnesota, President Bush wants to cut funding for highway and bridge repair by almost $2 billion. And he proposes funding transit programs at $200 million below the level that Congress authorized.

Now these cuts hurt states like New Jersey, which need transit funding the most, and millions of working families depend on this transportation. The Texas Transportation Institute says that these traffic jams on our roads costs our country nearly $80 billion a year, twice the Federal budget for highways. Our commuters are further punished when they sit in traffic with gas prices well over $3 and heading north, as they say, and our environment cannot withstand the greenhouse gas emissions that come from these idling cars.

Airline travelers will fare worse under this budget. The Bush Administration's failures on aviation have led to one of the worst years ever for flight delays. More than one in four flights was late, and our air traffic control system remains dangerously understaffed and air traffic controllers are overworked and fatigued.

There is a serious lack of interest in preventing runway incidents. One billion airline passengers will be flying each year by 2015. Would anyone suggest taking the fire trucks away from a fire that is still ablaze, but hasn't fully consumed the property? I don't think so. And to me, that is like cutting funding for our Nation's airports and runways by $765 million when we are choking on congestion.

And last, President Bush once again proposes to bankrupt Amtrak, our Nation's passenger rail system. In a time of record-high gas prices and record airport delays, travelers are using Amtrak trains in record numbers. But the President's proposal would take away this popular, energy-efficient, and convenient travel option.

Last October, the Senate passed legislation that I wrote with former Senator Trent Lott to provide $11.4 billion for Amtrak to expand passenger rail service in the United States, and I am working with House colleagues to get it taken up and passed into law this year. It is time that our country had a world-class passenger rail system.

Mr. Chairman, if we want to support our economy, reduce our reliance on foreign oil, we have got to invest in our transportation infrastructure now. I look forward to working with my colleagues to understand our Nation's quarrel with adequate transportation investment, and I commend you, Mr. Chairman, for holding this hearing so that we can cut through the fog here to try to understand why we are cutting things now when the system is in overload mode right now.

So I hope that we are going to have a thorough review here and look forward to hearing from the witnesses.

The CHAIRMAN. I can assure you, sir.

Senator Dorgan?

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

Senator DORGAN. Mr. Chairman, thank you.

I understand that Secretary Peters is here to support the President's budget. I suspect that in some areas she will have to publicly say that she enthusiastically supports it. But I would hope that in private she understands the comments made by my colleagues demonstrate that this is not a budget that invests in America's future.

Twenty-two percent cut in the airport improvement funds, 40 percent cut in Amtrak, 50 percent cut in Essential Air Services. That is not a serious attempt to evaluate how we invest in transportation and in our country's future.

I have another hearing this morning, and I don't know how long I can be here. But I want to just mention in the opening statement this issue of Mexican trucks because I supported Secretary Peters's nomination. I was pleased to do so. Now I am regretting I did. And I wish I didn't say that, but let me described what has happened.

We have Mexican long-haul trucks that have been triggered for approval into this country under a pilot project by Secretary Peters. On July 24, the House of Representatives last year voted to prohibit it. No funds may be used to establish it.

On September 4, the Inspector General released a statement that said there is no central repository of accident records, drivers' records, or vehicle inspections in the country of Mexico. We don't have equivalent safety standards. On September 11, the Senate voted 75 to 23 for an amendment prohibiting the use of funds to establish a pilot project, and it became a part of the Omnibus.

The Secretary is taking the position that it doesn't matter what the law says, we are going to continue to use the funding this way. I am sending to the GAO a request for them to evaluate whether this violates the Sufficiency Act. But I think what is happening down at the Department of Transportation is arrogant, Madam Secretary. I am sorry you are doing it.

You have attorneys that have told you to believe that the word "establish" by itself does not mean the same as establish and implement. The legislative counsel of the U.S. Senate says they drafted it this way to prevent this pilot project, and the way it is drafted does prevent it.

I have letters from two distinguished law professors that say that the way this was drafted and passed by the U.S. Congress prevents

you from proceeding with the pilot project for long-haul Mexican trucking. And you insist that it doesn't matter what that says, you've got a lawyer that says it is legal.

Well, there are lawyers in this Administration that tell us that torture is legal. It doesn't make those lawyers right. And your lawyers, I think, are disserving you, Madam Secretary. I understand we are going to have a separate hearing on this subject, I believe, March 11, and you are intending to come to Capitol Hill.

And I regret saying what I said this morning, but given what you have done, I wish that I had not supported your nomination. It is an arrogant thing to do, to deny the U.S. Congress. When they say you cannot fund money, you cannot fund this project, for you to say "I have got lawyers that say it is just fine. I am going to continue. It doesn't matter what the Congress thinks or says," is arrogant.

So you may respond to that. But I wanted to mention it in the opening statement because I may not be able to stay. We will have a full hearing on this subject. I hope between now and when we have that hearing, you might get some lawyers that will consult with the legislative counsel, with others in the U.S. Congress, or distinguished law professors, and they will tell you that what you are now doing is violating the law.

Senator STEVENS. Mr. Chairman, in view of the Senator having another conflict, I would yield my time to him now so he can ask his questions before he goes.

Senator DORGAN. Well, we will have an opportunity for a full hearing, and the Secretary has agreed to come up on March 11th. And this is a very important issue, and let me explain just briefly why.

When an American pulls up to a four-way stop sign, and Mexican long-haul trucks are coming into this country, the issue is safety. If there were equivalent standards, you would not hear a peep from me. But the Administration is saying that NAFTA requires them to approve Mexican long-haul trucks in this pilot program. The U.S. House said we don't believe it is time or we don't believe that there is a capability to be ready for that.

The U.S. Senate said it. We said it in law. We said it in the Omnibus. It has been signed into law. There is a prohibition on this pilot project going forward. And the fact is, the GAO has said and the Inspector General has said there is no central repository of vehicle records, driver standards, and so on, vehicle inspections, accident reports in the country of Mexico.

So, again, I think that we compromise safety in this country. I know the Secretary will say, well, this is a carefully controlled pilot project. The fact is the Secretary and the Department do not have the legal authority to continue to spend money on this project.

And I must say—I am on the Appropriations Committee—I think agencies that thumb their nose at the Congress and say we are going to do what we want to do, no matter what you pass in law, will pay a price for it. Secretary Peters will have an opportunity to respond later, but she can respond now if she wishes to explain how her attorneys have told us that the legislative counsel, the draft of the legislation here in the Congress, and the distinguished law professors are all wrong and her lawyer is all right.

I think her lawyer is disserving her, and I wish she would have done what I have done when I have been in the Executive Branch of a government. Sometimes lawyers are wrong, and you say to lawyers, you know what? We have to respect the interests and the wishes of the Congress and the law the way it was written, not what the Administration wishes it could do.

The CHAIRMAN. Do you want to respond?

Senator DORGAN. You are welcome to respond, Madam Secretary, but I will have an opportunity March 11 at great length.

Secretary PETERS. Mr. Chairman, I will briefly respond, recognizing that the Senator may have to leave the hearing. And of course, we will have the opportunity on the 11th to explore this issue in much more detail.

Senator Dorgan, as you said, I have asked our lawyers to carefully evaluate the language that passed this Congress, and it is our interpretation that the words "establish" mean to not start a new program, but do not prevent us from operating a program today. I am sorry the word is "implement."

So we are not implementing a program. We are not establishing a program. We are continuing a program that was established prior.

Senator DORGAN. Madam Secretary, that is a cute interpretation by your attorney. But the legislative counsel described what "establish" means in its letter to you, letter to me that I have given to you, number one. And number two, the Congressional intent was quite clear.

Let me describe what Senator John McCain said on the Senate floor, who supports your position, by the way. He said if the Senate passes this legislation, unfortunately, the Senate has voted 74 to 24 to prevent the pilot project from going forward.

Senator McCain said if this passes, it prevents you from going forward. Now he supports you, but he understood, everyone understood what the Congressional intent was, and I think it is an arrogant thing for the department to hang its clothes here on the interpretation of a lawyer that is not supported by the legislative counsel of the Senate that drafted it. And I hope that you will rethink that before March 11.

The CHAIRMAN. Senator Rockefeller?

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

Senator ROCKEFELLER. Well, we have had some good speeches, and I don't want to let anybody down.

[Laughter.]

Senator ROCKEFELLER. As has been said by each of the speakers, it is no secret that our Nation's transportation system is in chaos. It is collapsing. It is under strain. It is underfunded. That is all deliberate.

Same old thing. You know, your testimony was vetted by OMB. You couldn't come up here and give testimony on your own. That doesn't necessarily represent your view. You have to represent what the administration says, and so they have to approve your testimony or else you can't give it. That is the way it works, and

it is not a good system but it works under Democrats and Republicans. And it is not a good system.

Motorists, rail passengers, airline passengers, as Senator Stevens was talking about, are facing increasing levels of gridlock that is going to increase exponentially. That is gridlock on our roads, on our rails, and at our airports. Watching Dulles Airport expand is just like watching the growth of Carthage. It is going to go on for 500 years, trying to accommodate all of the people coming through there.

Study after study confirms that lack of investment by not just this Administration, but previous ones—but certainly this one—in our Nation's transportation infrastructure is hurting us economically. It is making it very hard for us to compete in the world, and it is going to get much worse very quickly.

The one area where I believe we are most at risk of losing any sense of global leadership is in aviation. And I want to speak about something I have spoken about before that I care passionately about because I care passionately about aviation. Having virtually none to West Virginia, I care about it a lot.

You know, to ride in a jet to West Virginia means you have to break the Senate ethics law because commercial airlines don't provide flights because it doesn't make them any money. So I am looking at the future of the air traffic control system, and that is what I want to talk about.

I want my colleagues to understand, those few that are here, that our Nation's aviation system is literally at a broken point. No, we haven't had accidents. But that is like saying we haven't been attacked since 9/11. It doesn't mean anything. Accidents are about to happen. Attacks could be about to happen. It is a non-statement.

We do not have the ability to handle the increased demand for air travel, and we will not. A passenger going through delays doesn't even know what the word "delays" mean, compared to what is going to be happening in the very near future.

Last year, I, along with the leadership of this Committee, worked to craft an FAA bill that gave the agency the resources it needed to pay for the enormously expensive next-generation air traffic control system. That is our job. We are trying to help you.

The development of a satellite-based, completely digital air traffic control system will cost tens of billions of dollars, and I know that the current financing system will raise totally inadequate revenues necessary for the agency to implement this program. And nothing is being done.

I also strongly believe that the commercial airline passengers are paying far more than their share of the aviation system's cost, and I haven't heard that come out of either of you. I recommended that the general aviation community, which is the fastest-growing segment of the industry, pay more into the Aviation Trust Fund. This Committee authorized the creation of a $25—$24 plus $1—air traffic modernization surcharge to help bolster the FAA's modernization account by some $400 million a year.

So a Gulfstream V takes off from Houston and lands in Bonn, and it pays 25 bucks. That is the cost of a cracker on their food line in there. This amount the commercial airline industry, of this $400 million a year, the commercial airline industry would pay

$370 million a year. That is what is going on, and the GA community would pay $30 million a year. OK?

So I recommended that the Finance Committee, on which I serve, require the GA community to pay approximately $400 million more into the Aviation Trust Fund. This represents approximately 5 percent more, in terms of total dollars than they are paying now. And I would notice that there has been no increase in GA rate of taxation in more than 15 years. None, not a dime.

Every other country in Europe does it. Everybody does it. We don't. We are scared of them. We are scared of who owns them. I don't know what it is. Are you scared of them? But the point is they are not carrying their weight, and they are two-thirds of all the airplanes in the sky at any given moment.

The GA interest proclaimed my proposals to be the beginning of the end of the entire GA industry. That is what they say. I offered to modify the bill to eliminate all turboprops from the surcharge. King Airs would have been in that class.

What I am still advocating is that the approximately 8,000 high-end performance business jets that use air traffic control facilities actually pay the full cost of their use of that air traffic control system, whether it is the analog one now, and then as we are building the next one, that one. They have to pay their fair share. I thought that was the American way.

I don't think that is unreasonable. Again, I was told this was a nonstarter. The GA community made it clear that they would never pay the surcharge or any amount that they agree to pay, whatever that means. They fought everything.

I find it incredulous that the owners of these aircraft are unwilling to pay a $25 fee when their aircraft cost millions and millions to buy and thousands of dollars an hour to operate. Based upon the GA community's inability to compromise, I do not expect that there will be an FAA bill this year. I blame it on them because we can't work it out in the Finance Committee because they are making all kinds of phone calls and their owners have all kinds of money.

However you want to look at it, there isn't going to be an FAA bill this year. That is my prediction. I think that is incredibly unfortunate in view of some of the things that Senator Stevens and others have said. But I do not believe that 4 more years of the status quo on financing achieves anything for this public, and it has got to be changed. And you have got to be behind it. You have got to be behind it—and you, too, Mr. Sturgell.

It achieves a huge victory for the owners of million-dollar aircraft, but that is hardly a reason to pass the bill. And the philosophy is that it is more important—and I am sorry, but I just come from a different line of thinking—that if the president of IBM wants to fly from Houston to Bonn, and he takes two people with him and he has this huge aircraft. And those aircraft are taking up enormous amounts of space, requiring exactly the same amount of air traffic control attention as commercial airlines loaded with 200, 300 people, some of whom may be going to California because their mother only has a week to live.

But, no, America says that through our practice, it is more important that that person who runs IBM, his or her time is so important that they should be able to pay nothing, go scot-free, use

the system, and let the commercial airlines pay the freight and, therefore, the people who ride those airlines going to be with their mother or whatever. You understand my philosophy.

So this isn't about the next 4 years or getting a bill done. It is a broader debate about how we meet this country's key infrastructure challenges over the next decade. This isn't about ideology or gripes, although I have them, because we have avoided all of these tough decisions. We have avoided them. Our aviation system cannot afford us to have this path of least resistance.

And what is it? I am going to ask one of you, but I think the general aviation is paying 3 percent of the cost of the air traffic control system, and the commercial aviation is paying everything else. But general aviation is two-thirds of the airplanes in the skies. And they require exactly the same attention from an air traffic control person under an analog or a new system, and it is wrong.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Madam Secretary, it wasn't the type of introduction you would have wanted, but welcome to the Committee, ma'am.

STATEMENT OF HON. MARY E. PETERS, SECRETARY, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY HON. ROBERT A. STURGELL, ACTING ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

Secretary PETERS. Mr. Chairman, thank you so much. Chairman Inouye, Vice Chairman Stevens, and Members of the Committee, thank you for the opportunity to appear before you today.

The CHAIRMAN. Would you speak a little closer?

Secretary PETERS. Certainly. Thank you for the opportunity to appear before you today to discuss the Administration's Fiscal Year 2009 budget request for the U.S. Department of Transportation. With me today is Bobby Sturgell, who is the Acting Administrator at the Federal Aviation Administration and our nominee to become Administrator.

I want to thank this Committee for considering that nomination, that and other recent department nominees. These individuals are very well qualified for the positions to which they have been nominated, and both the President and I do have full faith in them. And I would hope that the Senate's process will result in their speedy confirmation.

President Bush is requesting $68.2 billion for America's transportation network in the next fiscal year, including funding for the department's mandatory programs. Our focus is on finding real transportation solutions, solutions that will make travel safer, improve the performance of our Nation's transportation systems, and apply advanced technologies and contemporary approaches to today's transportation challenges.

Nearly 31 percent of the funds requested for Fiscal Year 2009 support safety programs and activities. The budget allows us to build on the successes in delivering the safest transportation systems by focusing on problems like runway incursions, as well as motorcycle crashes and pedestrian injuries on the road and impaired driving. It is important that we continue a data-driven safety focus that allows us to target our resources more effectively.

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

The Fiscal Year 2009 budget once again provides a framework for the Next Generation Air Transportation System financing reformat, the Administration's proposal sent to Congress last year that will make flying more convenient for millions of travelers. To accommodate anticipated demand by 2025, our aviation system requires a more reliable, responsive source of revenue to fund the modern technology required to manage this expanded capacity.

This investment in NextGen will allow the FAA not only the ability to handle two to three times more aircraft, but also to maintain and improve the high levels of safety that we enjoy today and to reduce flight delays as well as noise around airports. The proposal would move from the current system of excise taxes to a hybrid cost system of taxes and user fees. It is increasingly clear that such a fundamentally different approach is needed to finance and manage our air traffic control system, as well as our increasingly congested airports.

And I certainly agree with Mr. Rockefeller's comments about the need for everyone to help pay their fair share in doing so and compliment this Committee on the bill that you have passed to date. As you know, the current financing system is just not designed to support the growing consumer demand for air travel. And again, your Committee has pursued a fair allocation of cost, represents innovative ideas and ideas that we hope to work with you to implement.

Last year's record airport delays are symptomatic of the system that is broken today. Along with many in this room, I am gravely concerned about the passengers and how they are affected by the failure to move forward on a common sense reauthorization bill. While we wait, however, the Department of Transportation has taken several actions to address the growing congestion that is affecting too many travelers today.

We have announced hourly flight caps for New York's John F. Kennedy Airport and will soon issue an order to implement similar hourly limits at Newark Liberty International Airport to alleviate delays in the New York region. Those limits, by spreading the flights through more hours of the day, will actually allow for more flights to operate at the airports, but will substantially reduce the delays that we have experienced.

In addition, we have proposed changes to our rates and charges policy to allow airports to provide an incentive for airlines to spread out their operations during the course of the day and maximize the use of limited airport and airway infrastructure. We have also proposed rules that would provide additional protections for consumers when their travel plans are interrupted.

And finally, I would be remiss if I didn't mention the President's budget for surface transportation program. This request fulfills our commitment to provide the 6-year $286.4 billion investment that was authorized in the 2005 surface transportation law. Data indicates that the Highway Trust Fund will experience a shortfall in

Fiscal Year 2009, and that is why the President's budget proposes temporary authority to have repayable advances between the highway and the mass transit accounts.

While this solution will avoid a funding shortfall in Fiscal Year 2009, it also serves as a very clear signal that we must take a close look at how our surface transportation needs are financed. Here, as in the Nation's skies, our current policy approach just is not doing the job today and will not in the future.

Mr. Chairman, Mr. Vice Chairman, Members of the Committee, thank you for the opportunity to testify before you today. My colleague and I would be pleased to answer any questions that you may have.

[The prepared statement of Secretary Peters follows:]

PREPARED STATEMENT OF HON. MARY E. PETERS, SECRETARY, DEPARTMENT OF TRANSPORTATION

Chairman Inouye, Vice Chairman Stevens and Members of the Committee, thank you for the opportunity to appear before you today to discuss the Administration's Fiscal Year 2009 budget request for the U.S. Department of Transportation. With me today is Bobby Sturgell, the Acting Administrator of the Federal Aviation Administration (FAA).

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

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

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

The President's budget includes $14.6 billion for the Federal Aviation Administration (FAA). In addition to critical new technology, the budget includes sufficient resources to hire and train an additional 306 air traffic controllers—people who are key to keeping the aviation system safe. The FY 2009 budget request would more than triple investment in the Next Generation Air Transportation System (NextGen), providing $688 million to implement enhancements such as Automatic Dependent Surveillance-Broadcast (ADS–B) and provide funding for key research and technologies to enable the transformation from radar-based to satellite-based navigation systems.

The FY 2009 budget once again provides the framework of the Next Generation Air Transportation System Financing Reform Act (S. 1076, H.R. 1356), the Administration's proposal sent to Congress last year that will make flying more convenient for millions of travelers. To accommodate anticipated demand by 2025, our aviation system requires a more reliable and responsive source of revenue to fund the modern technology required to manage this expanded capacity. The investment in NextGen will allow the FAA not only to handle 2 to 3 times more aircraft, but also

to maintain and improve the already high level of safety, reduce flight delays, and reduce noise near airports.

The budget request assumes Congressional passage of the President's reauthorization proposal for FAA programs and revenue streams. This proposal would move from the current system of excise taxes to a hybrid cost-based system of taxes and user fees. It is increasingly clear that such a fundamentally different approach is needed to finance and manage our air traffic control system, as well as our increasingly congested airports. The current financing system is not designed to support the growing consumer demand for air travel.

The Administration's comprehensive proposal would modernize how we finance our Nation's air traffic control system. Many of the nations around the globe, including Canada, the U.K., Australia, and Germany, have implemented air traffic control systems in which the charges levied on users are tied to the actual costs of providing air traffic services. This rational approach accomplishes two major objectives simultaneously. First, what operators pay to use air traffic services will be closer to what it costs to provide those services. This will encourage each operator to use those air traffic services according to their perceived value. Because the existing system of taxes currently has no relationship to costs, in some cases operators are paying too much for the services they actually use, while in other cases they are using air traffic services for which they pay too little. This leads to inefficient provision and use of services and does not make economic sense.

On the other hand, a cost-based system makes more economic sense. We will be able to provide services for which the operators are willing to pay, while user fee revenues could be dedicated to modernizing an aging and strained air traffic control system that would dramatically expand the capacity of the system and lower unit operating costs over time.

Unfortunately, a divided user community has prevented this necessary proposal from moving forward, resulting in average American airline passengers paying higher prices and having fewer travel choices. In addition, our country's global aviation preeminence may not be sustainable as many countries have established air traffic control pricing models that will enable them to modernize as demand grows.

Notwithstanding the lack of progress on modernizing the national air traffic financing system, the Department of Transportation has taken several actions to ease congestion throughout the Nation's airspace and allow market forces to allocate scarce airspace efficiently in the New York region. We have announced short-term caps for New York's John F. Kennedy International Airport and will soon issue an order to implement caps at Newark Liberty International Airport. Any additional capacity developed at these airports will be leased to the highest bidder.

In addition, we have proposed changes in our rates and charges policy to allow airports to charge more to aircraft using the airport during peak periods, providing an incentive for airlines to spread out their operations during the course of the day and maximize the use of limited airport and airway infrastructure. Finally, we are developing policies that would allow the expanded use of pricing for the very few airports where demand has outstripped supply.

Congestion triggered by over-scheduling can be addressed in one of three ways: (1) ignore it and eventually consumers will begin avoiding flights that rarely arrive on time; (2) impose a Federal cap on operations and essentially limit access of anyone not already operating at the airport; or (3) allow market forces to grant airport access to those operators able to make the best use of it. Option 1 is clearly unacceptable to the public, Congress, and this Administration. On the other hand, while market forces under option 3 are in some ways unpredictable, history has demonstrated that they are the best tool to use to allocate a scarce resource.

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

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

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

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

Accessible and cost-effective transit projects also help fight congestion, and the President's budget includes over $10 billion for transit programs. The President's budget includes $6.2 billion to help meet the capital replacement, rehabilitation, and refurbishment needs of existing transit systems. Also included is $1.4 billion for major New Starts projects, which will provide full funding for fifteen commuter rail projects that are currently under construction, as well as proposing new funding for two additional projects. Another $200 million will be used to fund thirteen projects under the Small Starts program. All told, one of every seven dollars in the President's FY 2009 transportation budget is proposed for transit.

It is increasingly clear that America's transportation systems are at a crossroads. Even as we continue to make substantial investments in our Nation's transportation systems, we realize that a business-as-usual approach to funding transportation programs will not work much longer. Long-term, we need serious reform of our approaches to both financing and managing our transportation network to win the battle against congestion.

We also urge action on making needed reforms to the nation's intercity passenger rail system. The President's FY 2009 budget provides a total funding level of $900 million for intercity passenger rail. Included in this total is $100 million for a matching grant program that will enable state and local governments to direct capital investment toward their top rail priorities.

Our "safety first" priority includes ensuring the safe and dependable transport of hazardous materials throughout the transportation network. The President's budget request would increase funding for pipeline safety programs to over $93 million by funding eight new inspectors to increase oversight of poor performing pipeline operators and increasing state pipeline safety grants by $11.3 million.

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

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

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

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

The CHAIRMAN. I thank you very much, Madam Secretary. Would you care to introduce the Acting Administrator?

Mr. STURGELL. Pleasure to be here, Mr. Chairman. I don't have any remarks, but I look forward to discussing the issues with the Committee.

The CHAIRMAN. May I now call upon the Vice Chairman for questioning?

Senator STEVENS. Madam Secretary, following an incident in Juneau last year, I sent a letter to the department regarding my in-

terest in crafting a consumer and parental information pamphlet directed at informing the public about airline unaccompanied minor and teenage travel policies.

We had this young woman who booked a flight after having had a chat room conversation, "on the Internet." And she decided to go meet the young man and went and took money from a parent, I think, or got money somehow and went down and bought a ticket and got on a plane, and it was discovered she was gone.

She was a minor, an unaccompanied minor. And I have asked that something be done within the system so we won't have to legislate on that. It would be a difficult thing to legislate on, but it is possible. Has anything been done since this came to your attention?

Secretary PETERS. Senator, I agree with your concern. And as a mother and a grandmother, I also am very concerned about, especially today with the availability of the Internet, for young unaccompanied minors to travel perhaps without their parents' consent and knowledge. And I agree with you that we do need to get information out that would educate both airlines, travel agents, of course, as well as parents about the potential dangers of moving forward, of children being able to travel like this without their parental consent.

And sir, we do not yet have a pamphlet, but I do agree with you that we need to get this information out, and we will work on that.

Senator STEVENS. Well, have you had any meetings with airlines? Are they doing anything about it?

Secretary PETERS. Sir, I personally haven't met with the airlines about it. I will ask our Acting Administrator if he has had any discussion.

Senator STEVENS. Administrator, has the FAA done anything about it?

Mr. STURGELL. No, Senator. I have not had discussions with the airlines about this particular issue.

Senator STEVENS. Well, it seems the only alternative then is to legislate. You know, legislation is going to put you in a straitjacket. You know that, don't you? It just seems to me this is something that ought to be an FAA and industry policy with regard to unaccompanied minors. Somehow or other, someone has got to take responsibility for this.

Secretary PETERS. Senator, let me commit to you today that we will—we will move forward with your request and see what kind of documentation we can develop. We will work with you and your staff to determine the most appropriate path forward.

Senator STEVENS. I would appreciate it. I would think that other Members of the Committee would agree with me. I am a father and a grandfather, too. I just really think anyone that is concerned about their families would worry about this happening, and young people are very capable of going and buying a ticket and disappearing. I just don't think that ought to be possible. We ought to at least have a proof of age requirement to get on an airplane. Now if you don't do it, I am going to introduce a bill for that. I think it has to be done.

I did comment about essential air service cuts from $110 million to $50 million. We are not allowed to ask you what you asked them for, but we can ask you did you make that cut?

Secretary PETERS. Mr. Chairman, that cut is in the President's budget. That $50 million amount is in the President's budget. And I think what you said earlier is very important. When we think about our essential air service program, the budget that we proposed both revises the EAS program in order to administer the program more efficiently, but also to ensure those most isolated communities—the communities that you spoke about in Alaska and those small communities—do have access to the national air transportation system within the funding level.

We do understand, sir, that the parameters that were put around this program after deregulation in 1978, and we are operating the program again to ensure that these most isolated communities do have access.

Senator STEVENS. We have one line that I think costs right around $1 million a year to connect Kotzebue, which is one of our northern communities on the west coast, all the way down to Seattle. If they don't get that $1 million, then they are going to get paid for flying—some of them flying north to come south and another one south to go north.

The connections and commuter lines just aren't there. The commuter lines don't go from distances that we have got. That is just a small amount of the total amount of the money, but it puts together a flight that goes if you want to get on it, it is like a whistle stop, every single stop between Kotzebue and Seattle.

Now, that now becomes one enormous amount out of $50 million. I don't know. How would you suggest that I increase that money, Madam Secretary? I ask, did you reduce it? Did the department reduce it?

Secretary PETERS. The budget was reduced——

Senator STEVENS. I am not talking about that. I said did you send to the OMB a request for $50 million?

Secretary PETERS. Yes, sir.

Senator STEVENS. On what basis did you cut that back that much, more than 50 percent?

Secretary PETERS. Sir, the basis that we used was looking at—excuse me—where the most isolated communities are and ensuring that we had sufficient money to service those most isolated communities and those communities that are eligible based on the deregulation in 1978.

Senator STEVENS. It is counterproductive. We are doing our best with monies we have gotten from the Federal Government, from everywhere, to try and develop some economy, some basic job opportunities in those small places. The more we do that, the more commerce there is. The more commerce there is, the less money we have to pay in support for those people who live in places where there is 90 percent unemployment.

Now to cut down the travel budget for them so they cannot travel as much is just like shooting them in the foot. It doesn't hurt the department, but it hurts those people. I don't understand how I can put that money back. We are not going to get that. It costs, I think,

about $35 million of the $110 million was for Alaska. Did you know that?

Secretary PETERS. Sir, I am aware that a good part of that was for Alaska, and again, sir, the communities——

Senator STEVENS. My colleagues here from other states are not going to let me get by with that. I don't think people downtown think about the problems they cause when they use an axe on a budget. Now that is an axe. I have got to tell you, the next time you go to the Cabinet, do me a favor, will you, and tell the President I am completely disturbed by this budget, and I am not so sure that I am going to be supporting the President as I have in the past.

This budget is impossible with the concepts of no earmarks that they say. [inaudible] But unfortunately, it is.

Secretary PETERS. Senator, please know that our budget does support the communities that you have talked about in Alaska. We do support those most isolated communities. And that is how we would prioritize the use of the money that we have put in the President's budget.

Senator STEVENS. Well, you tell that to the people who have to use essential air service to fly into Montana and South Dakota and other places that are going to have $15 million where I am going to have $35.

Senator ROCKEFELLER. And I didn't understand what her answer meant.

Senator STEVENS. The answer is, is they are going to prioritize the use of the $35 million, as I understand it.

Secretary PETERS. Yes, Senator, to the most isolated communities.

Senator LAUTENBERG. Mr. Chairman?

The CHAIRMAN. Senator Lautenberg.

Senator LAUTENBERG. Thank you. Senator Stevens, with his ordinary perspicacity, with his incisiveness, I think kind of hits more nails on the head than we should have to have here, the job was being done as it is, as it should be. And I suggest a change in name that might help us.

Instead of calling it earmarks, we will call them air marks, and that then gives it the content or the context in which we talk about these. These are essential. They are critical issues. And to dismiss the seriousness of these requests by just simply putting them in the pot with earmarks, which sounds pretty trivial, I think we ought to change the name.

That wasn't my question, and Mr. Chairman, I don't want to be penalized for that brilliant thought of mine.

[Laughter.]

Senator LAUTENBERG. I want to ask the Secretary, and I thank you, Secretary Peters, for being here. I think it must be fairly uncomfortable to have to deliver the message that you are compelled to deliver, knowing full well that you are not bringing the content required. I am not asking you the question because I think you are compelled to stay where you are, even though it is just not going to do the job.

For instance, there was a newly designed departure route from Newark Liberty Airport when, within minutes of implementing

these newly designed departure routes, air traffic controllers discovered that one route from Newark Liberty led directly into the approach route for LaGuardia Airport in New York. You know, one doesn't have to go into active description to understand what the consequences of something like that could be.

After spending $50 million, much of which was on consultants and contractors, and over a decade of work to redesign the air routes over New Jersey, how did FAA miss this? Can you explain it?

Secretary PETERS. Senator, I am going to ask the Acting Administrator to answer the question, and I believe there is a logical explanation, yes.

Senator LAUTENBERG. Mr. Sturgell?

Mr. STURGELL. Senator, the previous departure corridor to the south out of Newark basically had a little jog in it, and you followed the river south. The arrivals to LaGuardia were located and are located to the east of the river. The new departure routes out of Newark are all farther west of the river. So they are no closer and, in fact, they are farther apart than the previous old route.

There is an altitude issue, which goes to the fact that LaGuardia arrivals come in at 3,500 feet. The Newark departures, as they are going out, are required to maintain 2,500 feet until they transfer from the tower to the New York TRACON and the New York TRACON controllers then clear them to a higher altitude.

So this airspace redesign project, not only were there folks at headquarters and contractors, but 30 percent of the $53 million that Congress authorized for this program were spent on overtime and travel so that the controllers would be involved and would help prepare these new routes.

Senator LAUTENBERG. Well, are you challenging their observation that these might be designs that would bring them into competition for the airspace they are flying in?

Mr. STURGELL. Into competition, the whole——

Senator LAUTENBERG. Well, I will put it more bluntly. Would that put them on the same path as airplanes coming out of Newark on the same pathway, the same instruction for takeoff and arrival as the planes coming out of LaGuardia at some point. Were they wrong?

Mr. STURGELL. I think the routes are deconflicted. I think the issue which the controllers refer to has to do with the altitudes. And by requiring the aircraft to check in first with the TRACON and——

Senator LAUTENBERG. Yes, it is disappointing——

Mr. STURGELL.—receive clearance to go above 2,500, I think we have resolved their concern.

Senator LAUTENBERG.—after $50 million went into this thing, and all that time, all that effort by so many left a glitch like that. So that, I assume, has been straightened out to assure the safety of the operation there?

Mr. STURGELL. Yes, I am confident that these procedures are safe.

Secretary PETERS. Senator, if we may add, though, this procedure was not a faulty procedure. Perhaps there was a misunder-

standing about the altitudes, but this was not an unsafe procedure that was defined.

Senator LAUTENBERG. So the controllers are wrong who sounded the alarm on this?

Mr. STURGELL. I have asked the chief operating officer of the air traffic organization to meet with the NATCA regional vice president for the eastern region to discuss his concerns. But we trained the controllers, we notified and discussed these departure procedures with the pilot community, and these procedures are not unlike anything that happens in systems today.

I am a former commercial pilot. You get departure headings off of airports all the time. There are 15 other—at least 15 other major airports the size of Newark and Philadelphia that use these types of departure procedures.

Senator LAUTENBERG. Right. So you are dismissing any concern, any complaints by the controllers, or pilots in the area also, by the way?

Mr. STURGELL. I do not dismiss complaints of the controllers. We have listened to them. I think what we have done is address those concerns.

Senator LAUTENBERG. We would like to see the final proof of that, if you would furnish it to us, please?

Mr. STURGELL. Be glad to do it.

Senator LAUTENBERG. I am particularly concerned about the Bush Administration's response to safety concerns raised by pilots, air traffic controllers, and colleagues about new flight procedures in the New Jersey area. Last week, an FAA spokesman said, and I quote, "If any controller at the Philadelphia Airport believes that these procedures are unsafe, they should look for work elsewhere. If they don't like working for FAA, they should reconsider their line of work."

So, to put it bluntly, an FAA spokesman told controllers to bug off, and if they don't like it, get out, when we are barely able to have enough hands there to take care of the work that we need. How does your agency dismiss safety concerns raised by the men and women who work daily to keep the two million fliers safe in the area?

Secretary PETERS. Senator, I would acknowledge the inappropriateness of those comments. However, I would also suggest that it probably reflects a little frustration after, as Acting Administrator Sturgell said, there have been numerous conversations and involvement in developing these procedures, and then to have someone indicate that they are not safe was perhaps a little bit frustrating.

Senator LAUTENBERG. Well, so we should excuse the temperament, this childish outburst. The fact is that FAA is at its lowest staffing level of professionally certified controllers in 15 years. Just 11,077. Why should FAA suggest that experienced controllers ought to leave if they are not happy or any controllers ought to leave? Is that a way for management to respond?

I was in business, and I can tell you if it was one of my key people—and controllers are the key people—I would never say go ahead and find something else if you don't like what you are doing.

Secretary PETERS. Well, Senator, I am going to ask the Acting Administrator to talk specifically about the staffing levels, but I—again, I acknowledge the inappropriateness of that comment.

Mr. STURGELL. I would agree with the Secretary, Senator Lautenberg. It was unfortunate. But again, I think, as the Secretary said, there is a level of frustration here, given that the controllers were substantially involved in this project over about a decade-long period.

You know, with respect to staffing, you know and we have talked about this, we are in the beginnings of what has been a long-expected retirement wave of the controllers simply because there is a mandatory retirement at age 56, and we had replaced a large portion of the workforce after the PATCO strike in the early 1980s.

So we have put in place a number of things to try and retain our most experienced controllers. Among them are retention bonuses. We have a waiver process for the age 56, which has been congressionally approved, that is in play now. We are hiring as many new hires as we can put in the system and train effectively.

Senator LAUTENBERG. How many would that be, Mr. Sturgell?

Mr. STURGELL. We hired over 1,800 last year. We increased—we had a net increase in the workforce of 256 last year. We are going to net increase the workforce this year by 256.

Senator LAUTENBERG. How long does it take to get people to a full level of competency?

Mr. STURGELL. Well, in the past, it has taken between 3 and 5 years for an en route air traffic controller and between 2 and 3 years for a tower controller. Now, due to streamlining some of the slack in the training process and due to some new simulators that have come along in the last several years and which Congress has helped us fund, our statistics for this fiscal year show that we have reduced the training time for the en route environment and for the terminal environment by almost a year in some cases. We are down to about 1.4 years for a tower controller.

Senator LAUTENBERG. But for sufficient numbers to prepare for the forecast that within a 5-, 6-year period, in which delays will worsen by 60 percent. Have you heard that forecast?

Mr. STURGELL. If we are not able to modernize the system and the traffic comes as we expect it, yes, by 2015, 2016, that's correct.

Senator LAUTENBERG. Well, the question is, and we dance around this issue, how many fully trained air traffic control professionals do we have? I am concerned because we have seen a substantial increase in the number of retirees, and people who just left the job, not ready for retirement, but because of working conditions were not those that were sustainable.

We will have a chance to talk. Excuse the excessive time, Mr. Chairman, but we will keep this record open because we have got lots of questions to go. Thank you.

The CHAIRMAN. Thank you.

Senator Rockefeller?

Senator ROCKEFELLER. Thank you, Mr. Chairman, and I will just ask two more questions that speak on the same subject, and then I am obviously not covering the whole catastrophe which is facing us in our transportation system, but I am just focusing on general aviation this morning.

They often state that the air traffic control system, that is the GA folks, was built for the commercial aviation use and that general aviation users are only, as they say, marginal users. But at any given moment, as I indicated before, two-thirds of the aircraft in the sky are general aviation aircraft.

In addition, the FAA spends approximately $1 billion a year to support general aviation airport infrastructure, more than $500 million a year on providing weather services, flight services to general aviation pilots, and certifies general aviation aircraft, which is as you know, 13,000 to 25,000 to 50,000 parts of an airplane, as well as a host of other appropriate safety activities.

Can you give me a total dollar figure, Mr. Sturgell, of FAA services and programs that directly benefit general aviation, ballpark?

Mr. STURGELL. Well, I think you just about covered it, a million or so—well, low-activity towers, a host of those; the flight service stations, which is about $500 million a year; and, of course, the certification activities. Our Office of Aviation Safety is run at about $1 billion a year, and that includes services, though, to both the commercial and the GA——

Senator ROCKEFELLER. Does the current contribution to the Aviation Trust Fund of the general aviation community come close to meeting the expenditures that you expend on them?

Mr. STURGELL. No, it does not. And just to put the numbers up against this, when you look at commercial versus GA activity and cost drivers and you use the IRS regulations in terms of commercial taxes, defining commercial versus GA——

Senator ROCKEFELLER. I am going to get to that.

Mr. STURGELL. Right. GA accounts for about 16 percent of our costs, and they contribute about 3 percent of the revenues into the fund. And in terms of what we cover that covers GA, we spend about $2.2 billion a year total on what I would consider GA-related activities.

Senator ROCKEFELLER. So would you then say that general aviation's view that they are only a marginal user is not accurate?

Mr. STURGELL. System-wide, when you look at trust funds to revenues, when you look at cost drivers and revenues, no, they are not. They are substantial users at 16 percent of the system. And in some airports, they are a much bigger number. In some, they are less.

Senator ROCKEFELLER. And that doesn't include the wear and tear on the air traffic controllers, who are handling them as they go on? I mean, just the fatigue factor.

Mr. STURGELL. Well——

Senator ROCKEFELLER. Question number two, DayJets, which I am not particularly familiar with, operates out of the southeastern United States, and they tell me that they plan to have three million air taxis flights. My people in West Virginia probably won't be using those, high-end payers will. They are going to have about three million flights annually. Flights, I didn't mean to say jets. Three million flights annually when their business matures, and they are only one of a series of people who are looking at this air taxi matter.

Now these companies claim they will not impose any additional burden on the air traffic control system. Does the FAA believe that

the additional millions of short-haul flights will not burden an increasingly strained air traffic control system?

Mr. STURGELL. Well, it depends on where they fly and when, frankly. If they get up into the high-altitude structure, if they start flying into some of the major metropolitan airports, then, yes, there will be additional burdens. If, however, these are relatively short-haul flights, where they stay in the medium- to low-altitude structure, where they go into airports that would be small to mid-sized airports, then the impact will be less.

But we do see it as a growing industry. I mean, we are estimating about 400 aircraft a year, I think, on this side of the industry. We are going to have to watch extremely closely how this industry develops and its impact on the system.

Senator ROCKEFELLER. Thank you, Mr. Chairman.

The CHAIRMAN. Senator McCaskill?

STATEMENT OF HON. CLAIRE MCCASKILL, U.S. SENATOR FROM MISSOURI

Senator MCCASKILL. Thank you, Mr. Chairman.

I am assuming that both of you would come down in favor of the importance of a certification of an aviation repair station, that the FAA certification is meaningful, and I don't have a lot of time. So if, briefly, one of you would speak to why you think it is important for a repair station to be FAA certified?

Secretary PETERS. Ma'am, I am going to ask Acting Administrator Sturgell, Senator, to address the specifics of the inspections. But I will tell you that all air traffic repair facilities have to meet the same certification requirements. There is no difference in those facilities, regardless of where they are located.

Senator MCCASKILL. OK. So that is what I am trying to figure out here. If there is no difference between one that is not certified and one that is certified, then why are we certifying?

Secretary PETERS. Ma'am, I am sorry. I misspoke. Every air repair facility that is certified has to meet the same standards.

Senator MCCASKILL. OK. I am trying to get at what a good thing it is that we are having standards, OK? So that is what I am trying to get at is that we, of course, want repair stations to be certified, correct?

Secretary PETERS. That is correct.

Senator MCCASKILL. And you would certainly acknowledge that there are requirements associated with certification that are something that every airline should want and desire and that it would be important to the flying public to have the knowledge and comfort that every airplane that is being flown commercially is being worked on in a certified facility?

Secretary PETERS. Ma'am, that is correct, and I will ask the Acting Administrator to deal specifically with commercial airlines and the requirements, but that is accurate.

Mr. STURGELL. Senator, I think what is important to note here is that the individuals themselves also hold certificates issued by the FAA for mechanics and repairs.

Senator MCCASKILL. Well, why are we going to the expense and the trouble of certifying a repair station if we can do it just as well by the other method? Why are we doing that? I mean, I am trying

to figure out why we are allowing non-certified repair stations in the first place unless the certification is pretty darned important.

Mr. STURGELL. Well, a lot of it goes to the type of work that is being done, how often——

Senator MCCASKILL. But Mr. Sturgell, isn't it true that the identical kind of work is being done in non-certified repair stations as in certified repair stations? There is absolutely no difference in the type of work that is being performed in these facilities. Isn't that correct?

Mr. STURGELL. I think the work varies, depending on who the customers are and what is being required. I mean, it is not the same all the way across the board. It depends on what that repair station or what that individual is qualified, the type of work they are qualified to do.

Senator MCCASKILL. We have heard testimony in this Committee and there is work that has been done by GAO and by IGs that certainly have said in very clear terms that we are now having work done in non-certified repair stations everywhere across the globe, where it is overhaul, it is major repair, it is minor repair.

And, what I am really trying to get at is that we have non-certified repair stations in countries that have been identified as being on the terrorist watch list by the State Department. And we have both certified stations in these countries and non-certified stations in these countries, and the problem is that your budget doesn't really reflect the needs of adequate inspections at these facilities. Isn't it true that there are many non-certified foreign repair stations that would like to get certified, and we don't have the personnel to even do that?

Mr. STURGELL. Well, I don't know what the number of non-certified repair stations internationally want to get certified. We have——

Senator MCCASKILL. Wouldn't you know that at your agency? Wouldn't your agency know?

Mr. STURGELL. Well, people request, and it changes all of the time as far as the numbers. Roughly 700 foreign repair stations that we have certified to perform work today.

Senator MCCASKILL. Is there a waiting list for those that want to be certified that haven't been certified?

Mr. STURGELL. I can get you that information. I know that number varies based upon the need that has been demonstrated by that repair station. And those repair stations are inspected annually, or annually they go through a certificate process, which includes an inspection process by us.

Senator MCCASKILL. The certified ones?

Mr. STURGELL. Yes.

Senator MCCASKILL. But the non-certified ones that are wanting to be certified, I would hope that you would have a fairly finite number that you could give the Committee because we need to look at that in comparison to your budget request. I mean, if there are foreign repair stations right now that don't have the kind of security, perimeter security, background checks, drug testing, all of the things that we think are important in terms of this issue, if they are asking to be certified and we don't have the manpower to do it, I think that is something we need to get a handle on.

Secretary PETERS. Senator, let us get back to you in terms of if there is a waiting list, as you put it, of stations that are waiting to be certified and if there are any differences or backlogs in that. I do think it is important to note that in the President's budget this year we have requested a net increase of 146 inspectors, bringing our total inspection workforce to just over 4,000, at 4,100 approximately.

[The information referred to follows:]

The total number of part 145 applicants (April 2008) are:

Domestic = 430 (277 have started the certification process and 153 are awaiting resources to start the process).

Foreign = 97 (38 have started the certification process and 59 are awaiting resources to start the process).

Senator MCCASKILL. Well, I appreciate that. But I think overall the need is significant—and we will get to you in writing, but the things I am interested in is how many foreign certified stations there are, the number of inspections that are going on there, who is bearing the cost of that. And I want to underline that because if, in fact, companies are outsourcing labor because it is cheaper, they have a right to do that. But if they are outsourcing labor and the taxpayers are picking up additional cost to do inspections and to certify because they are in a foreign country, that is flat wrong. There is no way the taxpayers of this country should ever be subsidizing the outsourcing of labor because it is cheaper for the company.

And we would be subsidizing it if we are paying for those costs of inspectors going to Indonesia instead of those airlines paying those costs. And it is my understanding that the airlines are not paying the full cost of that inspection process. So that is what I would like to get a handle on as it relates to your budget request for the following year, and I thank you for you answering my questions, and I thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Klobuchar?

STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR FROM MINNESOTA

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Thank you, Secretary Peters, Mr. Sturgell.

Secretary Peters and I got to know each other quite well this past year with our tragic bridge collapse in Minnesota, and I want to thank you again for your support in the wake of that collapse and your personal visits as well as the way we were able to work with the agency for funding.

And I think that everyone in this room would agree that this bridge collapse highlights the need to invest in our infrastructure, particularly our bridges. And that is why I know you personally are devoted to this, but I was disappointed that the President's budget reduced the Federal Highway Administration's budget by almost 5 percent. And additionally, according to the Federal Highway Administration, each $1 billion invested in construction creates upwards of 47,000 new jobs and up to $6 billion in additional revenues.

Given the fact that we clearly have a problem with crumbling infrastructure in this country, I see it not only in our bridge in the Twin Cities, but also in our rural roads and the fact that investing in our national infrastructure at a time when we are having so many economic difficulties would help to stimulate the economy and provide jobs, do you agree with this decision to reduce by 5 percent the Federal Highway Administration's budget?

Secretary PETERS. Senator, what the President's budget does is honor fully the commitment that was made to this Nation in the SAFETEA–LU legislation. This, of course, is the final year of that legislation, the 6-year piece of legislation. And it does—it does within the context of this year's budget, the President's, meets the full $286.4 billion commitment that was made.

Senator KLOBUCHAR. But do you think that that is enough, given what we are dealing with right now with infrastructure and what you saw in Minnesota?

Secretary PETERS. Senator, I think it tees up a very important problem, both the issue in Minnesota as well as the declining balance and the proposed deficit in the highway account of the Highway Trust Fund before the end of this authorization period, that we absolutely must come together and have discussions about how we close the gap in the future, how we fund those projects that need to be funded, and how we look at new sources of revenue because, as I have said in the past, I am convinced that we cannot depend on the gas tax into the future as we have in the past.

Senator KLOBUCHAR. And you and I have talked about that. But what are the other plans that we can do? I mean, we have talked about bonding. I personally have told you that I think we should roll back the tax cuts for some of the wealthiest and put that into infrastructure funding. But what is the President's plan?

Secretary PETERS. Senator, what we are doing right now in the near term is both developing an outline of proposals for the next surface transportation authorization, also working with each of the states who receive these programs to ensure that there isn't money not being used today productively that could be used. For example, on some earmarked projects, that money sits there for many years and it is not put into active use.

So if there are projects that are ready to go today, we are working with the states who receive these grants to ensure that we can move projects forward if there is money available in other parts of the budget.

Senator KLOBUCHAR. And if you could just convey this idea to the President and the rest of the administration as we are looking at stimulating the economy again. We did the short-term rebate plan, but long after those checks are cashed, I think we are going to have to change direction in this country. And if we are going to move forward, as I saw in our rural areas, with ethanol and biodiesel on this energy independence, we can't have a transportation system that is stuck in the last century. And that is why I hope you will consider, the administration will consider this as part of the way to get our economy moving again, to allow our trucks to move again.

Secretary PETERS. Senator, we most certainly will.

Senator KLOBUCHAR. Thank you.

Secretary PETERS. And also, as I have talked about, there are substantial amounts of private sector money available to be invested today as well.

Senator KLOBUCHAR. The other thing I just wanted to touch on is the potential airline merger in Minnesota with Delta and Northwest Airlines. And just as a general matter, since there hasn't been any merger announced as of this moment, and as you know, we are very concerned in Minnesota. We have a thriving hub, something like 12,000 to 13,000 employees from Northwest Airlines. There were agreements made between the state and the airline, when the state basically bailed Northwest Airlines out when they were having some financial difficulties years ago. And we also see this as a consumer issue for our state.

And one of the criticisms of the airline merger review process is that the two Federal agencies in charge, DOT and DOJ, review each merger in an individual context, without regard for how one proposed merger affects the entire system. And so, DOT and DOJ may find that a merger passes antitrust scrutiny and safety scrutinies that you would look at, but critics say these agencies are not really thinking ahead to see whether one proposed merger will lead to a wave of mergers or how one merger will affect the overall capacity or how one merger will affect the overall quality and potentially the safety throughout the system. And how do you respond to that criticism?

Secretary PETERS. Senator, certainly safety is something that we hold very close to us, and DOT will advise on issues that relate to safety. We don't yet have, as you mentioned, a specific proposal before us. But the process is that DOJ will examine competition issues. They will examine market access issues, while DOT advises DOJ, who is ultimately the decisionmaker, on input such as consumer-related issues and safety issues.

But I will carry back your concerns that these issues be examined in the context that you put forward.

Senator KLOBUCHAR. And many airline industry consultants and analysts think that the airline industry will consolidate over the next few years. Some think from six large legacy carriers to three, and do you agree and are you concerned about the effects of this consolidation in terms of service and quality?

Secretary PETERS. Well, Senator, as I mentioned, those are issues that we will be examining. Again, DOT advises. DOJ makes decisions. I do think we need to keep an open mind. There are a number of factors affecting the industry today, not the least of which are very high fuel prices. But I do agree with you that we need to examine all of these issues as we go forward, and again, we will talk with DOJ, who is the ultimate decisionmaker.

Senator KLOBUCHAR. Mr. Chairman, if I could, just one more question? My concern about this is when you look at some of these other airline mergers fleet size will decrease like the combined fleet size of America West and US Air which is down 1 percent since these two carriers merged, and the combined fleet size of TWA and American which has decreased by 24 percent since these carriers merged.

And I am looking at areas like Duluth and Moorhead and some of the service that they need as we are growing the energy economy

in our state. And I hope that when DOT looks at this merger, and I know that you have a limited role to play in this, that you consider overall the effect of quality and the service to the consumers.

Secretary PETERS. Will do.

Senator KLOBUCHAR. OK. Thank you.

The CHAIRMAN. Thank you very much.

Senator Sununu?

STATEMENT OF HON. JOHN E. SUNUNU, U.S. SENATOR FROM NEW HAMPSHIRE

Senator SUNUNU. Thank you, Chairman Inouye.

Mr. Sturgell, I want to talk a little bit about the FAA reauthorization and the issue of funding and strengthening the aviation system, control system we have and the modernization program that is before. I am sorry Senator Rockefeller isn't here, but I think I will quote him reasonably accurately. And this is nothing he and I haven't shared in person before, regardless.

He indicated that general aviation killed the bill, effectively, for the year, and I think that is a bit of an unfair statement, and I want to explore the reasons for his assertion. First, I think in his questions to you and your responses, you suggested that general aviation was 16 percent of the cost associated with the system, but they were only paying, I think, 3 percent, providing 3 percent of the revenues to support that system. Is that what you indicated earlier?

Mr. STURGELL. Senator, I did, and that is based on using the IRS definitions reflecting the fact that certain parts of the industry pay commercial taxes, certain are defined in other ways. If you include on-demand air taxis and fractionals, which are typically at times included in the GA community, then that drives that number up to 22 percent in terms of the air traffic costs, and they are paying about 8.5 percent of the revenues.

Senator SUNUNU. OK. I appreciate that.

Mr. STURGELL. So there is the distinction.

Senator SUNUNU. It is an important distinction, but I think those numbers are important to have in the record as well because even in the current situation, it reflects a much more proportionate share of the costs. And I think you will find people on the Committee here agreeing, and perhaps people in the general aviation community agreeing, there needs to be an even more equal and equitable sharing of the cost. And despite the assertion that general aviation killed the bill, there have been proposals submitted and even approved from the Finance Committee and other places that bring us to a much more equitable and proportionate share of the costs, and so that is what I want to address now.

For those reasons, I think it is not quite a fair representation. I think everyone—I hope everyone is committed to a more equitable allocation of share and revenue. The issue that has stalled this bill, delayed this bill is the question of how to raise those revenues and the proposal to create a new revenue source, a $25 per segment fee. And I oppose that fee. Others on this Committee oppose that fee because it is new. It would have additional administrative costs. I think it would be difficult to oversee, and because

we have a system in place for collecting revenues to support this modernization, and that is in aviation fuel taxes.

And the proposals that were put in place—the Finance Committee proposal, for example—significantly increased aviation fuel taxes on general aviation. So my question in this regard is that Committee proposal I think increased aviation fuel taxes for general aviation by 60, 80 percent, maybe 100 percent. What proportional share did that provide for the general aviation community, and did that Finance Committee proposal, in your opinion, provide adequate funding for the modernization initiative?

Mr. STURGELL. Senator, I would just go back to the principles behind our proposal because you can reach those principles in different ways. And obviously, both the commercial and the GA side of the industry are important economic drivers for the country as a whole.

So what we were trying to do with our proposal is to implement, number one, a cost-based financing structure, not just for the fairness reasons, which would level things out, I think, more than they are today because we believe they need to be, but also when you go down the path of a cost-based proposal, then you are making the operators become more efficient in their use of the airspace, which they do not do today under just a straight tax system.

And I think that is extremely important as we talk about congestion, especially in major metropolitan areas. You do want the users using the system efficiently, and that is what a cost-based system will do. So cost-based, fair, and the last thing was dedicated funding for modernization.

Right now, we are part of the discretionary budget, and we have recognized the need to transform this system. It is simply not scalable to handle the two to three times traffic levels that we are seeing out to 2020, 2025. And I am particularly worried about the mid term, 2015, 2016. So that is where we are.

Senator SUNUNU. Thank you. I appreciate that very much. And it was—and I appreciate the thought that went into the proposal, but that was an only marginal response to the questions that I asked, which is, one, is the proposal to increase aviation fuel taxes, aviation fuel taxes on GA by 80 percent or so, did that generate sufficient revenues to fund this very important modernization? And the answer to that question is a simple yes, based on the GAO evaluations of what is needed, the projections that you and others in the department have made, the funds that would have raised are adequate to support the modernization initiative?

Two, would that get us to a much more proportional share of the costs associated with the system? You indicated that by one accounting, they were 16 percent of the costs, only 3 percent of the revenues. By another, 22 and 8.5 percent, and we want to get that to be more equitable. And the answer to that question is, yes, raising aviation fuel taxes on general aviation does get us to a much more equitable assessment of the cost.

The point you made, which is a fair point to make, is that you believe that creating a new tax system, a new user fee system, a $25 per segment system, would also address or solve the issue of maximizing the efficiency within the system and drive users to use the system much more efficiently. I think that is an interesting as-

sertion. I think there may be some improvements or some incentives created along those lines with a user fee, but there are other downsides to creating such a new system, downsides that many others on this Committee I think have registered in our debate, in our discussion when it came up.

So I think these are important issues. We want to modernize. But I don't think it is quite fair to say that simply because this one user fee wasn't included in the final package that we can't possibly do an FAA reauthorization bill because the package certainly was still in a position to meet the very important goals of providing the revenues to modernize the system and creating a very—a much more proportional share.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Stevens?

Senator STEVENS. Madam Secretary, we have all read these stories about mergers among major commercial carriers. I think Senator Inouye and I probably are frequent fliers as much as anyone in the country. I wonder how you evaluate mergers when they come to you? Do you have a special group that would evaluate the impact on consumers? These mergers could well reduce the frequency of flights or the size of the airplanes or the conditions under which they will fly.

Do you have a consumer group that will analyze merger proposals before you?

Secretary PETERS. Senator Stevens, we do have a group that analyzes these proposals. They are part of our aviation office that reports to the Office of the Secretary, and so they do examine these proposals when they come forward. We do look at issues like safety and like consumer issues, but we are an advisory role to the Department of Justice.

The Department of Justice ultimately, of course, is the party that makes these decisions. And they look at issues like competition. They look at issues like market access. So we certainly do have input to the Department of Justice when these proposals are made.

Senator STEVENS. Well, I would hope that you would really consider forming a consumer group to look at them because these mergers are now going to eliminate major carriers, it looks to me like. And that will mean hubs will change. The conditions of interlining will change, and availability of flights is going to change.

I do think that we are getting on to a point now that with the limited number of major carriers, particularly transcontinental carriers, that we ought to be very careful about approving mergers unless we are sure that consumer rights are protected. Because clearly this commerce—this air commerce has a great deal to do with our economy, and if we approve mergers which slow down this economy at this time, I think it would be very wrong.

Thank you.

Secretary PETERS. Senator, and also I wanted to get back to you, I apologize that I misspoke a while ago. This is concerning the minors traveling unaccompanied. Actually, the aviation office, as part of the Office of the Secretary, has had ongoing discussions with the airlines on this issue. And again, that office would also be involved in the potential merger as would the consumer section in our Office of Counsel.

Senator STEVENS. Thank you.
The CHAIRMAN. Senator Thune?

STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA

Senator THUNE. Thank you, Mr. Chairman and Senator Stevens. I appreciate the Committee holding today's hearing regarding the Fiscal Year 2009 budget request for DOT, and I am pleased that Secretary Peters and Administrator Sturgell are here to underscore the Department's priorities for the coming fiscal year.

And I would echo what the Senator from Alaska said with regard to concerns that I know constituents of mine have regarding potential mergers and what that might do in terms of its effect on availability of service and options and prices and all those sorts of things. And that is certainly something that we are going to be watching very, very carefully because many of these proposals would significantly impact service into the area of the country that I represent.

And I know a lot of my colleagues agree that there is certainly no shortage of demand when it comes to all the various modes of transportation that DOT is responsible for. The one—a couple of observations and questions, if I might?

The latest FAA extension that the President is expected to sign into law this week includes an important extension for EAS and eligibility, and I wanted to let you know that I appreciate the Department's help in working to ensure that we get a carrier selected as soon as possible to ensure that EAS service can be restored in Brookings, South Dakota.

As Senator Stevens and others have referenced this morning, I also have some strong concerns about the administration's significant cuts to the EAS program. Fifty million dollars is, by no means, a sufficient amount to ensure that eligible communities across the country are connected to our Nation's aviation system. And so, I guess I would just like to—I know you probably exhausted this subject already, but if you could react to our concerns about that amount and what it might mean to EAS communities and service into those underserved areas of the country?

Secretary PETERS. Senator, I would be happy to respond, and I think it is important to note again, as we talked with Senator Stevens, we do believe that we can continue to support the most isolated communities. These would be communities in Alaska. These would be communities in South Dakota, in Montana, in North Dakota, and other of the more isolated places.

Where we believe we have the opportunity to work within the budget amount that the President's budget proposes is to look at the fact that we don't believe the government should be funding communities that are within a reasonable driving distance from a major airport, as we are today. Some of those locations today, for example—and I am sure that someone represents these areas as well—but Hagerstown, Maryland, just a short distance here from the Nation's capital. Lancaster, Pennsylvania. Or in my home State, the City of Prescott, Arizona, which is not a considerable distance outside of the metropolitan Phoenix area.

But again, it would be our intent to continue to focus and to fund those most isolated communities in many of the States that I just mentioned.

Senator THUNE. Secretary Peters, I know you have got a great deal of expertise when it comes to the Nation's infrastructure needs, and I know that the EPW Committee also has primary jurisdiction over our Nation's surface transportation systems, when it comes to highways and bridges and what not. But I also have major concerns that we are not doing enough when it comes to the Federal Government's role in ensuring that our Nation's transportation system is keeping up with the demands that it faces, and this applies both in terms of surface as well as other modes of transportation.

And while I would acknowledge that the President's budget for Fiscal Year 2009 is a starting point, as Congress works to craft our annual appropriation bills, I do have concerns that we have looming problems out there that, if left unaddressed, are going to significantly impact the movement of goods and services in this country.

And I want to reference a *New York Times* article that appeared earlier this week in which you noted that the Federal role in transportation should be more limited than it is today. And I guess my question is how do we reconcile the fact that the construction costs associated with all forms of transportation have risen significantly while the funding sources that we rely upon to fund and pay for these infrastructure improvements are lagging behind?

And I raise that question because I do see a major problem on the horizon both in terms of surface transportation as well as aviation.

Secretary PETERS. Senator, I would be happy to answer that question, and thank you for the opportunity. Certainly, our Nation does have needs that are not being met today in terms of both surface transportation, aviation, rail, within our ports as well. Part of the problem that we have today is both the source of funding that we are collecting. The gas tax, as I mentioned earlier, is not going to be sufficient in the future. In fact, it is not responsive even yet today. So we need to look to diversify or find more funding sources to become available.

But I think the very basic question that we have to ask ourselves first, those of us who are privileged to serve in the Federal branch of government, is should the Federal Government be involved in as many of the issues in transportation that we are involved today? And I am talking about the surface system mainly.

Today, we have, between highway and transit, 108 different programs with which the money is divided up, once it is remitted, into these various programs and then sent back out in varying demands, along with formula allocations to states. I think that we could do a better job if we were to refocus the Federal priorities and the Federal responsibility on those thing that are truly in the national interest, things like the interstate highway system, things like projects of regional and national significance, safety programs.

But then not be involved, the Federal level of government not be involved in determining where many of the decisions are made that I think are much more in keeping with local or State governments

making those decisions. And so, I think if we refocus where we are with the Federal Government, redefine what our primary responsibilities and priorities should be, and then work with our partners on State and local levels to determine where they should be making decisions and where the responsibility and prioritization is more accurately at that level.

This does not mean, as some of the folks who have construed my remarks to mean, that we want to dump the programs on the State. Absolutely not. I have been a State official. I understand how it works from that end as well. But I do think that 108 different surface transportation programs is not in keeping with what the Federal Government should be focusing and prioritizing on.

That said, we have got to, in the next surface transportation authorization, look at how to bring more money overall to this system, how we can make sure that we are appropriately funding transportation where we should be. And I think there are ways to both diversify and supplement revenues that we are collecting today, and one of those is to bring in private sector participation.

There are today conservatively $400 billion available for infrastructure investment if we create the right opportunity and the right environment to make access to those revenues.

Senator THUNE. And to that point, I would hope that you would also continue to take a look at the proposal that Senator Wyden and I have on the Build America bonds, which I think gets at the very point that you are talking about with regard to involving the private sector in helping, coming up with new and innovative ways of financing infrastructure.

But I just, again, appreciate your answer but would reiterate my original point about if you start talking about those states like ours that are rural and don't have population bases and don't have, therefore, the funding, the ability to raise the revenues that are necessary to have a truly national highway system that is connected, or that connects the economy from one end of the country to the other, it is just not practical to suggest, I think, that somehow the States would become the—and I think that States and local governments would probably welcome the opportunity to have more control in decisionmaking and that sort of thing.

But I can tell you that a national transportation system isn't going to work absent those highways, Federal highways and interstate systems that go across sparsely populated areas of the country. And that, I believe, is a national and Federal responsibility and role to make sure that we have a national highway system that makes us competitive in the global marketplace.

And so, on that comment, I appreciate your clarification of it because it certainly raised some eyebrows for those of us who represent small or rural States.

Secretary PETERS. Senator, that is precisely why I mentioned the interstate highway system and other systems that do support our Nation as a whole. It is very important that we continue to maintain and operate and improve that system as well.

Senator THUNE. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Dorgan?

Senator DORGAN. Mr. Chairman, thank you.

You know, on the interstate highway system, I doubt whether, with the current mindset, we would build the interstate highway system today if it were not now built. But fortunately, under President Eisenhower and the leadership in the 1950s, we did bring this country together through the interstate highway system.

I was looking the other day at the Special Inspector General for Iraq's reports about what we are spending there. We have water projects, over 900 water projects in Iraq we are building. Roads, health clinics, and pipelines—we are investing a lot in infrastructure in Iraq. We are cutting back on infrastructure investment in this country.

I agree with Senator Thune. I think infrastructure investment is very important. I believe we ought to have some sort of infrastructure investment bank. There are a couple of proposals out here that I think are important. I came back because I wanted to talk about Amtrak just for a moment.

We have 110,000 North Dakotans that boarded Amtrak rail service in North Dakota. And the 40 percent proposed cut, this has been replicated over and over before, Secretary Peters, you became Secretary. We have had the same recommendations from this President, and the Congress has essentially said to this President you are wrong. We are going to provide funding. We believe long-distance train service is important.

In our part of the country, the *Empire Builder* goes from Chicago to Seattle. It is an enormously successful train, but most of the experts suggest that a 40 percent cut in Amtrak means that most long-distance train service will disappear. Is that the intent of the President's recommendations, that long-distance train service disappear?

Secretary PETERS. Senator Dorgan, no, it is not. In fact, the administration does value and recognize that intercity passenger rail is an important part of our overall transportation system in the United States, and we certainly do depend on that system as well.

The fact is that Amtrak generates about $2 billion in revenue annually, and what we have proposed in the President's budget, $900 million in funding, plus funding that the States can provide, especially with the State grant program which is part of what the administration has put forward, we do believe that Amtrak management needs to continue with reforms and make some good business decisions, business decisions that will eventually allow us to phase-out operating subsidies. But this does not mean that we don't support intercity passenger rail.

Senator DORGAN. Every country in the world, I believe, that has rail passenger service has some form of subsidy for it, and we subsidize virtually every form of transportation. We subsidize the airlines. I mean, not in a direct-dollar subsidy to the carriers, but there are many ways in which we subsidize air travel.

My feeling is that retaining long-distance train service in this country is important, and a lot of experts have looked at the President's proposal—this is similar to the proposals that we have seen in the past, as I said, before you became Secretary—and most have said that it is a proposal that will mean that long-distance train service will disappear. And we will have train service, passenger

service from Boston to Florida, to be sure, because that eastern corridor is where all the folks live.

But I think and hope that this Committee strongly supports Amtrak, including long-distance train service, because we believe it enriches our transportation system. Just in my state, which is sparsely populated, to have 110,000 people use Amtrak in a year, describes what an important adjunct to our transportation system Amtrak is, and so I hope that we will restore the funding.

I do want to comment as well on the issue of airline mergers. We have gone through a spate of mergers. We are on the threshold, I believe, of a new wave of mergers. There will not be a merger that happens in isolation. It will not be a case of some day waking up and seeing a news report that Northwest has decided that it is going to merge with Delta or Delta with Northwest. There will be a group of mergers because when one merger is announced of two carriers among the top five or six, other carriers will begin and probably have already begun plans to merge and to combine.

And so, my own view is I don't think it is in the public interest to have further consolidation in the airline industry. Frankly, I don't think it is going to solve what is wrong with the airline industry to get bigger. I mean, there are a lot of things wrong there. We understand that many of them have been in and out of bankruptcy.

But all three of us come from sparsely populated states, with the exception of Senator Inouye, that have a population center with a lot of jet travel and a lot of big airplanes coming in. But we all understand what happens with respect to the position after deregulation, where the pricing system for airlines is if you want to fly twice as far you get to pay half as much. Fly half as far you get to pay twice as much.

I mean, if you fly from South Dakota to Los Angeles, I will guarantee—you go check the fares, get the best fare you can—and I will guarantee you that I can find a fare flying from Washington, D.C. to Los Angeles that is half the price, flying twice as far. Well, that is why some of us in rural States have some real concerns about these issues.

And the more concentrated economic power you have, the more difficult it is for us. So we have a hub and spoke system. There is a lot of work for us to do to try to figure out how we make this work for the airlines themselves because they have gotten hit very hard by fuel costs and other things, and I want them to do well.

But I am very concerned about airline mergers. I would second the notion by Senator Stevens that I think you should put together a task force that focuses on what would be the impact on consumers of further consolidation, combination, and mergers.

Secretary PETERS. Senator, we certainly will have input, as I mentioned earlier, and the things that we will be looking at, of course, are consumer issues and are safety issues. That is very important, and that is as our responsibilities are detailed and then sharing that information, of course, with the Department of Justice, who is the ultimate decisionmaker. And they do look at various issues like market impacts. They look at competition issues.

And I absolutely hear what you are saying to us today in terms of perhaps looking a little broader than that. I don't want to infer

that we are moving into a DOT, into an area that by statute is DOJ's responsibility, but I do hear what you are saying in terms of the type of input that we could provide from DOT.

Senator DORGAN. I understand it is DOJ's responsibility. I have long threatened to put the photographs of antitrust lawyers at DOJ on the side of milk cartons. You know those things, where are they now? We have got a lot—we are paying a lot of them. But, boy, in the antitrust field, they sure seem to be missing.

But that is a subject for another hearing and another day. Mr. Chairman, I wanted to come back and mention the Amtrak and the merger issues that I think are really important substantive policy questions that confront our Committee and confront our country, and I appreciate the opportunity to do that.

The CHAIRMAN. Thank you very much.

Madam Secretary, this has been a long day. So I will be submitting questions, and it should be noted that the questions and answers will be part of the public record. So it will be available to all interested parties.

Senator THUNE. Mr. Chairman?

The CHAIRMAN. Yes?

Senator THUNE. Could I just make one point? And I have been to several of these hearings now where we have had Administrator Sturgell here as Acting Administrator. It seems to me at least that we ought to get him through here and on the floor and try and get him confirmed.

He has had a long and distinguished career in service to our country as a military pilot, and as a commercial pilot, he knows that business pretty well. And I think it would be good to get him installed and make him the Administrator as opposed to the Acting Administrator.

Thank you, Mr. Chairman.

Secretary PETERS. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. With that, adjourned.

[Whereupon, at 11:49 a.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUYE TO HON. MARY E. PETERS

Question 1. How does the Department propose to spend less money on Essential Air Service and provide the same or improved level of service to these small communities?

Answer. The proposed budget and revisions to the EAS program are needed in order to administer the program more efficiently and to ensure the most-isolated small communities maintain access to the national air transportation system within the proposed funding level.

Communities' eligibility for inclusion in the EAS program has never been based on their individual needs; rather, it is based only on whether the community was receiving scheduled air service at the time of airline deregulation in 1978. The EAS program has remained fundamentally unchanged since its inception while the aviation landscape has changed dramatically with the spread of the hub-and-spoke system, regional jets, and low-fare carriers.

Under the budget proposal, eligibility for subsidy in the future would be limited to communities: (1) that are currently being subsidized under EAS; (2) that are more than 70 driving miles from the nearest large- or medium-hub airport; and (3) at which the subsidy per passenger does not exceed $200 if the community is less than 210 driving miles from the nearest large- or medium-hub airport. As $50 million would not be sufficient to support all currently subsidized services, all communities would be ranked on the basis of isolation (*i.e.,* driving distance to a medium- or large-hub airport) and the most isolated would receive subsidized air service to the extent allowable by the available funds.

Question 2a. What efforts is the DOT currently pursuing to improve airline passenger service?

Answer.

- The Department has initiated three rulemakings to help ensure full disclosure of essential information and fair treatment of passengers.
  - An OST NPRM proposing to double the denied boarding compensation paid to passengers who are involuntarily bumped and to cover flights operated with aircraft having 30 to 60 seats. The Department is currently considering the comments received and expects to take final action on the proposal by June.
  - A DOT NPRM proposing to require enhanced delay data reporting by carriers to more fully capture tarmac delays on flights prior to takeoff and after landing. Again, we currently plan to take final action in June.
  - An OST ANPRM proposing to enhance airline passenger protections by: (1) requiring carrier contingency plans for lengthy tarmac delays; (2) requiring carriers to respond to consumer problems, including making information available for filing a complaint with the carrier; (3) deeming scheduling a chronically delayed flight to be unfair; (4) requiring publication of delay data; (5) requiring carriers to publish complaint data; (6) requiring on-time performance reporting for international flights; and (7) requiring carriers to self-audit their customer service plan. The Department is currently considering the comments received. The next step would be issuance of a Notice of Proposed Rulemaking seeking comments on any proposals the Department decides to advance.
- The Department has formed a "Tarmac Delay Task Force" to study past delays, review existing and other promising practices, and develop model contingency plans that airlines and airports can tailor to their unique operating environments to mitigate the impact of lengthy ground delays on consumers.

- The Department's Aviation Enforcement Office has pursued enforcement action against carriers for failure to provide consumers, upon request, the on-time arrival percentage of a flight as required by existing rules. Cease and desist orders assessing civil penalties have been issued against four different carriers.
- The Department's Aviation Enforcement Office is continuing its investigation of unrealistic scheduling by the large airlines, targeting chronically delayed flights. During the fourth quarter of 2007, the number of such flights was dramatically reduced, and in 2008 the Aviation Enforcement Office will be applying a somewhat more rigorous set of criteria during its review.
- The Department's Aviation Enforcement Office has plans to conduct on-site enforcement investigations of five large airlines this Fiscal Year to evaluate their compliance with consumer protection requirements.
- The Department will hold three aviation Consumer Protection Forums across the country to educate consumers regarding their rights as air travelers and to hear first-hand their concerns about air travel. The first was held in Miami on April 17, 2008. The second will be in Chicago on June 24, 2008. The third will be in San Francisco in late September 2008.
- The Department has taken steps to improve its airline complaint filing system and will be taking further steps to ensure that its websites with airline consumer information are easy to use and provide useful information.

Question 2b. What are the DOT's views regarding the potential pre-emption of state laws through the issuance of Federal regulations on airline service standards?

Answer. We support the Second Circuit's decision striking down New York's "Passengers Bill of Rights," as a well reasoned interpretation of long-standing preemption in this area, as recently echoed in a comparable Supreme Court decision on interstate trucking (** *Rowe* v. *N.H. Motor Transportation Association,* 552 U.S.____, 128 S. Ct. 989 (2008)).

- The Department is very active in this area because we recognize the serious problems caused by congestion in the system.
- There is increased emphasis on gathering data on chronically delayed flights, and pressing carriers to adopt realistic schedules. We think this is paying off too.
- Also, the Department has recently issued three aviation consumer rulemakings, one of which goes directly to the readiness of the airlines to put in place contingency plans, worked out with the airport in advance, when lengthy delays occur.
- In addition, the Secretary convened a "Tarmac Delay Task Force" in January to evaluate past delays, review existing and other promising practices, and develop model contingency plans that airlines and airports can tailor to their unique operating environments to mitigate the impact of lengthy ground delays on consumers.
- The first meeting of the task force was held February 26, and the second meeting was on April 29. I believe it is working well and will be productive.
- Ultimately, more fundamental changes such as the NextGen technology and congestion pricing where appropriate will pay the biggest dividend in squeezing out delays.

Question 3. The United States Merchant Marine Academy is expected to have a funding shortfall of $2.8 million during FY 2008. However, the President's FY 2009 budget request for the academy was $8.6 million less than FY 2008 enacted levels. How will the proposed cut in funds affect the ability for the Academy to improve its financial management? What additional steps are being taken to ensure that the Academy does not have another shortfall?

Answer. The President's Budget does not highlight a funding shortfall of $2.8 million for the U.S. Merchant Marine Academy. The overall funding level requested for 2009 is only $1.4 million below funding enacted for 2008. This change from 2008 includes an increase of $4.6 million for the USMMA's pay and other operating expenses. The overall change from 2008 to 2009 also includes a reduction of $6 million in funding requested for the Capital Improvement Program (CIP). This lower level for CIP is proposed while the Department reviews the program and ensures that an appropriate plan and funding is in place to address the capital needs of the Academy.

As for the overall financial management of the USMMA, the Department and Maritime Administration are currently conducting a top-to-bottom review of the financial practices at the Academy. Part of this process is the placing of a new fiscal control officer from the Maritime Administration at USMMA for 1 year. In the near

future Administrator Connaughton will provide the Committee more information on this process.

Question 4. The Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU) is set to expire at the end of the next fiscal year. Do you plan to submit a SAFETEA–LU reauthorization proposal for the Congress's consideration this year? Are there certain priorities that you believe must be addresses in the next reauthorization of our surface transportation programs?

Answer. We have not yet decided the exact form that it will take, but we do intend to submit a reauthorization proposal for the Congress's consideration in the coming months. Our proposal will reflect the following key themes and priorities: (1) a clearer and more focused Federal role; (2) a focus on heavily congested metropolitan areas; (3) more rational and accountable investment decisions; (4) a data driven approach to reducing surface transportation related fatalities; and (5) encouragement of more efficient pricing and operational performance of the existing system and leveraging of Federal resources.

Question 5. You disagreed with the general conclusions of the National Surface Transportation Policy and Revenue Study Commission that we, as a Nation, need to significantly expand our investment in our transportation infrastructure. If the Federal Government is not to make this investment, who will? Do you truly believe that private companies, often owned by foreign interests, or individual states can be trusted to make the best investment decisions for our national transportation system?

Answer. We agree about the importance of the transportation system and the need for a sustainable investment strategy. We agree that our transportation system will need to be substantially recapitalized even as we seek to add capacity to the most congested parts of the system. We believe, however, that the recommended policy framework and the magnitude of the investment necessary to achieve these objectives are not appropriately addressed in the report of the National Surface Transportation Policy and Revenue Study Commission.

In particular, we believe that the problem is not simply how to raise a certain level of revenue, but rather how to develop a policy framework that will unleash efficient capital investments, empower consumers, reduce congestion, stimulate technological improvements, improve America's quality of life and support the increased productivity of American business.

We do not believe that it is appropriate for the Federal Government to be responsible for all expanded transportation infrastructure investments. This would result in an unnecessarily expanded Federal role, one that would be likely to stifle creativity by State and local governments and the private sector. In fact, under the current framework, an expanded Federal role would do little to reduce the growth in travel days and unreliability and could simply act to crowd out non-Federal investments. Rather, the Federal role in transportation policy should be determined by that which is essential to the national interest.

Innovative financing and public-private partnerships (PPPs) are increasingly being used to finance transportation infrastructure projects. DOT believes that such mechanisms, which generally involve direct charging for highway use, provide a very attractive financing approach for State and local governments to leverage traditional transportation revenue sources. We believe that if Congress was receptive to these concepts, there is a tremendous potential to unleash a wave of capital investments in the transportation sector, just as we are seeing in other parts of the world.

We also believe that the widespread use of congestion pricing could reduce future capital needs significantly. The 2006 Conditions and Performance Report found that applying congestion pricing to all of the congested roads in the system could reduce the cost to maintain the system by $21.6 billion per year, or 27.5 percent, leaving it at $57.2 billion, which is well below the current level of capital spending. In addition, pricing of all congested highways would raise significant revenues, on the order of $34 billion over the analysis period 2005 to 2024.

Finally, we believe that the National Surface Transportation Policy and Revenue Commission used an inappropriate definition of "need," one which exaggerates needs significantly by, for example, assuming that any project whose benefits outweigh its costs, even by a dollar, should be built.

Question 6. The DOT has never issued the report regarding motor carrier employee protection provisions required by the Transportation Equity Act of 21st Century. In the Implementing Recommendations of the 9/11 Commission Act, Congress strengthened whistleblower protections for motor carrier employees. When can we expect an assessment of how well these protections are working for employees?

Answer. The Department has prepared a draft whistleblower report that reflects consultations with over 60 stakeholders, including motor vehicle operators and carriers, safety advocates, researchers, academicians, and officials at the U.S. Department of Labor. We also recognize that section 1536 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110–53, provides the Secretary of Labor expanded authority to investigate, adjudicate, and take enforcement action with regard to employee protection complaints. The draft report is undergoing internal review within the Department.

Question 7a. What progress has the Department made in establishing the Office of Climate Change and Environment, as required under the Energy Independence and Security Act of 2007?

Answer. The Department of Transportation established the Center for Climate Change and Environmental Forecasting in 1999 to address issues associated with climate change and variability. Since the Energy Independence Security Act (EISA) did not provide funding for the establishment of this office, we expect that this existing virtual center will function as the Office of Climate Change and Environment. This virtual center is made up of 8 modal agencies and co-chaired by the Office of the Secretary and the Research and Innovative Technology Administration. The Center is the focal point in the DOT of technical expertise on transportation and climate change. Through strategic research, policy analysis, partnerships and outreach, the Center creates comprehensive and multi-modal approaches to reduce transportation-related greenhouse gases and to mitigate the effects of global climate change on the transportation network.

Question 7b. How will the new Office of Climate Change and Environment contribute and participate in the Committee on Earth and Environmental Sciences functions relative to global change?

Answer. The Center already contributes to the Committee on Environmental and Natural Resources (CENR), as DOT sits on the Council. Additionally, DOT is a principal member of the Climate Change Science Program (CCSP). The Center recently completed one of the 21 Synthesis and Assessment Products that fulfills the Global Change Research Act of 1990: "The Impacts of Climate Change on Transportation Systems and Infrastructure: Gulf Coast Study." The Center also reviews the research of other agencies through CCSP and CENR. One recent development has been the establishment of a research collaboration between the Federal Aviation Administration and the National Aeronautics and Space Administration on the climate change impacts of aviation emissions.

Question 7c. What key changes to the transportation system would you recommend the new office implement in order to reduce global climate change and contribute to the interagency effort?

Answer. There are opportunities for the transportation sector to contribute to the national effort to reduce Greenhouse Gas (GHG) emissions and many of the solutions also improve air quality generally. Managing congestion to reduce wasted fuel, improving fuel economy, and other operational improvements are already underway. However, if the goal is to achieve the most cost-effective emissions reductions, these are not easily found in the transportation sector.

Question 8. How will the study mandated in the Energy Independence and Security Act of 2007 (EISA) on the "Transportation System's Impact on Climate Change and Fuel Efficiency" help address concerns, expressed by the National Research Council, among others, that Federal efforts to understand climate change impacts and develop adaptation and mitigation strategies remain immature? How will the study support decisionmaking and risk analyses, address regional impacts, and communicate with a wider group of stakeholders?

Answer. When EISA was passed, the DOT Center for Climate Change immediately began discussions of how to implement this provision. We are currently in the process of scoping the study and identifying funding sources. Work on the transportation and climate change clearinghouse, also mandated in the bill, has already begun.

Section 1101(c) does not require or suggest that the Department study climate change's impact on the transportation system, which would be the basis for developing adaptation studies, supporting risk analysis and addressing regional impacts. Therefore, such activities are outside the authorizing language for this particular study, even though such activities are expressly mentioned in 1102(a)(2). The study may be helpful in developing "mitigation strategies," to the extent that mitigation is defined as methods of reducing emissions of greenhouse gases.

While we agree that this field is currently under-explored, it is important to note that there have recently been two important contributions to national efforts to understand the impacts of climate change on the transportation system. The DOT, as

a major financier of long-lived national infrastructure, has a significant interest in adaptation studies and has supported work at the Transportation Research Board of the National Academies of Science to produce "Potential Impacts of Climate Change on Transportation" Report 290. The DOT Center for Climate Change has also pooled resources to fund an in depth study of the effects of climate change and variability on a region identified as particularly vulnerable. "The Impacts of Climate Change and Variability on Transportation Systems and Infrastructure: A Gulf Coast Study, Phase I" is a part of the U.S. Climate Change Science Program's 21 Synthesis and Assessment Products that aims to provide decision support to policymakers. Authors of these studies have recently visited the Hill to brief members and their staffs on the information contained in the study. In our efforts to improve our understanding of this area, DOT plans to complete two additional phases of the Gulf Coast study, which will require significant resources.

Adaptation studies are complex, expensive, and time-consuming, in part because of the multi-disciplinary nature of such studies, the range of possible effects, and the diversity of potentially affected stakeholders. In addition, the inherent uncertainty of predicting future climate change effects is multiplied when attempting to predict local and regional scale impacts. Additional adaptation studies would be useful to national, regional, and local transportation planners, and may be applicable to current, specific decisions such as the size and height of bridges and roadways, or the diameter of culverts. We agree that this field is in its infancy and it will take dedicated resources over many years to fully address the challenges posed.

Question 9. DOT employees have several complaints about the new Headquarters building in Southeast Washington including that that building does not have enough space for all of DOT employees; that it is noisy and does not have enough private offices for employees to conduct confidential business; and that the communications services are too unreliable to efficiently conduct their daily job activities. How do you explain how all of these problems exist with a brand new building that has been in the works for 10 years, especially after Congress appropriated millions of dollars for the project? How do you plan to resolve these issues in a timely manner?

Answer. With DOT's move into our new headquarters facility, we have accommodated, as planned, all of our employees, with the exception of the FAA, into a state-of-the-art office building. With the implementation of an open space plan, we ensured privacy matters were addressed by incorporating in the design of the building, numerous private offices, as well as conference rooms and team rooms that are available to all headquarters staff. Communication services within the facility for the initial 3 months of our occupancy were inconsistent for wireless cellular services. However, with the implementation of our internal distributed antenna system, communication services within the facility are consistent and working as designed.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO HON. MARY E. PETERS

Question 1. Do you feel that it was necessary to change procedures for aircraft departures out of Philadelphia and Newark Airports without first publishing the new departure dispersal headings?

Answer. The assignment of initial departure headings is a tool air traffic controllers used at Newark Liberty International (Newark) and Philadelphia International (Philadelphia) Airports, even before the implementation of these dispersal headings. As a matter of fact, departure headings are issued in conjunction with the takeoff clearance in many airports across the country. Although the Federal Aviation Administration (FAA) did not formally publish the new departure dispersal headings, the FAA, in addition to training controllers, notified controllers and pilots of these headings by issuing a Notice to Airmen for Newark and Philadelphia.

Question 2. You mentioned that a quote from an FAA spokesman who told Philadelphia air traffic controllers that if they didn't like working for FAA they should reconsider their line of work was "regrettable." If that statement did not accurately reflect the policy positions of the Bush Administration, what actions have you taken to ensure no such statements will be made in the future?

Answer. We have counseled the employee who made the statement and we have made it clear to other employees who speak to the press or the public that this was an inappropriate comment.

Question 3. Do you feel the low staffing level of certified professional controllers has an impact on safety? Do you believe certified professional controllers add a margin of safety to flight operations?

Answer. The FAA is safely staffing its air traffic facilities, and has not found any relationship between staffing levels and aviation accidents, runway incursions or mistakes by controllers.

The FAA has planned for a 70 percent turnover in its workforce over the next 10 years by hiring and training several thousand new air traffic controllers each year, as veteran controllers hired in the early 1980s reach retirement age. We expected this to be a transition period and we are managing through it.

Last year, less than one error occurred for every 10,000 hours of "developmental" controller position time. On average, fully certified controllers are working operational positions 85 percent of the time, compared to 15 percent operated by developmental controllers.

Most facilities will be in a period of transition over the next few years and will be staffing with a combination of Certified Professional Controllers (CPC), CPC-In Training (CPCIT) and a large number of developmental controllers (Developmentals) who are proficient, or checked out in specific sectors or positions. Developmentals have always handled live traffic, and in fact, this is a requirement to maintain proficiency as they progress toward CPC status.

Question 4. Amtrak said they need more than twice the $800 million President Bush asked for in order to operate safely and reliably next year. By law, you—or your designee—are granted a seat on the Amtrak Board, along with up to six more of President Bush's appointees. Have you made the President aware of the railroad's actual funding needs?

Answer. The Administration has consistently stated its support for intercity passenger rail where it can make a cost-effective contribution to passenger mobility. Significantly less subsidy would be required to fund the operations of a reformed Amtrak that is focused on being efficient at what it does, providing only those services for which there are significant demand, and appropriately pricing those services.

Question 5. As a member of the Amtrak Board, do you believe you are acting in the Corporation's best interests by proposing only half the level of funding Amtrak has said it needs? What was your role in approving Amtrak's funding request?

Answer. I believe that it is an appropriate role for a member of the Board to challenge management to drive a more efficient operation particularly in light of the difficult budgetary times we currently face. Our funding request is intended to send that message—providing a call to management that it is unrealistic to expect significantly increased levels of funding and that the Corporation's attention must be focused on implementing significant, sustainable improvements in the way Amtrak does business. My designee on the Board voted against transmission of the grant request as written, in part, to send this message.

Question 6. With expanded Amtrak security measures in place this year, including random security checks, why did President Bush fail to request funding specifically for Amtrak security?

Answer. Passenger rail security, both for Amtrak and commuter railroads, is primarily the responsibility of the Department of Homeland Security (DHS). Thus it would not be appropriate to make a security-specific request in the Department of Transportation's budget request. Funds provided by this Department, however, have funded the basic infrastructure (*e.g.,* the Amtrak Office of Security, and the Amtrak Police Department) to permit Amtrak to work in a complementary fashion with DHS.

Question 7. Can you tell me how many of the thousands of complaints received each year by the Department from air travelers are actually investigated?

Answer.

- An analyst in the Department's Aviation Consumer Protection Division (ACPD) reviews each complaint that the Department receives (approximately 13,000 complaints in 2007) and determines whether the issue in the complaint is a regulated area.
- Every complaint is forwarded to an airline for their review and handling. ACPD requires carriers to respond directly to the passenger if the passenger raises an issue about a regulated area (*e.g.,* refunds). ACPD also requires that a copy of the response be provided to it so that staff can review the response and determine whether corrective action is necessary.
- A more in-depth investigation is conducted of each civil rights complaint that the Department receives (approximately 600 complaints in 2007). The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) directs the Department to investigate each disability-related complaint that it receives. In response to this legislative mandate, the Department's Aviation En-

forcement Office and its ACPD established a process whereby each disability complaint is investigated, a determination is made whether a violation of the Air Carrier Access Act occurred, and a closing letter is sent to the complainant explaining the office's decision. The mandate to investigate each disability complaint has also led the office to adopt a similar process for complaints alleging discrimination on the basis of race, color, national origin, ethnicity, religion or sex.

- In addition, all complaints forwarded by Congressional offices (approximately 500 complaints in 2007) are investigated and ACPD requires carriers respond to such complaints.
- It is worth noting that the vast majority of complaints are not violations as the complaints may not involve a regulated area and also because airlines generally comply with DOT regulations. If it is determined that an airline has violated a regulation, this is noted in ACPD's consumer compliant application database and further action is taken as appropriate. Further action may include issuing a warning to the carrier. Patterns and practices on these issues could also form the basis for more formal enforcement action.

Question 8. The 9/11 Commission Recommendations law passed last year authorized specific funding to improve the safety and evacuation needs of rail tunnels on Amtrak's Northeast Corridor, including those under the Hudson River linking New Jersey and New York. Why did President Bush not request any funds specifically for these critical safety and security improvements?

Answer. The President's request includes $525 million for Amtrak's capital subsidy. The Department believes the highest priority for the use of these funds should be addressing safety and security needs. In response to a requirement included in the Department's 2007 grant agreement with Amtrak, the Corporation is undertaking development of a capital investment plan for the Northeast Corridor (NEC) in consultation with the Northeast Corridor states and the railroads that operate over the NEC main line which includes the Hudson River tunnels. This plan will identify and prioritize investment needs. With regard to the life safety and evacuation needs of the tunnels under the Hudson River, significant progress has been made since 2002 in bringing these tunnels up to contemporary standards which will be reflected in the prioritization of additional investment needs for these specific assets.

Question 9. Presidential Emergency Board #242 recommended that Amtrak employees be paid back-wages for up to 8 years in which they worked without a new contract. Amtrak and its employees have reached agreements on new contracts that include this back pay. Does the President's budget proposal account for this funding? Does the President support these agreements?

Answer. The Department supports the PEB recommendations and Amtrak entering into contracts with its employees to implement them. The Administration believes that funding to implement these agreements can and should be found from within Amtrak's existing fiscal resources including revenue growth and expense reduction driven by improving the way Amtrak does business.

Question 10. The recent report by the National Surface Transportation Policy and Revenue Study Commission, which you chaired, estimated conservatively that transit ridership grows two and a half percent each year. But according to a recent report by the Research and Innovation Technology Administration, the Bush Administration is only planning for 2 percent minimum annual growth in transit ridership—a difference of about 43 million riders each year. What accounts for this difference and did you concur with the Commission's assessment on expected transit ridership demand?

Answer. The National Surface Transportation Policy and Revenue Study Commission report discussed a range of estimated growth rates for transit ridership from 1.61 percent per year to 4.22 percent per year. The Research and Innovative Technology Administration (RITA) report, *Transportation Vision for 2030,* states that, "To reduce congestion, efforts are underway to increase transit ridership by 2 percent or more each year."

The different estimates of future transit ridership in the two reports depend upon the degree of investment by all levels of government and the private sector, and the amount and quality of service provided by the Nation's transit systems. As we have emphasized in our Urban Partnerships Program, the success of transit also depends critically on the extent to which congestion pricing offers drivers an incentive to use transit. The forecasts also depend upon policies related to transit fares as well as other economic, environmental, and social factors. Another factor affecting these forecasts is development and rate of diffusion of new technologies, such as Intelligent Transportation Systems, into the Nation's transit systems.

The Department of Transportation has continued to recognize the important role that transit plays particularly in our major urban areas. We required that expansion of transit capacity be a key element in our Urban Partnership Agreements with five cities. We believe that transit, along with congestion pricing, new technology, and telecommuting, are key elements in our plans to reduce congestion in major American cities.

Question 11a. Under Federal Aviation Administration's (FAA's) new audit requirements for all recipients of Class One Aircraft Situation Display to Industry and National Airspace System Status Information (ASDI/NASSI) data, audits will be required for recipients of partial ASDI data which was previously considered "Class Two data with no time delay." Why did FAA make this change?

Answer. Aircraft Situation Display to Industry (ASDI) data are delivered in two types, Class I data, which are undelayed, and Class II data, which are delayed by 5 minutes. There is no other type delivered by the ASDI system that is "partial ASDI data." Some vendors, which receive Class I data, change the data and redistribute them. A vendor might consider this to be "partial," but from the FAA delivery point perspective, there is no difference between these Class I users. Therefore, as Class I users, they would all receive the same audit requirements. The Class I audit is intended to ensure adequate protection measures are in place when dealing with real-time data and data delivery to the user. Class II data do not require an audit as the FAA accepts that the five-minute delay of the data is adequate protection. Class I and Class II data contain the exact same information, simply with a five-minute delay imposed on Class II.

Question 11b. Does FAA have any concerns regarding the current operations of recipients of this partial ASDI data considered "Class Two data with no time delay"?

Answer. The Federal Aviation Administration does not provide a different real-time dataset to industry users other than the Class I feed. As indicated in the discussion in answer 11a, the FAA considers all real-time data of concern.

Question 11c. Are you aware of the impact of the new FAA audit requirements on these recipients of "partial ASDI data"? Are you aware that certain Federal agencies (Customs and Border Protection and the Transportation Security Administration) rely on proprietary information/data which incorporates "partial Class One data," and that these agencies would be subject to annual audits under FAA's new requirements if they are to continue to receive such real-time data?

Answer. As indicated in the discussion above regarding question 11a, the Federal Aviation Administration considers all real-time data of concern, and, therefore, the FAA uses the audit to ensure the security of the data.

The Aircraft Situation Display to Industry (ASDI) feed was developed as a feed to industry users (*i.e.,* nongovernmental users). As such, precautions are taken with this feed to remove sensitive aircraft data including military data, some international data depending on international agreements, and any aircraft that an aircraft operator does not want in this feed. Because of these limitations, a separate feed was created called the TFM Data to Government (TFMDG) that is specifically targeted at government users. This feed contains the larger dataset and is intended for government users with a need for this data. Separate, internal agreements govern the use of this feed. This feed follows the ASDI feed both in format and technology.

Question 12. When will Pipeline and Hazardous Materials Safety Administration comply with Section 60109(e) of Title 49 and issue minimum standards requiring all newly constructed single family homes to be installed with excess flow valves?

Answer. PHMSA expects to publish its proposed distribution integrity management rule within the next several months. As mandated by 49 U.S.C. § 60109(e), the proposed rule would require distribution operators to install excess flow valves (EFVs) on residential service lines meeting technical criteria specified in § 60109(e)(3). PHMSA also is working with its State partners, who oversee the vast share of the distribution pipeline network, to remind distribution operators of the Congressional direction to begin installing EFVs by June 1, 2008. PHMSA believes that most distribution pipeline operators have already begun installing EFVs in accordance with the statutory criteria.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK PRYOR TO HON. MARY E. PETERS

Question 1. Please explain the Department's budget plan for moving forward with the fuel economy regulations mandated in Pub. L. 110–140, the Energy Independence and Security Act. I am particularly interested in staffing and funding re-

quested by DOT for implementing Title I. Do you believe that the Administration's funding proposal for implementation of this new rulemaking is adequate to meet the requirements laid out in the law? Will this new fuel economy mandate detract from other NHTSA programs such as regulation enforcement, research, or ongoing rulemakings? As you may know, Congress may provide additional funding to the NHTSA to meet its statutory obligations. Do you have any recommendations for the level of additional funding and staff needed for NHTSA to meet all of their obligations?

Answer. On April 22, 2008, NHTSA issued a notice of rulemaking proposing standards for Model Years 2011 through 2015 passenger cars and light trucks. The agency has increased its budget request for CAFE rulemaking to $3.88 million for FY 2009 from $1.88 million in FY 2008.

Question 2. Could you please update the Committee on the status of the cross-border pilot project between the United States and Mexico? I am interested to know more about the foreign and domestic companies currently participating in the program and the current inspection regime for ensuring compliance with domestic regulations. Also, please provide the Committee with the rationale for Administration's decision to move forward with the project despite the language included in section 136 of Division K of Pub. L. 110–161.

Answer. The table below shows cross-border demonstration project data as of April 1, 2008.

	Mexico-domiciled Motor Carriers	U.S.-domiciled Motor Carriers
Authorized Motor Carriers	18	6
Power Units	62	46
Total Border Crossings	4,993	943
Beyond Commercial Zone Border Crossings	490	943

Additionally, 47 Mexico-domiciled motor carriers are eligible to participate in the demonstration project subject to them filing the proper financial responsibility documents with the Federal Motor Carrier Safety Administration (FMCSA). Additional information on the Mexico-domiciled motor carriers eligible to participate in the demonstration project was published in the *Federal Register* on March 24, 2008.

All Mexico-domiciled motor carriers participating in the demonstration project must comply with the same U.S. Federal and State regulations as U.S. and Canada-domiciled motor carriers. These included environmental, tax, immigrations, cabotage (point-to-point transportation of cargo within the U.S.), drug and alcohol testing, insurance, registration, driver licensing, and safety regulations. The transportation of hazardous materials and passengers is prohibited under the demonstration project.

In addition to meeting the same requirements for U.S. and Canada-domiciled motor carriers, additional requirements are imposed on Mexico-domiciled motor carriers participating in the demonstration project. Every Mexico-domiciled carrier that wants to participate in the demonstration project must satisfactorily complete an FMCSA-administered pre-authorization safety audit (PASA) before FMCSA will grant provisional operating authority to operate in the United States. The safety audit is FMCSA's review of the carrier's written procedures and records to validate the accuracy of information and certifications provided in the application and to determine whether the carrier has established or exercises the basic safety management controls necessary to ensure safe operations. Each vehicle the motor carrier intends to operate in the U.S. undergoes a North American Standard vehicle inspection during the audit. This inspection is an in-depth 37-point inspection. Vehicles that do not pass the inspection are not allowed to operate in the U.S. until they pass the inspection and receive a Commercial Vehicle Safety Alliance (CVSA) decal as proof. Each vehicle operating in the U.S. must have a valid CVSA decal affixed to it at all times while operating in the U.S. The decal is valid for 90 days. In effect, the vehicle must pass a North American Standard inspection every 90 days. Vehicles with no decal or an expired decal will be placed out-of-service until they pass the inspection and are issued a decal.

The Secretary has committed to the goal of checking every Mexico-domiciled motor vehicle participating in the demonstration project *every* time it enters the U.S. from Mexico. The check will include verification that the vehicle has a currently valid CVSA decal, a check of the driver's license, and an assessment to ensure the driver can speak English. If the vehicle does not have a currently valid CVSA decal, it must pass a North American Standard vehicle inspection and be issued a CVSA decal before it will be allowed to proceed. If the driver's license in not valid, suspended revoked or restricted to Mexico, or the driver is unable to

speak English, the driver will be placed out-of-service and not be allowed to operate in the U.S.

All vehicles participating in the demonstration project are being equipped with a satellite-based vehicle tracking system. This system will enable the FMCSA to monitor the motor carrier's compliance with hours-of-service regulations, identify potential cabotage violations, and determine when a vehicle enters and exits the U.S.

FMCSA has developed and implemented a safety monitoring system for Mexico-domiciled motor carriers. It is an oversight program to monitor the motor carrier's compliance with applicable Federal Motor Carrier Safety Regulations and includes provisions for suspending and revoking the motor carrier's provisional operating authority.

Enforcement of the regulatory requirements is done through safety audits or compliance reviews conducted on the motor carrier's operation and through roadside inspections by State or Federal inspectors. Currently there are over 500 State and Federal inspectors based at or near the U.S.-Mexico border.

With regard to the decision to move forward with the demonstration project, the Administration has looked very closely at the 2008 DOT appropriations act and section 136 in particular. By prohibiting the use of funds "to establish" a cross-border motor carrier demonstration program, section 136 does not prohibit spending to continue to implement the ongoing cross border demonstration project, which was established in September 2007—well before enactment of the current Appropriations Act. Consistent with the Appropriations Act prohibition, FMCSA will not establish any new cross-border demonstration programs with Mexico.

The Appropriation bill passed by the House of Representatives (H.R. 3074, 110 Cong. § 410 (2007)) would have barred spending "to establish or implement" a cross-border demonstration project. However, the enacted version of the bill is more narrowly drafted and prohibits only use of funds "to establish" such a project.

Question 3. As you may know, on January 23, 2008, Mesa Air notified DOT and 4 Essential Air Service communities in Arkansas (Hot Springs, El Dorado, Harrison, and Jonesboro) that they intend on discontinuing air service. It is my understanding that DOT will require Mesa to continue serving these communities until a new service provider is designated by DOT. Could you provide me with an update on any new bids for these Arkansas communities? Also, I was interested to hear your opinion of why we are continuing to see fewer and fewer rural air service providers and more and more cancellations of rural routes by such providers. This trend concerns me and other Committee members greatly for a number of reasons. At what level should Congress increase funding for the Essential Air Service program to ensure that rural, isolated communities continue to have access to air travel?

Answer. I am fully aware that Mesa Air Group, a holding company that owns Air Midwest and other airlines, filed notice of Air Midwest's intent to suspend service at the four Arkansas communities, as well as at three in Missouri and two in Nebraska. The Department will require Air Midwest to continue to provide uninterrupted service while we process a carrier-replacement case. In fact, we have already issued an order prohibiting Air Midwest from suspending service and requesting proposals from carriers to replacement service.

Regarding your point that we have fewer and fewer carriers participating in the EAS program, indeed we do have fewer carriers and this is a serious concern. Until the last few years, most of the EAS providers were carriers that operated 19-seat aircraft profitably as a business model, and provided some EAS as an adjunct to their core business. More recently, for a number of reasons, ranging from increased security requirements to the high price of fuel, carriers are no longer able to operate 19-seat aircraft profitably. As a result, almost all carriers are turning back their 19-seaters. One of the impediments to attracting new EAS providers is the requirement for EAS aircraft to have two engines, two pilots, and generally have 15 or more seats.

Regarding funding, we continue to believe that a funding level of $50 million would be sufficient to maintain service at the truly isolated communities.

Question 4. As you well know, I am very supportive of the completion of both I–49 and I–69; especially those unfinished portions that run through Arkansas. Could you please describe where these important Interstates were in priority for the DOT and FHWA, and what type of financial and technical assistance will be dedicated to these projects under the Administration's FY09 Budget? I appreciate your designation of I–69 as a *Corridor of the Future*, and I hope financial and technical resources will continue to go to this Interstate in FY09 and years to come until the project is complete. Do you know how DOT intends on distributing the $25 million dedicated for the *Corridor of the Future* program in the Administration's budget?

Answer. The President's budget for Fiscal Year (FY) 2009 would provide $75 million for the Corridors of the Future Program. In FY 2008, six major routes represented by seven coalitions were identified for participation as Corridors of the Future. Although I–69 was identified as a participant, I–49 was not. The Department is currently in negotiations with the various coalitions to develop a vision for the corridors, a prioritization framework, an initial list of actions and projects, and an organizational structure for multi-state coordination. The distribution of funds requested in the FY 2009 budget for Corridors of the Future will be based on the results of this process. Currently no decisions have been made for the distribution.

While there are no dedicated funds identified for use for I–49 and I–69, beyond the results of the Corridors of the Future program negotiations specific to I–69, the States' normal Federal-aid allocations can be used for both the I–49 and I–69 corridors. The FHWA's headquarters and State field offices will also continue to provide technical assistance to the State DOTs on I–49 and I–69 issues. As you know, in Fiscal Year 2007 a grant of $800,000 of Transportation and Community and System Preservation Program funding was awarded for the study of innovative financing for I–69.

Question 5. I notice in your testimony that you cite shortfalls in the Highway Account balance of the Highway Trust Fund to support your call for moving away from a reliance on fuel taxes and partnering with State and local governments willing to develop more effective means to finance our transportation infrastructure. Could you please elaborate a little on some of these alternative financing means and how they may be structured? I was wondering how you saw some of these potential alternatives working in rural states with lower traffic density like Arkansas and other states represented by members of this Committee.

Answer. Many different financing strategies can be used in lieu of raising fuel taxes to finance transportation improvements. The Federal Government provides several innovative finance mechanisms to assist in project finance. Not all strategies will be applicable to all projects in a given State or to different States across the Nation. States must decide on a case-by-case basis which strategy is best for a particular project.

An important potential source of revenues for States is *tolling*. Tolling is the purest form of user charge because there is a direct link between the use of a facility and the fees paid by the user. With the ability to collect tolls comes the ability to leverage additional sources of revenue that would not be available if tolls were not collected. The development of electronic tolling technologies allows motorists to pay tolls without having to stop at toll booths. This makes tolling more readily accepted by users and reduces congestion, noise, emissions, and excess fuel consumption associated with having to stop to pay a toll. Electronic tolling has also substantially reduced the administrative cost of collecting tolls which was a deterrent to traditional tolling.

One form of tolling is *congestion pricing* where toll rates vary according to levels of congestion. While this mechanism may not be widely applicable in more rural States, it can be an important revenue source in congested urban areas. Not only does congestion pricing raise revenues that may be used for highway and transit improvements, but it also improves traffic flow and reduces the need for improvements in congested areas where adding capacity might be prohibitively expensive.

Currently there is wide variation among the States in the extent to which they levy highway and bridge tolls. Some States use tolling extensively, others have just one or two toll facilities, and other States have no toll roads or bridges. Surveys have shown that most motorists prefer tolls to general fuel tax increases and State plans suggest that tolling activity could double in the decade from levels over the last 10 years. Seven States (California, Florida, Illinois, New Jersey, New York, Pennsylvania, and Texas) each raised over one-half billion dollars in tolls in 2006 to support transportation improvement programs. Over the last decade between 30 and 40 percent of new limited access highway mileage was financed using tolls. These fee-for-service tolls are generally considered more equitable and economically efficient than other roadway improvement funding options which cause non-users to help pay for improvements.

Tolling can be done either through the public sector or through *public-private partnerships (PPPs)*. The use of PPPs can have several advantages that more and more States are beginning to recognize. First, the long-term costs of designing, constructing, operating, and maintaining a facility are often minimized when done through a PPP than when done using conventional methods. This can be attributed to several factors including future operational and maintenance requirements are given greater consideration in facility design and construction; private sector firms often have greater expertise than public sector firms; and private sector firms often have greater incentives to innovate than the public sector. A second advantage of

PPPs is that there may be greater flexibility to structure financing to meet the unique characteristics of a project than if the project were financed by the public sector. Third, the private sector can assume some of the project and traffic risk (that is, the risk that demand for use of a highway facility will be lower than forecasted by modelers, with the consequence that toll revenues will be lower, and the equity investor will therefore not get an adequate return on the investment), rather than have the public sector assume all the risk.

The Federal Government has two financing mechanisms that are particularly applicable to PPPs—*the Transportation Infrastructure Finance and Innovation Act (TIFIA) program and private activity bonds.* The *TIFIA* program was established in 1998 to leverage Federal funds by attracting substantial private and other non-Federal investment in critical improvements to the Nation's surface transportation system. The U.S. Department of Transportation (DOT) may provide three forms of credit assistance—secured (direct) loans, loan guarantees, and standby lines of credit. Eligible applicants include state departments of transportation, transit operators, special authorities, local governments, and private entities. *Private activity bonds* are tax-exempt securities that may be issued for certain types of privately developed and operated facilities including highway and freight transfer facilities. Providing private developers and operators with access to the type of tax-exempt financing available under municipal bonds lowers the cost of capital significantly, enhancing private sector investment opportunities.

Not all PPPs involve the private sector collecting tolls on a project. In some cases the private sector can be paid by the public sector for its services using "*availability payments*" or "*shadow tolls*." Availability payments are based on the private sector achieving some specified level of service on the facility, but do not vary according to the amount of traffic that uses the facility. Shadow tolls, on the other hand, typically are based on the traffic volumes using the facility. These two mechanisms are relatively new to the U.S. but have been more widely used in other countries. They allow States to realize the benefits of private sector involvement in projects that may not be amenable to toll financing, in projects the State does not wish to toll, or in projects the State wishes to toll, but wants to pay the private sector from some source other than the toll revenues.

The use of availability payments may be particularly appropriate for rural States that do not have the traffic volumes to support projects from toll revenues. One good example of this is the Missouri Safe and Sound bridge program. Through this program a group of private firms will replace or rehabilitate 802 bridges in Missouri over the next 5 years. The Missouri DOT will pay for the program over 25 years using a portion of its Federal bridge replacement funds. During this period the private firms are responsible for maintaining the bridges in good condition. Several other States also have long-term contracts with private firms to maintain portions of their highway systems.

Bonding generally can be a cost-effective way for States to finance long-lived projects if the interest cost and other expenses associated with issuing the debt are less than the potential costs associated with completing construction on a pay-as-you-go basis. In addition to minimizing the impact of construction cost inflation by freeing project phasing from current revenue constraints, debt financing also accelerates the realization of non-monetary benefits. These include such benefits as travel-time savings due to congestion relief, and enhanced state/local taxes as a result of expedited economic development. We do not believe a Federal bonding program would be an appropriate mechanism to finance surface transportation programs, because of the Federal tax expenditures involved.

State Infrastructure Banks (SIBS) are loan revolving funds initially funded at least in part with Federal-aid highway funds. Loans from the SIB can be used to finance transportation improvements. When loans are repaid, those funds can be loaned again to fund additional projects. A major attraction of SIBs is that they allow States to get more "mileage" out of their annual apportionments. Every loaned dollar that is repaid with interest can be recycled into further investment in the transportation system. From a borrower's perspective, SIBs can offer loans on more favorable terms than conventional borrowing. The interest rate can be as low as zero percent, and the covenants (loan-to-value ratio, debt service coverage, subordination, maturity, etc.) may give the borrower greater flexibility than is available through commercial lenders or the capital markets.

All States are authorized to establish SIBs that may be capitalized with up to 10 percent of Federal-aid highway funds in several major program categories. Currently, there are 32 States with a Federal SIB plus Puerto Rico. In total these States have advanced nearly 600 projects, totaling $6.2 billion, with SIB assistance.

The *Grant Anticipation Revenue Vehicle (GARVEE)* borrowing tool was authorized in 1995 as part of the National Highway System Designation (NHS) Act. GARVEE

bonds are debt obligations issued by a state or local entity, the principal and interest on which is repaid primarily with Federal-aid funds. Nineteen States plus Puerto Rico and the Virgin Islands have issued GARVEE bonds for approved Federal-aid projects totaling over $8 billion. The States include Alabama, Alaska, Arizona, Arkansas, California, Colorado, Georgia, Idaho, Kentucky, Maine, Maryland, Montana, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, and West Virginia. A number of these States are generally considered rural in character.

Thus there are a number of alternative financing mechanisms that States can use to help finance surface transportation improvement. Both rural and urban States have successfully used these mechanisms in the past, and are projected to use them more frequently in the future. While using these mechanisms may represent a somewhat different way of doing business than the traditional financing from fuel tax revenues that served us so well during the 20th century, we believe the full range of financing tools will be needed to meet the requirements of 21st century transportation programs.

Question 6. As you well know, the FAA Reauthorization bill is currently pending in the Senate, and we are currently operating the FAA under a short-term extension that is set to expire at the end of June of this year. Like you, I see the urgency to move forward with the reauthorization bill as it will in itself help stimulate the economy and modernize an antiquated system to meet the needs of today and tomorrow's demand. One of the major issues currently holding this legislation up is the new user-fee proposal for general aviation. I believe if we can overcome this hurdle in our negotiations in Congress that we can more quickly move this bill through Congress and eventually to the President for his signature. Could you please discuss the Administration's position on user-fees for general aviation and inform the Committee of any alternative approaches or proposals that the Administration has considered since submitting their initial recommendations to Congress?

Answer. I agree a lot hinges on reauthorizing the FAA and that is why we believe Congress should act quickly to pass a bill that includes meaningful reform in a number of areas, not just funding reform. At the heart of meaningful reform is one of our key principles: a financing structure that is far more fair and cost-based than the current system.

Accordingly, the Administration has never proposed broad air traffic user fees for general aviation. Under our plan, general aviation (GA) flights would only be subject to a user fee if they landed at or departed from one of the thirty busiest airports in the country, such as O'Hare. The vast majority of GA flights would instead only pay a fuel tax, just as they do now.

We considered numerous options to achieve a fairer funding system during the development of our reauthorization proposal. Based on our analysis and feedback from the GA community, we concluded the best way for GA to pay its fair share of costs is through a cost-based fuel tax. A fuel tax mechanism is the same one promoted by the general GA community and which Congress has tended to favor. However, I believe the fuel tax must be set at a rate which will cover a significantly fairer share of the air traffic costs GA drives.

The Administration has never said our proposal was the perfect solution to the problems we now face and the Administration has considered alternative approaches. These other plans include those from Congress and our stakeholders, which were released after our proposal. Here, in sum, is our view of each:

- The nominal tax changes in both the House and Senate Finance Committee bills (H.R. 2881 and S. 2345) do little to fix the inequities found in the current FAA finance structure.
- We support the Commerce Committee's $25 per flight surcharge (S. 1300), as a potentially positive piece of a larger package. This provision is attractive because it would provide dedicated NextGen funding.
- Finally, the Administration likes many of the elements of the Air Transport Association's proposal for distance and departure-based passenger taxes. This plan is significantly more cost-based than the current system. However, because it applies only to the airline community it is less than comprehensive and provides no suggestions about how to deal with GA.

We have also considered replacing the current tax system with a universal fuel tax, where the same rate would be applied to both commercial carriers and GA operators. While this approach would be more equitable than the present system, it does not directly link costs to taxes and creates issues with international flight taxes.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. THOMAS R. CARPER TO HON. MARY E. PETERS

Question 1. As you know, Amtrak recently reached agreements with nine labor unions—anticipated to be ratified this spring—to end an eight-year labor dispute. In addition to being insufficient overall, the Administration's FY09 request also ignores the need for increased funding to cover increased wage costs associated with these new labor contracts. Without funding above the level of the President's request, Amtrak would likely be faced with either bankruptcy or elimination of services. Considering the President's *own* Emergency Board recommended the higher wages and Amtrak worker back pay, how can the Administration justify its insufficient budgetary requests?

Answer. The Administration believes that funding to implement these agreements can and should be found from within Amtrak's existing fiscal resources including revenue growth and expense reduction driven by improving the way Amtrak does business.

Question 2. The FY09 budget proposes to fund New Starts at $180 million below its authorized level. The demand for reducing traffic and getting people off the roads has increased exponentially, and the transportation sector's share of greenhouse gas emissions is growing. In addition to being an environmental and economic concern, it's a quality of life concern—people are spending far too long in their cars commuting to work and sitting in traffic. In light of all this, how can the Administration continue to make cuts to this program?

Answer. The President's FY 2009 Budget recommends $1.62 billion for New Starts, an increase of $52 million or more than 3 percent over the FY 2008 appropriation. This budget fully funds the annual cost of New Starts projects ready to use such funds. The proposed funding level would enable 15 existing New Starts projects with Full Funding Grant Agreements to continue or complete their scheduled construction during FY 2009. Funding is also budgeted for two additional New Starts projects likely to receive Full Funding Grant Agreements before the end of FY 2008. New Starts funds are also budgeted for final design costs to assist projects that may advance into that stage of project development during FY 2009.

The President's FY 2009 Budget also includes $200 million in Small Starts funding consistent with the SAFETEA–LU authorized amount.

Question 3. I am concerned about the Small Starts program. Specifically, what transit project has this Administration initiated, taken up, and seen to construction? I would like the Department of Transportation to provide the Committee with a list of such projects, if in fact there are any. This Administration has long expressed concerns about the slow pace of highway projects. Why, then, aren't transit projects likewise getting the support they need for timely completion? What is being done to expedite the planning and execution of new transit projects?

Answer. In the fall of 2006 FTA received applications for 12 proposed projects for the Small Starts program. Of these, four were ready for advancement into Project Development and were included in the President's FY 2008 Budget. In the fall of 2007, FTA received 15 more projects for the Small Starts program and 13 projects were included in the FY 2009 Budget.

FTA has already approved a grant for the Troost Corridor Bus Rapid Transit project, and is working to award grants for the Los Angeles Gap Closure Project and the Pacific Highway Bus Rapid Transit Project. FTA plans to execute the first Small Starts Project Construction Grant Agreement (PCGA) for the Pioneer Parkway EmX Bus Rapid Transit in Springfield, Oregon, in the summer of 2008. PCGAs or grants are expected to be executed for eight other Small Starts projects through FY 2008.

Congress authorized the Small Starts program to begin in Fiscal Year 2007 or at least 1 year later than most other provisions of SAFETEA–LU became effective. FTA has made considerable efforts to implement the Small Starts program swiftly. FTA published interim guidance on Small Starts and Very Small Starts in June 2006. Fifteen projects are included in the FY 2009 Budget only 2 years after implementation of the program.

SAFETEA–LU also requires that FTA undertake a rulemaking for the development of the Small Starts program. Rulemaking is a lengthy process that requires FTA to develop proposals, obtain industry input, respond to comments, and draft a final rule. This process has not been completed, in part, because Congress included language in the FY 2008 Consolidated Appropriations Act that prohibits FTA from expending resources to complete the rulemaking process during Fiscal Year 2008.

Some projects are delayed because of limited local funding commitments, lack of consensus for a locally preferred alternative, and incomplete project planning. FTA has conducted extensive outreach to notify transit agencies of the Small Starts program, including upcoming Small Starts Workshops scheduled for Pittsburgh (April

22) and Phoenix (May 12) and expects to receive more applications during 2008. FTA has been working with a variety of project sponsors on proposed Small Starts and Very Small Starts projects, including cities such as Ft. Lauderdale, FL and Tucson, AZ and expects to receive many more application in the fall of 2008.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. ROGER F. WICKER TO HON. ROBERT A. STURGELL

Question. In my state of Mississippi, we are proud to host Naval Air Station Meridian, home to half of the Navy's advanced undergraduate jet training. It is my understanding the Meridian Naval Air Station has presented a proposal for expanding the military operations area (MOA). What is the exact certification process for the expansion of a MOA? Specifically, could you please outline the procedural steps and typical timeline for such a process, including the amount of dates needed for a period of public comment? Additionally, the expansion proposal of the MOA for the Meridian Naval Air Station currently is somewhere in the FAA approval process. I would greatly appreciate your providing me with an update on the status of this proposal.

Answer. The process for reviewing requests for special use airspace (SUA) such as the one you describe for military operations involves a number of steps and requires substantial coordination and review. We outline the steps in detail below, but in general, it begins with an informal discussion and vetting of a proposal and then moves on to a more formal, detailed review (including an environmental review), that includes publicizing the proposal in the aviation community, affording an opportunity for public comment, and then resolving any issues that may arise. FAA approval of a proposed SUA also involves several of our offices but the final approval is made by FAA's headquarters staff. The timeline for such a process generally depends on the complexity of the type of SUA involved, but can range from one to 3 years.

With regard the proposal for Meridian Naval Air Station, the Navy submitted its airspace proposal to our agency's Air Traffic Organization Eastern Service Center (ESC) on January 10, 2007. However, our staff returned the original package to the Navy because the required coordination with the local air traffic facility, the FAA's Memphis Air Route Traffic Control Center, had not been accomplished. Such coordination began in March 2007, and the FAA's Memphis Center completed an aeronautical study in April based on the Navy's proposal. FAA staff also met several times with Meridian Air Station staff to recommend changes to the proposal that would mitigate any adverse aeronautical impacts.

The Naval Station's MOA proposal package is currently with our Memphis Air Route Traffic Control Center for their final review on the MOA boundary locations. We expect our Memphis Center's decision in April and, if there are any changes required, our Eastern Service Center will coordinate those with the Navy. Once any required changes are agreed upon, the Navy would modify the legal descriptions as necessary and submit their final proposal. The FAA's System Operations Airspace & Rules Group in FAA Headquarters will then conduct the final review. With the Aeronautical Study completed and the impacts adequately mitigated, it would be likely that a non-rulemaking circular could be issued shortly thereafter, and that would be subject to public comment.

Processing of Military Operations Area (MOA) Proposals

MOAs are nonrulemaking special use airspace (SUA) actions. The procedures and policies for requesting and processing SUA requests are contained in FAA Order 7400.2, "Procedures for Handling Airspace Matters." The following summarizes the process:

- Military unit identifies a need for MOA airspace.
- Before submitting a formal airspace proposal to the FAA, the military meets informally with the air traffic control (ATC) facility that has jurisdiction over the affected airspace. The purpose of meeting is to discuss the MOA requirements and determine if there are any factors that would preclude locating the MOA in the requested area (*e.g.,* adverse aeronautical impact on ATC and/or National Airspace System operations).
- Military unit prepares a formal airspace proposal package consisting of the information required by FAA Order 7400.2, Chapter 21.
- Military unit submits the proposal package to the appropriate FAA Service Center office. In addition, the military submits the appropriate NEPA environmental analysis of the proposed airspace.

- The Service Center office initiates an aeronautical study to determine what, if any, impacts the proposed MOA would have on the safe and efficient use of the navigable airspace by other users. The Service Center may task the affected ATC facility to conduct the aeronautical study.
- The Service Center office prepares a Nonrulemaking Circular to inform the public of the proposal and request the public to submit comments to the FAA regarding the impact the proposed airspace would have on aeronautical operations.
- The Nonrulemaking Circular is distributed by mail to a wide range of aviation oriented persons, organizations and government agencies in the affected area. The Circular establishes a 45-day public comment period. Public comments are submitted to the Service Center office.
- The Service Center office reviews all public comments received and the results of the Aeronautical Study and determines if further negotiations are required with the military unit to resolve identified adverse aeronautical impact or other issues.
- The Service Center environmental specialist reviews the military's environmental documents and determines if they are suitable for adoption by the FAA or if additional analysis is required.
- The Service Center office determines whether to recommend approval of the MOA or disapprove the request. FAA Headquarters (Airspace & Rules Group) is the final approval authority for all SUA proposals.
- The Service Center office submits the entire proposal package (military proposal, Aeronautical Study, copy of public comments, response to comments, environmental documents) along with the Service Center's recommendation to FAA Headquarters for final processing.
- FAA Headquarters Environmental Programs Group reviews the military and Service Center environmental documentation for NEPA compliance.
- FAA Headquarters, Airspace & Rules Group, reviews the complete package and makes a final airspace approval/disapproval determination.
- Approved MOAs are forwarded to the FAA National Flight Data Center for publication on aeronautical charts and entry into the National Airspace System Database.

Processing Timeline

Due to many variables, it is difficult to commit to a specific, firm timeline for processing MOA proposals. A simple, non-controversial action, with no environmental complications, could be completed in approximately 12 months. However, those proposals that are complex, controversial, involve significant adverse aeronautical impact on the National Airspace System or have NEPA compliance issues could take an additional 24 months or more to complete.

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